

## 2013 Ordinances

Ordinance	Title
551-13	Adding Section 9.16.095 to the Evans Municipal Code Prohibiting the act of urinating in public and amending section 9.20.010 of the Evans Municipal Code
552-13	Adopting By Reference The 2012 Edition Of The Inter-National Fire Code With Local Amendments; Amending Certain Sections Of The Evans Municipal Code; And Repealing All Ordinances In Conflict Therewith.
553-13	Creating Right-of-Way and Easement Vacations in Connection with the Ashcroft Park, Second Amended Plat
554-13	Adopting the Final Plat – Ashcroft Park, Second Amended Plat
555-13	Adopting The Official Zoning Map Of The City Of Evans, Colorado
556-13	Transferring Ownership Of Outlot G, Ashcroft Park, Amended Plat To The Village At Ashcroft, LLC
557-13	<b>(NOT ADOPTED)</b>
558-13	Amending Ordinance No. 542-12 and Appropriating Sum of Revenues and Fund Balances for the Amended 2013 City of Evans Budget (1 <sup>st</sup> Rd).
559-13	Emergency Ordinance – Drought Restrictions
560-13	Amending The City Of Evans Municipal Code By Repealing And Reenacting Section 19.62 Titled “US 85 Overlay District Design Standards” City Of Evans, County Of Weld, State Of Colorado Approving And Accomplishing The Annexation Of Land Identified In The EnviroTech
561-13	Industrial Park Annexation No. 2 To The City Of Evans, County Of Weld, State Of Colorado
562-13	Approving And Accomplishing The Annexation Of Land Identified In The EnviroTech Industrial Park Annexation No. 3 To The City Of Evans, County Of Weld, State Of Colorado
563-13	Establishing Zoning For Property Recently Annexed To The City Of Evans Known As EnviroTech Industrial Park Annexations Nos. 2 & 3
564-13	Sales Tax Code Revision
565-13	Approving Riverside Library and Community Center Lease Financing
566-13	Approving a Loan from the Colorado Water Resources and Power Development Authority for the Water Radio/Meter Upgrade Project
567-13	Revoking and Reenacting Section 1.17 of the Evans Municipal Code
568-13	2nd Quarter Budget Revision
569-13	Emergency Ordinance– Confirming the Declaration of an Emergency and the expenditure of funds from the Emergency Contingency Fund for the Evans Flood 2013 Incident

### 2013 Ordinances (Continued)

Ordinance	Title
570-13	Emergency Ordinance–Budget 3rd Revision Amending Ordinance No. 568-13 and Appropriating Sum of Revenues and Fund Balances for the Amended 2013 City of Evans Budget
571-13	Emergency Ordinance Imposing a Moratorium on Building or Development within Areas of
572-13	Emergency Ordinance Authorizing and Directing the Removal and Disposal of Debris Caused by the September 2013 Flooding from Private and Public Properties
573-13	Emergency Ordinance Authorizing the Chief of Police or Duly Authorized Official to Prohibit Access to Public and/or Private Areas Damaged by the September 2013 Flood and Deemed to be Unsafe
574-13	Emergency Ordinance Imposing a Curfew within the Area Evacuated due to the September 2013 Flood
575-13	Appropriating Money to Defray Expenses as Provided in the 2014 Budget
576-13	Emergency Ordinance Authorizing Building Permit Waivers
577-13	City Impact Fees
578-13	Budget Revision
579-13	Chapter 16.04 Evans Municipal Code, Concerning Flood Damage Prevention
580-13	Penalties for Marijuana
581-13	<b>(NOT ADOPTED)</b>
582-13	Penalties for Failure to Pay Administrative Citations
583-13	<b>(NOT ADOPTED)</b>
584-13	Budget Revision
585-13	Police Towing

CITY OF EVANS, COLORADO

ORDINANCE NO. 551-13

AN ORDINANCE ADDING SECTION 9.16.095 TO THE EVANS MUNICIPAL CODE PROHIBITING THE ACT OF URINATING IN PUBLIC AND AMENDING SECTION 9.20.010 OF THE EVANS MUNICIPAL CODE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EVANS, COLORADO, THAT:

Section 1. Section 9.16.095 shall be added to the Evans Municipal Code to read as follows:

Section 9.16.095 Urinating in Public.

(a) Any person who urinates on any street, alley, sidewalk, or other public place or on private property within the public view commits a violation of this Section.

BE IT FURTHER ORDAINED BY THE CITY COUNCIL OF THE CITY OF EVANS, COLORADO, THAT:

Section 2. Section 9.20.010 of the Evans Municipal Code shall be amended to read as follows:

Section 9.20.010 Indecent exposure. A person commits the crime of indecent exposure if he intentionally exposes his genitals to the view of any person under circumstances in which such conduct is for the purpose of personal sexual arousal or gratification.

Section 3. Violation – Penalty. A person who violates the requirements of this Ordinance shall be punished by a fine of not more than One Thousand Dollars (\$1,000.00), or by imprisonment of not more than one (1) year, or by both such fine and imprisonment. Each day that any such violation continues shall constitute a separate violation and shall subject the perpetrator to a separate penalty.

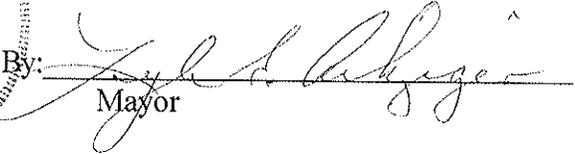
Section 4. Publication and Effective Date. This Ordinance, after its passage on final reading, shall be numbered, recorded, published, and posted as required by the City Charter and the adoption, posting, and publication shall be authenticated by the signature of the Mayor and City Clerk, and by the Certificate of Publication. This Ordinance shall become effective upon final passage.

PASSED, AND APPROVED at a regular meeting of the City Council of the City of Evans on this 5th day of February, 2013.

ATTEST:

  
City Clerk



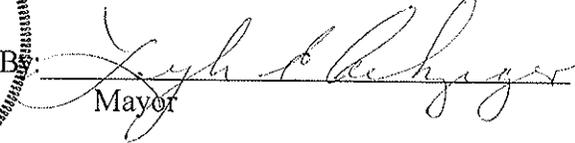
CITY OF EVANS, COLORADO  
By:   
Mayor

PASSED, APPROVED, AND ADOPTED ON SECOND READING THIS 19th day of February, 2013.

ATTEST:

  
City Clerk



CITY OF EVANS, COLORADO  
By:   
Mayor

CITY OF EVANS, COLORADO

ORDINANCE NO. 552-13

ADOPTING BY REFERENCE THE 2012 EDITION OF THE INTER-NATIONAL FIRE CODE WITH LOCAL AMENDMENTS; AMENDING CERTAIN SECTIONS OF THE EVANS MUNICIPAL CODE; AND REPEALING ALL ORDINANCES IN CONFLICT THEREWITH.

WHEREAS, the Evans City Council ("City Council") desires to adopt and implement new and updated fire safety regulations within the City of Evans ("City");

WHEREAS, pursuant to C.R.S. § 31-15-401(1)(q)(I), the City Council may adopt a fire code or other fire safety standards to control and regulate fire within its corporate boundaries;

WHEREAS, the Evans Fire Protection District, which provides fire suppression, fire prevention, and safety services to the City and its citizens, has recommended that the City to adopt the 2012 Edition of the International Fire Code with local amendments ("2012 IFC With Local Amendments");

WHEREAS, proper and timely published notice of the proposed adoption of this Ordinance was provided by the Town Clerk in accordance with C.R.S. § 31-16-203. Following such published notice, a public hearing was held before City Council on February 19, 2013, during which hearing the public was invited to make statements for or against the City's adoption of the 2012 IFC With Local Amendments;

WHEREAS, the City Council hereby finds that adoption of the 2012 IFC With Local Amendments will promote the health, safety, and general welfare of its citizens, and will further the protection of buildings, structures, and premises within the City; and

WHEREAS, the City Council has further determined that the Evans Municipal Code shall be amended incident to adoption of the 2012 IFC With Local Amendments.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EVANS, COLORADO, THAT:

Section 1. The City Council adopts the 2012 IFC With Local Amendments, as specifically set forth in this Ordinance.

Section 2. Section 15.48.010 of the Evans Municipal Code is hereby repealed and reenacted, to read as follows:

15.48.010 Document adopted by reference. Pursuant to Colorado Revised Statutes 1973, 31-16-201 et seq., as amended, there is hereby adopted as the fire code of the City of Evans, by reference thereto, the International Fire Code, 2012 Edition, together with Appendices B-J included therein, of the International Code Council, 4051 West Flossmoor Road, Country Club Hills, IL 60478-5795. (Ord. 552-13: Ord. 517-11: Ord. 266-04: Ord. 1134-98: Ord. 869-93: Ord. 554-83:

prior code 13.20.010)

Section 3. Section 15.48.020 of the Evans Municipal Code is hereby repealed and reenacted, to read as follows:

15.48.020 Title for citation. The ordinance codified in this chapter may be known and cited as "The Fire Code of the City of Evans, Colorado". (Ord. 552-13: Ord. 517-11: Ord. 266-04: Ord. 1134-98: Ord. 869-93: Ord. 554-83: prior code 13.20.170)

Section 4. Section 15.48.030 of the Evans Municipal Code is hereby repealed and reenacted, to read as follows:

15.48.030 Purpose. The fire code is adopted in order to preserve and protect the public health, safety and general welfare, and for the purposes of prescribing regulations governing conditions hazardous to life and property from fire explosion. (Ord. 552-13: Ord. 517-11: Ord. 266-04: Ord. 1134-98: Ord. 869-93: Ord. 554-83: prior code 13.20.020)

Section 5. Section 15.48.040 of the Evans Municipal Code is hereby repealed and reenacted, to read as follows:

15.48.040 Scope of regulations. The subject matter of the adopted code includes comprehensive provisions, standards and regulations concerning conditions hazardous to life and property from fire and explosions; establishes a department of fire prevention and defines its duties; and provides for officers and defines their duties. (Ord. 552-13: Ord. 517-11: Ord. 266-04: Ord. 1134-98: Ord. 869-93: Ord. 554-83: prior code 13.20.030)

Section 6. Section 15.48.050 of the Evans Municipal Code is hereby repealed and reenacted, to read as follows:

15.48.050 Interpretation of provisions. This chapter shall be so interpreted and construed as to effectuate its general purpose to make uniform administration and enforcement of the City's technical codes. (Ord. 552-13: Ord. 517-11: Ord. 266-04: Ord. 1134-98: Ord. 869-93: Ord. 554-83: prior code 13.20.160)

Section 7. Section 15.48.060 of the Evans Municipal Code is hereby repealed and reenacted, to read as follows:

15.48.060 Applicability of chapter. This chapter shall apply to every building, structure, hazardous substance, material or device as defined in said ordinance, which is now in existence or which may hereafter be erected, constructed, altered, moved, demolished or repaired. (Ord. 552-13: Ord. 517-11: Ord. 266-04: Ord. 1134-98: Ord. 869-93: Ord. 554-83: prior code 13.20.130)

Section 8. Section 15.48.070 of the Evans Municipal Code is hereby repealed and reenacted, to read as follows:

15.48.070 Definitions. As used in the International Fire Code:

1. "City" – Means the City of Evans, Colorado.
2. "City Council" – Means the City Council of the City of Evans.
3. "Corporation Counsel" – Means the City Attorney.

4. "IFC" – Means the 2012 Edition of the International Fire Code.
5. "International Fire Code" – Means the 2012 Edition of the International Fire Code.
6. "Jurisdiction" – Means the City of Evans.

(Ord. 552-13: Ord. 517-11: Ord. 266-04: Ord. 1134-98: Ord. 869-93: Ord. 554-83: prior code 13.20.010 and 13.20.051--13.20.055)

Section 9. Sections 15.48.080 through 15.48.260 of the Evans Municipal Code are hereby repealed. (Ord. 552-13: Ord. 517-11: Ord. 287-04: Ord. 266-04: Ord. 1134-98: Ord. 1070-97: Ord. 869-93: Ord. 818-91: Ord. 554-83: prior code 13.20.130: 13.20.060-13.20.062: 13.20.080)

Section 10. A following new Section 15.48.080 is added to the Evans Municipal Code, to read as follows:

15.48.080 IFC Local Amendments. The following IFC sections are amended as follows:

*IFC Sec. 105 is amended to read:*

Sec. 105.6 Required Operational Permits.

The fire code official is authorized to issue permits for the operations set forth in Sections 105.6.4, 105.6.14, 105.6.30 and 105.6.43.

105.6.4. Carnivals and fairs. An operational permit is required to conduct a carnival or fair.

105.6.14. Explosives. An operational permit is required for the manufacture, storage, handling, sale or use of any quantity of explosives, explosive materials, fireworks or pyrotechnic special effects within the scope of Chapter 56.

Exception: Storage in Group R-3 occupancies of smokeless propellant, black powder and small arms primer for personal use, not for resale and in accordance with Section 5606.

105.6.30. Open burning. An operational permit is required for the kindling or maintaining of an open fire or a fire on any public street, alley, road, or other public or private ground in accordance with Section 307. Instructions and requirements of the permit shall be adhered to.

105.6.43. Temporary membrane structures, tents, and canopies. An operational permit is required to operate an air-supported temporary structure or tent having an area in excess of 400 square feet, or a canopy of over 400 square feet.

Exceptions:

1. Tents used exclusively for recreational camping purposes;

2. Tents open on all sides, which comply with all the following: (2.1) Individual tents having a maximum of 700 square feet; (2.2) The aggregate area of multiple tents placed side by side without a fire break clearance of not less than 12 feet shall not exceed 700 square feet; and (2.3) A minimum clearance of 12 feet to structures and other tents shall be provided.

*IFC Sec. 108 is amended to read:*

Sec. 108 Board of Appeals.

108.1 Board of Appeals established. In order to hear and decide appeals of orders, decisions or determinations made by the fire code official relative to the application and interpretations of this code, there shall be and is hereby created a Fire Board of Appeals. The City of Evans Zoning Board of Appeals as established in Chapter 19.58 of the Evans Municipal Code shall serve as the Fire Board of Appeals.

*IFC Sec. 307 is amended to read:*

Sec. 307 Open Burning, Recreational Fires and Portable Outdoor Fireplaces.

307.1.1 Prohibited open burning. Open burning that is offensive or objectionable because of smoke emissions, or when atmospheric conditions or local circumstances make such fires hazardous, shall be prohibited. The burning of trash, debris and refuse shall be prohibited.

Exception: Prescribed burning for the purpose of reducing the impact of wildland fire when authorized by the fire code official.

307.2 Permit required. A permit shall be obtained from the fire code official in accordance with Section 105.6 prior to kindling a fire for recognized silvicultural or range or wildlife management practices, prevention or control of disease or pests, or a recreational fire. Application for such approval shall only be presented by and permits issued to the owner of the land upon which the fire is to be kindled.

307.2.1 Authorization. The permit is for compliance with fire safety and control alone, and is not a permit to violate any existing state or local laws, rules, regulations, or ordinances regarding fire, zoning, building, or air quality and pollution standards. The owner is responsible for obtaining any additional permits and/or clearances from any appropriate local or state agency or other official prior to beginning the burn, including but not limited to any prior approval from the state or local air and water quality management authority.

307.4.1 Bonfires. Bonfires are prohibited.

307.5 Attendance. Open burning, recreational fires and use of portable outdoor fireplaces shall be constantly attended until the fire is extinguished. A minimum of one portable fire extinguisher complying with Section 906 with a minimum 4-A rating or other approved on-site fire-extinguishing equipment, such as dirt, sand, water barrel, garden hose or water truck, shall be available for immediate utilization.

*IFC Sec. 501.4 is amended to read:*

Sec. 501.4 Timing of Installation.

When fire protection, including fire apparatus access roads and water supplies for fire protection, are required to be installed for any new building construction or remodel above the

footing and foundation, such access and egress roads, streets, or driveways shall have been constructed and maintained with an all-weather surface capable of supporting the weight of a fully equipped fire apparatus, street signs shall be in place and any required water supply shall be fully functional, before any building permit will be issued. The fire code official may require the installation of fire protection features described above where unusual hazards exist due to the location and type of construction or hazard to adjacent properties and buildings.

Exception: When alternate methods of protection, as approved, are provided, the requirements of Section 501.4 may be modified or waived by the Fire Chief.

*IFC Sec. 902 is amended to read:*

Sec. 902 Nuisance Alarms.

An alarm caused by mechanical failure, malfunction, improper installation, or lack of proper maintenance, or an alarm activated by a cause that cannot be determined. No person shall allow any home, school, business, or any building that has a fire alarm system to have more than 3 nuisance alarms in one year.

*IFC Section 5301.3 is added to read:*

Sec. 5301.3 Maximum Capacity of CNG.

The storage of compressed natural gas (CNG) shall be prohibited in areas zoned R as defined by the City of Evans. Within the limits established by law restricting the storage of CNG for the protection of heavily populated or congested commercial area, the aggregate capacity of any one installation shall not exceed 500 gallons water capacity (70,000 cubic feet). The aggregate capacity for any one installation for the use as a wholesale or retail bulk storage plant shall not exceed 500 gallons water capacity.

*IFC Sec. 5601.1.a is added to read:*

Sec. 5601.1.a Prohibited and Limited Acts.

a. Prohibited explosives: The storage of explosives and blasting agents is prohibited, except for temporary storage for use in connection with approved blasting operations; provided, however, this prohibition shall not apply to wholesale, retail stocks and small arms ammunition, explosive bolts, explosive rivets or cartridges for explosive-actuated power tools in quantities involving less than 20 pounds of explosive material. A valid permit in accordance with Section 105.6.14 is required.

*IFC Sec. 5704.2 is added to read:*

Sec. 5704.2.a Storage.

a. Prohibited Locations: Any new bulk plants for the storage or manufacture of flammable or combustible liquids are prohibited within any areas within the City of Evans zoned solely or primarily for residential occupancies or for mercantile establishments primarily retail in character. The zoning designation of the City of Evans zoning ordinance shall govern as to the zoning characteristics of such area.

Exceptions:

1. Legal Nonconforming. Bulk storage tanks legally installed and in use as of April 19, 1983, may be continued in use, provided that such tanks are located and installed in accordance with the latest adopted edition of the International Fire Code and provided further, that other applicable provisions of this code and the City of Evans Code of Ordinances are complied with.

2. Variance. Upon payment of a variance fee, review and recommendation of the Board of Appeals, the Evans City Council may grant a variance to the prohibitions in Section 3406 of the International Fire Code above for permits granted under Chapter 16.28, Oil and Gas Exploration and Development, if the Evans City Council finds that (a) such variance will not create an undue safety hazard and will not adversely affect surrounding property; and (b) good cause exists. All bulk storage authorized by the Evans City Council variance is subject to the construction, location and other applicable standards set forth in the latest adopted edition of the International Fire Code.

*IFC Sec. 5404.2.9.2.1 is amended to read:*

Sec. 5404.2.9.2.1 Additional Fire Protection.

When required by the Fire Chief and in accordance with Section 5404.2.9.2.1 of the International Fire Code, additional foam fire protection and/or deluge water systems shall be provided at the well head and/or tank battery locations.

*IFC Sec. 5704.2.9.5.a is amended to read:*

Sec. 5704.2.9.5.a Location of Aboveground Tanks.

1. General. Storage of Class I and Class II liquids in aboveground tanks outside of buildings is prohibited.

Exceptions:

1. Prohibited and Legal Nonconforming. Any such aboveground tanks legally installed and in use as of April 19, 1983, may be continued in use, provided that such tanks are located and installed in accordance with the latest edition of the National Fire Protection Association Pamphlet Nos. 30 & 58 and provided further, that other applicable provisions of latest adopted edition of the International Fire Code and the City of Evans Code of Ordinances are complied with.

2. Variance for Storage of flammable or combustible liquids in C, I, and P.U.D. zones. Upon payment of variance fee, review and recommendation of the Board of Appeals, the Evans City Council may grant a variance to the prohibitions in Section 5704 of the International Fire Code above for permits granted under Chapter 16.28, Oil and Gas Exploration and Development, and/or for aboveground storage in C, I, and P.U.D. zoning districts as defined by the City of Evans, if the Evans City Council finds that: (a) such variance will not create an undue safety hazard and will not adversely affect surrounding property; and (b) good cause exists. All aboveground storage authorized by Evans City Council variance is subject to the construction, location and other applicable standards set forth in the latest

adopted edition of the International Fire Code.

*IFC Sec. 5706.1.a is added to read:*

Sec. 5706.1.a Construction Sites.

The aboveground storage of Class I and II liquids shall be allowed on a temporary basis at construction sites for the purpose of refueling of construction equipment. A maximum of 1,100 gallons will be allowed at the site and shall have secondary containment. Gravity feed tanks will not be allowed for refueling equipment.

*IFC Sec. 5706.3 is amended to read:*

Sec. 5706.3 Well drilling and operating.

Wells for oil and natural gas shall be drilled and operated in accordance with City of Evans Municipal Code Chapter 16.28; OIL AND GAS EXPLORATION AND DEVELOPMENT.

*IFC Sec. 5706.6.5 is added to read:*

Sec. 5706.6.5 Tank Vehicle Routes.

1. General. No person shall operate, or cause to be operated, a tank vehicle on any street, highway, alley, avenue, boulevard or other public way or place within the City of Evans, Colorado, other than upon the streets and avenues shown on the tank vehicle route map adopted at subsection B of this section, or other than upon streets and avenues leading as directly as possible between a bulk plant and a point on a street or avenue shown on such map or between a retail service station and a point on a street or avenue shown on such map.

2. Routes Defined. The tank vehicle route map is adopted by resolution by the Evans City Council and is under separate cover on file in the City Clerk's office, City of Evans, Colorado 80620.

*IFC Sec. 5804.3 is added to read:*

Sec. 5804.3 Maximum Capacity (LPG) Within Established Limits.

The storage of liquefied petroleum gas shall be prohibited in areas zoned R as defined by the City of Evans. The Evans City Council, upon review and recommendation of the Board of Appeals, may grant the storage of aboveground liquefied petroleum gases within C, I, and PUD Zones upon finding that: (a) such variance will not create an undue safety hazard and will not adversely affect surrounding property; and (b) good cause exists. All aboveground storage authorized by Evans City Council variance shall be in accordance with the latest edition of the adopted International Fire Code. Within the limits established by law restricting the storage of liquefied petroleum gas for the protection of heavily populated or congested commercial area, the aggregate capacity of any one installation shall not exceed 2,000 gallons water capacity. The aggregate capacity for any one installation for the use as a wholesale or retail bulk storage plant shall not exceed 2,000 gallons water capacity. The forgoing prohibitions shall not apply to existing storage installations in existence on August 1, 1972, the effective date of the first adoption of the Uniform Fire Code.

Exception:

1. The storage and use of liquefied petroleum gas in residential areas for barbecues, RV's or other recreational uses shall be limited to portable containers of 10 gallon water capacity or less. The total amount to be allowed in storage or use shall be limited to 20 gallons water capacity.

2. The storage and use of liquefied petroleum gas in areas zoned residential or commercial as defined by the City of Evans that do not have natural gas supplied to the area shall meet the requirements of Section 5803.

(Ord. 552-13)

Section 11. Section 15.48.270 of the Evans Municipal Code is hereby renumbered as Section 15.48.090, and is hereby repealed and reenacted, to read as follows:

15.48.090 Violation--Penalty. Any person, firm or corporation violating any of the provisions of the International Fire Code as amended shall be deemed guilty of a misdemeanor, and each such person shall be guilty of a separate offense for each and every day or portion thereof during which any violation of the provisions of the International Fire Code as amended are committed, continued or permitted, and upon the conviction of any such violation such person shall be punished by a fine not exceeding one thousand dollars (\$1,000) or by imprisonment not exceeding one (1) year, or by both such fine and imprisonment. (Ord. 552-13: Ord. 517-11: Ord. 266-04: Ord. 1134-98: Ord. 842-92: Ord. 554-83: prior code 13.20.120)

Section 12. If any section, paragraph, clause, or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this Ordinance, the intent being that the invalid or unenforceable section, paragraph, clause, or provision shall be severable from the remaining sections, paragraphs, clauses, or provisions.

Section 13. All bylaws, orders, resolutions, and ordinances, or parts thereof, inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency. Moreover, this repealer shall not be construed as reviving any bylaw, order, or resolution, or part thereof.

Section 14. This Ordinance, after its passage on final reading, shall be numbered, recorded, published, and posted as required by the City Charter and the adoption, posting, and publication shall be authenticated by the signature of the Mayor and City Clerk, and by the Certificate of Publication. This Ordinance shall become effective upon final passage.

Section 15. On and after the effective date of this Ordinance, the 2012 IFC With Local Amendments shall be administered and enforced by the Evans Fire Protection District's Fire Chief, or his/her authorized representative, as required and provided for by the Colorado Special District Act, C.R.S. § 32-1-101, *et seq.*, and any other applicable federal, state, or local laws, rules, and ordinances, or common law, including applicable nationally recognized standards.

Section 16. This Ordinance shall not have any effect on existing litigation and shall not operate as an abatement of any action or proceeding now pending under or by virtue of any ordinance repealed or amended as herein provided, and the same shall be construed and concluded under such prior ordinances.

PASSED AND APPROVED at a regular meeting of the City Council of the City of Evans on this 19<sup>th</sup> day of February, 2013.

ATTEST:

  
\_\_\_\_\_  
City Clerk



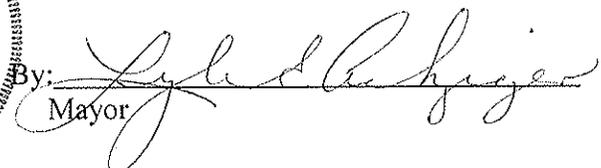
CITY OF EVANS, COLORADO  
By:   
\_\_\_\_\_  
Mayor

PASSED, APPROVED, AND ADOPTED ON SECOND READING at a regular meeting of the City Council of the City of Evans on this 5<sup>th</sup> day of March, 2013.

ATTEST:

  
\_\_\_\_\_  
City Clerk



CITY OF EVANS, COLORADO  
By:   
\_\_\_\_\_  
Mayor

CITY OF EVANS, COLORADO

ORDINANCE NO. 553-13

(First Reading)

AN ORDINANCE VACATING COTTONWOOD AVENUE, ASPEN AVENUE, JUNIPER DRIVE, EVERGREEN WAY, AND ELM DRIVE RIGHT-OF-WAY AND EASEMENTS LOCATED IN THE EAST HALF (E. 1/2) OF SECTION 23, TOWNSHIP 5 NORTH, RANGE 66 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY OF EVANS, COUNTY OF WELD, STATE OF COLORADO

WHEREAS, the current owners of the properties on all sides of Cottonwood Avenue, Aspen Avenue, Juniper Drive, Evergreen Way, and Elm Drive, Evans, Colorado, have requested that the City vacate the right-of-way within that part of Ashcroft Park, Amended Plat located north of West 34<sup>th</sup> Street so that they may construct a multi-family development; and

WHEREAS, the right-of-way in question is not necessary to the City; and

WHEREAS, the current owners of the properties located near certain existing utility easements and a drainage and irrigation lateral easement over Outlot G, Ashcroft Park, Amended Plat have requested that the City vacate its ownership of said easements so that they may construct a multi-family development; and

WHEREAS, the easements in question are not necessary to the City; and

WHEREAS, to accommodate the property owners and allow them to construct a multi-family development with private streets on their property, the City Council, after having reviewed the proposal, believes it would be in the best interests of the City of Evans to vacate the right-of-way of Cottonwood Avenue, Aspen Avenue, Juniper Drive, Evergreen Way, and Elm Drive and the utility easements and drainage and irrigation lateral easement; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EVANS, COLORADO:

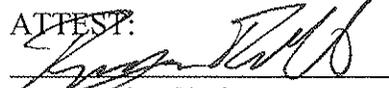
Section 1. Vacation. Pursuant to C.R.S., Sections 43-2-302 and 303, the following right-of-way of Cottonwood Avenue, Aspen Avenue, Juniper Drive, Evergreen Way, and Elm Drive shall be vacated, and the vacated portions of the right-of-way shall vest in accordance with C.R.S., Section 43-2-302 to the current property owners of that part of Ashcroft Park, Amended Plat north of West 34<sup>th</sup> Street, of the City of Evans, County of Weld, State of Colorado:

The sixty-foot (60') wide Aspen Avenue right-of-way, the sixty-foot (60') wide Cottonwood Avenue right-of-way, the twenty-foot (20') wide Juniper Drive right-of-way, the twenty-foot (20') wide Evergreen Way right-of-way, and the twenty-foot (20') wide Elm Drive right-of-way as shown on the plat of Ashcroft Park, Amended Plat recorded May 28, 2003 at Reception No. 3066525 in the Weld County Clerk and Records Office.

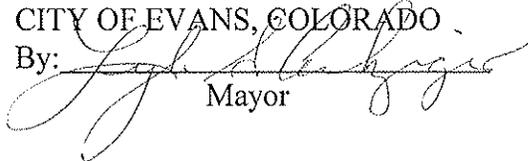
Section 2. Easements. The utility easements and the drainage and irrigation lateral easement dedicated to the City of Evans per Ashcroft Heights, Filing One and shown on the attached exhibit shall be vacated by the City.

Section 3. Publication and Effective Date. This ordinance, after its passage on final reading, shall be numbered, recorded, published, and posted as required by the City Charter and the adoption, posting, and publication shall be authenticated by the signature of the Mayor and the City Clerk, and by the Certificate of Publication. This ordinance shall become effective upon final passage.

PASSED and APPROVED at a regular meeting of the City Council of the City of Evans on this 5th day of March, 2013.

ATTEST:  
  
City Clerk



CITY OF EVANS, COLORADO  
By:   
Mayor

PASSED, APPROVED AND ADOPTED ON SECOND READING this 19th day of March, 2013.

ATTEST:  
  
City Clerk



CITY OF EVANS, COLORADO  
By:   
Mayor

CITY OF EVANS, COLORADO

ORDINANCE NO. 554-13

AN ORDINANCE APPROVING THE FINAL PLAT FOR THE ASHCROFT PARK,  
SECOND AMENDED PLAT IN THE CITY OF EVANS, COLORADO

WHEREAS, the City of Evans has received a request from The Village at Ashcroft, LLC, property owner and applicant, for approval of a Final Plat referred to as Ashcroft Park, Second Amended Plat ; and

WHEREAS, the applicant has submitted all the required documents and information in the proper format in accordance with Chapter 18.24; and

WHEREAS, the Planning Commission conducted a public hearing and recommended approval of such request at its meeting on February 12, 2013; and

WHEREAS, the City Council conducted a public hearing and has carefully reviewed the request and has determined that the final plat submission complies with the applicable requirements of Chapter 18.24.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EVANS, COLORADO, that the Ashcroft Park, Second Amended Plat is approved, with the following conditions:

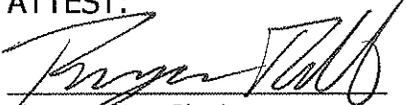
- 1) The approval of the Final Plat shall be contingent on the approval of the vacation by the City of Evans of public rights-of-way (Cottonwood Avenue, Aspen Avenue, Juniper Drive, Evergreen Way, and Elm Drive).
- 2) The approval of the Final Plat shall be contingent on the approval of the vacation of any affected easements owned by the City of Evans within the boundaries of the proposed plat, namely utility easements and the drainage and irrigation lateral easement over Outlot G, Ashcroft Park, Amended Plat.
- 3) The approval of the Final Plat shall be contingent on the transfer of ownership of Outlot G, Ashcroft Park, Amended Plat to The Village at Ashcroft, LLC.
- 4) The approval of the Final Plat shall be contingent on the payment of all necessary fees associated with development of the property.

Section 1. Recordation. Prior to recording the plat at the Weld County Clerk and Recorder's Office a copy of the plat shall be approved by staff. Once approved by staff, the applicant shall record the Final Plat with the Weld County Clerk and Recorder within five (5) working days of the approval. One mylar copy of the plat shall be provided to the City of Evans with the proper documentation.

Section 2. Publication and Effective Date. This ordinance, after its passage on final reading, shall be numbered, recorded, published, and posted as required by the City Charter and the adoption, posting, and publication shall be authenticated by the signature of the Mayor and the City Clerk, and by the Certificate of Publication. This ordinance shall become effective upon final passage.

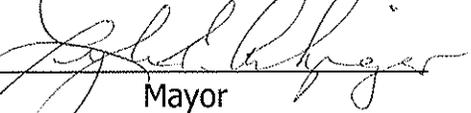
PASSED and APPROVED at a regular meeting of the City Council of the City of Evans on this 5th day of March, 2013.

ATTEST:

  
\_\_\_\_\_  
City Clerk



CITY OF EVANS, COLORADO

By:   
\_\_\_\_\_  
Mayor

PASSED, APPROVED AND ADOPTED ON SECOND READING this 19th day of March, 2013.

ATTEST:

  
\_\_\_\_\_  
City Clerk



CITY OF EVANS, COLORADO

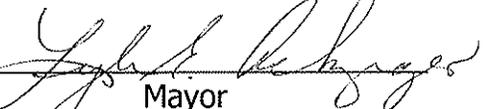
By:   
\_\_\_\_\_  
Mayor

EXHIBIT A

A PARCEL OF LAND SITUATED IN THE NORTHWEST QUARTER OF SECTION 20, TOWNSHIP 5 NORTH, RANGE 65 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY OF EVANS, COUNTY OF WELD, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

CONSIDERING THE WEST LINE OF SAID NORTHWEST QUARTER OF SECTION 20 AS MONUMENTED WITH A 3 1/4" ALUMINUM CAP L.S. NO. 10740 AT THE NORTHWEST CORNER AND A 3 1/4" ALUMINUM CAP L.S. 11648 AT THE WEST QUARTER CORNER AS BEARING NORTH 00°00'00" EAST AND WITH ALL BEARINGS HEREIN RELATIVE THERETO:

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 20; THENCE SOUTH 00°00'00" EAST, ALONG SAID WEST LINE OF THE NORTHWEST QUARTER A DISTANCE OF 559.80 FEET TO THE POINT OF BEGINNING, SAID POINT ALSO BEING ON THE NORTH BOUNDARY OF STROHS THIRD ADDITION TO THE TOWN OF EVANS, AS RECORDED IN BOOK 497, RECEPTION NO. 1066955 IN THE RECORDS OF THE WELD COUNTY, CLERK AND RECORDER;

THENCE ALONG SAID NORTH BOUNDARY, ALSO BEING THE SOUTH BOUNDARY OF LAKESHORE SECOND ADDITION TO THE TOWN OF EVANS, AS RECORDED IN BOOK 12, PAGE 15 IN THE RECORDS OF THE WELD COUNTY, COLORADO CLERK AND RECORDER, THE FOLLOWING THREE COURSES:

NORTH 89°39'00" EAST A DISTANCE OF 392.00 FEET;

THENCE SOUTH 33°21'00" EAST A DISTANCE OF 662.00 FEET;

THENCE SOUTH 87°57'00" EAST A DISTANCE OF 52.20 FEET TO THE NORTHEAST CORNER OF SAID STROHS THIRD ADDITION, ALSO BEING THE NORTHWEST CORNER OF THAT PARCEL OF LAND DESCRIBED IN BOOK 990 AT RECEPTION NO. 1919028 IN THE OFFICE OF THE WELD COUNTY, COLORADO CLERK AND RECORDER.

THENCE NORTH 89°13'28" EAST, A DISTANCE OF 46.83 FEET TO THE NORTHEAST CORNER OF SAID PARCEL OF LAND DESCRIBED IN BOOK 990 AT RECEPTION NO. 1919028, ALSO BEING A POINT ON THE WEST BOUNDARY OF STATE FARM SUBDIVISION AS RECORDED IN BOOK 9, PAGE 1769 IN THE RECORDS OF THE WELD COUNTY, COLORADO CLERK AND RECORDER;

THENCE SOUTH 00°21'48" EAST ALONG SAID WEST BOUNDARY OF STATE FARM SUBDIVISION, ALSO BEING THE EAST BOUNDARY OF SAID PARCEL OF LAND DESCRIBED IN BOOK 990 AT RECEPTION NO. 1919028, A DISTANCE OF 137.64 FEET TO THE SOUTHEAST CORNER OF SAID PARCEL OF LAND, ALSO BEING THE NORTHEAST CORNER OF SUNNY VIEW SUBDIVISION AS

RECORDED IN BOOK 7, PAGE 77 AT RECEPTION NO. 1087961 IN THE RECORDS OF THE WELD COUNTY, COLORADO CLERK AND RECORDER;

THENCE NORTH 87°53'28" WEST ALONG THE SOUTH BOUNDARY OF SAID PARCEL OF LAND DESCRIBED IN BOOK 990 AT RECEPTION NO. 1919028 AND ALONG THE SOUTH BOUNDARY OF SAID STROHS THIRD ADDITION TO THE TOWN OF EVANS, ALSO BEING THE NORTH BOUNDARY OF SAID SUNNY VIEW SUBDIVISION, A DISTANCE OF 102.02 FEET TO THE SOUTHEAST CORNER OF THAT PARCEL OF LAND DESCRIBED IN BOOK 1018, AT RECEPTION NO. 1953679 IN THE RECORDS OF THE WELD COUNTY, COLORADO CLERK AND RECORDER;

THENCE NORTH 00°11'25" WEST A DISTANCE OF 13.56 FEET TO THE NORTHWEST CORNER OF SAID PARCEL OF LAND DESCRIBED IN BOOK 1018 AT RECEPTION NO. 1953679;

THENCE NORTH 88°24'09" WEST A DISTANCE 754.10 FEET TO THE NORTHWEST CORNER OF SAID PARCEL OF LAND DESCRIBED IN BOOK 1018 AT RECEPTION NO. 1953679, ALSO BEING A POINT ON THE WEST LINE OF SAID NORTHWEST QUARTER OF SECTION 20;

THENCE NORTH 00°00'00" EAST ALONG SAID WEST LINE, A DISTANCE OF 651.13 FEET TO THE POINT OF BEGINNING;

EXCEPT THAT PORTION LYING WITHIN THE RIGHT OF WAY OF 11TH AVENUE, CITY OF EVANS.



CITY OF EVANS, COLORADO

ORDINANCE NO. 555-13

AN ORDINANCE ADOPTING THE OFFICIAL ZONING MAP OF THE CITY OF  
EVANS, COLORADO

WHEREAS, the City of Evans has previously adopted a zoning map; and

WHEREAS, the zoning map has from time to time been revised; and

WHEREAS, the Planning & Zoning Commission has recommended that City Council adopt the updated official zoning map.

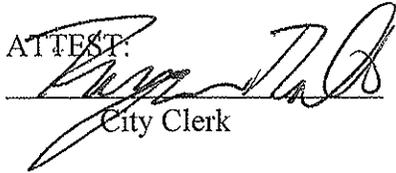
NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF  
EVANS, COLORADO:

Section 1. The "Official Zoning Map" dated February 12, 2013, is hereby adopted as the official zoning map of the City of Evans.

Section 2. Nothing herein prevents the future amendment of the zoning map in accordance with the procedures of the Evans Municipal Code. The purpose of this ordinance is to provide an up-to-date zoning map for the assistance of City personnel and others.

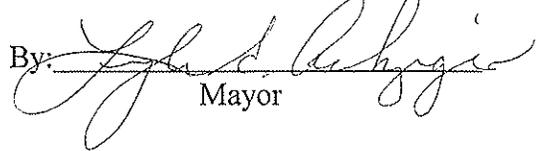
Section 3. Publication and Effective Date: This ordinance, after its passage on final reading, shall be numbered, recorded, published, and posted as required by the City Charter and the adoption, posting, and publication shall be authenticated by the signature of the Mayor and the City Clerk, and by the Certificate of Publication. This ordinance shall become effective upon final passage.

PASSED AND APPROVED at a regular meeting of the City Council of the City of Evans on this 5th day of March, 2013.

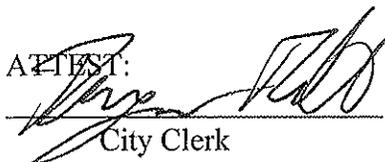
ATTEST:  
  
City Clerk



CITY OF EVANS, COLORADO

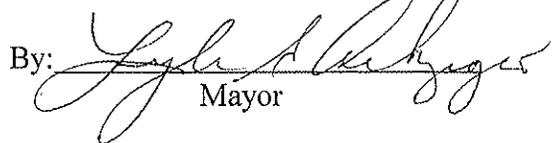
By:   
Mayor

PASSED, APPROVED AND ADOPTED ON SECOND READING this 19th day of March, 2013.

ATTEST:  
  
City Clerk



CITY OF EVANS, COLORADO

By:   
Mayor

CITY OF EVANS, COLORADO

ORDINANCE NO. 556-13

AN ORDINANCE TRANSFERRING OWNERSHIP OF OUTLOT G,  
ASHCROFT PARK, AMENDED PLAT TO THE VILLAGE AT ASHCROFT,  
LLC, A COLORADO LIMITED LIABILITY COMPANY

WHEREAS, the City of Evans is the owner of Outlot G, Ashcroft Park, Amended Plat, said outlot having been dedicated to the City for drainage purposes; and

WHEREAS, the City of Evans may dispose of City owned real property per Chapter 2.42 of the Municipal Code; and

WHEREAS, The Village at Ashcroft, LLC, a Colorado Limited Liability Company, has submitted an application for a final plat called Ashcroft Park, Second Amended Plat; and

WHEREAS, the proposed final plat will dedicate a new outlot to the City of Evans for drainage purposes in a new configuration of the existing outlot; and

WHEREAS, the City of Evans has conditionally approved said final plat with the condition that the City of Evans transfer ownership of Outlot G, Ashcroft Park, Amended Plat to The Village at Ashcroft, LLC; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EVANS, COLORADO, that the transfer of ownership of Outlot G, Ashcroft Park, Amended Plat is approved, with the following condition:

1. Prior to second reading of the ordinance approving the transfer of the outlot the property owners shall provide a final signed mylar of the final plat to the City of Evans with the required recording fee.

Section 1. Transfer. The City Council does, pursuant to Chapter 2.42 of the Evans Municipal Code, transfer the following described parcels to The Village at Ashcroft, LLC, a Colorado Limited Liability Company; and

The City Council further authorizes execution and delivery of such other documents to affect this transfer as are necessary or expedient.

Legal Description: Outlot G as shown on the plat of Ashcroft Park, Amended Plat recorded May 28, 2003 at Reception No. 3066525 in the Weld County Clerk and Recorders Office.

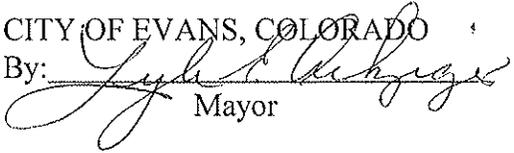
Section 2. Publication and Effective Date. This ordinance, after its passage on final reading, shall be numbered, recorded, published, and posted as required by the City Charter and the adoption,

posting, and publication shall be authenticated by the signature of the Mayor and the City Clerk, and by the Certificate of Publication. This ordinance shall become effective upon final passage.

PASSED and APPROVED on first reading at a regular meeting of the City Council of the City of Evans on this 19th day of March, 2013.

ATTEST:  
  
City Clerk

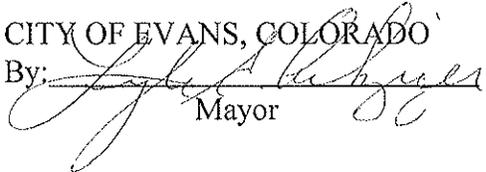


CITY OF EVANS, COLORADO  
By:   
Mayor

PASSED, APPROVED AND ADOPTED ON SECOND READING this 2nd day of April, 2013.

ATTEST:  
  
City Clerk



CITY OF EVANS, COLORADO  
By:   
Mayor

CITY OF EVANS, COLORADO

ORDINANCE NO. 558-13

AN ORDINANCE AMENDING THE 2013 BUDGET; INCREASING GENERAL FUND REVENUES BY \$330,586, INCREASING GENERAL FUND TRANSFERS IN BY \$1,262,349, APPROPRIATING GENERAL FUND EXPENDITURES OF \$1,133,261, INCREASING GENERAL FUND TRANSFERS OUT BY \$1,820,000, INCREASING TRANSFERS OUT OF THE EMERGENCY CONTINGENCY FUND BY \$1,222,669, APPROPRIATING STREET IMPACT FUND EXPENDITURES OF \$172,000, APPROPRIATING PARK IMPACT FUND EXPENDITURES OF \$26,000, INCREASING PARK IMPACT FUND TRANSFERS OUT BY \$50,000, INCREASING CONSERVATION TRUST FUND TRANSFERS IN BY \$50,000, APPROPRIATING CONSERVATION TRUST FUND EXPENDITURES OF \$10,000, INCREASING CIP STREETS FUND REVENUES BY \$224,769, APPROPRIATING CIP STREETS FUND EXPENDITURES OF \$317,000, INCREASING GENERAL OBLIGATION DEBT FUND TRANSFERS IN BY \$900,000, APPROPRIATING GENERAL OBLIGATION DEBT FUND EXPENDITURES OF \$1,405,000, INCREASING WATER FUND REVENUES BY \$278,500, INCREASING WATER FUND TRANSFERS OUT BY \$20,059, APPROPRIATING WATER FUND EXPENSES OF \$916,428, INCREASING WASTE WATER FUND TRANSFERS OUT BY \$13,933, APPROPRIATING WASTE WATER FUND EXPENSES OF \$21,000, INCREASING STORM DRAINAGE FUND TRANSFERS OUT BY \$5,688, APPROPRIATING STORM DRAINAGE FUND EXPENSES OF \$572,500, INCREASING CEMETERY ENDOWMENT FUND REVENUES BY \$4,000, INCREASING CEMETERY ENDOWMENT FUND TRANSFERS OUT BY \$12,600, INCREASING EVANS VOLUNTEER PENSION FUND EXPENDITURES BY \$523,820.

WHEREAS, in accordance with Section 8.6 of the Evans Home Rule Charter the Council may make additional appropriations by ordinance during the fiscal year; and

WHEREAS, the City Manager has certified that additional funds are available for appropriations in each fund from actual and anticipated revenues of the current year and prior year cash reserves; and

WHEREAS, the City Council is advised that certain revenues, expenditures and transfers must be approved by ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF EVANS, COLORADO THE FOLLOWING:

Section 1: Upon the City Manager's certification that there are current and prior year revenues available for appropriation in the General Fund, Emergency Contingency Fund, Street Impact Fund, Park Impact Fund, Conservation Trust Fund, Capital Projects – Streets Fund, Water Fund, Waste Water Fund, Storm Drainage Fund, Cemetery Endowment Fund, and Evans Volunteer Fire Pension Fund and the City Council hereby makes supplemental appropriations as itemized in Attachment "A" attached hereto.

Section 2: The City Council hereby authorizes and directs the City Manager to enter into such contracts and execute such documents on behalf of the City as may be necessary and customary to expend the funds hereby appropriated for all operations, capital projects and debt within this budget as amended in accordance with the requirements of the Home Rule Charter and the City's Financial Policies.

Section 3: The adoption of this Ordinance will promote the health, safety and general welfare of the Evans community.

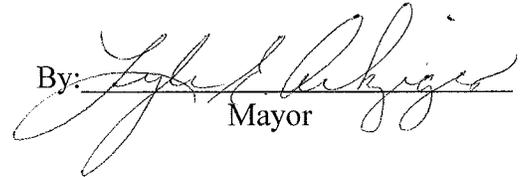
Section 4: If any provision of this Ordinance or portion thereof is held by a court of competent jurisdiction to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect any other provision which can be given effect without the invalid portion.

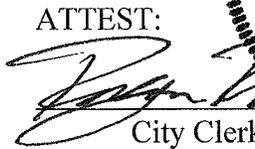
Section 5: All prior ordinances, resolutions, or other acts, or parts thereof, by the City of Evans in conflict with this Ordinance are hereby repealed, except that this repealer shall not be construed to revive any previously repealed or expired act, ordinance or resolution, or part thereof.

Section 6: This Ordinance shall be effective following the adoption by Section 8.5 of the Home Rule Charter.

PASSED and APPROVED at a regular meeting of the City Council of the City of Evans on this 2<sup>nd</sup> day of April, 2013.

CITY OF EVANS, COLORADO

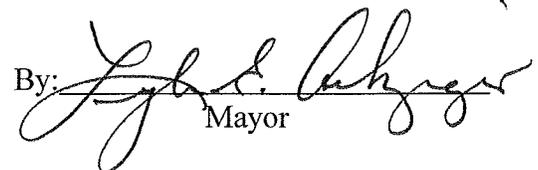
By:   
Mayor

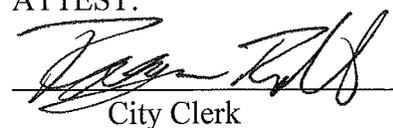
ATTEST:  
  
City Clerk



PASSED, APPROVED AND ADOPTED ON SECOND READING this 16<sup>th</sup> day of April, 2013.

CITY OF EVANS, COLORADO

By:   
Mayor

ATTEST:  
  
City Clerk



Attachment A  
2013 Budget Revision #1

#	Description	Fund/Funding Source	Reserves	Rev	Exp
1.1	Administrative Services Reorganization				
	General: Current Year Sales Tax Revenue			41,973	41,973
1.2	2012 Carry Forwards				
	General: Excess Fund Balance		487,530		487,530
1.3	Tuition Reimbursement				
	General: Excess Fund Balance		10,000		10,000
1.4	Transfer to Evans Redevelopment Agency				
	General: Excess Fund Balance		920,000		920,000
1.5	Eticketing for Police Department				
	General: Traffic Calming Surcharge		49,000		49,000
1.6	Replacement Police Vehicle				
	General: Excess Fund Balance		15,600	15,460	31,060
1.7	Youth and Family Services Contract Increase				
	General: Current Year Sales Tax Revenue			3,500	3,500
1.8	Edward Byrne PD Grant				
	General: Grant Revenue			1,900	1,900
1.9	Sales Tax Revenue				
	General: Current Year Sales Tax Revenue			129,355	
1.10	Transfer to G.O. Debt Fund				
	General: Excess Fund Balance		900,000		900,000
1.11	Transfer from Emergency Contingency Fund				
	General:		1,222,669		
1.12	Transfer from Cemetery Endowment Fund				
	General:			12,600	
1.13	Temporary Contract IT Manager				
	General: Fire District Admin Service Contract			85,000	85,000
1.14	Retail Strategy Phase III				
	General: Excess Fund Balance		50,000		50,000
1.15	Way finding Signage Phase II				
	General: Excess Fund Balance		50,000		50,000
1.16	Landscape Prairie View Drive Phase - Project Completion				
	General: Excess Fund Balance		124,500		124,500
1.17	Police Department Work Stations				
	General: Excess Fund Balance		18,000		18,000
1.18	Facility Painting & Maintenance				
	General: Excess Fund Balance		20,000		20,000
1.19	Trails & River Plan Phase I				
	General: Excess Fund Balance		40,000		40,000

Attachment A  
2013 Budget Revision #1

#	Description	Fund/Funding Source	Reserves	Rev	Exp
1.20	Phone System Upgrade				
	General: Excess Fund Balance		75,000		75,000
1.21	Communications Intern				
	General: Excess Fund Balance		5,000		5,000
1.28	Public Works Salary Expenditures				
	General: Current Year Sales Tax Revenue			40,798	40,798
1.38	Enterprise Funds Overhead Transfers				
	General:			39,680	-
<b>Total Fund</b>			<b>2,764,630</b>	<b>1,592,935</b>	<b>2,953,261</b>
		<i>Fund Balance Impact</i>			<i>(1,360,326)</i>
1.11	Transfer to General Fund				
	Emergency Contingency: Excess Reserves		1,222,669		1,222,669
<b>Total Fund</b>			<b>1,222,669</b>	<b>-</b>	<b>1,222,669</b>
		<i>Fund Balance Impact</i>			<i>(1,222,669)</i>
1.23	2012 CIP Carry Forward - St. Vrain & 37th St Improv				
	Street Impact: Excess Fund Balance		172,000		172,000
<b>Total Fund</b>			<b>172,000</b>	<b>-</b>	<b>172,000</b>
		<i>Fund Balance Impact</i>			<i>(172,000)</i>
1.24	2012 CIP Carry Forward - Skate Park Upgrades				
	Park Impact: Excess Fund Balance		26,000		26,000
1.39	Transfer to Conservation Trust Fund				
	Park Impact: Excess Fund Balance		50,000		50,000
<b>Total Fund</b>			<b>76,000</b>	<b>-</b>	<b>76,000</b>
		<i>Fund Balance Impact</i>			<i>(76,000)</i>
1.26	2012 CIP Carry Forward - Skate Park Upgrades & Tuscany Park Signs				
	Conservation Trust: Excess Fund Balance		10,000		10,000
1.39	Transfer from Park Impact				
	Conservation Trust:			50,000	-
<b>Total Fund</b>			<b>10,000</b>	<b>50,000</b>	<b>10,000</b>
		<i>Fund Balance Impact</i>			<i>40,000</i>
1.27	2012 CIP Carry Forwards				
	CIP Streets: Excess Fund Balance		317,000		317,000
1.37	Grant Revenue				
	CIP Streets: Grant Revenue			224,769	
<b>Total Fund</b>			<b>317,000</b>	<b>224,769</b>	<b>317,000</b>
		<i>Fund Balance Impact</i>			<i>(92,231)</i>

Attachment A  
2013 Budget Revision #1

#	Description	Fund/Funding Source	Reserves	Rev	Exp
1.10	Early Retirement of GO Debt GO Debt: Transfer from General & Reserves		505,000	900,000	1,405,000
<b>Total Fund</b>		<i>Fund Balance Impact</i>	<b>505,000</b>	<b>900,000</b>	<b>1,405,000</b> <i>(505,000)</i>
1.29	2012 CIP Carry Forward - Flume Drop Structure Water: Excess Fund Balance		38,717	-	38,717
1.30	Greeley System Development Charges Water: System Development		1,266,092	278,500	1,544,592
1.31	Reduction in Operating Expenses and Capital Projects Water: Operating Revenue & System Development		-	-	(666,881)
1.38	Overhead Transfer to General Fund Water: Current Year Operating Revenue		-	-	20,059
<b>Total Fund</b>		<i>Fund Balance Impact</i>	<b>1,304,809</b>	<b>278,500</b>	<b>936,487</b> <i>(657,987)</i>
1.32	2012 CIP Carry Forward Waste Water: Excess Fund Balance		21,000	-	21,000
1.38	Overhead Transfer to General Fund Waste Water: Current Year Operating Revenue		13,933	-	13,933
<b>Total Fund</b>		<i>Fund Balance Impact</i>	<b>34,933</b>	<b>-</b>	<b>34,933</b> <i>(34,933)</i>
1.34	2012 CIP Carry Forward Storm Drainage: Excess Fund Balance		572,500	-	572,500
1.38	Overhead Transfer to General Fund Storm Drainage: Current Year Operating Revenue		5,688	-	5,688
<b>Total Fund</b>		<i>Fund Balance Impact</i>	<b>578,188</b>	<b>-</b>	<b>578,188</b> <i>(578,188)</i>
1.12	Transfer to General Fund Cemetery Endowment: Excess Revenue		8,600	4,000	12,600
<b>Total Fund</b>		<i>Fund Balance Impact</i>	<b>8,600</b>	<b>4,000</b>	<b>12,600</b> <i>(8,600)</i>
1.36	Transfer to Evans Fire Protection District Evans Volunteer Pension Fund		523,820	-	523,820
<b>Total Fund</b>		<i>Fund Balance Impact</i>	<b>523,820</b>	<b>-</b>	<b>523,820</b> <i>(523,820)</i>

**Attachment B**

2013 Budget Revision #1 V2

Fund/Department	Beginning Balance	Operating & Capital Revenue	Transfers In	Operating Expenditures	Capital Exp / Asset Management / Debt	Transfers Out	Budgeted Balance
<b>General Fund</b>	4,784,176						
General Government		9,488,252	2,656,524	2,771,270	924,533	2,155,000	
Community Development				698,307			
Public Safety				4,121,310			
Public Works				1,601,495			
Culture, Parks & Recreation				1,282,251			
<b>Total General Fund</b>	<b>4,784,176</b>	<b>9,488,252</b>	<b>2,656,524</b>	<b>10,474,634</b>	<b>924,533</b>	<b>2,155,000</b>	<b>3,374,785</b>
<b>Emergency Contingency Fund</b>	2,322,107	-	-	-	-	1,322,107	1,000,000
<b>Cemetery Perpetual Care Fund</b>	83,039	3,000	-	-	75,000	-	11,039
<b>Fire Impact Fund</b>	61,363	580	-	-	-	-	61,943
<b>Street Impact Fund</b>	635,246	3,987	-	-	172,000	-	467,233
<b>Parks Impact Fund</b>	260,157	2,362	-	-	111,000	50,000	101,519
<b>Conservation Trust Fund</b>	68,225	172,886	50,000	5,000	205,000	-	81,111
<b>Refuse Collection Fund</b>	275,978	641,556	-	596,640	-	32,078	288,816
<b>Capital Projects Fund - Streets</b>	320,125	1,504,831	335,000	190,000	1,604,000	-	365,956
<b>Debt Service Fund - GO Bonds</b>	507,900	507,000	900,000	-	1,910,786	-	4,114
<b>Waterworks Fund</b> <sup>1)</sup>	2,192,682	4,568,132	-	3,050,845	1,787,655	694,202	1,228,112
<b>Wastewater Fund</b> <sup>1)</sup>	1,142,155	1,263,179	-	925,691	21,000	444,089	1,014,554
<b>Storm Drainage Fund</b> <sup>1)</sup>	730,294	467,061	-	41,374	912,500	164,048	79,433
<b>Volunteer Firefighters Pension Fund</b>	523,820	-	-	-	-	523,820	-
<b>Cemetery Endowment Fund</b>	56,676	10,000	-	18,600	-	-	48,076
<b>TOTAL ALL FUNDS</b>	<b>13,963,943</b>	<b>18,632,826</b>	<b>3,941,524</b>	<b>15,302,784</b>	<b>7,723,474</b>	<b>5,385,344</b>	<b>8,126,691</b>

1) Beginning balance in Proprietary funds is beginning cash balance from Long Range Plans.

**City of Evans General Fund Long Range Financial Plan**

	2010 Actual	2011 Actual	2012 Budget V4	2012 Actual	2013 Budget	2013 Budget V2	2014 Projected	2015 Projected	2016 Projected	2017 Projected
<b>Beginning Fund Balance</b>	1,521,391	2,290,648	3,652,050	3,652,050	4,784,176	4,784,176	4,735,111	5,493,653	6,374,073	7,085,870
<b>Revenues:</b>										
Sales Tax	4,958,797	5,736,322	4,798,951	6,628,406	5,547,082	5,762,708	5,328,981	5,411,191	5,495,044	5,580,574
Property Tax <sup>1</sup>	1,701,476	1,501,310	1,524,462	1,538,308	404,359	404,359	412,446	416,571	420,736	424,944
Other Taxes	487,345	824,208	582,298	947,667	776,000	776,000	765,767	776,672	788,130	799,173
License & Permits	657,342	759,574	734,860	757,511	823,100	823,100	836,190	859,984	882,510	905,799
Intergovernmental	643,209	691,137	689,140	743,712	624,243	711,143	1,155,663	1,155,663	1,155,663	1,155,663
Charges for Services	536,714	485,143	534,543	474,655	433,395	433,395	441,787	442,500	443,215	443,934
Fines & Forfeitures	502,774	449,264	430,000	475,684	410,500	410,500	415,600	428,706	431,318	431,936
Assessments	13,803	21,856	4,000	36,362	20,000	20,000	20,000	20,000	20,000	20,000
Misc	154,206	186,245	700,723	660,370	118,987	147,047	220,053	244,810	273,222	294,576
<b>Total revenues</b>	<b>9,655,667</b>	<b>10,655,059</b>	<b>9,998,978</b>	<b>12,262,675</b>	<b>9,157,666</b>	<b>9,488,252</b>	<b>9,598,488</b>	<b>9,756,095</b>	<b>9,909,839</b>	<b>10,056,599</b>
CT	9,655,667	10,655,059	9,998,978	12,262,675	9,157,666	9,488,252	9,598,488	9,756,095	9,909,839	10,056,599
Transfers In	1,039,201	1,201,506	1,258,083	1,188,741	1,294,737	1,334,417	1,292,108	1,311,856	1,331,894	1,351,387
<b>Total Available Funds</b>	<b>10,694,868</b>	<b>11,856,565</b>	<b>11,257,061</b>	<b>13,451,416</b>	<b>10,452,403</b>	<b>10,822,669</b>	<b>10,890,595</b>	<b>11,067,951</b>	<b>11,241,733</b>	<b>11,407,985</b>
<b>Total Annual Increase</b>	<b>1.79%</b>	<b>10.86%</b>	<b>-5.06%</b>	<b>13.48%</b>	<b>-22.30%</b>	<b>-19.54%</b>	<b>4.19%</b>	<b>1.63%</b>	<b>1.57%</b>	<b>1.48%</b>
<b>Expenditures:</b>										
GG Personnel	1,011,892	1,081,592	1,152,573	1,101,713	1,184,701	1,217,474	1,267,226	1,323,111	1,381,460	1,442,382
GG Operations	1,086,111	1,261,568	1,470,977	1,431,668	1,339,496	1,553,796	1,348,990	1,090,695	1,106,455	1,122,452
<b>General Government</b>	<b>2,098,003</b>	<b>2,343,161</b>	<b>2,623,549</b>	<b>2,533,381</b>	<b>2,524,297</b>	<b>2,771,270</b>	<b>2,616,216</b>	<b>2,413,805</b>	<b>2,487,915</b>	<b>2,564,834</b>
	<b>-11.11%</b>	<b>11.69%</b>	<b>11.97%</b>	<b>8.12%</b>	<b>-4.08%</b>	<b>9.39%</b>	<b>3.64%</b>	<b>-7.74%</b>	<b>3.07%</b>	<b>3.09%</b>
CD Personnel	441,410	344,832	367,761	314,359	344,054	344,054	332,276	346,929	362,229	378,203
CD Operations	100,216	147,901	382,642	313,644	234,253	354,253	175,067	177,693	180,358	183,063
<b>Community Development</b>	<b>541,627</b>	<b>492,733</b>	<b>750,403</b>	<b>630,003</b>	<b>578,307</b>	<b>698,307</b>	<b>507,342</b>	<b>524,622</b>	<b>542,587</b>	<b>561,266</b>
	<b>10.43%</b>	<b>-9.03%</b>	<b>52.29%</b>	<b>27.86%</b>	<b>-10.63%</b>	<b>10.84%</b>	<b>-12.27%</b>	<b>3.41%</b>	<b>3.42%</b>	<b>3.44%</b>
PS Personnel	3,946,226	4,141,777	2,975,555	2,970,623	3,041,506	3,041,506	3,171,046	3,310,890	3,456,900	3,609,349
PS Operations	374,082	542,230	326,999	284,091	267,404	339,804	274,915	279,039	283,224	287,473
<b>Public Safety</b>	<b>4,320,308</b>	<b>4,684,006</b>	<b>3,302,554</b>	<b>3,254,714</b>	<b>3,308,910</b>	<b>3,381,310</b>	<b>3,445,961</b>	<b>3,589,928</b>	<b>3,740,124</b>	<b>3,896,822</b>
	<b>-5.99%</b>	<b>8.42%</b>	<b>-29.49%</b>	<b>-30.51%</b>	<b>0.44%</b>	<b>3.89%</b>	<b>4.14%</b>	<b>4.18%</b>	<b>4.18%</b>	<b>4.19%</b>
PW Personnel	778,727	835,816	850,415	841,046	844,481	885,279	830,614	867,244	905,490	945,422
PW Operations	563,773	561,910	729,308	623,504	666,216	716,216	676,210	686,353	696,648	707,098
<b>Public Works</b>	<b>1,342,500</b>	<b>1,397,726</b>	<b>1,579,723</b>	<b>1,464,550</b>	<b>1,510,697</b>	<b>1,601,495</b>	<b>1,506,824</b>	<b>1,553,597</b>	<b>1,602,138</b>	<b>1,652,520</b>
	<b>-11.51%</b>	<b>4.11%</b>	<b>13.02%</b>	<b>4.78%</b>	<b>-4.37%</b>	<b>9.35%</b>	<b>-0.26%</b>	<b>3.10%</b>	<b>3.12%</b>	<b>3.14%</b>
CPR Personnel	801,899	468,402	634,744	555,402	700,610	700,610	716,104	747,684	780,657	815,084
CPR Operations	237,970	380,952	546,793	423,302	581,641	581,641	590,365	599,221	608,209	617,532
<b>Culture, Parks &amp; Rec</b>	<b>1,039,869</b>	<b>849,354</b>	<b>1,181,537</b>	<b>978,704</b>	<b>1,282,251</b>	<b>1,282,251</b>	<b>1,306,469</b>	<b>1,346,905</b>	<b>1,388,866</b>	<b>1,432,616</b>
	<b>-35.73%</b>	<b>-18.32%</b>	<b>39.11%</b>	<b>15.23%</b>	<b>8.52%</b>	<b>3.02%</b>	<b>1.89%</b>	<b>3.10%</b>	<b>3.12%</b>	<b>3.14%</b>
IGA - Fire Services	51,919	475,400	1,458,682	1,421,912	440,000	440,000	449,240	458,674	468,306	478,141
Asset Management	80,396	247,556	559,317	539,128	-	-	300,000	300,000	300,000	300,000
<b>Debt</b>	<b>9,474,622</b>	<b>10,489,936</b>	<b>11,824,339</b>	<b>11,113,585</b>	<b>9,965,906</b>	<b>10,557,769</b>	<b>10,132,053</b>	<b>10,187,531</b>	<b>10,529,936</b>	<b>10,885,999</b>
<b>Total operating expenditures</b>	<b>-14.10%</b>	<b>10.72%</b>	<b>12.72%</b>	<b>5.95%</b>	<b>-14.97%</b>	<b>-5.00%</b>	<b>1.67%</b>	<b>0.55%</b>	<b>3.36%</b>	<b>3.38%</b>
Capital Improvements	-	5,920	1,577,200	1,114,629	-	541,398	-	-	-	-
Transfers Out (To Fire Protection Dist)	-	-	16,000	16,000	300,000	300,000	-	-	-	-
Transfers Out (To other City Funds)	450,989	(69)3	75,076	75,076	335,000	2,155,000	-	-	-	-
Transfers In (From EC Fund)	-	-	-	-	99,438	1,322,107	-	-	-	-
<b>Excess Revenue Over (Under)</b>	<b>769,257</b>	<b>1,361,402</b>	<b>(2,235,554)</b>	<b>1,132,126</b>	<b>(49,065)</b>	<b>(1,409,391)</b>	<b>758,542</b>	<b>880,420</b>	<b>711,797</b>	<b>521,986</b>
<b>Expenditures</b>										
<b>Ending Fund Balance</b>	<b>2,290,648</b>	<b>3,652,050</b>	<b>1,416,495</b>	<b>4,784,176</b>	<b>4,735,111</b>	<b>3,374,785</b>	<b>5,493,653</b>	<b>6,374,073</b>	<b>7,085,870</b>	<b>7,607,857</b>
CT	2,290,648	3,652,050	1,416,495	4,784,176	4,735,111	3,374,785	5,493,653	6,374,073	7,085,870	7,607,857
<b>Minimum Target Reserve - One Month</b>	<b>789,552</b>	<b>874,161</b>	<b>985,362</b>	<b>926,132</b>	<b>830,492</b>	<b>1,639,442</b>	<b>1,533,013</b>	<b>1,546,883</b>	<b>1,632,484</b>	<b>1,721,500</b>
<b>Available Funds</b>	<b>1,501,096</b>	<b>2,777,888</b>	<b>431,134</b>	<b>3,858,043</b>	<b>3,904,619</b>	<b>1,735,343</b>	<b>3,960,640</b>	<b>4,827,190</b>	<b>5,453,386</b>	<b>5,886,357</b>

<sup>1</sup> Reflects 2013 Property Tax transfer to the Evans Fire Protection District

### City of Evans Emergency Contingency Fund Long Range Financial Plan

	2010 Actual	2011 Actual	2012 Budget V2	2012 Actual	2013 Orig Budget	2013 Budget V2	2014 Projected	2015 Projected	2016 Projected	2017 Projected
Beginning Fund Balance	1,873,679	2,324,668	2,247,031	2,247,031	2,322,107	2,322,107	1,000,000	1,000,000	1,000,000	1,000,000
<b>Revenues</b>										
Interest Earnings	-	-	-	-	-	-	-	-	-	-
<b>Total Revenues</b>	-	-	-	-	-	-	-	-	-	-
CT										
Transfers In	450,989	-	75,076	75,076	-	-	-	-	-	-
<b>Total Available Funds</b>	450,989	-	75,076	75,076	-	-	-	-	-	-
Transfers Out	-	77,637	-	-	99,438	1,322,107	-	-	-	-
<b>Excess Revenue Over (Under) Expenditures</b>	450,989	(77,637)	75,076	75,076	(99,438)	(1,322,107)	-	-	-	-
<b>Ending Fund Balance</b>	2,324,668	2,247,031	2,322,107	2,322,107	2,222,669	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000
CT	2,324,668	2,247,031		2,322,107						

\* November 2012 Charter change to cap at \$1,000,000

### City of Evans Cemetery Perpetual Care Fund Long Range Financial Plan

	2011 Actual	2012 Budget V3	2012 Actual	2013 Budget	2014 Projected	2015 Projected	2016 Projected	2017 Projected
Beginning Fund Balance	-	80,570	80,570	83,039	11,039	14,039	17,039	20,039
<b>Revenues</b>								
Charges for Services	3,450	3,000	2,469	3,000	3,000	3,000	3,000	3,000
Interest Earnings	176	-	-	-	-	-	-	-
<b>Total Revenues</b>	<b>3,626</b>	<b>3,000</b>	<b>2,469</b>	<b>3,000</b>	<b>3,000</b>	<b>3,000</b>	<b>3,000</b>	<b>3,000</b>
cr	3,626	3,000	2,469	3,000	3,000	3,000	3,000	3,000
Transfers In	76,944	-	-	-	-	-	-	-
<b>Total Available Funds</b>	<b>80,570</b>	<b>3,000</b>	<b>2,469</b>	<b>3,000</b>	<b>3,000</b>	<b>3,000</b>	<b>3,000</b>	<b>3,000</b>
<b>Expenditures</b>								
Supplies & Services	-	-	-	-	-	-	-	-
AMP	-	1,667	-	-	-	-	-	-
Capital	-	-	-	75,000	-	-	-	-
<b>Total Expenditures</b>	<b>-</b>	<b>1,667</b>	<b>-</b>	<b>75,000</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>
Transfers Out	-	-	-	-	-	-	-	-
<b>Excess Revenue Over (Under)</b>	<b>80,570</b>	<b>1,333</b>	<b>2,469</b>	<b>(72,000)</b>	<b>3,000</b>	<b>3,000</b>	<b>3,000</b>	<b>3,000</b>
<b>Ending Fund Balance</b>	<b>80,570</b>	<b>81,903</b>	<b>83,039</b>	<b>11,039</b>	<b>14,039</b>	<b>17,039</b>	<b>20,039</b>	<b>23,039</b>
cr	80,570		83,039					

\*Capital is budgeted not to exceed 100% of prior year ending unrestricted fund balance

CIP Projects 2011-2017	2011 Actual	2012 Budget V3	2012 Actual	2013 Budget	2014 Projected	2015 Projected	2016 Projected	2017 Projected
<b>Columbarium</b>	-	-	-	-	-	-	-	-
<b>Pave Interior Roads</b>	-	-	-	-	-	-	-	-
<b>Maintenance Building</b>	-	-	-	75,000	-	-	-	-
<b>Wayfinding Monument</b>	-	-	-	-	-	-	-	-
<b>Cemetery Perp Care Fund Total</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>75,000</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>

### City of Evans Fire Impact Fund Long Range Financial Plan

	2010 Actual	2011 Actual	2012 Budget V3	2012 Actual	2013 Budget	2014 Projected	2015 Projected	2016 Projected	2017 Projected
Beginning Fund Balance	49,876	75,103	52,775	52,775	61,363	61,943	63,492	65,079	66,706
<b>Revenues</b>									
Assessments	18,929	66,287	16,000	52,163	-	-	-	-	-
Sale of Fixed Assets	42,000	-	-	-	-	-	-	-	-
Interest Earnings	732	416	814	480	580	1,549	1,587	1,627	1,668
<b>Total Revenues</b>	<b>61,661</b>	<b>66,703</b>	<b>16,814</b>	<b>52,643</b>	<b>580</b>	<b>1,549</b>	<b>1,587</b>	<b>1,627</b>	<b>1,668</b>
CT									
Transfers In	-	-	-	-	-	-	-	-	-
<b>Total Available Funds</b>	<b>61,661</b>	<b>66,703</b>	<b>16,814</b>	<b>52,643</b>	<b>580</b>	<b>1,549</b>	<b>1,587</b>	<b>1,627</b>	<b>1,668</b>
<b>Expenditures</b>									
Personel	3,526								
Supplies & Services	32,907	89,031	-	-	-	-	-	-	-
Capital	-	-	46,405	44,055	-	-	-	-	-
<b>Total Expenditures</b>	<b>36,433</b>	<b>89,031</b>	<b>46,405</b>	<b>44,055</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>
Transfers Out	-	-	-	-	-	-	-	-	-
<b>Excess Revenue Over (Under) Expenditures</b>	<b>25,228</b>	<b>(22,328)</b>	<b>(29,591)</b>	<b>8,588</b>	<b>580</b>	<b>1,549</b>	<b>1,587</b>	<b>1,627</b>	<b>1,668</b>
<b>Ending Fund Balance</b>	<b>75,103</b>	<b>52,775</b>	<b>23,185</b>	<b>61,363</b>	<b>61,943</b>	<b>63,492</b>	<b>65,079</b>	<b>66,706</b>	<b>68,373</b>
CT	75,103	52,775		61,363					

#### 2010-2017 Capital Improvement Plan

	2010	2011	2012 V3	2012 Actual	2013	2014	2015	2016	2017
Buildings	-	-	46,405	44,055	-	-	-	-	-
<b>Capital Total</b>	<b>-</b>	<b>-</b>	<b>46,405</b>	<b>44,055</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>

\* Capital is budgeted at 90% of projected ending fund balance after operations

(12,160)	48,231	47,930	55,749	57,142	58,571	60,035	61,536
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**City of Evans Street Impact Fund Long Range Financial Plan**

	2010 Actual	2011 Actual	2012 Budget V2	2012 Actual	2013 Budget	2013 Budget V2	2014 Projected	2015 Projected	2016 Projected	2017 Projected
Beginning Unrestricted Fund Balance	358,348	437,069	595,013	595,013	635,246	635,246	467,232	(866,787)	(7,038,456)	(11,414,418)
<b>Revenues</b>										
Assessments	32,640	154,192	-	62,654	-	-	-	-	-	-
Interest Earnings	4,651	3,752	2,775	4,589	3,987	3,987	15,981	(21,670)	(175,961)	(285,360)
Miscellaneous	54,412	-	-	-	-	-	-	-	-	-
<b>Total Revenues</b>	<b>91,703</b>	<b>157,944</b>	<b>2,775</b>	<b>67,243</b>	<b>3,987</b>	<b>3,987</b>	<b>15,981</b>	<b>(21,670)</b>	<b>(175,961)</b>	<b>(285,360)</b>
CT	91,703	157,944	2,775	67,243	3,987	3,987	15,981	(21,670)	(175,961)	(285,360)
Transfers In	-	-	-	-	-	-	-	-	-	-
<b>Total Available Funds</b>	<b>91,703</b>	<b>157,944</b>	<b>2,775</b>	<b>67,243</b>	<b>3,987</b>	<b>3,987</b>	<b>15,981</b>	<b>(21,670)</b>	<b>(175,961)</b>	<b>(285,360)</b>
<b>Expenditures</b>										
Supplies & Services	-	-	-	-	-	-	-	-	-	-
Capital	12,983	-	332,000	27,010	-	172,000	1,350,000	6,150,000	4,200,000	12,650,000
<b>Total Expenditures</b>	<b>12,983</b>	<b>-</b>	<b>332,000</b>	<b>27,010</b>	<b>-</b>	<b>172,000</b>	<b>1,350,000</b>	<b>6,150,000</b>	<b>4,200,000</b>	<b>12,650,000</b>
Transfers Out	-	-	-	-	-	-	-	-	-	-
<b>Excess Revenue Over (Under) Expenditures</b>	<b>78,721</b>	<b>157,944</b>	<b>(329,225)</b>	<b>40,233</b>	<b>3,987</b>	<b>(168,013)</b>	<b>(1,334,019)</b>	<b>(6,171,670)</b>	<b>(4,375,961)</b>	<b>(12,935,360)</b>
<b>Unreserved Ending Fund Balance</b>	<b>437,069</b>	<b>595,013</b>	<b>265,788</b>	<b>635,246</b>	<b>639,232</b>	<b>467,232</b>	<b>(866,787)</b>	<b>(7,038,456)</b>	<b>(11,414,418)</b>	<b>(24,349,778)</b>
CT	437,069	595,013	265,788	635,246	639,232	467,232	(866,787)	(7,038,456)	(11,414,418)	(24,349,778)
<b>Reserved Cash</b>	<b>40,796</b>	<b>40,796</b>		<b>40,796</b>						

**2010-2017 Capital Improvement Plan**

	2010 Actual	2011 Actual	2012 Bud V2	2012 Actual	2013 Bud	2013 Bud V2	2014	2015	2016	2017
US 85 Service Road Improvements	-	-	132,000	998	-	-	-	-	-	-
31st Street Reconstruction (1st to Empire; Evans' Share)	1,731	-	-	-	-	-	-	-	-	-
35th Avenue	-	-	-	8,962	-	-	-	-	-	-
35th Avenue (Prairie View to 49th)	-	-	-	-	-	-	-	-	1,700,000	-
Traffic Signals	-	-	-	-	-	-	-	250,000	-	250,000
23rd Ave. - 37th St. to 42nd St.	-	-	-	-	-	-	-	1,000,000	-	-
23rd Ave. - 42nd St. to 49th St.	-	-	-	-	-	-	-	-	-	400,000
Carson Ave. Extension	11,252	-	-	-	-	-	-	-	-	-
St. Vrain Street - 36th Street Improvements	-	-	171,868	-	-	172,000	-	-	-	-
35th Ave. Widening - 37th St. to Prairie View (4 lanes)	-	-	-	-	-	-	600,000	-	-	-
35th Ave Bridge - 49th St. to WCR 394	-	-	-	-	-	-	-	-	-	12,000,000
47th Ave. Widening - 32nd St. to 37th St. (4 lanes)	-	-	-	-	-	-	750,000	-	-	-
47th Ave. - Prairie View to 49th St.	-	-	-	-	-	-	-	4,300,000	-	-
Prairie View Dr. - 35th Ave. to 47th Ave.	-	-	-	-	-	-	-	600,000	-	-
65th Ave Widening	-	-	28,132	17,050	-	-	-	-	2,500,000	-
<b>Street Impact Fund Total</b>	<b>12,983</b>	<b>-</b>	<b>332,000</b>	<b>27,010</b>	<b>-</b>	<b>172,000</b>	<b>1,350,000</b>	<b>6,150,000</b>	<b>4,200,000</b>	<b>12,650,000</b>

\*Capital is budgeted at 90% of prior year ending unrestricted fund b      322,513      393,362      535,511      538,009      239,209      571,721      575,309      (780,108)      (6,334,611)      (10,272,976)

### City of Evans Park Impact Fund Long Range Financial Plan

	2010 Actual	2011 Actual	2012 Budget V2	2012 Actual	2013 Budget	2013 Budget V2	2014 Projected	2015 Projected	2016 Projected	2017 Projected
Beginning Fund Balance	93,049	149,685	116,202	116,202	260,157	260,157	101,519	105,957	108,606	111,321
<b>Revenues</b>										
Assessments	53,993	27,552	-	89,652	-	-	-	-	-	-
Interest Earnings	2,700	1,820	1,293	2,073	2,362	2,362	4,438	2,649	2,715	2,783
Miscellaneous	-	-	23,000	23,000	-	-	-	-	-	-
<b>Total Revenues</b>	<b>56,693</b>	<b>29,372</b>	<b>24,293</b>	<b>164,725</b>	<b>2,362</b>	<b>2,362</b>	<b>4,438</b>	<b>2,649</b>	<b>2,715</b>	<b>2,783</b>
CT	56,694	29,372	24,293	164,725	2,362	2,362	4,438	2,649	2,715	2,783
Transfers In	-	-	-	-	-	-	-	-	-	-
<b>Total Available Funds</b>	<b>56,693</b>	<b>29,372</b>	<b>24,293</b>	<b>164,725</b>	<b>2,362</b>	<b>2,362</b>	<b>4,438</b>	<b>2,649</b>	<b>2,715</b>	<b>2,783</b>
<b>Expenditures</b>										
Supplies & Services	58	-	-	-	-	-	-	-	-	-
Capital	-	62,855	46,000	20,770	85,000	111,000	-	-	-	-
<b>Total Expenditures</b>	<b>58</b>	<b>62,855</b>	<b>46,000</b>	<b>20,770</b>	<b>85,000</b>	<b>111,000</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>
Transfers Out	-	-	-	-	-	50,000	-	-	-	-
<b>Excess Revenue Over (Under) Expenditures</b>	<b>56,635</b>	<b>(33,483)</b>	<b>(21,707)</b>	<b>143,955</b>	<b>(82,638)</b>	<b>(158,638)</b>	<b>4,438</b>	<b>2,649</b>	<b>2,715</b>	<b>2,783</b>
<b>Ending Fund Balance</b>	<b>149,685</b>	<b>116,202</b>	<b>94,495</b>	<b>260,157</b>	<b>177,519</b>	<b>101,519</b>	<b>105,957</b>	<b>108,606</b>	<b>111,321</b>	<b>114,104</b>
CT	149,685	116,202	94,495	260,157	177,519	101,519	105,957	108,606	111,321	114,104

#### 2010-2017 Capital Improvement Plan

	2010 Actual	2011 Actual	2012 Bud V2	2012 Actual	2013	2013 Bud V2	2014	2015	2016	2017
Skate Park Improvements	-	-	46,000	20,770	85,000	111,000	-	-	-	-
Dog Park Development	-	-	-	-	-	-	-	-	-	-
Grove Trail Improvements	-	-	-	-	-	-	-	-	-	-
Ashcroft/Tuscany Ditch & Trail Improvements	-	62,855	-	-	-	-	-	-	-	-
Grapevine Hollow Park Equip	-	-	-	-	-	-	-	-	-	-
<b>Park Impact Fund Total</b>	<b>-</b>	<b>62,855</b>	<b>46,000</b>	<b>20,770</b>	<b>85,000</b>	<b>111,000</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>

\*Capital is budgeted at 90% of prior year ending fun      83,745      134,716      104,581      66,345      85,045      234,141      159,767      95,361      97,745      100,189

### City of Evans Conservation Trust Fund Long Range Financial Plan

	2010 Actual	2011 Actual	2012 Budget V3	2012 Actual	2013 Budget	2013 Budget V2	2014 Projected	2015 Projected	2016 Projected	2017 Projected
Beginning Fund Balance	250,714	321,734	72,545	72,545	68,225	68,225	81,111	255,728	135,564	315,597
<b>Revenues</b>										
Intergovernmental	163,722	208,094	222,000	186,502	172,000	172,000	174,000	176,000	178,000	180,000
Interest Earnings	3,137	2,099	419	6,451	886	886	617	3,836	2,033	4,734
<b>Total Revenues</b>	<b>166,859</b>	<b>210,193</b>	<b>222,419</b>	<b>192,953</b>	<b>172,886</b>	<b>172,886</b>	<b>174,617</b>	<b>179,836</b>	<b>180,033</b>	<b>184,734</b>
CT	166,859	210,193	222,419	192,953	172,886	172,886	174,617	179,836	180,033	184,734
Transfers In	-	-	-	-	-	50,000	-	-	-	-
<b>Total Available Funds</b>	<b>166,859</b>	<b>210,193</b>	<b>222,419</b>	<b>192,953</b>	<b>172,886</b>	<b>222,886</b>	<b>174,617</b>	<b>179,836</b>	<b>180,033</b>	<b>184,734</b>
<b>Expenditures</b>										
Supplies & Services	-	-	-	-	-	5,000	-	-	-	-
Asset Management	-	-	1,667	1,667	-	-	-	-	-	-
Capital	95,839	459,382	204,670	195,606	200,000	205,000	-	300,000	-	-
<b>Total Expenditures</b>	<b>95,839</b>	<b>459,382</b>	<b>206,337</b>	<b>197,273</b>	<b>200,000</b>	<b>210,000</b>	<b>-</b>	<b>300,000</b>	<b>-</b>	<b>-</b>
Transfers Out	-	-	-	-	-	-	-	-	-	-
<b>Excess Revenue Over (Under) Expenditures</b>	<b>71,020</b>	<b>(249,189)</b>	<b>16,082</b>	<b>(4,320)</b>	<b>(27,114)</b>	<b>12,886</b>	<b>174,617</b>	<b>(120,164)</b>	<b>180,033</b>	<b>184,734</b>
<b>Ending Fund Balance</b>	<b>321,734</b>	<b>72,545</b>	<b>88,627</b>	<b>68,225</b>	<b>41,111</b>	<b>81,111</b>	<b>255,728</b>	<b>135,564</b>	<b>315,597</b>	<b>500,331</b>
CT	321,734	72,545	88,627	68,225	41,111	81,111	255,728	135,564	315,597	500,331

#### 2010-2017 Capital Improvement Plan

	2010 Actual	2011 Actual	2012 Bud V3	2012 Actual	2013 Bud	2013 Bud V2	2014	2015	2016	2017
Skate Park Improvements	-	-	35,000	30,170	-	5,000	-	300,000	-	-
Riverside Ball Park Developments	61,688	-	-	-	-	-	-	-	-	-
Aschcroft Ditch	-	-	-	-	100,000	100,000	-	-	-	-
Tuscany Mini Parks	14,347	401,330	19,670	15,436	100,000	100,000	-	-	-	-
Riverside Soccer Fields Drainage	19,805	-	-	-	-	-	-	-	-	-
Ridge Park Improvements (Part Grant)	-	58,052	-	-	-	-	-	-	-	-
Pave Riverside Pkwy	-	-	150,000	150,000	-	-	-	-	-	-
<b>Conservation Trust Fund Total</b>	<b>95,839</b>	<b>459,382</b>	<b>204,670</b>	<b>195,606</b>	<b>200,000</b>	<b>205,000</b>	<b>-</b>	<b>300,000</b>	<b>-</b>	<b>-</b>

\* Capital is budgeted at 90% of projected      375,816      478,734      263,967      237,448      217,000      212,500      230,155      392,007      284,037      450,298

### City of Evans Refuse Collection Fund Long Range Financial Plan

	2010 Actual	2011 Actual	2012 Budget	2012 Actual	2013 Budget	2014 Projected	2015 Projected	2016 Projected	2017 Projected
Beginning Fund Balance	159,041	180,530	230,588	230,588	275,978	288,816	312,066	340,462	374,123
<b>Revenues</b>									
License & Permits	1,600	400	800	800	1,200	1,200	1,200	1,200	1,200
Charges for Services	575,134	594,889	614,880	617,391	637,698	660,847	677,648	694,450	694,450
Interest Earnings	1,537	1,307	4,848	1,643	2,658	7,220	7,802	8,512	9,353
<b>Total Revenues</b>	<b>578,271</b>	<b>596,596</b>	<b>620,528</b>	<b>619,834</b>	<b>641,556</b>	<b>669,268</b>	<b>686,650</b>	<b>704,161</b>	<b>705,003</b>
CT	578,271	596,596	620,528	619,834	641,556	669,268	686,650	704,161	705,003
Transfers In	-	-	-	-	-	-	-	-	-
<b>Total Available Funds</b>	<b>578,271</b>	<b>596,596</b>	<b>620,528</b>	<b>619,834</b>	<b>641,556</b>	<b>669,268</b>	<b>686,650</b>	<b>704,161</b>	<b>705,003</b>
<b>Expenditures</b>									
Supplies & Services	527,205	516,089	554,300	543,418	596,640	612,555	623,921	635,292	635,468
<b>Total Expenditures</b>	<b>527,205</b>	<b>516,089</b>	<b>554,300</b>	<b>543,418</b>	<b>596,640</b>	<b>612,555</b>	<b>623,921</b>	<b>635,292</b>	<b>635,468</b>
Transfers Out	29,577	30,450	31,026	31,026	32,078	33,463	34,333	35,208	35,250
<b>Excess Revenue Over (Under) Expenditures</b>	<b>21,489</b>	<b>50,057</b>	<b>35,201</b>	<b>45,390</b>	<b>12,838</b>	<b>23,250</b>	<b>28,397</b>	<b>33,661</b>	<b>34,285</b>
<b>Ending Fund Balance</b>	<b>180,530</b>	<b>230,588</b>	<b>265,789</b>	<b>275,978</b>	<b>288,816</b>	<b>312,066</b>	<b>340,462</b>	<b>374,123</b>	<b>408,408</b>
CT	180,530	230,588	265,789	275,978	288,816	312,066	340,462	374,123	408,408
<b>Target Reserve - 3 months</b>	<b>131,801</b>	<b>129,022</b>	<b>138,575</b>	<b>135,855</b>	<b>149,160</b>	<b>153,139</b>	<b>155,980</b>	<b>158,823</b>	<b>158,867</b>

**City of Evans Capital Projects - Streets Long Range Financial Plan**

	2010 Actual	2011 Actual	2012 Budget V3	2012 Budget V4	2012 Actual	2013 Budget	2013 Budget V2	2014 Projected	2015 Projected	2016 Projected	2017 Projected
Beginning Fund Balance	139,939	221,691	236,449	236,449	236,449	320,125	320,125	365,956	304,386	291,972	(3,174,753)
<b>Revenues</b>											
Intergovernmental	1,201,520	731,450	1,111,198	1,111,198	855,839	1,280,062	1,504,831	913,431	1,082,586	663,275	656,976
<b>Total Revenues</b>	<b>1,201,520</b>	<b>731,450</b>	<b>1,111,198</b>	<b>1,111,198</b>	<b>855,839</b>	<b>1,280,062</b>	<b>1,504,831</b>	<b>913,431</b>	<b>1,082,586</b>	<b>663,275</b>	<b>656,976</b>
CT	1,201,519	731,450	1,111,198	1,111,198	855,839	1,280,062	1,504,831	913,431	1,082,586	663,275	656,976
Transfers In	-	-	-	-	-	335,000	335,000	-	-	-	-
<b>Total Available Funds</b>	<b>1,201,520</b>	<b>731,450</b>	<b>1,111,198</b>	<b>1,111,198</b>	<b>855,839</b>	<b>1,615,062</b>	<b>1,839,831</b>	<b>913,431</b>	<b>1,082,586</b>	<b>663,275</b>	<b>656,976</b>
<b>Expenditures</b>											
Supplies & Services	170,095	163,043	182,950	182,950	156,641	190,000	190,000	190,000	190,000	190,000	190,000
Capital Improvement	949,673	553,649	1,018,279	1,027,241	615,522	1,287,000	1,604,000	785,000	905,000	3,940,000	590,000
<b>Total Expenditures</b>	<b>1,119,768</b>	<b>716,692</b>	<b>1,201,229</b>	<b>1,210,191</b>	<b>772,163</b>	<b>1,477,000</b>	<b>1,794,000</b>	<b>975,000</b>	<b>1,095,000</b>	<b>4,130,000</b>	<b>780,000</b>
Excess Revenue Over (Under) Expenditures	81,752	14,758	(90,031)	(98,993)	83,676	138,062	45,831	(61,569)	(12,414)	(3,466,725)	(123,024)
<b>Ending Fund Balance</b>	<b>221,691</b>	<b>236,449</b>	<b>146,418</b>	<b>137,456</b>	<b>320,125</b>	<b>458,187</b>	<b>365,956</b>	<b>304,386</b>	<b>291,972</b>	<b>(3,174,753)</b>	<b>(3,297,777)</b>
CT	221,691	236,449			320,125						

**2010-2017 Capital Improvement Plan**

	2010 Actual	2011 Actual	2012 Bud V3	2012 Bud V4	2012 Actual	2013 Bud	2013 Bud V2	2014	2015	2016	2017
11th Ave. & US 34 Improvements	-	-	-	-	-	-	-	-	-	150,000	-
35th Avenue	-	-	-	8,962	-	-	-	-	-	-	-
Equipment	-	-	7,050	7,050	7,050	-	-	-	-	-	-
17th Ave & 23rd Ave Bikepath - Grant Funded	-	-	31,000	31,000	-	-	31,000	-	-	-	-
31st Improvements	57,517	-	-	-	-	-	-	-	-	-	-
37th St. Widening - 47th to 65th (4 lanes)	-	-	-	-	-	-	-	-	-	3,200,000	-
29th Street Road Upgrades	-	-	147,229	147,229	142,294	-	-	-	-	-	-
Bridge Rehabilitation Funds	-	-	35,000	35,000	20,752	-	-	35,000	-	35,000	35,000
Concrete Replacement	29,953	74,551	75,000	75,000	71,035	75,000	75,000	75,000	50,000	75,000	75,000
Evans Ditch Bikepath - Grant Funded	-	-	168,000	168,000	80,012	-	97,000	-	-	-	-
Misc. Street Resurfacing (Per PMS)	222,254	406,503	350,000	350,000	271,776	350,000	350,000	325,000	280,000	400,000	400,000
Roadway Landscaping	-	-	-	-	-	-	-	-	-	30,000	30,000
Safe Routes to School - Grant Funded	-	62,254	-	-	-	-	-	-	-	-	-
Street Lighting	-	-	30,000	30,000	-	-	30,000	50,000	-	50,000	50,000
US 85 Landscaping	-	-	-	-	-	50,000	50,000	-	-	-	-
US 85 Access Control @ 31st St.	-	-	95,000	95,000	-	-	-	300,000	575,000	-	-
US 85 Access Control @ 37th St.	-	-	80,000	80,000	22,603	812,000	876,000	-	-	-	-
US 85 Service Road Improvements - Grant Funded	639,949	10,341	-	-	-	-	-	-	-	-	-
<b>Capital Projects - Streets Total</b>	<b>949,673</b>	<b>553,649</b>	<b>1,018,279</b>	<b>1,027,241</b>	<b>615,522</b>	<b>1,287,000</b>	<b>1,604,000</b>	<b>785,000</b>	<b>905,000</b>	<b>3,940,000</b>	<b>590,000</b>

\* Capital is budgeted at 90% of projected ending fund balance after operations, excluding grant funding

	1,054,227	711,088	1,048,227	1,048,227	842,082	1,570,668	1,772,960	980,448	1,077,275	688,723	(2,436,999)
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### City of Evans Debt Service - GO Bond Fund Long Range Financial Plan

Final Payoff - 2013

	2010 Actual	2011 Actual	2012 Budget	2012 Actual	2013 Budget	2013 Budget V2	2014 Projected	2015 Projected	2016 Projected	2017 Projected
Beginning Fund Balance	506,614	506,810	506,810	506,810	507,900	507,900	4,114	4,114	4,114	4,114
<b>Revenues</b>										
Intergovernmental	480,927	485,693	479,000	479,938	487,000	487,000	-	-	-	-
Interest Earnings	19,079	19,067	20,000	19,062	20,000	20,000	-	-	-	-
<b>Total Revenues</b>	<b>500,007</b>	<b>504,760</b>	<b>499,000</b>	<b>499,000</b>	<b>507,000</b>	<b>507,000</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>
CT	500,006	505,000	499,000	499,000	507,000	-	-	-	-	-
Transfers In	-	-	-	-	-	900,000	-	-	-	-
<b>Total Available Funds</b>	<b>500,007</b>	<b>504,760</b>	<b>499,000</b>	<b>499,000</b>	<b>507,000</b>	<b>1,407,000</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>
<b>Expenditures</b>										
Supplies & Services	-	150	600	300	600	600	-	-	-	-
Debt	499,810	504,610	497,610	497,610	505,186	1,910,186	-	-	-	-
<b>Total Expenditures</b>	<b>499,810</b>	<b>504,760</b>	<b>498,210</b>	<b>497,910</b>	<b>505,786</b>	<b>1,910,786</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>
Transfers Out	-	-	-	-	-	-	-	-	-	-
<b>Excess Revenue Over (Under) Expenditures</b>	<b>197</b>	<b>-</b>	<b>790</b>	<b>1,090</b>	<b>1,214</b>	<b>(503,786)</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>
<b>Ending Fund Balance</b>	<b>506,810</b>	<b>506,810</b>	<b>507,600</b>	<b>507,900</b>	<b>509,114</b>	<b>4,114</b>	<b>4,114</b>	<b>4,114</b>	<b>4,114</b>	<b>4,114</b>
CT	506,810	506,810	507,600	507,900	509,114	4,114	4,114	4,114	4,114	4,114

\* Entire ending fund balance is restricted for debt service and includes \$505,610 of restricted cash

\*\* Assumes the early retirement of bonds in Dec of 2013

**City of Evans Water Fund Long Range Financial Plan**

	2010 Actual	2011 Actual	2012 Budget V4	2012 Actual	2013 Budget	2013 Budget V2	2014 Projected	2015 Projected	2016 Projected	2017 Projected
<b>Operating Revenues</b>										
Base Rate (base, np, penalty, misc)	1,199,842	1,388,149	1,541,409	1,655,893	1,724,652	1,724,652	1,774,972	1,822,725	1,870,598	1,918,592
Variable Rate	2,134,111	2,297,724	2,723,250	2,732,495	2,450,000	2,450,000	2,511,250	2,574,031	2,638,382	2,704,342
Interest Income	2,908	4,532	17,160	5,433	15,747	15,747	31,377	32,161	32,965	33,789
<b>Total Operating Revenues</b>	<b>3,336,861</b>	<b>3,690,406</b>	<b>4,281,819</b>	<b>4,393,821</b>	<b>4,190,400</b>	<b>4,190,400</b>	<b>4,317,598</b>	<b>4,428,917</b>	<b>4,541,946</b>	<b>4,656,723</b>
<b>Operating Expenses</b>										
Fixed costs	1,093,233	1,259,216	1,491,052	1,347,869	1,575,404	1,507,914	1,502,030	1,529,313	1,557,213	1,577,893
Variable costs	1,766,910	2,201,953	2,506,118	2,472,093	2,169,530	2,163,133	2,212,031	2,256,159	2,301,169	2,347,000
Total Operating Expenses	2,860,143	3,461,169	3,997,170	3,819,962	3,744,934	3,671,047	3,714,061	3,785,472	3,858,382	3,924,893
Net Revenue over (under) expenses	<b>476,718</b>	<b>229,236</b>	<b>294,648</b>	<b>573,869</b>	<b>446,465</b>	<b>519,352</b>	<b>603,537</b>	<b>643,446</b>	<b>683,563</b>	<b>731,750</b>
Transfer for Major Maint (w AMP)	49,558	78,253	112,024	106,424	149,248	216,738	272,941	293,412	313,385	340,699
Transfer for Water Conservation	88,033	102,948	217,132	-	281,470	286,867	299,219	317,873	337,213	357,262
<b>Net Operations after T transfers</b>	<b>339,127</b>	<b>48,035</b>	<b>(34,507)</b>	<b>467,445</b>	<b>15,747</b>	<b>15,747</b>	<b>31,377</b>	<b>32,161</b>	<b>32,965</b>	<b>33,789</b>
<b>Running Cash Balance</b>	<b>723,838</b>	<b>771,873</b>	<b>737,366</b>	<b>1,239,318</b>	<b>1,255,065</b>	<b>1,255,065</b>	<b>1,286,442</b>	<b>1,318,603</b>	<b>1,351,568</b>	<b>1,385,357</b>
<b>Target Operating Reserve - 3 months</b>	<b>715,036</b>	<b>819,992</b>	<b>914,504</b>	<b>928,382</b>	<b>828,304</b>	<b>791,861</b>	<b>785,475</b>	<b>793,547</b>	<b>801,946</b>	<b>806,753</b>
<b>Available Funds</b>	<b>8,802</b>	<b>(48,119)</b>	<b>(177,137)</b>	<b>310,936</b>	<b>426,761</b>	<b>463,205</b>	<b>500,967</b>	<b>525,057</b>	<b>549,622</b>	<b>578,602</b>
<b>Water Rights Revenues</b>										
Payment in Lieu & Water Rights Lease	19,032	42,166	60,000	36,440	45,000	30,000	31,000	34,100	37,510	41,261
Interest Income	-	-	-	-	-	-	-	-	-	-
<b>Water Rights Expenses</b>										
Water Right Acquisition	-	-	-	-	-	-	-	-	-	-
<b>Annual Net</b>	<b>19,032</b>	<b>42,166</b>	<b>60,000</b>	<b>36,440</b>	<b>45,000</b>	<b>30,000</b>	<b>31,000</b>	<b>34,100</b>	<b>37,510</b>	<b>41,261</b>
<b>Running Balance</b>	<b>(270,056)</b>	<b>(227,890)</b>	<b>(167,890)</b>	<b>(191,450)</b>	<b>(146,450)</b>	<b>(161,450)</b>	<b>(130,450)</b>	<b>(96,350)</b>	<b>(58,840)</b>	<b>(17,579)</b>
<b>System Maintenance &amp; Expansion Revenue</b>										
Tap Fee Revenue	73,881	59,562	50,000	194,409	50,000	340,000	340,000	374,000	411,400	452,540
Water Meter Sales	5,645	5,272	1,384	12,780	1,500	5,000	5,500	6,000	6,500	7,000
Interest Income	15,120	9,585	23,320	10,999	2,733	2,733	-	-	-	-
Transfer for Major Maint (w AMP)	49,558	78,253	112,024	106,424	149,248	216,738	272,941	293,412	313,385	340,699
Transfer for Water Conservation	88,033	102,948	217,132	-	281,470	286,867	299,219	317,873	337,213	357,262
Other	-	-	-	-	-	-	-	-	-	-
<b>Total System Expansion Revenue</b>	<b>232,236</b>	<b>255,620</b>	<b>403,859</b>	<b>323,712</b>	<b>484,950</b>	<b>851,338</b>	<b>917,661</b>	<b>991,285</b>	<b>1,068,498</b>	<b>1,157,501</b>
<b>System Maintenance &amp; Expansion Expenses</b>										
Capital Outlay	248,151	227,912	1,430,897	689,422	393,063	1,787,655	1,141,838	5,860,209	793,000	3,551,000
Major Maintenance & AMP	49,558	78,253	112,024	106,424	149,248	50,000	50,000	293,412	313,385	340,699
Water Conservation Projects	88,033	102,948	217,132	-	281,470	-	-	317,873	337,213	357,262
Misc Expenses	52,856	28,175	179,020	39,347	28,500	24,000	14,500	14,500	14,500	14,500
<b>Total Expenses</b>	<b>438,598</b>	<b>437,288</b>	<b>1,939,162</b>	<b>835,193</b>	<b>852,281</b>	<b>1,861,655</b>	<b>1,206,338</b>	<b>6,485,994</b>	<b>1,458,098</b>	<b>4,263,461</b>
<b>Annual Net</b>	<b>(206,361)</b>	<b>(181,668)</b>	<b>(1,535,303)</b>	<b>(511,481)</b>	<b>(367,330)</b>	<b>(1,010,317)</b>	<b>(288,677)</b>	<b>(5,494,709)</b>	<b>(389,600)</b>	<b>(3,105,960)</b>
<b>Running Balance</b>	<b>1,853,607</b>	<b>1,671,938</b>	<b>136,635</b>	<b>1,160,457</b>	<b>21,441</b>	<b>150,140</b>	<b>(267,237)</b>	<b>(5,761,946)</b>	<b>(6,151,546)</b>	<b>(9,257,506)</b>
Total Water Fund Revenue	3,450,539	3,806,990	4,416,523	4,647,549	4,289,632	4,568,132	4,694,098	4,843,017	4,997,356	5,157,524
Total Water Fund Expenses OT	3,298,741	3,898,457	5,926,333	4,655,145	4,596,215	5,532,702	4,920,399	10,271,465	5,316,480	8,188,433
Changes in Working Capital	(281,968)	43,570	(6,334)	(6,334)	-	-	-	-	-	-
<b>Total Water Fund Cash Balance</b>	<b>2,254,509</b>	<b>2,206,612</b>	<b>696,802</b>	<b>2,192,682</b>	<b>1,886,099</b>	<b>1,228,112</b>	<b>1,001,811</b>	<b>(4,426,637)</b>	<b>(4,745,762)</b>	<b>(7,776,672)</b>
	234,709	206,612	-	219,882	-	-	-	-	-	-

**Water Fund**

*Expense Summary*

	2010 Actual	2011 Actual	2012 Budget V4	2012 Actual	2013 Budget	2013 Budget V2	2014 Projected	2015 Projected	2016 Projected	2017 Projected
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**Operating Revenues**

Base Rate (base, rp, penalty, misc)	\$1,199,842	\$1,388,149	\$1,541,409	\$1,655,893	\$1,724,652	\$1,724,652	\$1,774,972	\$1,822,725	\$1,870,598	\$1,918,592
	\$10.50	\$12.50	\$14.50	\$14.50	\$16.50	\$16.50	\$17.00	\$17.50	\$18.00	\$18.50

**Base Major Maintenance Calculator**

Administrative GF OH	520,200	621,238	651,053	602,357	674,143	694,202	671,078	681,145	691,362	701,732
Water Fund Payroll, Supplies & Services	573,033	637,978	829,999	745,512	901,261	813,712	830,952	848,168	865,851	876,160
AMP	-	-	42,000	39,096	-	-	43,260	60,471	56,822	56,822
<b>Major Maintenance Projection</b>	<b>106,609</b>	<b>128,933</b>	<b>18,357</b>	<b>268,928</b>	<b>149,248</b>	<b>216,738</b>	<b>229,681</b>	<b>232,941</b>	<b>256,563</b>	<b>283,877</b>

<b>Total Base Rate</b>	<b>\$1,199,842</b>	<b>\$1,388,149</b>	<b>\$1,541,409</b>	<b>\$1,655,893</b>	<b>\$1,724,652</b>	<b>\$1,724,652</b>	<b>\$1,774,972</b>	<b>\$1,822,725</b>	<b>\$1,870,598</b>	<b>\$1,918,592</b>
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**Major Maintenance and AMP in Fixed Costs**

Asset Management Plan	-	-	42,000	39,096	-	-	43,260	60,471	56,822	56,822
Major Maintenance Projects:	-	-	18,357	-	99,248	166,738	229,681	232,941	256,563	283,877
Equipment	-	-	1,667	-	-	-	-	-	-	-
Line Work	49,558	78,253	50,000	67,328	50,000	50,000	-	-	-	-
<b>Total In Fixed Costs</b>	<b>49,558</b>	<b>78,253</b>	<b>112,024</b>	<b>106,424</b>	<b>149,248</b>	<b>216,738</b>	<b>272,941</b>	<b>293,412</b>	<b>313,385</b>	<b>340,699</b>

**Capital Expenditures - System Expansion Tap Fee Revenue**

Windy Gap Storage Project	188,151	167,912	197,987	190,301	203,063	203,063	121,838	4,935,209	-	-
NISP Storage Project	60,000	60,000	40,000	40,000	40,000	40,000	20,000	375,000	393,000	3,551,000
System Expansion Fee to City of Greeley	-	-	-	-	-	1,544,592	1,000,000	300,000	-	-
Whitney Way - Crossing 37th St	-	-	-	-	-	-	-	-	-	-
West Service Rd. - 31st St. to 35th St.	-	-	-	-	50,000	-	-	-	-	-
Ashcroft Draw Drop & Measurement Str	-	-	-	-	100,000	-	-	-	-	-
Erasmus Rd & Ind Flwy 43rd to 44th St	-	-	-	-	-	-	-	50,000	400,000	-
Tuscaroy Non-Potable Ponds	-	-	-	-	-	-	-	-	-	-
Tuscaroy Pumpouse	-	-	-	-	-	-	-	200,000	-	-
Non-Potable Master Plan Update	-	-	-	-	-	-	-	-	-	-
Carryforward Projects	-	-	533,000	61,856	-	-	-	-	-	-
17th Ave Drop & Measurement Structure	-	-	250,000	-	-	-	-	-	-	-
11th Ave Waterline - 32nd to Cemetery	-	-	410,000	397,265	-	-	-	-	-	-
<b>Total in CIP from Tap Fee revenue</b>	<b>248,151</b>	<b>227,912</b>	<b>1,430,987</b>	<b>689,422</b>	<b>393,063</b>	<b>1,787,655</b>	<b>1,141,838</b>	<b>5,860,209</b>	<b>793,000</b>	<b>3,551,000</b>

<b>Total Capital in Attachment 1 (includes water rights)</b>	<b>297,709</b>	<b>306,165</b>	<b>1,501,011</b>	<b>756,750</b>	<b>542,311</b>	<b>2,004,393</b>	<b>1,371,519</b>	<b>6,093,150</b>	<b>1,049,563</b>	<b>3,834,877</b>
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**Capital Expenditures - Base Major Maint Fee Revenue (not prioritized or funded)**

Whitney Way - Crossing 37th St	-	-	-	-	-	-	-	-	20,000	-
West Service Rd. - 31st St. to 35th St.	-	-	-	-	-	-	-	-	272,000	-
37th St - 23rd Ave to 17th Ave	-	-	-	-	-	-	-	580,000	-	-
36th St - 11th Ave to Idaho	-	-	-	-	-	-	-	-	-	100,000
35th St - Empire to Trinidad	-	-	-	-	-	-	-	200,000	-	-
37th St. Sediment Removal Basin	-	-	-	-	-	-	-	-	10,000	-
17th Ave. Sediment Removal Basin	-	-	-	-	-	-	-	-	-	-
17th Ave. to 42nd St. Lining	-	-	-	-	-	-	-	75,000	-	-
37th St. to 11th Ave. Lining	-	-	-	-	-	-	-	-	75,000	-
Erasmus WWTF Lining	-	-	-	-	-	-	-	-	-	125,000
Boulder St. - 36th St. to 37th St.	-	-	-	-	-	-	-	-	-	65,000
Central Ave. Pipe - 40th St. to 39th St.	-	-	-	-	-	-	-	-	20,000	-
Empire St. - 33rd St. to 35th St.	-	-	-	-	-	-	-	-	-	117,000
Idaho St. Pipe - 42nd St. to 40th St.	-	-	-	-	-	-	-	-	-	25,000
Golden St. Pipe - 40th St. to 37th St.	-	-	-	-	-	-	-	-	-	25,000
SCADA - North-South Split	-	-	-	-	-	-	-	-	10,000	-
SCADA - 17th Ave. Drop	-	-	-	-	-	-	-	-	35,000	-
SCADA - Furney Drop	-	-	-	-	-	-	-	35,000	-	-
SCADA - Ashcroft Draw	-	-	-	-	-	-	-	35,000	-	-
SCADA - 31st St. & Empire	-	-	-	-	-	-	-	-	-	17,000
SCADA - 42nd St. & Golden	-	-	-	-	-	-	-	-	-	17,000
Pleasant Acres Dr. - 32nd St. to 11th Ave	-	-	-	-	-	-	-	-	260,000	-
Denver St. - 39th St. - 40th St.	-	-	-	-	-	-	-	-	65,000	-
State St. - 33rd St. to 35th St.	-	-	-	-	-	-	-	-	-	80,000
Southgate Dr. - Denver to 31st St.	-	-	-	-	-	-	-	-	-	230,000
<b>Total in Major Maint from base rate revenue</b>	<b>-</b>	<b>925,000</b>	<b>767,000</b>	<b>801,000</b>						

**Other Balance Accumulators**

**Major Maintenance Accumulator**

Revenue	1,202,750	1,392,682	1,558,569	1,661,326	1,724,652	1,724,652
Expenses	1,142,791	1,337,469	1,593,076	1,454,293	1,724,652	2,046,856
<b>Balance</b>	<b>59,959</b>	<b>115,171</b>	<b>80,664</b>	<b>322,204</b>	<b>322,204</b>	<b>-</b>

**Water Conservation Accumulator**

Revenue	2,134,111	2,297,724	2,723,250	2,732,495	2,450,000	2,450,000
Expenses	1,854,943	2,304,891	2,723,250	2,472,083	2,450,000	2,982,403
<b>Balance</b>	<b>279,168</b>	<b>271,991</b>	<b>271,991</b>	<b>532,403</b>	<b>532,403</b>	<b>-</b>

**Carryforward Projects Detail**

Hwy 65 Improv	-	-	93,000	-	-	-	-	-	-
State Farm Water Line	-	-	75,000	-	-	-	-	-	-
Lakeside/State Farm Fire Flow	-	-	45,000	42,629	-	-	-	-	-
Ashcroft Draw Drop & Measurement Str	-	-	50,000	19,227	-	38,717	-	-	-
North Point Storage	-	-	-	-	-	-	-	-	-
17th Ave Pump Station	-	-	250,000	-	-	-	-	-	-
Riverside Lake overflow	-	-	20,000	-	-	-	-	-	-
	-	-	533,000	61,856	-	38,717	-	-	-

**City of Evans Waste Water Fund Long Range Financial Plan**

	2010 Actual	2011 Actual	2012 Budget V2	2012 Actual	2013 Budget	2013 Budget V2	2014 Projected	2015 Projected	2016 Projected	2017 Projected
<b>Operating Revenues</b>										
Sewer Sales	1,022,094	1,027,800	1,091,776	1,125,063	1,216,525	1,216,525	1,223,742	1,231,095	1,238,586	1,246,216
Other	11,029	2,994	3,902	2,218	1,927	1,927	4,582	4,816	5,001	4,839
<b>Total Operating Revenues</b>	<b>1,033,123</b>	<b>1,030,794</b>	<b>1,095,678</b>	<b>1,127,281</b>	<b>1,218,452</b>	<b>1,218,452</b>	<b>1,228,325</b>	<b>1,235,911</b>	<b>1,243,587</b>	<b>1,251,055</b>
CT	138,833	138,934	139,678	139,281	139,858	139,858	139,833	139,931	139,931	139,931
<b>Operating Expenses</b>										
Personnel	209,261	204,713	295,064	293,711	328,300	328,300	343,157	358,290	374,091	398,588
Operations	300,002	310,895	313,756	310,765	336,256	336,256	318,800	323,582	328,436	333,362
Debt	115,005	113,361	111,707	111,708	115,454	115,454	108,626	107,048	110,762	110,762
Transfer for Overhead to General Fund	363,517	412,824	428,095	413,141	430,156	444,089	428,216	434,639	441,159	447,776
Total Operating Expenses	1,087,785	1,121,793	1,148,622	1,128,325	1,210,147	1,214,089	1,198,799	1,223,559	1,254,448	1,282,488
Net Revenues over (under) expenses	<b>(54,662)</b>	<b>(90,999)</b>	<b>(52,944)</b>	<b>(1,046)</b>	<b>8,304</b>	<b>(9,637)</b>	<b>29,526</b>	<b>12,352</b>	<b>(10,861)</b>	<b>(31,433)</b>
Running Cash Balance	300,224	209,225	245,481	297,181	305,485	291,553	321,078	333,430	322,570	291,136
Target Operating Reserve - 3 months	266,946	280,448	287,356	282,331	302,537	306,020	299,700	305,800	313,612	320,622
Available Funds	<b>133,278</b>	<b>18,777</b>	<b>41,876</b>	<b>14,850</b>	<b>2,949</b>	<b>(14,467)</b>	<b>21,379</b>	<b>27,540</b>	<b>8,958</b>	<b>(29,487)</b>
<b>System Maintenance Revenues</b>										
Revenue	-	-	-	-	16,818	16,818	16,818	16,818	16,818	16,818
Interest	-	5,631	495	5,566	-	-	-	-	-	-
<b>Total System Maintenance Revenues</b>	<b>-</b>	<b>5,631</b>	<b>495</b>	<b>5,566</b>	<b>16,818</b>	<b>16,818</b>	<b>16,818</b>	<b>16,818</b>	<b>16,818</b>	<b>16,818</b>
<b>System Maintenance Expenses</b>										
Supplier & Services	-	-	396,500	384,604	-	-	300,000	-	-	-
Asset Management	-	-	15,000	10,763	145,700	145,700	72,100	24,363	91,738	10,429
Capital Outlay - Regulatory Compliance	-	-	717,000	10,491	-	21,000	-	-	1,730,000	8,426,000
Capital Outlay - Major Maintenance	38,449	4,396	-	-	-	-	234,000	-	-	397,000
<b>Total System Maintenance Expenses</b>	<b>38,449</b>	<b>4,396</b>	<b>1,128,500</b>	<b>405,858</b>	<b>145,700</b>	<b>166,700</b>	<b>596,100</b>	<b>24,363</b>	<b>1,821,738</b>	<b>8,763,429</b>
Annual Net	(38,449)	1,235	(1,128,005)	(399,292)	(128,882)	(149,882)	(579,282)	(7,545)	(1,204,920)	(8,726,611)
Running Cash Balance	<b>884,680</b>	<b>885,885</b>	<b>(242,120)</b>	<b>486,593</b>	<b>387,711</b>	<b>336,711</b>	<b>(242,571)</b>	<b>(250,116)</b>	<b>(2,085,036)</b>	<b>(10,781,647)</b>
<b>System Expansion Revenues</b>										
System Development Fees	32,592	35,165	25,000	89,994	25,000	25,000	27,500	30,250	33,275	36,603
Interest	-	614	2,597	990	2,909	2,909	3,699	4,112	4,566	5,065
<b>Total System Expansion Revenues</b>	<b>32,592</b>	<b>35,779</b>	<b>27,597</b>	<b>90,984</b>	<b>27,909</b>	<b>27,909</b>	<b>31,199</b>	<b>34,362</b>	<b>37,841</b>	<b>41,668</b>
<b>System Expansion Expenses</b>										
Capital Outlay	-	-	-	-	-	-	-	-	-	-
<b>Total System Expansion Expenses</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>
Annual Net	32,592	35,165	25,000	89,994	25,000	25,000	27,500	30,250	33,275	36,603
Running Cash Balance	<b>96,469</b>	<b>131,654</b>	<b>156,654</b>	<b>221,628</b>	<b>246,628</b>	<b>246,628</b>	<b>274,128</b>	<b>304,378</b>	<b>337,653</b>	<b>374,256</b>
Total Waste Water Fund Revenue	1,065,715	1,072,204	1,123,770	1,224,831	1,263,179	1,263,179	1,276,342	1,287,091	1,298,246	1,309,540
Total Waste Water Fund Expenses	1,106,234	1,126,189	2,277,923	1,535,183	1,355,847	1,390,780	1,794,899	1,247,923	3,076,185	10,025,918
Changes in Working Capital	21,400	1,376	-	133,772	-	-	-	-	-	-
Ending Cash	1,371,344	1,318,739	164,583	1,142,155	1,049,436	1,014,554	495,997	535,166	(1,242,774)	(9,959,152)
CT	139,145	139,135	-	139,135	-	-	-	-	-	-
Restricted Cash	238,195	252,108	-	-	-	-	-	-	-	-

**2010-2017 Capital Improvement Plan**

	2010 Actual	2011 Actual	2012 V2	2012 Actual	2013	2013 V2	2014	2015	2016	2017
WWTP Expansion to 2.0 MGD - Planning/Design	-	-	418,000	10,491	-	22,000	-	-	-	-
Evans - Biological Process Improvements	-	-	258,000	-	-	-	-	-	-	258,000
Evans - UV Disinfection	-	-	57,000	-	-	-	-	-	-	57,000
HNP - Biological Process Improvements	-	-	-	-	-	-	-	-	1,469,000	7,122,000
HNP - UV Disinfection	-	-	-	-	-	-	-	-	241,000	1,304,000
HNP - Stand By Power	-	-	-	-	-	-	224,000	-	-	-
Evans Wastewater Utility Plan	38,449	4,396	-	-	-	-	-	-	-	-
<b>Waste Water Fund Total</b>	<b>38,449</b>	<b>4,396</b>	<b>717,000</b>	<b>10,491</b>	<b>0</b>	<b>21,000</b>	<b>224,000</b>	<b>0</b>	<b>1,730,000</b>	<b>8,733,000</b>

**City of Evans Storm Drainage Fund Long Range Financial Plan**

	2010 Actual	2011 Actual	2012 Budget V2	2012 Actual	2013 Budget	2013 Budget V2	2014 Projected	2015 Projected	2016 Projected	2017 Projected
Beginning Cash	483,503	736,495	607,775	607,775	730,294	730,294	79,433	(88,774)	(102,588)	(298,698)
<b>Operating Revenues</b>										
Storm Drainage Sales	424,015	427,430	442,551	438,219	455,800	455,800	464,916	474,214	483,699	493,373
Other	5,534	37,077	891	5,155	1,261	1,261	7,234	(977)	(1,128)	(3,286)
<b>Total Operating Revenues</b>	<b>429,549</b>	<b>464,507</b>	<b>443,442</b>	<b>443,374</b>	<b>457,061</b>	<b>457,061</b>	<b>472,150</b>	<b>473,238</b>	<b>482,570</b>	<b>490,087</b>
CT	429,549	464,507	443,442	443,374	457,061	457,061	472,150	473,238	482,570	490,087
<b>Operating Expenses</b>										
Storm Personnel	12,161	-	-	-	-	-	-	-	-	-
Storm Operations	8,001	10,920	25,984	22,340	41,374	41,374	26,994	27,399	27,810	28,227
<b>Total Operating Expenses</b>	<b>20,162</b>	<b>10,920</b>	<b>25,984</b>	<b>22,340</b>	<b>41,374</b>	<b>41,374</b>	<b>26,994</b>	<b>27,399</b>	<b>27,810</b>	<b>28,227</b>
Transfer Out - Overhead to GF	(125,907)	(136,994)	(147,909)	(142,217)	(158,360)	(164,048)	(159,362)	(161,753)	(164,179)	(166,642)
<b>Operating Income (Loss) after transfers</b>	<b>283,480</b>	<b>316,593</b>	<b>269,549</b>	<b>278,817</b>	<b>257,327</b>	<b>251,639</b>	<b>285,793</b>	<b>284,086</b>	<b>290,581</b>	<b>295,218</b>
<b>Other Income (Expense)</b>										
Plant Inv Fees/Cash in Lieu of Fees	6,139	30,203	10,000	30,169	10,000	10,000	11,000	12,100	13,310	14,641
Capital Outlay	(46,136)	(503,905)	(772,685)	(194,362)	(340,000)	(912,500)	(465,000)	(310,000)	(500,000)	(600,000)
Asset Management	-	(23,584)	-	-	-	-	-	-	-	-
Changes in Working Capital	9,509	51,973	-	7,895	-	-	-	-	-	-
<b>Increase (Decrease) in Cash</b>	<b>252,992</b>	<b>(128,720)</b>	<b>(493,136)</b>	<b>122,519</b>	<b>(72,673)</b>	<b>(650,861)</b>	<b>(168,207)</b>	<b>(13,814)</b>	<b>(196,109)</b>	<b>(290,141)</b>
Ending Cash	736,495	607,775	114,639	730,294	657,621	79,433	(88,774)	(102,588)	(298,698)	(588,839)
CT	736,495	607,775	114,639	730,294	657,621	79,433	(88,774)	(102,588)	(298,698)	(588,839)
<b>Target Reserve - 3 months</b>	<b>5,041</b>	<b>2,730</b>	<b>6,496</b>	<b>5,585</b>	<b>10,343</b>	<b>10,343</b>	<b>6,749</b>	<b>6,850</b>	<b>6,953</b>	<b>7,057</b>

**2010-2017 Capital Improvement Plan**

	2010 Actual	2011 Actual	2012 Budget V2	2012 Actual	2013 Budget	2013 Budget V2	2014 Projected	2015 Projected	2016 Projected	2017 Projected
23rd Ave. Drainage Basin Improvements	46,136	475,850	233,066	-	-	233,000	-	-	-	-
23rd Ave Outfall Design	-	-	-	-	-	-	-	-	-	600,000
Hwy 85/37th St Drainage	-	-	40,000	5,586	-	40,000	235,000	-	-	-
Ashcroft/Tuscany Ditch & Trail Improvements	-	28,055	84,619	81,297	-	-	-	-	-	-
15th Ave. Storm Sewer - 37th to 36th	-	-	-	-	-	-	-	-	200,000	-
US 34 By-pass Storm Sewer Improvements	-	-	-	-	-	-	-	-	300,000	-
37th St. Storm Sewer - Trinidad to Boulder	-	-	285,000	33,000	340,000	592,000	-	-	-	-
Riverbend Storm Sewer Outfall	-	-	10,000	-	-	10,000	-	-	-	-
31st St. Storm Sewer - US 85 to ditch outfall	-	-	-	-	-	-	-	-	-	-
41st St. Storm Sewer - Boulder St. to Golden St	-	-	-	-	-	-	-	40,000	-	-
41st St. Storm Sewer - Central to Boulder	-	-	-	-	-	-	-	40,000	-	-
Boulder St. Storm Sewer - 40th St. to 41st St.	-	-	-	-	-	-	-	40,000	-	-
Boulder St. Storm Sewer - 41st St. to 42nd St.	-	-	-	-	-	-	-	40,000	-	-
Central St./State St. Storm Sewer Rehab.	-	-	-	-	-	-	-	150,000	-	-
37th St. Storm Sewer - Boulder to US 85	-	-	40,000	-	-	37,500	230,000	-	-	-
42nd Street Storm	-	-	80,000	74,479	-	-	-	-	-	-
<b>Storm Drainage Total</b>	<b>46,136</b>	<b>503,905</b>	<b>772,685</b>	<b>194,362</b>	<b>340,000</b>	<b>912,500</b>	<b>465,000</b>	<b>310,000</b>	<b>500,000</b>	<b>600,000</b>

\* Capital is budgeted at 90% of projected ending fund balance after

### City of Evans Volunteer Fireman's Pension Fund Long Range Financial Plan

	2010 Actual	2011 Actual	2012 Budget	2012 Actual	2013 Budget	2013 Budget V2	2014 Projected	2015 Projected	2016 Projected	2017 Projected
Beginning Fund Balance	392,226	455,022	472,821	472,821	523,820	523,820	523,820	523,820	523,820	523,820
<b>Revenues</b>										
Intergovernmental	33,994	33,994	33,994	22,123	-	-	-	-	-	-
Contributions/Inv Inc	135,078	93,026	128,000	138,106	-	-	-	-	-	-
<b>Total Revenues</b>	<b>169,072</b>	<b>127,020</b>	<b>161,994</b>	<b>160,229</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>
CT	169,072	127,020	161,994	160,229	-	-	-	-	-	-
Transfers In	-	-	-	-	-	-	-	-	-	-
<b>Total Available Funds</b>	<b>169,072</b>	<b>127,020</b>	<b>161,994</b>	<b>160,229</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>
<b>Expenditures</b>										
Pension Distributions	106,275	109,221	154,200	109,230	-	-	-	-	-	-
<b>Total Expenditures</b>	<b>106,275</b>	<b>109,221</b>	<b>154,200</b>	<b>109,230</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>
Transfers Out	-	-	-	-	-	523,820	-	-	-	-
<b>Excess Revenue Over (Under)</b>	<b>62,797</b>	<b>17,799</b>	<b>7,794</b>	<b>50,999</b>	<b>-</b>	<b>(523,820)</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>
<b>Ending Fund Balance</b>	<b>455,022</b>	<b>472,821</b>	<b>480,615</b>	<b>523,820</b>	<b>523,820</b>	<b>0</b>	<b>523,820</b>	<b>523,820</b>	<b>523,820</b>	<b>523,820</b>
CT	455,022	472,821		523,820						

\* Transfer of fund to Evans Fire Protection District in 2013

### City of Evans Cemetery Endowment Fund Long Range Financial Plan

	2010 Actual	2011 Actual	2012 Budget	2012 Actual	2013 Budget	2013 Budget V2	2014 Projected	2015 Projected	2016 Projected	2017 Projected
Beginning Fund Balance	48,206	48,005	48,684	48,684	56,676	56,676	48,076	48,076	48,076	48,076
<b>Revenues</b>										
Investment Income	3,029	8,679	2,000	9,992	6,000	10,000	6,000	6,000	6,000	6,000
<b>Total Revenues</b>	<b>3,029</b>	<b>8,679</b>	<b>2,000</b>	<b>9,992</b>	<b>6,000</b>	<b>10,000</b>	<b>6,000</b>	<b>6,000</b>	<b>6,000</b>	<b>6,000</b>
CT	3,029	8,679	2,000	2,000	6,000	10,000	6,000	6,000	6,000	6,000
Transfers In	-	-	-	-	-	-	-	-	-	-
<b>Total Available Funds</b>	<b>3,029</b>	<b>8,679</b>	<b>2,000</b>	<b>9,992</b>	<b>6,000</b>	<b>10,000</b>	<b>6,000</b>	<b>6,000</b>	<b>6,000</b>	<b>6,000</b>
<b>Expenditures</b>										
Culture, Parks & Recreation	3,230	8,000	2,000	2,000	6,000	18,600	6,000	6,000	6,000	6,000
<b>Total Expenditures</b>	<b>3,230</b>	<b>8,000</b>	<b>2,000</b>	<b>2,000</b>	<b>6,000</b>	<b>18,600</b>	<b>6,000</b>	<b>6,000</b>	<b>6,000</b>	<b>6,000</b>
Transfers Out	-	-	-	-	-	-	-	-	-	-
<b>Excess Revenue Over (Under) Expenditures</b>	<b>(201)</b>	<b>679</b>	<b>-</b>	<b>7,992</b>	<b>-</b>	<b>(8,600)</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>
<b>Ending Fund Balance</b>	<b>48,005</b>	<b>48,684</b>	<b>48,684</b>	<b>56,676</b>	<b>56,676</b>	<b>48,076</b>	<b>48,076</b>	<b>48,076</b>	<b>48,076</b>	<b>48,076</b>
CT	48,005	48,684		56,676						

\*\*\$48,000 restricted corpus

**CITY OF EVANS, COLORADO**

**ORDINANCE NO. 559-13**

**AN ORDINANCE AMENDING SECTION 13.04.200, WATER CONSERVATION MEASURES TO ADD A NEW SUBSECTION C CONCERNING DROUGHT CONDITIONS.**

**WHEREAS**, on March 21, 2013, the City of Evans Water and Sewer Board was presented information that the City's water supply is experiencing drought conditions; and

**WHEREAS**, the current raw water storage levels in the region are at a severely reduced level and are in immediate danger of not being fully replaced or renewed in the foreseeable future at the current usage by customers; and

**WHEREAS**, water conservation is required for maintenance of a sustainable domestic water supply to immediately preserve and protect the public health of the citizens of Evans and its water users; and

**WHEREAS**, the passage of this Ordinance for the immediate preservation and protection of public health, safety, and welfare is provided for pursuant to Section 7.6 of the Evans Home Rule Charter; and

**WHEREAS**, the declaration of drought emergency and imposition of mandatory water conservation measures are in the best interest of the citizens of the City of Evans for the immediate preservation and protection of their health, safety, and welfare.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EVANS, COLORADO, THAT:**

**Section 1.** Section 13.04.200 of the Evans Municipal Code, Water Conservation Measures, shall be amended by the addition of a new subsection c. to read as follows:

c. If drought conditions occur, the City Council, by Resolution, may declare a drought emergency and implement appropriate procedures and watering restrictions under the most current Drought Management Plan. Those watering restrictions will then supercede paragraphs A. and B. above. Once a "drought stage" is implemented, a violation of the applicable restrictions shall be a violation of this Municipal Code, punishable as provided in Section 1.16.010.

**Section 2. Publication and Effective Date.** This Ordinance is necessary for the immediate protection and preservation of the public health and safety for the reasons described above, and

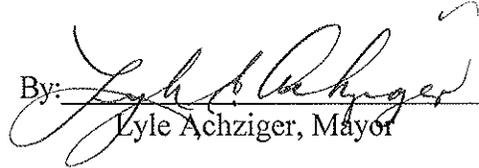
therefore, shall become effective immediately as an emergency ordinance upon adoption by the City Council.

PASSED, AND APPROVED at a regular meeting of the City Council of the City of Evans as an emergency Ordinance on this 16th day of April, 2013.

**CITY OF EVANS, COLORADO**

**ATTEST:**

  
\_\_\_\_\_  
Raegan Robb, City Clerk

By:   
\_\_\_\_\_  
Lyle Achziger, Mayor



CITY OF EVANS, COLORADO

ORDINANCE NO. 560-13

AN ORDINANCE AMENDING THE CITY OF EVANS MUNICIPAL CODE BY REPEALING AND REENACTING SECTION 19.62 TITLED "US 85 OVERLAY DISTRICT DESIGN STANDARDS" CITY OF EVANS, COUNTY OF WELD, STATE OF COLORADO

WHEREAS, the City Council for the City of Evans (the "City") desires to protect and preserve the health, safety, and welfare of its citizens through the implementation of a comprehensive ordinance regulating development along Highway 85; and

WHEREAS, Highway 85 is a critical corridor of commerce and business within the City of Evans; and

WHEREAS, the City Council adopted Section 19.62 of the Evans Municipal Code which regulates the development along Highway 85 in 2005; and

WHEREAS, because the City has determined that because the economics and compatibility of the overlay district have changed since 2005, the City will suffer irreparable harm if amendments to Section 19.62 are not adopted; and

WHEREAS, the City Council desires to repeal the Section 19.62 in its entirety because relevant information and updated regulations has been incorporated into the new Section 19.62; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EVANS, COLORADO:

Section 1. Section 19.62 of the City of Evans Municipal Code entitled "US 85 Overlay District Design Standards" is hereby repealed and reenacted to read as shown in Exhibit A.

Section 2. Publication and Effective Date. This ordinance, after its passage on final reading, shall be numbered, recorded, published, and posted as required by the City Charter and the adoption, posting, and publication shall be authenticated by the signature of the Mayor and the City Clerk, and by the Certificate of Publication. This ordinance shall become effective upon final passage.

PASSED and APPROVED at a regular meeting of the City Council of the City of Evans on this 21st day of May, 2013.



CITY OF EVANS, COLORADO

By: *Jylee A. Kuyper*  
Mayor

ATTEST:

*[Signature]*  
City Clerk

PASSED, APPROVED AND ADOPTED ON SECOND READING this 4th day of June, 2013.



CITY OF EVANS, COLORADO

By: *Jylee A. Kuyper*  
Mayor

ATTEST:

*[Signature]*  
City Clerk

# EXHIBIT A

## Chapter 19.62 - US 85 OVERLAY DISTRICT DESIGN STANDARDS

### Sections:

- 19.62.010 General
- 19.62.020 Intent of US 85 Overlay District
- 19.62.030 Definitions
- 19.62.040 Boundaries and Affected Property
- 19.62.050 Non-Permitted Uses and Restrictions
- 19.62.060 Uses Allowed with Special Use Permit
- 19.62.070 Existing Uses and Structures
- 19.62.080 Design Review Process
- 19.62.090 Site Planning and Urban Design
- 19.62.100 Setbacks, Street Frontages, and Height
- 19.62.110 Access, Circulation and Parking
- 19.62.120 Service and Loading Areas
- 19.62.130 Telecommunications Equipment and Utilities
- 19.62.140 Buffers and Transition Areas
- 19.62.150 Fences and Walls
- 19.62.160 Landscape Standards
- 19.62.170 Architectural Design Standards
- 19.62.180 Lighting
- 19.62.190 Signage
- 19.62.200 Maintenance Standards
- 19.62.210 Variance
- 19.62.220 Administration and Enforcement
- 19.62.230 Violation – Penalty

### **19.62.010 General**

The provisions of this chapter apply to all lands, primary uses, accessory uses, and structures within the US 85 Overlay District (“District”) as defined herein. If any provisions of this chapter conflict with other provisions of the Evans Municipal Code, the provisions of this chapter shall apply. (Ord. 336-05)

### **19.62.020 Intent of US 85 Overlay District**

The intent of the US 85 Overlay District is to implement the principles and recommendations of the US 85 Corridor Master Plan, adopted by Resolution 111-02 on December 17, 2002, through establishing consistent development standards for new development, redevelopment, and renovation along US 85 in the City of Evans. The standards contained herein are intended to ensure that development along the US 85 Corridor (“the corridor”) meets certain minimum criteria in order to:

- Improve the appearance and coordinate land uses along the US 85 Corridor
  - Create a financially sustainable economic zone
  - Establish a unique identity for the City of Evans
  - Improve economic vitality along the US 85 Corridor
  - Maximize long-term property values and community benefits
  - Minimize the impact of nonresidential development on residential areas
  - Improve safety for automobiles, bicycles, and pedestrians
  - Encourage the development of sidewalks and trails along West Service Road (WSR) and throughout the corridor
  - Encourage in-fill development and redevelopment to increase densities within the corridor
  - Facilitate the undergrounding of overhead utilities in the corridor
- (Ord. 336-05)

### **19.62.030 Definitions**

Note: additional definitions in relation to land use and development can be found in Chapter 19.04 of the City of Evans Municipal Code. In case a definition is duplicated elsewhere in the Evans Municipal Code, the definition below shall supersede. The following words and phrases shall, for the purpose of this chapter, be defined as follows:

- “Accent lighting” shall mean directional lighting to emphasize a particular object.
- “Animals, confined” shall mean the commercial raising of animals such as, but not limited to, horses, cattle, sheep, goats, swine, turkeys and chickens, the commercial production of milk, commercial pen feeding operations (feed lots), riding stables with arenas, and similar activities.
- “Articulation, horizontal” shall mean a method of breaking up the vertical appearance of a structure through varying horizontal planes.
- “Articulation, vertical” shall mean a method of breaking up the horizontal appearance of a structure through varying vertical planes.
- “Articulation” shall mean the manner in which contiguous shapes are joined or formed to clarify or emphasize certain elements of the structure.
- “Auction yard” shall mean a property on which merchandise or other property is sold by auction.
- “Awning” shall mean a roof-like cover of canvas, metal, or other material extending in front of and over a door, window or deck to provide protection from weather.
- “Belt course” shall mean a horizontal course of brick, stone or similar material, flush with or projecting beyond the face of a building.
- “Building height” shall mean the height as measured from the average surrounding grade of the footprint of a building to the midpoint of a pitched roof or highest point of a flat roof.
- “Building scale” shall mean the size and proportion of a building relative to surrounding buildings and environs, adjacent streets, and pedestrians.
- “Canopy, gas station” shall mean a structural protective cover, not enclosed on any side, for a gasoline or fuel service dispensing or similar service area.
- “Canopy, tree” shall mean the more or less continuous cover of branches and foliage formed collectively by the crown of one or more trees.
- “Car Wash Facilities” shall mean a principal or accessory use for the purpose of washing vehicles and with the capacity to wash more than one vehicle at a time, or with the capacity to wash a commercial semi-truck.
- “Cemetery” shall mean land used for the burial and memorializing of the dead and dedicated for cemetery purposes, including columbariums, mausoleums, and pet cemeteries.
- “Clustered; clustered development” shall mean a development technique which concentrates buildings on a portion of a site, so that the remaining land may be used for common area or open space.
- “Colonnade” shall mean a series of regularly spaced columns, usually supporting one side of a roof structure.
- “Cornice” shall mean a continuous, molded projection that crowns a wall or other construction.
- “Crematorium” shall mean a place for the cremation of human or animal remains.
- “Dead-end parking lots” shall mean a parking lot having only one outlet and no area at the closed end for vehicles to turn around.
- “Dead-end sidewalks” shall mean a sidewalk that terminates abruptly with no connection to another sidewalk or pedestrian walkway.
- “Dead-end driveways” shall mean a driveway having only one outlet and no area at the closed end for vehicles to turn around.

- “Development/redevelopment” shall mean any man-made change to improved or unimproved real property including, but not limited to, grading, paving, mining, excavating, construction, substantial improvement to an existing structure, or addition of a new structure.
- “Electronic Message Center” shall mean a variable message sign that utilizes computer-generated messages or some other electronic means of changing copy. These signs include displays using incandescent lamps, LEDs, or LCDs.
- “Environmental effect” shall mean the presence of any chemical, biological, or physical contaminant or substance in the outdoor atmosphere, ground, or water that is or may be potentially harmful to the health, safety, or welfare of human, animal, or plant life, or that interferes with the use and enjoyment of any nearby property.
- “Fixture, lighting” shall mean a complete lighting unit consisting of a light source and all necessary mechanical, electrical, and decorative parts.
- “Flea market” shall mean a business operation or bazaar consisting of more than one independent vendor who is allocated space and does business on the premises and is not in charge of the premises, and where goods and/or services are offered for sale or exchange at retail to the general public, either indoors or outside, or both, including but not limited to antiques, curios, new and used merchandise, equipment, appliances and other goods and wares, (excluding yard sales, auctions, pawn brokers and retail business establishments, and the like) where sales are made to the general public by the individual vendor who leases space where such sales are made.
- “Hospital” shall mean a state or federal certified facility providing health services primarily for in-patients and medical or surgical care of the human sick and injured, including as an integral part, such related facilities as laboratories, out-patient services, rehabilitation and recovery services, training facilities, central service facilities and staff offices.
- “Human scale” shall mean the proportion of a building element or space relative to average human size.
- “Impervious surface” shall mean any surface made of asphalt, concrete, brick, pavers, stone, or similar material which does not readily absorb water.
- “Industrial uses facility” shall mean any establishment for wholesale, commercial service and storage of goods and materials, such as warehouses, commercial laundries and dry-cleaning plants, bottling works, builders’ supply yards, printing and publishing plants, tire vulcanizing shops, automobile and truck body work, and establishments of a similar nature.
- “Industrial uses, heavy” shall mean any establishment for manufacturing/assembly plant, natural resource extraction & treatment, used auto parts, quarry and gravel pits, asphalt plants, large-scale industry, incinerators, and other similar operations which so create nuisances and hazardous effects beyond their premises.
- “Internal circulation” shall mean a continuous network of sidewalks, pathways, and driveways within a site or within multiple sites.
- “Junk” shall mean garbage and all other waste matter or discarded or unused material such as, but not limited to, salvage materials, scrap metal, scrap materials, bottles, tin cans, paper, boxes, crates, rags, used lumber and building materials; manufactured goods, appliances, fixtures, furniture, machinery, motor vehicles or other such items which have been abandoned, demolished or dismantled, or are in such a condition as to be unusable for their original use, but may be used again in present or different form for a new use; discarded or inoperable vehicles, machinery parts and tires; and other items commonly considered to be refuse, rubbish or junk.
- “Kennel” shall mean any property used for commercial purposes, on which four or more pet animals, at least four months of age, are kept for training, boarding or breeding, whether in special structures, runs or not.
- “Livestock trailer washout” shall mean a property where trailers used for hauling livestock are washed.

- “Living plant material” shall include, but is not limited to, deciduous and coniferous trees, shrubs, vines, perennial plants, cacti, succulents, sod, and native and ornamental grasses. Also includes annual plants provided new plants are planted each year.
- “Manufacturing/assembly plant” shall mean establishments engaged in the mechanical or chemical transformation of materials or substances into new products, including the assembly of component parts, the creation of products, the blending of materials, and other similar uses.
- “Massing” shall mean the relationship between various masses or volumes of a building or structure.
- “Molding” shall mean any of various long, narrow, ornamental surfaces with uniform cross sections.
- “Motor Vehicle, recreational vehicle, boat, or utility vehicle, private sales of” shall mean the display or attempting action to sell such items that are not owned or titled by the property owner upon which property they may be allowed to be parked.
- “Multi-planed” shall mean having more than one plane visible from each side of a building.
- “Natural resource extraction and treatment” shall mean gravel pits, quarries, gas refineries, or any other process of altering or storing a natural resource or removing natural resources from the ground.
- “Outdoor sales lot” shall mean an uncovered, paved area of a lot or parcel used primarily for the constant display of goods for sale, such as automobile sales lots, landscaping and nursery retailers, and construction materials sales lots. Outdoor sales lots do not include salvage yards or outdoor flea markets.
- “Outdoor storage” shall mean the placement or deposit of any equipment, furniture, machine, material, merchandise, or supplies in an outside location or outside an enclosed structure, except objects that are customarily placed outside and clearly incidental and commonly associated with the permitted use.
- “Pawn broker” shall mean an establishment that engages, in whole or in part, in the business of loaning money on the security of pledges of personal property, or deposits or conditional sales of personal property, or the purchase or sale of personal property.
- “Pedestrian connection” shall mean a clearly-defined pedestrian walkway between a sidewalk or parking area and the building entrance.
- “Pedestrian court” shall mean an open space, generally open to the public, surrounded by buildings or walls on at least three sides and improved with an impervious surface.
- “Pedestrian plaza” shall mean an open space, generally open to the public, usually surrounded by buildings and/or streets and improved with an impervious surface.
- “Reasonably feasible” shall mean capable of being accomplished or brought about without undue burden or hardship, whether financial or otherwise.
- “Recessed window or door” shall mean a door or window which exterior plane is offset from the exterior wall by at least twelve inches inward.
- “Recreational vehicle (RV)” shall mean a transportable structure that is primarily designed for seasonal recreational/vacation purposes for recreational, camping, and travel use including, but not limited to, boats, travel trailers, campers, snowmobiles, motorcycles, self-propelled motor homes, and similar vehicles/units.
- “Recreational vehicle (RV) park/campground” shall mean any parcel of land upon which two or more recreational vehicles or camp sites are located, established, or maintained for occupancy or living quarters. Such parcel being commercial in nature must comply with all the state and local regulations related to licensing, site design/layout, life safety and health issues. This use does not include the storage of travel trailers, recreational vehicles, boats, snowmobiles, motorcycles, or similar vehicles/units.
- “Recreation vehicle storage” shall mean the renting of space in an unroofed area for simultaneous commercial placement/storing of two or more recreational vehicles, including

- but not limited to, boats, travel trailers, campers, snowmobiles, motorcycles, and similar vehicles/units. This use does not include the storage of these vehicle/units at private residences, provided such vehicles/units stored at residences are owned or leased by persons residing at the residence.
- “Recycling center” shall mean a use involving the collection and processing of recyclable materials for shipment or re-use. Processing includes baling, compacting, flattening, grinding, crushing, mechanical sorting, shredding, melting, cleaning, and remanufacturing.
- “Roof plane” shall mean the portion of a roof, whether flat or pitched, by which a straight line would pass through continuously.
- “Roof, flat” shall mean a roof having a slope of less than 1:12, with one being the rise and twelve being the run.
- “Roof, pitched” shall mean a roof having a pitch of at least 1:12, with one being the rise and twelve being the run.
- “Roofline” shall mean the profile of or silhouette made by a roof or series of roofs.
- “Salvage yard” shall mean an industrial use for collecting, storing and/or selling scrap metal or discarded material or for collecting, dismantling, storing, salvaging or demolishing vehicles, machinery or other material and including the sale of such materials or parts.
- “Shared driveway” shall mean a driveway that serves two or more lots in order to reduce the number of access points onto a public roadway.
- “Shared parking” shall mean the development and use of parking areas on two or more separate properties for joint use by the businesses or residents on those properties.
- “Substantial improvement” shall mean any change to an existing improvement that causes the size, height, or area to increase by 50 percent or more, or which costs 50 percent or more of the market value of the improvement prior to the change.
- “Wall, parapet” shall mean an exterior wall that rises above the roof on all sides of a building, usually to screen mechanical or other equipment.
- “Wall, partial parapet” shall mean an exterior wall that rises above the roof on one or more, but not all, sides of a building, usually to screen mechanical or other equipment. (Ord. 336-05)

**19.62.040 Boundaries and Affected Property**

The boundaries of the US 85 Overlay District are shown on the official District Map. The official District Map is kept on file in the office of the City Clerk. The boundary is also shown on the official Zoning Map of the City of Evans. The standards of this chapter shall apply to all new development and redevelopment occurring within the District, and shall also be taken into consideration when reviewing new development adjacent to the District. If any parcel is partially within the District, these standards shall apply to the entire parcel. (Ord. 336-05)

**19.62.050 Non-Permitted Uses and Restrictions**

A. The uses allowed within the District are intended to be of a nature that is retail, personal service, and office. Where industrial uses are allowed within the District, they shall be of a low-impact, light industrial nature, and any environmental effects generated shall be kept within the buildings where they are produced. As stated in Chapter 19.32 of the Evans Municipal Code, light industry consists of, but is not limited to, scientific research; limited manufacturing; compounding, assembly, processing or treatment of products; food and beverage processing; and similar limited industrial uses in which the environmental effects of the operation are confined within the principal buildings.

B. Regardless of the uses allowed by a property’s underlying zoning, the following uses or use groups are not permitted within the District:

- Adult business
- Nightclubs, bar, tavern
- Confinement of Animals
- Cemetery

- Crematorium
- CMRS towers (freestanding)
- Flea markets
- Heavy Industrial Uses
- Salvage yard
- Natural resource extraction and treatment
- Recreational vehicle (RV) park/campground
- Livestock trailer washout
- Recycling facility
- Recreational vehicle storage
- Truck vehicle or other commercial vehicle parking
- Auction yard
- Treatment of humans, restrained
- Outdoor storage
- Outdoor sales lot
- Pawn broker
- Parking lot, off-street (not allowed as a primary use)
- Car wash facilities (a single bay, enclosed with doors, passenger vehicle car wash is allowed)
- Kennel
- Motor Vehicle, recreational vehicle, boat, or utility vehicle, private sales of  
(Ord. 336-05)

C. Hours. Any manufacturing or industrial uses that are located on property adjacent to residentially zoned and used property shall not be open for business between the hours of 10:00 p.m. and 6:00 a.m. This provision shall not apply to legally existing businesses that regularly operated between 10:00 p.m. and 6:00 a.m. on the effective date of the adoption of this chapter.

**19.62.060 Uses Allowed with Special Use Permit**

A. If a property's underlying zoning allows any of the following uses or use groups, such uses shall only be allowed within the District by Special Use Permit approved in accordance with Chapter 19.44 of the Evans Municipal Code:

- Industrial uses facility
- Manufacturing/assembly plant
- Hospital

B. Special Use Permits shall only be issued in the District if the City Council finds that the proposed use is consistent with the purpose and intent of this chapter. (Ord. 336-05)

**19.62.070 Existing Uses and Structures**

A. Existing uses and structures in the District that were conforming prior to the effective date of the ordinance adopting this chapter, but that do not meet one or more standards of this chapter, will be considered legal nonconforming in accordance with Chapter 19.56 of the Evans Municipal Code.

B. Existing uses and structures that were conforming prior to the effective date of the ordinance adopting this chapter, but that require a Special Use Permit under the provisions of this chapter, will be considered to have Special Use approval.

C. New standards effective upon adoption of this ordinance shall apply to all applications for building permits and land use approvals applied for on or after the effective date of this ordinance, except as may otherwise be provided for under the provisions of this chapter. (Ord. 336-05)

D. Existing uses and structures in the district shall conform to all design standards included in this chapter, except as provided below, within 120 days of adoption of the ordinance within this chapter.

If a landowner is provided notice of non-compliance from the City, the landowner shall have 60 days to come into compliance.

1. Existing uses and structures shall be subject to all design standards provided within this Chapter 19.62, including color standards and sign standards, with the exception of any standard related to setbacks, landscaping, parking lot and access drives, and architectural design.

#### **19.62.080 Design Review Process**

A. All new development and redevelopment within the US 85 Overlay District will be reviewed administratively for compliance with the District Design Standards, as provided herein, prior to issuance of a building permit or approval of any land use application such as a site plan or similar plan. Administrative decisions are written by the City Manager or designee. Any appeals to administrative decisions shall be to Planning Commission and City Council (see Section 19.62.220.C).

#### **19.62.090 Site Planning and Urban Design**

A. The purpose of site planning is to consider site characteristics, such as sunlight, weather, drainage, traffic patterns, and orientation of the building to roadways and other structures, when developing a parcel of land. Urban design is the method of combining planning, architecture, and landscaping to create attractive and functional urban areas. Conscientious site planning and urban design carefully integrate and organize structures and related improvements to provide a pleasant experience for the users. All new development and redevelopment shall be reviewed within a site-specific context, as well as within the context of the entire District.

B. Urban design principles of integrating architectural style, overall layout of structures, vehicular and pedestrian circulation and connectivity, and functional landscaping shall be considered for all new development and redevelopment. When reasonably feasible, new structures shall be sited in a manner that will complement adjacent, conforming structures. Sites shall be developed in a coordinated manner to avoid random, confusing development. When possible, new structures shall be clustered, sited, or oriented to create, or allow future opportunity to create, pedestrian plazas, shared driveways and shared parking to lessen pedestrian-vehicle conflicts and better coordinated access and development. (Ord. 336-05)

#### **19.62.100 Setbacks, Street Frontages, and Height**

A. In order to create continuity along the West Service Road (WSR), the elevation nearest WSR for principal structures on properties adjacent to WSR shall be built as close as reasonably feasible to the minimum setback closest to WSR.

B. Any new or substantially improved principal structure adjacent to US 85 or WSR shall either be oriented with its major entry toward US 85 or have architectural features that simulate a front façade facing US 85. When possible, the majority of parking should be located at the rear and/or sides of the building with landscaped pedestrian connections to the front of the building. Detached accessory structures, such as sheds and workshops, and accessory uses shall not be permitted between the principal structure and any property line abutting US 85 or WSR. This section shall not apply to fences, patios, or structures of a similar nature.

C. The maximum height of any new structure in the District shall not exceed 35 feet or two stories, whichever is less. Notwithstanding the height limitation, at the discretion of the City Council and Planning Commission, in cases where architectural design exceeds the minimum standards set forth herein and urban design principles have been demonstrated, the height limitation may be waived. (Ord. 336-05)

#### **19.62.110 Access, Circulation and Parking**

A. Vehicular access shall be paved (no gravel or dirt) and separated from pedestrian and bicycle access to the greatest extent possible to reduce pedestrian-vehicle conflicts. Internal circulation,

including pedestrian and vehicular, shall be continuous and shall avoid creating dead-end parking lots, dead-end driveways, or dead-end sidewalks.

B. Parking areas shall be paved (no gravel or dirt) and broken up through the use of landscaping and building layout to avoid large expanses of parking stalls. Parking lots are required to be landscaped according to Chapter 19.47 of the Evans Municipal Code and according to the landscaping requirements in this Chapter 19.62.

C. Adjacent developments which incorporate shared driveways and parking areas shall be allowed up to a 20 percent reduction in the required number of parking spaces, in accordance with the following requirements:

1. Such shared parking shall not be farther than 500 feet from the entrance of any building for which it counts as required parking.
2. There shall be a recorded easement for cross-access and parking on each of the lots that share parking.
3. Parking required for residential buildings shall not be allowed to count as shared parking.

D. Bicycle parking shall be required on all properties in accordance with the following provisions:

1. The required number of bicycle parking spaces shall be five percent of the required number of automobile parking spaces. Notwithstanding the foregoing, not less than one or more than 20 bicycle spaces shall be required.
2. Bicycle parking shall be located as near as practical to building entrances without obstructing pedestrian or vehicular traffic or causing damage to nearby landscaping.
3. Bicycle parking shall be provided with a permanent structure of heavy gauge tubular steel, or similar material, with angle bars attached to concrete or asphalt pavement. Such structures shall be designed to allow the frame and both wheels of bicycles to be securely locked to the structure. The design of any bicycle parking structure shall be substantially similar to the approved City of Evans corridor bicycle parking structure. The schematic of this structure shall be on file with the office of the City Manager or designee. (Ord. 336-05)

#### E. Pedestrian Circulation

1. Detached sidewalks shall be required according to the City of Evans Street Specifications. Certain special cases apply to US 85 and WSR:
  - a. Along frontages on US 85, detached sidewalks shall be designed with an 8-foot wide landscape strip adjacent to the street curb, a 10-foot wide sidewalk, and a 6-foot wide landscape strip.
  - b. Along frontage on WSR, detached sidewalks shall be designed with a 5-foot wide landscape strip adjacent to the street curb, a 10-foot wide sidewalk, and a 5-foot wide landscape strip.
2. Internal Sidewalks shall be required as specified:
  - a. Between the front doors of primary buildings;
  - b. From buildings to all on-site facilities, such as parking areas, bicycle facilities, and open space;
  - c. To provide direct access from all buildings on the site to existing or planned public sidewalks, adjacent multi-use trails, and greenways
3. Required Sidewalk Dimensions
  - a. Internal sidewalks must be hard surfaced, and a minimum of 5 feet in width.
  - b. When adjacent to perpendicular, head-in, or diagonal parking, a pedestrian walk must be increased in width to a minimum of seven (7) feet when parking is located on one side, and a minimum of nine (9) feet when parking is located on both sides.

F. Carports are not allowed.

### **19.62.120 Service and Loading Areas**

All service areas and loading areas shall be screened and separated from parking areas using architectural features, constructed of the same materials and colors as the adjacent, conforming structure, and landscaping. No service or loading areas may be located in the required front setback or adjacent to or along WSR or US 85. Service areas are to be located in a side or rear yard and screened from view from public rights-of-way. (Ord. 336-05)

### **19.62.130 Telecommunications Equipment and Utilities**

A. All telecommunications equipment shall comply with Chapter 19.42 of the Evans Municipal Code.

B. All utility lines shall be installed underground. Existing overhead utility lines shall be relocated underground, whenever feasible. (Ord. 336-05)

C. Freestanding CMRS towers are not allowed. CMRS facilities may be mounted on a building or structure provided that the equipment does not extend higher than the roof of the building. Building mounted CMRS facilities must be appropriately colored so as to blend in with the building or structure.

### **19.62.140 Buffers and Transition Areas**

In order to lessen the impact of nonresidential development upon residential areas, nonresidential development must meet the following provisions:

A. Landscaped buffer areas shall be provided pursuant to Chapter 19.47 and the landscaping requirements of this Chapter 19.62 of the Evans Municipal Code, except that greater bufferyards and/or screening may be required at the discretion of the City during the processing of a development application.

### **19.62.150 Fences and Walls**

A. All fences and walls shall conform to the standards provided in Chapter 19.48 of the Evans Municipal Code in addition to the requirements of this section.

B. Materials and colors. All new fences and walls in the US 85 Overlay District shall be constructed of durable materials that will retain their appearance over time. The materials and colors chosen should be the same as or similar to new or existing, conforming structures on adjacent lots and must comply with the approved color palette designated in Section 19.62.170.B.4.

1. Appropriate materials include:

- Brick
- Stone
- Stucco
- Tinted, textured masonry block/architectural block
- Wrought iron or decorative aluminum (with architectural pillars/columns)

2. Fencing not visible from US 85 and the WSR may be constructed of the following materials:

- Brick
- Stone
- Stucco
- Tinted, textured masonry block/architectural block
- Wrought iron or decorative aluminum (with or without architectural pillars/columns)
- Decorative vinyl
- Decorative pressure-treated or hardwood

3. Inappropriate materials in any location include:

- Chain link of any kind
- Barbed wire

### **19.62.160 Landscape Standards**

A. In addition to the requirements of Chapter 19.47 of the Municipal Code, required landscaped areas shall contain at least 50 percent living plant material, as defined by this chapter, as measured within five years of planting. The following regulations will apply to all development plans within the Highway 85 Overlay District. Deciduous tree canopies shall not count toward the 50 percent requirement. (Ord. 336-05)

B. All landscape plans and installations are required to include xeriscaping designs.

C. Section 19.47.040 through Section 19.47.170 of the Evans Municipal Code shall be applied to the Highway 85 Overlay District.

#### **D. Front Lot Landscaping**

1. In general, street frontages of all site plans and similar plans shall include landscaped buffers in accordance with Section 19.62.110.E.1, including required detached sidewalks.
2. Front Lot Landscaping, Street Frontage Landscaping
  - a. Five shrubs shall be provided for every 35 lineal feet of frontage along Highway 85.
  - b. One tree and five shrubs shall be provided for every 35 lineal feet of frontage along WSR.
3. Front Lot Landscaping, Behind Sidewalks
  - a. In addition to street frontage landscaping, additional landscaping shall be provided behind sidewalks along Highway 85 and WSR.
  - b. Front landscaping areas behind sidewalks shall include one tree and five shrubs for every 35 feet lineal of street frontage along Highway 85 and WSR.
  - c. Notwithstanding the requirements for landscaped buffers above, in no event shall the average front lot depth be less than 10 feet in width.

#### **E. Parking Lot Landscaping**

1. Parking lot landscaping shall meet the requirements of Section 19.47.200 of the City of Evans Municipal Code, notwithstanding the plant material requirements of this Chapter 19.62.

#### **F. Interior Lot Landscaping Standards**

1. In general, all development areas of land that have not been disturbed during construction shall be preserved for non-public active and passive recreation areas and landscaping.
2. Re-vegetation. All areas disturbed during construction shall be re-vegetated to meet the landscaping requirements of this Chapter 19.62.

#### **G. Plant Material Requirements**

1. Landscaping for all development shall include a wide variety of plant materials that will provide visual interest during all seasons. Landscaping should consist of a mixture of trees, shrubs, and native grasses. Selection of plant materials shall be based on the City of Evans' list of approved plant types.
2. Requirement for Drought Tolerant or Drought Resistant Landscaping and Plant Species. At least 50 percent of all annuals and trees, and 100 percent of shrubs, perennials, groundcovers, and ornamental grasses used to landscape shall be selected from the City of Evans' xeriscape list of plants.
3. Trees shall be located to avoid significant interference with overhead or underground utilities and with vehicular and pedestrian movement. A tree canopy may project over a right-of-way or easement, road, or sidewalk.
4. Plant materials shall not project over sidewalks, paths, or trails below a height of 8 feet.

H. Amenities. All garbage receptacles, benches, and bus shelters provided shall be of a design approved by the City Manager or designee and shall be reviewed in conjunction with a site plan and/or landscape plan.

### **19.62.170 Architectural Design Standards**

A. The following minimum architectural design standards apply to each elevation of all new development and redevelopment in the corridor, unless otherwise noted. These minimum standards are intended to achieve consistent and quality developments that will retain their appearance and value over time.

1. Building Design and Character
  - a. Height, massing, building scale. The height and scale of any new building shall be compatible with surrounding, conforming structures. Whenever possible, individual structures shall be clustered to create plazas and pedestrian courts, and shared driveways and/or parking shall be incorporated to lessen pedestrian-vehicle conflicts.
  - b. Human scale. The design of buildings shall reflect the relationship between the size of the building and human beings. Human-scale design shall be incorporated through the use of horizontal articulation, belt courses, cornices, recessed windows or doors, awnings, roof overhangs, moldings, fixtures, colonnades, or other architectural feature. In order to avoid blank walls at the ground floor levels, windows, trellises, articulation, arcades, change in materials, or other architectural features shall be utilized. These features shall be incorporated into each elevation and in no instance shall a plane of building be the same for more than 30 feet.
  - c. Complementary architecture. All accessory structures including, but not limited to, gas station canopies, warehouses, or clubhouses, shall utilize design, colors, and materials similar or complementary to the principal structure on the lot.
2. Roofs
  - a. Form. The roofline of pitched and flat roofs shall not run in a continuous plane for more than 50 feet without offsetting or joggging the roof plane through the use of multi-planed roofs. For buildings with flat roofs or parapet walls, in addition to multi-planed roofs, vertical articulation shall be incorporated into the exterior wall design. Partial parapet walls and mansard roofs are not permitted. Roofs shall be constructed to prevent mechanical and other rooftop equipment from being visible from any nearby right-of-way.
  - b. Materials. New buildings shall be constructed with appropriate roof material.
    - i. Appropriate roofing materials include:
      - Asphalt or fiberglass shingle
      - Clay or concrete tile
      - Slate
      - Metal shake or shingle (non-reflective)
      - Standing seam with integrated color
    - ii. Inappropriate materials include:
      - Reflective materials (copper may be considered)
      - Tar and gravel (built-up)
      - Corrugated metal
  - c. Colors allowed: See required color palette in this Chapter (Section 19.62.170.B.4).
3. Elevations
  - a. Building Materials. New buildings shall be constructed of appropriate, durable materials that will retain their appearance over time. Combinations of materials and textures are encouraged.
    - i. Appropriate exterior materials include:
      - Brick
      - Stucco
      - Stone
      - Tinted, textured masonry block/architectural block
      - Glass block

- Hardboard siding/simulated wood products
- ii. Steel architectural panels will be allowed in Industrial areas only and only up to 50 percent of the area of each elevation.
- iii. Tilt-up concrete panels may be used, at the discretion of the City, in conjunction with other acceptable materials.
- iv. Inappropriate materials include:
  - Plywood
  - Reflective metal siding
  - Vinyl siding
  - Non-textured cinder block/concrete masonry units (CMU)
- b. Change in plane. All newly developed and redeveloped structures shall contain a change of plane equal to at least ten percent of the area of the wall for walls greater than 1,000 square feet in wall area and/or every 30 feet.
- c. Building colors. Building color requirements contained herein shall apply to all primary and accessory structures, whether newly constructed or renovated. Approval of a permit shall be required prior to repainting existing buildings within the District in order to ensure compliance with these provisions. Samples of proposed materials and colors shall be provided upon request of the City.
- d. Windows and Doors. If all windows and doors on an elevation are recessed or protruding by at least one foot, those windows and doors shall count toward the required change in wall plane. At least 25 percent of the area of any wall visible from a public right-of-way shall contain windows and/or doors. Overhead doors shall not be placed facing any public right-of-way unless significant screening and landscaping diffuses the door. Each window not recessed or otherwise architecturally enhanced (such as with decorative molding, sills, mullions, arches or cornices; window boxes; awnings; multi-paned windows; or bay windows) shall have at least three-inch-wide exterior trim, constructed of acceptable building material, around the window. (Ord. 336-05). Windows shall not be blocked by anything interior or exterior to the window such as plywood, shelving, storage, boxes. Windows are to be used for the purpose of viewing into the business from the exterior and allowing natural light to pass into the structure.

4. Acceptable Colors. Acceptable colors include subtle warm and cool colors, earth-tone colors, and neutral colors. Reflective, neon, primary (red, blue, yellow) and secondary (purple, green, orange) colors shall not be permitted, except for trim and accent by approval of the City. The intent is not to discourage color variety, but to avoid colors that are primarily used only to attract attention. Colors shall be chosen from the *Benjamin Moore "Historical Colors"* color palette, or an approved equivalent color of the same hue, saturation, and brightness. The City of Evans maintains samples of the color palette for viewing. Buildings shall incorporate three or more acceptable colors.

### **19.62.180 Lighting**

A. Lighting is required for the security of on-site areas, such as parking, loading, plazas, and sidewalks in accordance with the following provisions:

1. All new freestanding fixtures located in the right-of-way shall be either the City of Evans' Standard Ornamental Arterial Lighting Fixture or Standard Ornamental Local Lighting Fixture. Standard Ornamental Lighting Fixtures are strongly encouraged for on-site parking areas and on-site sidewalks; however, full cutoff fixtures may be used in on-site areas with prior written approval from the City.
2. Internal or on-site parking areas, sidewalks, trails, pathways, pedestrian courts and plazas shall have sufficient lighting to ensure adequate visibility for pedestrians.
3. All wall-mounted fixtures shall be shielded and directed downward and inward so as to reduce glare onto neighboring properties and rights-of-way.

4. The maximum height of any fixture shall be 25 feet.
5. Interior lighting in parking garages shall be shielded to minimize nighttime glare on adjacent properties and rights-of-ways.
6. Upward accent lighting for landscaping is permitted, as long as the light source is directed inward and away from adjacent sidewalks, plazas, parking lots, neighboring properties, and rights-of-way.
7. Where vehicle headlights would likely shine onto residentially zoned and used property, driveways and parking areas for more than two vehicles shall be screened from adjacent residentially zoned and used property by a solid fence, wall, solid evergreen hedge, or landscaped berm with vegetation that will mature to at least five feet in height.
8. Glare diagrams and/or lighting plans may be required at the discretion of the City.

B. Canopies. For any canopies and similar structures, lighting shall not cause glare onto adjacent rights-of-way or properties. All fixtures shall be mounted underneath the canopy and fully recessed with flat lenses that are flush with the underneath surface of the canopy. Light fixtures shall not be mounted on the top or sides of the canopy.

C. All on-site lighting fixtures shall be maintained so as to be functioning properly at all times.

D. When more than 25 percent of nonconforming light fixtures are not functioning or are dilapidated, all fixtures on the lot shall be replaced with Arterial or Local Standard Ornamental Light Fixtures or other acceptable light fixtures. (Ord. 336-05)

#### **19.62.190 Signage**

All signs in the corridor shall comply with the provisions of Chapter 19.45 of the Evans Municipal Code. Additional regulations outlined below shall also apply. (Ord. 336-05)

##### **A. Allowed Signs**

1. Monument signs
2. Freestanding signs
3. Wall signs
4. Projecting signs
5. Electronic message center (EMC) signs (allowed on monument and freestanding signs, only)
6. Window signs (see Section 19.62.190.E, below)

##### **B. Prohibited Signs**

1. Pennants, streamers, lighter-than-air objects, and wind signs
2. Signs with light bulbs that have intermittent, flashing, rotating, scintillating, blinking or strobe illumination
3. Off-premises advertising
4. Roof signs
5. Search lights
6. Signs painted on fences
7. Portable signs
8. Wheeled advertising devices
9. Any sign within a site triangle

##### **C. General Sign Regulations**

1. No business is allowed more than three signs per street frontage, and no business is allowed more than a total of five signs. The following number of each type of sign is allowed for any one use provided the total number of signs does not exceed five:
  - a. No more than two wall signs per business.
  - b. No more than one projecting sign per business.
  - c. No more than one freestanding sign per street frontage.
2. Signs may be illuminated indirectly by white light only.
3. Monument Signs.

- a. No monument signs are allowed if a freestanding sign is proposed.
  - b. Monument bases shall be constructed of brick, stone, wood or metal material consistent and compatible with an exterior material and color of the principal building.
  - c. Monument signs on adjacent lots or the same lot shall be separated by a minimum 100 feet as measured by a straight line between signs.
  - d. Monument signs may be used by a single user or multiple users on the same property.
4. Freestanding Signs.
- a. Freestanding signs on adjacent lots or the same lot shall be separated by a minimum 100 feet as measured by a straight line between signs.
  - b. Freestanding signs shall be set back from the nearest principal building on the same lot or parcel at least the height of the sign.
  - c. Freestanding signs may be used by a single user or multiple users on the same property.
5. Electronic message center (EMC).
- a. The text display of the message shall not change more frequently than once per eight seconds. Each message shall transition to the next message instantaneously.
  - b. Brightness.
    - i. The maximum brightness for daytime hours is 6,500 candela (or nits) per square meter.
    - ii. The maximum brightness for nighttime hours (dusk to 6:00am) is 2,000 candela (or nits) per square meter.
  - c. EMC signs may be placed only on monument or wall signs.

D. Signs Dimensions and Setback Requirements.

	Monument Signs	Freestanding Signs	Wall Signs	Projecting Signs
Minimum Setback from Right-of-Way	1'	25'	N/A	Not into right-of-way
Maximum Height	10'	25'	Not to exceed the roof line of structure	Not to exceed the roof line of structure
Maximum Size	100 sq. ft.*	50 sq. ft.	See below	See below
Maximum Number of Signs	2/property	1/property	2	2
Sign Located in Landscape Area	Yes	Yes	N/A	Yes (over)

\*Monument sign maximum size applies to single or multi-tenant signs.

1. Total sign area.
- a. Each business is allowed a minimum 100 square feet of sign area for wall and projecting signs, regardless of lot frontage.
  - b. For each lineal foot of building frontage on the two most prominent streets, each business is allowed an additional square foot of sign area which may be applied to all sign types.
  - c. The maximum allowable wall and projecting sign area for each business is 300 square feet.

E. Sign Plans for Window Signs

1. Window signs shall only be allowed and permitted through the approval of a sign plan specific to window signs for each specific property.

2. Administrative approval of a sign plan for window signs shall be by the City Manager or designee.

#### **19.62.200 Maintenance Standards**

All structures, related improvements, and landscaping shall be properly maintained. All property shall be kept orderly and free of junk. (Ord. 336-05)

#### **19.62.210 Variance**

A. Application for variance or modification of these regulations shall be submitted to the Planning Commission. Such application shall include a statement setting forth the nature and extent of the requested variances or modifications, together with evidence supporting the need for such variance.

B. Where the Planning Commission and the City Council find that extraordinary hardships may result from strict compliance with these regulations, they may vary the regulations so that substantial justice may be done and the public interest secured, provided that such variance is based on a finding that unusual topography or other exceptional conditions not caused by the applicant make such variance necessary, and that the granting thereof will not have the effect of nullifying the intent and purpose of these regulations.

C. In granting variances and modifications, the Planning Commission and the City Council may require such conditions as will, in their judgment, secure substantially the objectives of the requirements and standards so varied or modified. (Ord. 336-05)

D. Application for variance or modification to landscape requirements in this Chapter 19.62 and signage placement requirements of this Chapter 19.62 shall be submitted to the City Manager or designee, with an administrative decision to be rendered from said office.

#### **19.62.220 Administration and Enforcement**

A. The City Manager or designee is authorized and directed to administer and enforce all of the provisions of this chapter.

B. Any violation of these Overlay District Design Standards, including without limitation, construction of any new structure or related improvement without first obtaining Overlay District Design Review approval, or filing false or misleading information on a Design Review application, shall be a violation of this Code, as amended, and shall be subject to all the enforcement provisions of those regulations. Without limiting the generality of the previous sentence, these Design Standards may be enforced by withholding building permits or certificates of occupancy, suspending or revoking building permits previously granted, or issuing stop-work orders effective until violations of these Standards have been corrected. (Ord. 336-05)

C. Permits Required. A building permit shall be required for any installation or renovation of any sign, fence, wall, or building including painting. A fence permit is required for all new fences and walls in the US 85 Overlay District. Existing fences and walls adjacent to or facing US 85 or WSR that become dilapidated and need at least 25 percent of the structure repaired or replaced as determined by the City shall require a fence permit and shall be brought into conformance with the provisions of this chapter.

D. Appeals. Any decision of the City Manager or designee may be appealed to the Planning Commission. The Planning Commission shall hear the appeal and make a recommendation to the City Council.

#### **19.62.230 Violation – Penalty**

A. Any person who violates any of the provisions of this chapter is guilty of a violation of the Municipal Code and shall be punished as provided in Section 1.16.010 of this Code.

B. In the event a property owner fails to comply with the provisions of this chapter, the City may perform the required action and invoice the property owner responsible, plus a ten percent fee for inspection and other administrative costs. The City shall first give written notice to the property owner

of the required action and allow at least 14 days to comply. In the event a property owner fails to pay an invoice from the City for such costs and fees within 30 days of receipt, the City may file a lien on the property with the County Treasurer's Office to be placed upon the tax list for the current year and to be collected in the same manner as other taxes are collected, with an additional ten percent penalty to defray the cost of collection. Such lien shall have priority over all other liens except general property taxes and prior assessments. Nothing in this section shall preclude or prevent the City from punishing violations of this Code in accordance with Section 1.16.010. (Ord. 336-05)

CITY OF EVANS, COLORADO

ORDINANCE NO. 561-13

AN ORDINANCE APPROVING AND ACCOMPLISHING THE ANNEXATION OF LAND IDENTIFIED IN THE ENVIROTECH INDUSTRIAL PARK ANNEXATION NO. 2 TO THE CITY OF EVANS, COUNTY OF WELD, STATE OF COLORADO.

WHEREAS, the City of Evans has received a petition for annexation for 13.320 acres of land identified in Exhibit A, which is contiguous unincorporated territory situated, lying, and being in the County of Weld, State of Colorado;

WHEREAS, the applicant has satisfied itself concerning the eligibility for annexation of that property described on attached Exhibit A and concerning the conformance of the proposed annexation to the applicable law and the annexation policy of the City of Evans, Colorado.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EVANS, COLORADO:

Section 1. The City Council finds that the property described in the attached Exhibit A is part one of the serial annexation of a larger parcel of land.

Section 2. The annexation to the City of Evans, State of Colorado, of that property described in attached Exhibit A, situated, lying, and being in the County of Weld, State of Colorado, meets all requirements of law and the annexation policy of the City of Evans, and the State of Colorado, and therefore, said annexation is hereby approved and made effective.

Section 3. Upon the effective date of this Annexation Ordinance, all lands within the area to be annexed shall become subject to the municipal laws of the State of Colorado pertaining to cities, and to all ordinances, resolutions, rules, and regulations of the City of Evans.

Section 5. Considering all of the foregoing, and based on the conviction that annexation of this property to the City of Evans will serve the best interest of the City of Evans and the owner(s) of the territory to be annexed, the unincorporated territory described in Exhibit A, which is attached hereto and made a part hereof, is hereby annexed to the City of Evans, Colorado.

Section 7. The Annexation Map showing the boundaries of the newly annexed territory, as above described, shall be kept on file in the office of the Weld County Clerk

and Recorder.

Section 8. This approval is conditioned upon City approval of an Annexation Agreement for the Property.

PASSED and APPROVED at a regular meeting of the City Council of the City of Evans on this 21st day of May, 2013.



CITY OF EVANS, COLORADO

By: *Joseph S. Schryver*  
Mayor

ATTEST:

*Joan Lill*  
City Clerk

PASSED, APPROVED AND ADOPTED ON SECOND READING this 4th day of June, 2013.



CITY OF EVANS, COLORADO

By: *Joseph S. Schryver*  
Mayor

ATTEST:

*Joan Lill*  
City Clerk

## Exhibit A

### PROPERTY DESCRIPTION

#### Envirotech Industrial Park Annexation No. 2

All that portion of Lot B, Recorded Exemption No. 1057-02-4-RE2430 recorded July 1, 1999 as Reception No. 2703913 of the Records of Weld County, located in the Southeast Quarter of Section Two (2), Township Four North (T.4N.), Range Sixty-six West (R.66W.) of the Sixth Principal Meridian (6th P.M.), County of Weld, State of Colorado being more particularly described as follows:

**BEGINNING** at the Southwest corner of said Lot B of RE2430 and assuming the South line of said Lot B, RE2430 as bearing North 86°15'47" East being a Grid Bearing of the Colorado State Plane Coordinate System, North Zone, North American Datum 1983/2007, a distance of 1900.36 feet with all other bearings contained herein relative thereto;

THENCE North 00°28'06" East along the Easterly line of Envirotech Industrial Park Annexation recorded October 12, 2007 as Reception No. 3510830 of the Records of Weld County, a distance of 636.36 feet to the Northwest corner of said Lot B, RE2430;

The following Eleven (11) courses are along the Northerly boundary of said Lot B, RE2430:

THENCE South 81°04'56" East a distance of 186.31 feet;

THENCE North 77°15'37" East a distance of 70.50 feet;

THENCE North 58°22'39" East a distance of 112.88 feet;

THENCE North 63°04'56" East a distance of 90.45 feet;

THENCE North 71°49'44" East a distance of 90.44 feet;

THENCE North 85°57'22" East a distance of 43.26 feet;

THENCE South 57°53'12" East a distance of 63.89 feet;

THENCE South 36°13'02" East a distance of 94.66 feet;

THENCE South 47°39'54" East a distance of 58.47 feet;

THENCE South 58°09'51" East a distance of 68.36 feet;

THENCE South 62°20'31" East a distance of 32.50 feet to a point of departure from the Northerly boundary of said Lot B;

THENCE South 30°55'15" East a distance of 562.08 feet to the Southerly line of said Lot B, RE2430;

THENCE South 86°15'47" West along the Southerly line of said Lot B, RE2430 a distance of 1055.16 feet to the **POINT OF BEGINNING**.

**TOTAL ANNEXED AREA** for the Envirotech Industrial Park Annexation No. 2 will be 13.320 acres, more or less (±).

CITY OF EVANS, COLORADO

ORDINANCE NO. 562-13

AN ORDINANCE APPROVING AND ACCOMPLISHING THE ANNEXATION OF LAND IDENTIFIED IN THE ENVIROTECH INDUSTRIAL PARK ANNEXATION NO. 3 TO THE CITY OF EVANS, COUNTY OF WELD, STATE OF COLORADO.

WHEREAS, the City of Evans has received a petition for annexation for 3.66 acres of land identified in Exhibit A, which is contiguous unincorporated territory situated, lying, and being in the County of Weld, State of Colorado;

WHEREAS, the applicant has satisfied itself concerning the eligibility for annexation of that property described on attached Exhibit A and concerning the conformance of the proposed annexation to the applicable law and the annexation policy of the City of Evans, Colorado.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EVANS, COLORADO:

Section 1. The City Council finds that the property described in the attached Exhibit A is part 2 of the serial annexation of a larger parcel of land.

Section 2. The annexation to the City of Evans, State of Colorado, of that property described in attached Exhibit A, situated, lying, and being in the County of Weld, State of Colorado, meets all requirements of law and the annexation policy of the City of Evans and the State of Colorado, and therefore, said annexation is hereby approved and made effective.

Section 3. Upon the effective date of this Annexation Ordinance, all lands within the area to be annexed shall become subject to the municipal laws of the State of Colorado pertaining to cities, and to all ordinances, resolutions, rules, and regulations of the City of Evans.

Section 5. Considering all of the foregoing, and based on the conviction that annexation of this property to the City of Evans will serve the best interest of the City of Evans and the owner(s) of the territory to be annexed, the unincorporated territory described in Exhibit A, which is attached hereto and made a part hereof, is hereby annexed to the City of Evans, Colorado.

Section 7. The Annexation Map showing the boundaries of the newly annexed territory, as above described, shall be kept on file in the office of the Weld County Clerk

and Recorder.

Section 8. This approval is conditioned upon City approval of an Annexation Agreement for the Property.

PASSED and APPROVED at a regular meeting of the City Council of the City of Evans on this 21st day of May, 2013.



CITY OF EVANS, COLORADO

By: *Joseph P. Lehner*  
Mayor

ATTEST:

*Tracy Bell*  
City Clerk

PASSED, APPROVED AND ADOPTED ON SECOND READING this 4th day of June, 2013.



CITY OF EVANS, COLORADO

By: *Joseph P. Lehner*  
Mayor

ATTEST:

*Tracy Bell*  
City Clerk

## Exhibit A

### PROPERTY DESCRIPTION Envirotech Industrial Park Annexation No. 3

All that portion of Lot B, Recorded Exemption No. 1057-02-4-RE2430 recorded July 1, 1999 as Reception No. 2703913 of the Records of Weld County, located in the Southeast Quarter of Section Two (2), Township Four North (T.4N.), Range Sixty-six West (R.66W.) of the Sixth Principal Meridian (6th P.M.), County of Weld, State of Colorado being more particularly described as follows:

**COMMENCING** at the Southwest corner of said Lot B of RE2430 and assuming the South line of said Lot B, RE2430 as bearing North  $86^{\circ}15'47''$  East being a Grid Bearing of the Colorado State Plane Coordinate System, North Zone, North American Datum 1983/2007, a distance of 1900.36 feet with all other bearings contained herein relative thereto;

THENCE North  $86^{\circ}15'47''$  East along the Southerly line of said Lot B, RE2430 a distance of 1095.16 feet to the **POINT OF BEGINNING**;

THENCE North  $30^{\circ}55'13''$  West a distance of 562.08 feet to the Northerly boundary line of said Lot B, RE2430;

The following Sixteen (16) courses are along the Northerly, Easterly and Southerly boundary lines of said Lot B, RE2430:

THENCE South  $62^{\circ}20'31''$  East a distance of 78.67 feet;

THENCE South  $59^{\circ}04'06''$  East a distance of 91.46 feet;

THENCE South  $57^{\circ}39'51''$  East a distance of 70.23 feet;

THENCE South  $53^{\circ}05'04''$  East a distance of 140.29 feet;

THENCE South  $56^{\circ}40'14''$  East a distance of 67.09 feet;

THENCE South  $79^{\circ}49'21''$  East a distance of 66.32 feet;

THENCE South  $85^{\circ}45'15''$  East a distance of 113.63 feet;

THENCE South  $62^{\circ}30'47''$  East a distance of 48.49 feet;

THENCE South  $56^{\circ}56'32''$  East a distance of 110.70 feet;

THENCE South  $71^{\circ}24'45''$  East a distance of 103.19 feet;

THENCE South  $81^{\circ}03'27''$  East a distance of 83.79 feet;

THENCE North  $83^{\circ}21'47''$  East a distance of 110.68 feet;

THENCE North  $57^{\circ}30'07''$  East a distance of 72.25 feet;

THENCE North  $41^{\circ}24'39''$  East a distance of 75.19 feet;

THENCE South  $00^{\circ}24'17''$  East a distance of 146.62 feet;

THENCE South  $86^{\circ}15'47''$  West a distance of 805.20 feet to the **POINT OF BEGINNING**.

**TOTAL ANNEXED AREA** for the Envirotech Industrial Park Annexation No. 3 will be 3.660 acres, more or less ( $\pm$ ).

CITY OF EVANS, COLORADO

ORDINANCE NO. 563-13

AN ORDINANCE ESTABLISHING ZONING FOR PROPERTY RECENTLY ANNEXED TO THE CITY OF EVANS KNOWN AS ENVIROTECH INDUSTRIAL PARK ANNEXATIONS NOS. 2 & 3 .

WHEREAS, the City of Evans has received an application to initially zone the property recently annexed to the City and known as EnviroTech Industrial Park Annexations No.2 & No. 3 from the County zoning designation of Agriculture; and

WHEREAS, the Planning Commission held a public hearing on May 9, 2013, and recommended approval of the requested zoning designation of I-2, Medium Industrial; and

WHEREAS, the City Council, after considering the Planning Commission's recommendation, reviewing the file herein, and conducting a public hearing concerning the zoning request in accordance with Chapter 19.60 of the Municipal Code, finds that, in accordance with Section 19.60.080, Criteria for Approval of Zoning Amendments, substantial reasoning exists to amend the Official Zoning Map to show the subject area as Medium Industrial I-2.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EVANS, COLORADO, that the zoning classification of the property known as EnviroTech Industrial Park Annexations No. 2 & 3 both described in the attached Exhibit A, is hereby established to I-2, Medium Industrial with the following conditions:

- 1) That an annexation agreement is approved by the City Council.

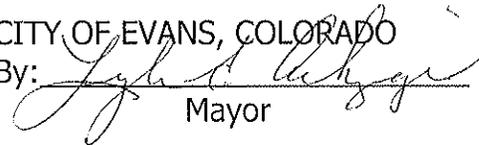
PASSED and APPROVED at a regular meeting of the City Council of the City of Evans on this 21<sup>st</sup> day of May, 2013.

ATTEST:

  
\_\_\_\_\_  
City Clerk

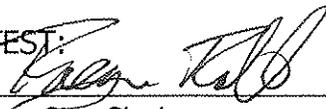


CITY OF EVANS, COLORADO

By:   
\_\_\_\_\_  
Mayor

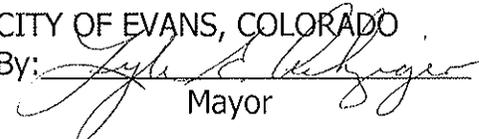
PASSED, APPROVED AND ADOPTED ON SECOND READING this 4<sup>th</sup> day of June, 2013.

ATTEST:

  
\_\_\_\_\_  
City Clerk



CITY OF EVANS, COLORADO

By:   
\_\_\_\_\_  
Mayor

## Exhibit A

### PROPERTY DESCRIPTION

#### Envirotech Industrial Park Annexation No. 2

All that portion of Lot B, Recorded Exemption No. 1057-02-4-RE2430 recorded July 1, 1999 as Reception No. 2703913 of the Records of Weld County, located in the Southeast Quarter of Section Two (2), Township Four North (T.4N.), Range Sixty-six West (R.66W.) of the Sixth Principal Meridian (6th P.M.), County of Weld, State of Colorado being more particularly described as follows:

**BEGINNING** at the Southwest corner of said Lot B of RE2430 and assuming the South line of said Lot B, RE2430 as bearing North 86°15'47" East being a Grid Bearing of the Colorado State Plane Coordinate System, North Zone, North American Datum 1983/2007, a distance of 1900.36 feet with all other bearings contained herein relative thereto;

THENCE North 00°28'06" East along the Easterly line of Envirotech Industrial Park Annexation recorded October 12, 2007 as Reception No. 3510830 of the Records of Weld County, a distance of 636.36 feet to the Northwest corner of said Lot B, RE2430;

The following Eleven (11) courses are along the Northerly boundary of said Lot B, RE2430:

THENCE South 81°04'56" East a distance of 186.31 feet;

THENCE North 77°15'37" East a distance of 70.50 feet;

THENCE North 58°22'39" East a distance of 112.88 feet;

THENCE North 63°04'56" East a distance of 90.45 feet;

THENCE North 71°49'44" East a distance of 90.44 feet;

THENCE North 85°57'22" East a distance of 43.26 feet;

THENCE South 57°53'13" East a distance of 63.89 feet;

THENCE South 36°13'02" East a distance of 94.66 feet;

THENCE South 47°39'54" East a distance of 58.47 feet;

THENCE South 58°09'51" East a distance of 68.36 feet;

THENCE South 62°20'31" East a distance of 32.50 feet to a point of departure from the Northerly boundary of said Lot B;

THENCE South 30°55'13" East a distance of 562.08 feet to the Southerly line of said Lot B, RE2430;

THENCE South 86°15'47" West along the Southerly line of said Lot B, RE2430 a distance of 1095.16 feet to the **POINT OF BEGINNING**.

**TOTAL ANNEXED AREA** for the Envirotech Industrial Park Annexation No. 2 will be 13.320 acres, more or less (±).

**PROPERTY DESCRIPTION**  
Envirotech Industrial Park Annexation No. 3

All that portion of Lot B, Recorded Exemption No. 1057-02-4-RE2430 recorded July 1, 1999 as Reception No. 2703913 of the Records of Weld County, located in the Southeast Quarter of Section Two (2), Township Four North (T.4N.), Range Sixty-six West (R.66W.) of the Sixth Principal Meridian (6th P.M.), County of Weld, State of Colorado being more particularly described as follows:

**COMMENCING** at the Southwest corner of said Lot B of RE2430 and assuming the South line of said Lot B, RE2430 as bearing North 86°15'47" East being a Grid Bearing of the Colorado State Plane Coordinate System, North Zone, North American Datum 1983/2007, a distance of 1900.36 feet with all other bearings contained herein relative thereto;

THENCE North 86°15'47" East along the Southerly line of said Lot B, RE2430 a distance of 1095.16 feet to the **POINT OF BEGINNING**;

THENCE North 30°55'13" West a distance of 562.08 feet to the Northerly boundary line of said Lot B, RE2430;

The following Sixteen (16) courses are along the Northerly, Easterly and Southerly boundary lines of said Lot B, RE2430:

THENCE South 62°20'31" East a distance of 78.67 feet;

THENCE South 59°04'06" East a distance of 91.46 feet;

THENCE South 57°39'51" East a distance of 70.23 feet;

THENCE South 53°05'04" East a distance of 140.29 feet;

THENCE South 56°40'14" East a distance of 67.09 feet;

THENCE South 79°49'21" East a distance of 66.32 feet;

THENCE South 85°43'15" East a distance of 113.63 feet;

THENCE South 62°30'47" East a distance of 48.49 feet;

THENCE South 56°56'32" East a distance of 110.70 feet;

THENCE South 71°24'45" East a distance of 103.19 feet;

THENCE South 81°03'27" East a distance of 83.79 feet;

THENCE North 83°21'47" East a distance of 110.68 feet;

THENCE North 57°30'07" East a distance of 72.25 feet;

THENCE North 41°24'39" East a distance of 75.19 feet;

THENCE South 00°24'17" East a distance of 146.62 feet;

THENCE South 86°15'47" West a distance of 805.20 feet to the **POINT OF BEGINNING**.

**TOTAL ANNEXED AREA** for the Envirotech Industrial Park Annexation No. 3 will be 3.660 acres, more or less (±).

CITY OF EVANS, COLORADO

ORDINANCE NO. 564-2013

AN ORDINANCE AMENDING THE FOLLOWING SECTIONS OF CHAPTER 3.04 OF THE EVANS MUNICIPAL CODE: SECTION 3.04.030(b)(45)(C) CONCERNING THE DEFINITION OF *PRICE* OR *PURCHASE PRICE*; SECTION 3.04.030(b)(50) CONCERNING THE DEFINITION OF *SALE* OR *SALE AND PURCHASE*; SECTIONS 3.04.320(b) AND (d) CONCERNING DEVELOPMENT PERMITS AND THE TIMELINE TO FILE RETURNS; SECTION 3.04.500(k) CONCERNING LICENSE FEES AND ADDING A NEW SUBSECTION CONCERNING TEMPORARY BUSINESS LICENSES; SECTION 3.04.530(a) CONCERNING THE OBLIGATION TO FILE RETURNS; SECTION 3.04.590 CONCERNING THE BURDEN OF PROVING EXEMPTIONS AND AUDITS; SECTION 3.04.710 CONCERNING TAXPAYERS' RIGHT TO REFUNDS AND SUBSECTION (c) CONCERNING CLARIFYING THE LIMITATIONS PERIOD; SECTION 3.04.870(a)(5) CONCERNING THE TIMELINE TO REMIT TAXES; SECTIONS 3.04.890(a) – (f) AND ADDING A NEW SUBSECTION CONCERNING PROCEDURES AND TIMELINES RELATED TO HEARINGS; SECTION 3.04.900(a) AND OMITTING (b) CONCERNING PROCEDURES RELATED TO APPEALS; AND SECTIONS 3.04.30(a)(1) AND (2) CONCERNING THE TIME FRAMES TO ISSUE A DISTRAINT WARRANT.

**WHEREAS**, the City repealed and adopted a new Chapter 3.04 of the Evans Municipal Code in 2010, establishing a comprehensive sales and use tax and licensing Code to simplify the collection, administration, and enforcement of sales and use taxes within and by the City, and, pursuant thereto, commenced collecting, administering and enforcing its sales taxes on January 1, 2011; and

**WHEREAS**, since that time, the City has identified several administrative provisions in need of clarification and amendment, including the definition of *price* or *purchase price*, the definition of *sale* or *sale and purchase*, provisions related to development permits and the timeline to file a return with the treasurer, clarifying that the application fee for a business license is not refundable, the ability to issue temporary business licenses, the obligation to file returns, the burden of proving exemptions and audits, the Taxpayers' right to refunds, the timeline to remit taxes, procedures and timelines related to hearings, procedures related to appeals, and the time frames to issue a Distraint Warrant;

**WHEREAS**, this Ordinance and the amendments referenced herein are administrative in nature, and do not increase, decrease, or otherwise amend the City's effective tax base, rates or revenues nor do they effectuate a tax policy change resulting in a net revenue increase to the City

as restricted by the provisions of the Taxpayer's Bill of Rights, Section 20 of Article X of the Colorado Constitution; and

**WHEREAS**, it is in the best interest of the City of Evans to adopt the following amendments and revisions.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EVANS, COLORADO, AS FOLLOWS:**

**Section 1.** Section 3.04.030(b)(45)(C) of the Evans Municipal Code shall be amended to add clause (IX), and shall read as follows:

3.04.030(b)(45)(C)(IX): *Price or Purchase Price* also includes: . . . (IX) The total price charged on rental, lease or installments including finance charges which are not separately stated.

**Section 2.** Section 3.04.030(b)(50) of the Evans Municipal Code shall be amended to read as follows:

3.04.030(b)(50): *Sale or Sale and Purchase* means the acquisition for any consideration by any person of services taxable hereunder or tangible personal property including (1) installment, lease and credit sales and the exchange of property as well as the sale thereof for money; and (2) every such transaction, conditional or otherwise, for consideration, constituting a transfer, either conditionally or absolutely, of title or possession or both to tangible personal property, to include without limitation Auction Sales; and the sale or furnishing of electrical energy, gas, steam, telephone, or telegraph services taxable under the terms of this Chapter. Neither term includes: . . . [Clauses (A) – (K) remain the same.]

**Section 3.** Sections 3.04.320(b) and (d) of the Evans Municipal Code shall be amended, and shall read as follows:

Section 3.04.320(b): Every Contractor, property owner or lessee engaged in construction projects in the City who purchases construction and building materials needed therefor, and to whom a building, fence, right-of-way, development, which includes any land use, building, zoning, or similar permit, or sign permit is issued by the City's planning and development, land use or public works departments or similar departments, shall remit, at the time of permit issuance, a use tax deposit to the City prior to the issuance of any such permit, such deposit to insure and indemnify the City for the amount of use tax due within thirty-six (36) months from the date of issuance of the certificate of occupancy for the project or the date of the final inspection of the project by the City ("Use Tax Deposit"). The Use Tax Deposit shall be calculated by multiplying the City use tax rate, as set forth in section 3.04.300, on construction and building materials by fifty percent (50%) of the total valuation of the construction project. Total valuation for the purposes of the Use Tax Deposit shall be determined by the Treasurer and/or the City's building department or official. Use tax due on the actual cost of construction

and building materials may be subsequently determined and adjusted through audit. Upon payment of the Use Tax Deposit, the City shall issue to the Taxpayer a receipt identifying the property that is the subject of the Use Tax Deposit and the permit number(s).

Section 3.04.320(d): Every Contractor, property owner or lessee engaged in construction projects in the City who purchases construction and building materials needed therefor and who does not apply for and have issued a permit as described in paragraph (a), or every Contractor, property owner or lessee engaged in construction projects in the City who seeks and obtains prior approval of the Treasurer to remit use taxes in accordance with this subsection (d) shall, on or before the twentieth (20th) day of each succeeding month following the start of such construction, file a return with the Treasurer attaching all statements and invoices required to be kept under section 3.04.520, along with a summary sheet for the construction and building materials purchased the previous month, and shall thereupon pay to the City the full amount of the use tax due thereon for the preceding month or months. Any failure to make such return and payment of such use tax shall be deemed a violation of this Chapter, and, upon conviction thereof, shall subject the violator to the penalties provided in this Chapter.

**Section 4.** Section 3.04.500 subsection (k) shall be amended, a new subsection (p) shall be added, and sections 3.04.500(k) and 3.04.500(p) shall read as follows:

Section 3.04.500(k) License Fee: Each application for a License and renewal of a License shall be accompanied by payment of fee in the amount, if any, as may be determined by City Council by resolution. The application fee is not refundable regardless of whether the application for a License is granted or denied.

3.04.500(p) Temporary Business License: Upon submission of an application for a License by a Person Engaged in Business, the City Manager shall have discretionary authority to issue such applicant a Temporary License. The Temporary License shall authorize the applicant to operate his business as would otherwise be permitted under a License issued pursuant to this Section, subject to compliance with all of the following conditions:

(1) The applicant has filed with the City, on forms provided by the City, an application for a License. Such application shall include, but not necessarily be limited to, the information listed in subsection (c) above and shall be signed in conformance with subsection (d) above.

(2) The application for a Temporary License shall be accompanied by a fee as may be set by the City Council by Resolution. The application fee is not refundable regardless of whether the application for the Temporary License is granted or denied.

(3) If a Temporary License is issued, the applicant shall comply with the obligations contained in subsections (i) and (m) above, and shall be subject to inspections as provided in subsection (n).

(4) A Temporary License shall be valid only until such time as the application for the License is granted or denied or for a period of ninety (90) days, whichever occurs first. If the application is not granted or denied within the ninety (90) day period and the applicant establishes good cause, the City Manager may, in his discretion, extend the Temporary License for an additional period not to exceed ninety (90) days.

(5) Notwithstanding the foregoing, a Temporary License may be canceled, revoked, or summarily suspended if the City Manager determines that there is probable cause to believe that the licensee has violated any provision of this Chapter or if the City Manager determines, in his discretion, that cancellation, revocation, or suspension is otherwise warranted.

(6) If an applicant continues to operate his business upon the cancellation, revocation, suspension or expiration of a Temporary License, the applicant shall be in violation of this Chapter and shall be subject to the penalty provisions contained in Chapter 1.6 of this Evans Municipal Code.

(7) A Temporary License is not transferable.

**Section 5.** Section 3.04.530(a) shall be amended to read as follows:

Section 3.04.530(a): All persons obligated to collect and remit or pay a sales and/or use tax under this Chapter must make and file such returns and/or reports and remit such tax as required hereunder. Failure to do so shall be a violation of this Chapter punishable under the penalty provisions of Chapter 1.16 of this Evans Municipal Code.

**Section 6.** Section 3.04.590 shall be amended to read as follows:

3.04.590. Burden of proving exemption. The burden of proving that any Person is exempt from collecting or paying the sales tax upon any goods sold or purchased or the use tax imposed by this Chapter shall be on such Person under such reasonable requirements of proof as the Treasurer or City Manager may prescribe, which may include, in the city's discretion, an audit in accordance with the provisions of section 3.04.700 and related sections.

**Section 7.** Section 3.04.710 shall be amended to add subsection (a) and renumber the current subsections accordingly and to amend subsection (c), as currently styled, and Section 3.04.710 shall read as follows:

3.04.710. Refunds.

(a) Taxpayer Right to Refund: In accordance with this Section 7 of Chapter 3.04, a Taxpayer may be allowed a refund or a credit where there is an overpayment by the Taxpayer to the city with a return that is the result of a mathematical error in remittance of tax to the city, but

no refund shall be allowed the Taxpayer as a result of failing to credit an exemption or otherwise improperly imposing the tax on a purchaser unless the Taxpayer provides such reasonable proof as the treasurer may prescribe sufficient to show that the purchaser who overpaid the tax has been refunded the amount sought for credit or refund by the Taxpayer.

(b) Disputes Between Purchaser and Seller; Refund Allowed if Exempt:

(1) In the event of a dispute between the Purchaser and seller as set forth in section 3.04.580 (b), a refund shall be made, or a credit allowed, for the tax so paid under dispute by any Purchaser who has an exemption under this Chapter provided such refund shall be made by the Treasurer after compliance with all the following conditions precedent:

(A) Applications for refund must be made within sixty (60) days after the purchase of the goods whereon an exemption is claimed.

(B) Applications for refund must be supported by the affidavit of the Purchaser accompanied by the original paid invoice or sales receipt and certificate issued by the seller.

(C) Applications for refund must be made upon forms prescribed and furnished by the Treasurer, which forms shall contain such information as the Treasurer shall prescribe.

(2) Upon receipt of such application, the Treasurer shall examine same within a reasonable period of time and shall give notice to the applicant by order in writing of his/her decision thereon. Aggrieved applicants may petition the Treasurer for a hearing on the claim in the manner provided in section 3.04.890.

(c) City's Discovery of Overpayment of Taxes by Taxpayer: Whenever the Treasurer discovers from the examination of a return or pursuant to an audit of a Taxpayer's records that the Taxpayer has overpaid taxes due the City, the Treasurer shall issue a refund of the overpaid taxes to the Taxpayer, unless the overpayment is applied to offset other tax due. The Treasurer shall keep a record of said refund and also a statement which sets forth the reason why such refund was ordered. If the refund totals less than one hundred dollars (\$100.00), the refund amount shall be credited to the Taxpayer's tax account, unless the Taxpayer requests payment of the refund.

(d) Taxpayer's Discovery of Overpayment of Tax: Subject to the limitations period set forth in section 3.04.710, a Taxpayer may apply in writing for a refund of overpaid taxes within sixty (60) days after discovery of the overpayment. The Treasurer may deny such refund by issuing a written denial of refund upon a finding that the Taxpayer did or reasonably should have discovered the overpayment more than sixty (60) days prior to the date of the application for a refund. The Taxpayer may petition the Treasurer for a hearing on the claim in the manner and in the timeframe provided in section 3.04.890. In no event shall such application be made later than three (3) years after the date of overpayment.

(e) Refund to Offset Previous Tax Due: Whenever it is established that any Taxpayer has, for any period, overpaid a tax imposed by this Chapter, and that there is an unpaid balance of tax, penalty, and/or interest accrued according to the records of the Treasurer, owing by such

Taxpayer for any other period, so much of the overpayment of tax, penalty, and/or interest allowable thereon as does not exceed the amount of such unpaid balance, shall be credited thereto and any excess of the overpayment shall be refunded.

(f) Refund of Overpayment of use tax on Construction and Building Materials: Application for refund by persons paying a use tax Deposit, as defined in section 3.04.320 (b), shall be made within thirty-six (36) months after the date of the Certificate of Occupancy or date of purchase, whichever is sooner. The Treasurer may require data to accompany the application and may require an audit to be done before refund is paid.

**Section 8.** Section 3.04.870(a)(5) shall be amended and shall read as follows:

3.04.870(a)(5): To remit taxes due pursuant to an audit, special assessment, or special audit assessment, penalties and interest shall be assessed and the Treasurer shall issue to the delinquent Taxpayer, a written notice of final determination and assessment and demand for payment which notice shall state the full amount of taxes, penalties and interest due, and shall be served personally, by mail, or email, which assessment of deficiency amount will be due and payable within thirty (30) days of the date that such notice is sent by the Treasurer. The written notice shall contain notification, in clear and conspicuous type, of the time limit to file a protest to the notice by requesting a hearing before the City Manager or a designated hearing officer and that the Taxpayer has a right to elect a hearing on the notice pursuant to C.R.S. Section 29-2-106.1(3) within thirty (30) days of the date that the Taxpayer has exhausted local remedies as provided in this Chapter by timely requesting a local hearing before the City Manager or designated hearing officer and the City either fails to hold the hearing or the City has issued a final decision following the hearing.

**Section 9.** Section 3.04.890(a) – (f) and (h) shall be amended, a new subsection (f) shall be added and the subsequent subsections shall be renumbered accordingly, and Section 3.04.890 shall read as follows:

3.04.890. Hearings.

(a) Request for Hearing: Within thirty (30) days of the date that a written notice of deficiency, assessment, or denial of refund is placed in the mail in accordance with section 3.04.600(b) by the Treasurer, any Taxpayer may request a hearing on any proposed tax, penalty, or interest that the City seeks to impose as set forth in such notice by making written application for a hearing to the City Manager, which application must be actually received by the City Manager within such thirty (30) day period. The request for hearing shall set forth the Taxpayer's reasons for and the amount of the requested changes in the written notice of deficiency, assessment or denial of refund.

(b) Hearing Time and Place: The hearing and the issuance of a final decision thereon shall be held within one hundred and eighty (180) days after the City Manager's receipt of request for a hearing pursuant to subsection (a). This period may be extended by written agreement as

provided in C.R.S. Sections 29-2-106.1(2)(c) and 29-2-106.1(8)(b), as amended from time to time. In addition, the Taxpayer and City may agree in writing that either no hearing shall be held or no final decision shall issue in accordance with and meeting the requirements of Sections 29-2-106.1(2)(c) and 29-2-106.1(8)(b), C.R.S., as may be amended from time to time. The City Manager shall notify the Taxpayer in writing of the time and place for such hearing at least thirty (30) days prior to the hearing, unless the Taxpayer requests shorter notice or an extension of time.

(c) Pre-Hearing Conference: If the City, through the Treasurer, and the Taxpayer so agree, a pre-hearing conference prior to the hearing to be provided under subsection (a) and shall be conducted in any manner acceptable to the Taxpayer and the City with the purpose of settling the outstanding issues between the parties. If no settlement is reached, the hearing shall be held as scheduled.

(d) City Manager or Designated Hearing Officer to Conduct Hearing: The hearing shall be held before the City Manager or before a hearing officer designated by the City Manager pursuant to rules and regulations for the conduct of such hearing as are promulgated by the City Manager. At the hearing, the Taxpayer shall be present and shall assert any facts, make any arguments, and file any briefs and affidavits he believes pertinent to his case. The City Manager or designated hearing officer may request the City and or the Taxpayer to file written briefs or statements prior to or at the hearing in the discretion of the City Manager or designated hearing officer.

(e) Hearing Based on Written Brief: At any time before ten (10) days before the date of the hearing, any Taxpayer may request that the hearing be based on written brief only in lieu of the hearing provided under subsection (d). If the Taxpayer elects such hearing based on brief, the Taxpayer shall file a written brief and such other written materials or documents as he shall deem appropriate on or before the hearing date and shall request that the City Manager or designated Hearing officer reconsider the deficiency without a hearing. The City Manager or designated hearing officer shall proceed to reconsider the deficiency in the same manner as if the written material submitted had been presented at a hearing pursuant to this section. The submission of written material shall be considered for all purposes the same as a request for and submission of the material at a hearing. The City staff and/or agents shall be permitted to respond in writing to the submittals of the Taxpayer. Rebuttal submissions may be permitted at the discretion of the City Manager or designated hearing officer.

(f) Designated Hearing Officer: The Taxpayer may request that the City Manager designate a hearing officer rather than serve as hearing officer for either a hearing or to determine a matter submitted only on written brief. If the Taxpayer makes such request, the City Manager shall select a hearing officer and all reasonable costs to the City for engaging a hearing officer shall be paid by the Taxpayer requesting the hearing if the hearing officer determines no change in the tax due as set forth in the final notice of final determination – assessment and demand for payment or denial of refund on which the hearing is based.

(g) Passage of Time Limitation on a Request for Hearing without Taxpayer Action: After

the expiration of thirty (30) days from the date that the written notice of final determination and/or assessment and demand for payment or denial of refund is sent, if the tax has not been paid, or if no written request for hearing has been received, or no written brief has been filed by the Taxpayer, then the written notice of final determination and/or assessment and demand for payment previously sent shall constitute a final assessment of the amount of the tax specified, together with interest and penalty, or shall constitute a final denial of refund, as the case may be. The Treasurer may promptly take necessary steps to collect all amounts owed.

(h) Adjustment of Tax under Question: Based on the evidence presented at any hearing or filed in support of the Taxpayer's contentions, the City Manager or designated hearing officer may modify or abate in part or in full the tax and the interest and penalty related to such tax at issue at the hearing or may approve a refund.

(i) Hearing Determination Notices: After a hearing, upon rejection in whole or in part, of the claim for refund or upon the finding by the City Manager or hearing officer if designated, that upon hearing the evidence, an assessment in whole or in part has been made against Taxpayer validly, the City Manager or hearing officer shall issue and send a written hearing determination notice to the Taxpayer setting forth the amount of claim for refund denied or the amount of deficiency assessment of taxes found due, stating therein the grounds for allowance or rejection in whole or in part.

(j) Tax Due Date after Hearing: Unless an appeal is filed as provided in section 3.04.900, the tax, together with interest thereon and penalties, if any, shall be paid within thirty (30) days after the written hearing determination notice is issued and sent to the Taxpayer.

**Section 10.** Section 3.04.900(a) shall be amended and Section 3.04.900(b) shall be omitted, and Section 3.04.900 shall read as follows:

3.04.900. Appeals. The Taxpayer may appeal the written hearing determination notice issued pursuant to section 3.04.890 within thirty (30) days of the date that such determination is issued by the City Manager or designated hearing officer, as the case may be. Such appeal shall be conducted by the method of appeals set forth in C.R.S. section 29-2-106.1, as amended.

**Section 11.** Section 3.04.30(a)(1) and (2) shall be amended, and shall read as follows:

3.04.930(a)(1): When any deficiency in tax is not paid within thirty (30) days from the date of the written notice of final determination and assessment and demand for payment therefor and no hearing has been requested within said period; or

3.04.930(a)(2): When any other amount of tax, penalty, or interest is not paid within thirty (30) days from the date of the assessment and demand for payment thereof; or

**Section 12.** Publication and Effective Date: This Ordinance, after its passage on final reading, shall be numbered, recorded, published, and posted as required by the City Charter and

the adoption, posting, and publication shall be authenticated by the signature of the Mayor and the City Clerk, and by the Certificate of Publication. This Ordinance shall become effective upon final passage.

PASSED and APPROVED at a regular meeting of the City Council of the City of Evans on this 21<sup>st</sup> day of May, 2013.

CITY OF EVANS, COLORADO



By: *[Signature]*  
Mayor

ATTEST:

*[Signature]*  
City Clerk

PASSED, APPROVED AND ADOPTED ON SECOND READING this 4<sup>th</sup> day of June, 2013.

CITY OF EVANS, COLORADO



By: *[Signature]*  
Mayor

ATTEST:

*[Signature]*  
City Clerk

CITY OF EVANS, COLORADO

ORDINANCE NO. 565-13

AN ORDINANCE AUTHORIZING THE EXECUTION AND DELIVERY BY THE CITY OF A SITE AGREEMENT, A LEASE AGREEMENT, AND RELATED DOCUMENTS TO PROVIDE FUNDING FOR THE RIVERSIDE LIBRARY AND COMMUNITY CENTER; RATIFYING ACTION PREVIOUSLY TAKEN, AND PROVIDING FOR OTHER DETAILS.

WHEREAS, the City of Evans, Colorado (the "City") is a duly organized and existing home rule municipality of the State of Colorado, created and operating pursuant to Article XX of the Constitution of the State of Colorado and the home rule charter of the City (the "Charter"); and

WHEREAS, the City is authorized by Article XX, Section 6 of the Colorado Constitution, Section 10.9 of its Charter and part 8 of article 15 of title 31, Colorado Revised Statutes ("C.R.S."), to enter into rental or leasehold agreements in order to provide necessary land, buildings, equipment and other property for governmental or proprietary purposes; and

WHEREAS, the City Council of the City (the "Council") has determined that it is in the best interests of the City and its residents and taxpayers to execute the Lease and the Site Lease (each as defined below) with a private lender to be specified in a sale certificate (the "Lender") in order to provide funds for the acquisition, construction, and equipping of the proposed Riverside Library and Community Center, a joint project of the City and the High Plains Library District (the "Project"); and

WHEREAS, the Council has determined, and now hereby determines, that in order to affect the Project, the City shall lease the Leased Property (the "Leased Property") to the Lender, pursuant to a Site Agreement, and lease back the Lender's interest in the Leased Property pursuant to the terms of a Lease Agreement (the "Lease") between the Lender, as lessor, and the City, as lessee; and

WHEREAS, the City's obligation under the Lease to pay Rent (as defined in the Lease) shall be from year to year only; shall constitute currently budgeted expenditures of the City; shall not constitute a mandatory charge or requirement in any ensuing budget year; and shall not constitute a general obligation or other indebtedness or multiple fiscal year financial obligation of the City within the meaning of any constitutional or statutory limitation or requirement concerning the creation of indebtedness or multiple fiscal year financial obligations, nor a mandatory payment obligation of the City in any ensuing fiscal year beyond any fiscal year during which the Lease shall be in effect; and

WHEREAS, in consideration for the leasing of the Leased Property, the Lender shall prepay certain rent under the Site Agreement to the City, and such funds shall be utilized by the City to affect the Project; and

WHEREAS, there has been presented to this meeting of the City a form of the Site Agreement and a form of the Lease to be executed by the City; and

WHEREAS, capitalized terms used herein and not otherwise defined shall have the meanings set forth in the Site Agreement and the Lease; and

WHEREAS, Section 11-57-204 of the Supplemental Public Securities Act, constituting Title 11, Article 57, Part 2, Colorado Revised Statutes (the "Supplemental Act"), provides that a public entity, including the City, may elect in an act of issuance to apply all or any of the provisions of the Supplemental Act.

BE IT ORDAINED BY THE COUNCIL OF EVANS, COLORADO:

Section 1. Ratification and Approval of Prior Actions. All action heretofore taken (not inconsistent with the provisions of this Ordinance) by the Council, or the officers or agents of the Council or the City, relating to the Site Agreement, the Lease, or to the affecting of the Project, is hereby ratified, approved and confirmed.

Section 2. Finding of Best Interests. The Council hereby finds and determines, pursuant to the Constitution, the laws of the State of Colorado and the Charter, that the affecting of the Project and financing the costs thereof pursuant to the terms set forth in the Site Agreement and the Lease is necessary, convenient, and in furtherance of the City's purposes and is in the best interests of the inhabitants of the City and the Council hereby authorizes and approves the same.

Section 3. Supplemental Act; Parameters. The Council hereby elects to apply all of the Supplemental Act to the Site Agreement and the Lease and in connection therewith delegates to the Mayor and the City Manager the authority to independently make any determination delegable pursuant to Section 11-57-205(1)(a-i), Colorado Revised Statutes, in relation to the Site Agreement and the Lease, and to execute a sale certificate (the "Sale Certificate") setting forth such determinations, including without limitation the determination as to the rental amount to be received by the City from the Lender pursuant to the Site Agreement, the term of the Site Agreement, the rental amount to be paid by the City pursuant to the Lease and the term of the Lease, subject to the following parameters and restrictions:

- (a) the amount of rental payments to be received by the City from the Lender pursuant to the Site Agreement shall be not less than \$2,000,000;
- (b) the Site Agreement Term shall not extend beyond December 31, 2033;
- (c) the aggregate principal amount of the Base Rentals payable by the City pursuant to the Lease shall be not more than \$2,750,000;
- (d) the Lease Term shall not extend beyond December 31, 2023; and
- (e) the maximum net effective interest rate on the Lease shall not exceed 2.50%.

The Council hereby agrees and acknowledges that the amounts deposited with the City from the prepayment of the Site Agreement shall be used by the City for its contribution to the construction of the Project.

Section 4. Approval of Documents. The Site Agreement and the Lease (collectively, the “Documents”), in substantially the forms presented to this meeting of the Council, are in all respects approved, authorized and confirmed, and the Mayor and the City Clerk (the “Clerk”) are hereby authorized and directed, for and on behalf of the City, to execute and deliver the Documents in substantially the forms on file with the City, with such changes thereto as are not inconsistent with the provisions of this Ordinance. Subject to Section 3 hereof, the approval hereby given to the Documents includes an approval of such additional details therein as may be necessary and appropriate for their completion and deletions therefrom and additions thereto as may be approved by bond counsel prior to the execution of the Documents. The execution of any instrument by the appropriate officers of the City herein authorized shall be conclusive evidence of the approval by the City of such instrument in accordance with the terms hereof.

Section 5. Authorization to Execute Collateral Documents and To Perform Additional Acts. The Mayor and Clerk, and other appropriate officials or agents of the Council or the City, are hereby authorized and directed to execute and deliver for and on behalf of the City any and all additional certificates, documents, instruments and other papers, and to perform all other acts that they may deem necessary or appropriate, in order to implement and carry out the transactions and other matters authorized by this Ordinance. The execution of any instrument by the aforementioned officers or members of the Council shall be conclusive evidence of the approval by the City of such instrument in accordance with the terms hereof and thereof.

Section 6. No General Obligation Debt. No provision of this Ordinance, the Site Agreement, or the Lease shall be construed as creating or constituting a general obligation or other indebtedness or multiple fiscal year financial obligation of the City within the meaning of any constitutional, statutory or home rule charter provision, nor a mandatory charge or requirement against the City in any ensuing fiscal year beyond the then current fiscal year. The City shall have no obligation to make any payment with respect to the Lease except in connection with the payment of the Rents (as defined in the Lease) and certain other payments under the Lease, which payments may be terminated by the City in accordance with the provisions of the Lease. The Lease shall not constitute a mandatory charge or requirement of the City in any ensuing fiscal year beyond the then current fiscal year or constitute or give rise to a general obligation or other indebtedness or multiple fiscal year financial obligation of the City within the meaning of any constitutional, statutory or Charter debt limitation and shall not constitute a multiple fiscal year direct or indirect City debt or other financial obligation whatsoever. No provision of the Site Agreement or the Lease shall be construed or interpreted as creating an unlawful delegation of governmental powers nor as a donation by or a lending of the credit of the City within the meaning of Sections 1 or 2 of Article XI of the Colorado Constitution. Neither shall the Lease directly or indirectly obligate the City to make any payments beyond those budgeted and appropriated for the City’s then current fiscal year.

Section 7. Bank Qualification. The City hereby determines that neither the City nor any entity subordinate thereto reasonably anticipates issuing more than \$10,000,000 face amount of tax-exempt governmental bonds or any other similar obligations during calendar year 2013, which

obligations are taken into account in determining if the City can designate the obligation to pay the Rent under the Lease as a qualified tax-exempt obligation as provided in the following sentence. For the purpose of Section 265(b)(3)(B) of the Internal Revenue Code, the City hereby designates the obligation to pay Rent under the Lease as a qualified tax-exempt obligation.

Section 8. Reasonableness of Rentals. The Council hereby determines and declares that the Rent, as provided in the Lease and as subject to the parameters set forth in Section 3 hereof, does not exceed a reasonable amount so as to place the City under an economic compulsion to renew the Lease or to exercise its option to prepay the Lease. The Council hereby determines and declares that the period during which the City has an option to prepay the Lease (i.e., the entire maximum term of the Lease) does not exceed the useful life of the Leased Property. The Council hereby determines that the amount of rental payments to be received by the City from the Lender pursuant to the Site Agreement is reasonable consideration for the leasing of the Leased Property to the Lender for the term of the Site Agreement as provided therein.

Section 9. Authorized Lessee Representative. The Council hereby authorizes the Mayor, the City Manager, and the Deputy City Manager to each act as an Authorized City Representative under the Site Agreement and the Lease, or such other person or persons who may be so designated in writing from time to time by the Mayor, as further provided in the Lease.

Section 10. No Recourse against Officers and Agents. Pursuant to Section 11-57-209 of the Supplemental Act, if a member of the Council, or any officer or agent of the City acts in good faith, no civil recourse shall be available against such member, officer, or agent for payment of the Rent. Such recourse shall not be available either directly or indirectly through the Council or the City, or otherwise, whether by virtue of any constitution, statute, rule of law, enforcement of penalty, or otherwise.

Section 11. Severability. If any section, subsection, paragraph, clause or provision of this Ordinance or the documents hereby authorized and approved (other than provisions as to the payment of Rent by the City during the Lease Term, provisions for the quiet enjoyment of the Leased Property by the City during the Lease Term, provisions for the prepayment of the Lease and the release of the Leased Property from the provisions of the Site Agreement and the Lease under the conditions provided in the Site Agreement and the Lease) shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, subsection, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance or such documents, the intent being that the same are severable.

Section 12. Repealer. All bylaws, orders, ordinances and resolutions of the City, or parts thereof, inconsistent with this Ordinance or with any of the Documents hereby approved, are hereby repealed only to the extent of such inconsistency. This repealer shall not be construed as reviving any bylaw, order, ordinance or resolution of the City, or part thereof, heretofore repealed.

Section 13. Charter. Pursuant to Article XX of the State Constitution and the Charter, all State statutes that might otherwise apply in connection with the provisions of this ordinance are hereby superseded to the extent of any inconsistencies between the provisions of this

ordinance and such statutes. Any such inconsistency is intended by the Council and shall be deemed made pursuant to the Charter.

Section 14. Effective Date. Pursuant to Section 10.9 of the Charter, this Ordinance shall be effective not less than thirty (30) days after its final passage.

(Remainder of the page left blank.)

PASSED and APPROVED at a regular meeting of the City of Evans on this 2<sup>nd</sup> day of July, 2013.

(SEAL)



CITY OF EVANS, COLORADO

By: *Jyle E. Anderson*  
Mayor

ATTEST:

*Jyle E. Anderson*  
City Clerk

PASSED, APPROVED AND ADOPTED ON SECOND READING this 16<sup>th</sup> day of July, 2013.

(SEAL)



CITY OF EVANS, COLORADO

By: *Jyle E. Anderson*  
Mayor

ATTEST:

*Jyle E. Anderson*  
City Clerk

CITY OF EVANS, COLORADO

ORDINANCE NO. 566-13

AN ORDINANCE APPROVING A LOAN FROM THE COLORADO WATER RESOURCES AND POWER DEVELOPMENT AUTHORITY IN THE PRINCIPAL AMOUNT OF NOT TO EXCEED \$1,500,000; AUTHORIZING THE FORM AND EXECUTION OF THE LOAN AGREEMENT AND A GOVERNMENTAL AGENCY BOND TO EVIDENCE SUCH LOAN; AUTHORIZING THE CONSTRUCTION OF A PROJECT; AND PRESCRIBING OTHER DETAILS IN CONNECTION THEREWITH.

WHEREAS, the City Of Evans (the "City"), in the County of Weld and State of Colorado, is duly organized and existing under the Constitution and the laws of the State of Colorado and the Home Rule Charter of the City (the "Charter"); and

WHEREAS, the members of the City Council of the City (the "Council") have been duly elected, chosen and qualified; and

WHEREAS, pursuant to C.R.S. § 37-45.1-103, the City owns and operates its municipal water system (the "System"); and

WHEREAS, the Council has determined that the System constitutes an enterprise (the "Enterprise") pursuant to Article X, Section 20 of the Colorado Constitution; and

WHEREAS, the Council is the governing body of the Enterprise; and

WHEREAS, the Council has heretofore determined that the interest of the City and the public interest and necessity demand and require the replacement of old or malfunctioning water meters and radios, at a cost of approximately \$1,500,000, including legal, financing and administrative costs relating thereto, and any other costs incidental thereto (the "Project"); and

WHEREAS, the Council has determined that in order to finance the Project, it is necessary and advisable and in the best interests of the City to enter into a loan agreement (the "Loan Agreement") with the Colorado Water Resources and Power Development Authority ("CWRPDA"), a body corporate and political subdivision of the State of Colorado, pursuant to which CWRPDA shall loan the City an amount of not to exceed \$1,500,000 (the "Loan") for such purposes; and

WHEREAS, the repayment obligations under the Loan Agreement shall be evidenced by a governmental agency bond (the “Bond”) to be issued by the City to CWRPDA, and which Bond shall be payable only from revenue of the System; and

WHEREAS, under Section 10.5 of the Charter, the City is authorized to issue revenue bonds payable solely from the revenues of the System; and

WHEREAS, Article X, Section 20 of the Colorado Constitution (“TABOR”) requires an election to incur any multiple fiscal year obligation unless such obligation is incurred by an enterprise; and

WHEREAS, under TABOR, an enterprise is a government-owned business authorized to issue its own revenue bonds and receiving under 10% of annual revenue in grants from all Colorado state and local governments combined; and

WHEREAS, in 2012, the Enterprise received grants for the System (as defined in the Loan Agreement) from all Colorado state and local governments combined which were less than 10% of the annual revenue of the System; and

WHEREAS, pursuant to TABOR and the Charter, the Bond and the Loan Agreement may be approved by the Council without an election; and

WHEREAS, the Bond and the Loan Agreement shall be revenue obligations of the City, payable from the net revenues of the System; and

WHEREAS, except to secure the Loan and the Bond, the District has not pledged nor hypothecated the net revenues derived or to be derived from the operation of the System, or any part thereof, to the payment of any bonds or for any other purpose, with the result that the net revenue may now be pledged lawfully and irrevocably to the payment of the Bond; and

WHEREAS, there have been presented to the Council the forms of the Loan Agreement and the Bond (collectively, the “Financing Documents”); and

WHEREAS, the Council desires to approve the forms of the Financing Documents and authorize the execution thereof.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EVANS, COLORADO:

Section 1. Determinations. The Council hereby finds and determines that the System constitutes an enterprise under all applicable Colorado laws. The adoption of this ordinance

does not adversely impact the enterprise status of the System prior to the date hereof.

Section 2. Approvals, Authorizations, and Amendments. The forms of the Financing Documents presented at this meeting are incorporated herein by reference and are hereby approved. The City shall enter into and perform its obligations under the Financing Documents in the forms of such documents, with such changes as are not inconsistent herewith and as are hereafter approved by the Mayor of the City (the "Mayor"). The Mayor and City Clerk are hereby authorized and directed to execute the Financing Documents and to affix the seal of the City thereto, and further to execute and authenticate such other documents or certificates as are deemed necessary or desirable in connection therewith. The Financing Documents shall be executed in substantially the forms approved at this meeting.

The execution of any instrument or certificate or other document in connection with the matters referred to herein by the Mayor, the City Manager, and City Clerk or by other appropriate officers of the City, shall be conclusive evidence of the approval by the City of such instrument.

Section 3. Election to Apply Portions of the Supplemental Act. Section 11-57-204 of the Supplemental Public Securities Act, constituting Title 11, Article 57, Part 2, C.R.S. (the "Supplemental Act") provides that a public entity, including the City, may elect in an act of issuance to apply all or any of the provisions of the Supplemental Act. The City hereby elects to apply all of the provisions of the Supplemental Act to the Financing Documents.

Section 4. Delegation.

(a) Pursuant to Section 11-57-205 of the Supplemental Act, the City hereby delegates to the Mayor and the City Manager the independent authority to make the following determinations relating to and contained in the Financing Documents, subject to the restrictions contained in paragraph (b) of this Section 3:

- i. The interest rate on the Loan;
  - ii. The principal amount of the Loan;
  - iii. The amount of principal of the Loan maturing in any given year and the final maturity of the Loan;
  - iv. The dates on which the principal of and interest on the Loan are paid;
- and
- v. The existence and amount of reserve funds for the Loan, if any.

(b) The delegation in paragraph (a) of this Section 4 shall be subject to the following parameters and restrictions: (i) the interest rate on the Loan shall not exceed 2.0 %; (ii) the principal amount of the Loan shall not exceed \$1,500,000; and (iii) the final maturity of the Loan shall not be later than thirty years from the date of the Loan.

Section 5. Conclusive Recital. Pursuant to Section 11-57-210 of the Supplemental Act, the Bond and the Loan Agreement shall contain a recital that the Bond is issued pursuant to certain provisions of the Supplemental Act. Such recital shall be conclusive evidence of the validity and the regularity of the issuance of the Bond after its delivery for value.

Section 6. Ratification and Approval of Prior Actions. All actions heretofore taken by the officers of the City and members of the Council, not inconsistent with the provisions of this Ordinance, relating to the Financing Documents, or actions to be taken in respect thereof, are hereby ratified, approved, and confirmed.

Section 7. Pledge of Revenues. The creation, perfection, enforcement, and priority of the pledge of revenues to secure or pay the Bond and the Loan Agreement provided herein shall be governed by Section 11-57-208 of the Supplemental Act and this Ordinance. The amounts pledged to the payment of the Bond and the Loan Agreement shall immediately be subject to the lien of such pledge without any physical delivery, filing, or further act. The lien of such pledge shall have the priority described in the Loan Agreement. The lien of such pledge shall be valid, binding, and enforceable as against all persons having claims of any kind in tort, contract, or otherwise against the City irrespective of whether such persons have notice of such liens.

Section 8. Limitation of Actions. Pursuant to Section 11-57-212 of the Supplemental Act, no legal or equitable action brought with respect to any legislative acts or proceedings in connection with the Financing Documents shall be commenced more than thirty days after the issuance of the Bond.

Section 9. Limited Obligation; Special Obligation. The Financing Documents are payable solely from the Pledged Revenues (as defined in the Loan Agreement) and the Financing Documents do not constitute a debt within the meaning of any constitutional or statutory limitation or provision.

No elected or appointed officers or agents of the City shall be subject to any pecuniary liability in connection with any agreement, covenant, or undertaking by the City, or by them,

contained in any document executed in connection with the authorization, execution, and delivery of the Financing Documents or this Ordinance or with respect to any action taken or omitted to be taken in good faith with reference thereto.

Section 10. Disposition and Investment of Loan Proceeds. The proceeds of the Loan shall be applied to pay the costs and expenses of acquiring, constructing and equipping the Project, including costs related thereto and, to the extent permitted under federal tax laws, reimbursement to the City for capital expenditures heretofore incurred and paid from City funds in anticipation of the incurrence of long-term financing therefor, and all other costs and expenses incident thereto, including without limitation the costs of obtaining the Loan. Neither CWRPDA nor any subsequent owner(s) of the Loan Agreement shall be responsible for the application or disposal by the City or any of its officers of the funds derived from the Loan. In the event that all of the proceeds of the Loan are not required to pay such costs and expenses, any remaining amount shall be used for the purpose of paying the principal amount of the Loan and the interest thereon.

Section 11. City Representative. Pursuant to Exhibit B of the Loan Agreement, the Mayor, the City Manager and the Deputy City Manager are hereby designated as the Authorized Officers (as defined in the Loan Agreement) for the purpose of performing any act or executing any document relating to the Loan, the City, the Bonds or the Loan Agreement. A copy of this Ordinance shall be furnished to CWRPDA as evidence of such designation.

Section 12. Estimated Life of Improvements. It is hereby determined that the estimated life of the Project to be financed with the proceeds of the Loan is not less than the final maturity of the Loan.

Section 13. Direction to Take Authorizing Action. The appropriate officers of the City and members of the Council are hereby authorized and directed to take all other actions necessary or appropriate to effectuate the provisions of this Ordinance, including but not limited to such certificates and affidavits as may reasonably be required by CWRPDA.

Section 14. Ratification and Approval of Prior Actions. All actions heretofore taken by the officers of the City and members of the Council, not inconsistent with the provisions of this Ordinance, relating to the Financing Documents, or actions to be taken in respect thereof, are hereby ratified, approved, and confirmed.

Section 15. Severability. If any section, paragraph, clause, or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this Ordinance, the intent being that the same are severable.

Section 16. Repealer. All orders, resolutions, bylaws, ordinances or regulations of the City, or parts thereof, inconsistent with this Ordinance are hereby repealed to the extent only of such inconsistency.

Section 17. Ordinance Irrepealable. After the Bond is issued, this Ordinance shall constitute an irrevocable contract between the City and CWRPDA, and shall be and remain irrepealable until the Bond and the interest thereon shall have been fully paid, satisfied, and discharged. No provisions of any constitution, statute, charter, ordinance, resolution or other measure enacted after the issuance of the Bond shall in any manner be construed as impairing the obligations of the City to keep and perform the covenants contained in this Ordinance.

Section 18. Recordation. A true copy of this Ordinance, as adopted by the City Council, shall be numbered and recorded on the official records of the City and its adoption and publication shall be authenticated by the signatures of the Mayor and the City Clerk, and by a certification of publication.

Section 19. Publication and Effective Date. This ordinance after its passage on final reading shall be numbered, recorded, published and posted as required by the City Charter and the adoption, posting, and publication shall be authenticated by the signature of the Mayor and the City Clerk, and by the Certificate of Publication. This ordinance shall become effective upon final passage.

PASSED and APPROVED at a regular meeting of the City of Evans on this 2<sup>nd</sup> day of July, 2013.



CITY OF EVANS, COLORADO

By: *Joseph C. Rehgiger*  
Mayor

ATTEST:  
*[Signature]*  
City Clerk

PASSED, APPROVED AND ADOPTED ON SECOND READING this 16<sup>th</sup> day of July, 2013.



CITY OF EVANS, COLORADO

By: *Joseph C. Rehgiger*  
Mayor

ATTEST:  
*[Signature]*  
City Clerk

CITY OF EVANS, COLORADO

ORDINANCE NO. 567-13

AN ORDINANCE REPEALING AND REENACTING SECTION 1.17 OF TITLE 1 (GENERAL PROVISIONS) OF THE EVANS MUNICIPAL CODE

WHEREAS, staff had deemed it necessary to update and modernize the administrative penalty citation process codes for the City of Evans;

WHEREAS, staff amended provisions for timelines of enforcement for administrative nuisance violations;

WHEREAS, staff had deemed it necessary to establish standards for voluntary compliance;

AND WHEREAS, the City Council finds that the amendment would serve the public interest.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EVANS, COLORADO:

**Section 1.** Evans Municipal Code Chapter 1.17 (Administrative Penalty Citations for Code Violations) is hereby repealed in their entirety.

**Section 2.** Title 1, Chapter 1.17 of the Evans Municipal Code is hereby re-enacted to read as follows:

**Chapter 1.17**

**ADMINISTRATIVE PENALTY CITATIONS FOR CODE VIOLATIONS**

Sections:

- 1.17.010 General Intent.
- 1.17.020 Definitions.
- 1.17.030 Authority.
- 1.17.040 Procedures for Issuance of an Administrative Citation.
- 1.17.050 Contents of Administrative Citation.
- 1.17.060 Appeal of Administrative Citation.
- 1.17.070 Procedures and Standards at Administrative Citation Appeal Hearings.
- 1.17.080 Duties and Powers of the Hearing Officer.
- 1.17.090 False Information or Refusal Prohibited.

- 1.17.100 Failure to Attend Administrative Citation Appeal Hearing.
- 1.17.110 Failure to Comply with Administrative Enforcement Order.
- 1.17.120 Penalties Assessed.
- 1.17.130 Failure to Pay Penalties.

1.17.010 General Intent.

A. The City Council finds that the enforcement of the Evans Municipal Code is an important public service, and that code enforcement is vital to the protection of the public's health, safety, and quality of life. The City Council further finds that a comprehensive code enforcement system that uses a combination of judicial and administrative remedies is critical to gain compliance with these ordinances.

B. This Chapter provides for administrative penalties that may be imposed for violation of certain sections of the Evans Municipal Code. The chapter of the Evans Municipal Code specifically affected is Title 8 - .

C. The purpose of this Chapter is to encourage prompt compliance with the Code and prompt payment of any penalties. (Ord. 466-09)

1.17.020 Definitions. When used in this Chapter, the following words and terms, unless the context indicates a different meaning, shall be interpreted as follows:

A. "Hearing officer" shall mean the officer appointed by the City Manager to hear appeals under this Chapter.

B. "City" shall mean the City of Evans.

C. "Code" shall mean those provisions of the Evans Municipal Code enumerated in Section 1.17.010.B.

D. "Enforcement official" shall mean an employee or agent of the City authorized to enforce the ordinances of the City.

E. "Manager" shall mean the City Manager or the Manager's designee.

F. "Responsible party" shall mean a person or entity who has violated the Code or, in the case of property violations, the responsible party may also be the property owner, the occupant, or an individual or an entity who, acting as an agent for or in any other legal capacity on behalf of the owner, has authority over property subject to an administrative citation under this Chapter. (Ord. 466-09)

**1.17.030 Authority.**

A. Any responsible party violating provisions of the Code may be issued an administrative citation by an enforcement official as provided in this Chapter.

B. Notwithstanding any other provision of the Code, responsible parties cited under the provisions of this Chapter shall have only the appeal rights granted herein.

C. Each day a violation exists or continues shall constitute a separate and distinct violation for which a separate administrative citation may be issued. However, once an administrative citation has been issued for a violation of the Code, no additional administrative citation shall be issued for the same violation for seven (7) days or, if the responsible party requests an appeal in accordance with this Chapter, until after the appeal has been heard and the responsible party

has not complied with an administrative enforcement order of the hearing officer within seven (7) days of its issuance or such other time as the hearing officer has specified.

D. A civil penalty assessed by means of an administrative citation may be collected by any means allowed by law.

E. Enforcement actions are intended to be cumulative in nature. The City may pursue one (1) or more civil, criminal, and administrative actions, fees, fines, sentences, penalties, judgments, and remedies and may do so simultaneously or in succession. The enactment of this administrative remedy shall in no way interfere with the City's right to prosecute violations as criminal offenses. (Ord. 466-09)

#### **1.17.040 Procedures for Issuance of an Administrative Citation.**

A. Whenever the enforcement official determines that a violation of the Code exists, the enforcement official shall give a notice of violation and order to correct ("Notice of Violation") to the responsible party. The Notice of Violation shall be in writing and shall describe with reasonable detail the violation so that the responsible party may properly correct it. The Notice of Violation shall provide a reasonable time (typically seven (7) days) for correction given the circumstances of the violation, but in no case more than thirty (30) days.

B. The Notice of Violation shall be served as follows:

1. The enforcement official shall attempt to issue the Notice of Violation to the responsible party at the site of any violation. If the responsible party is not located, a copy of the Notice of Violation shall be left with any adult person residing or working at the site, or if no adult person is found at the site and the violation occurred on private property or on property for which the responsible party has responsibility, then a copy of the Notice of Violation shall be posted in a conspicuous place on the site and a copy mailed, first-class mail, postage prepaid, to the last known address of the responsible party.

2. If the enforcement official is unable to issue the Notice of Violation to the responsible party personally, then the Notice of Violation shall be sent via first class mail to the responsible party. In the case of violations occurring on private property where the owner of such property is a responsible party, the Notice of Violation shall be sent to the address shown in the county assessor records for Weld County. In the case of violations occurring on property for which the responsible party is not the owner, the Notice of Violation shall be sent to the most recent mailing address available to the City for that responsible party.

3. The Notice of Violation shall be deemed served on the date of receipt by the responsible party, if personally served, or upon the fifth day after mailing of the Notice of Violation. Notices posted in a conspicuous place on the site, in accordance with 1.17.040.B.1 shall be deemed personally served. Notices of Violation for violations that pose a threat to public health and safety or to the environment, but cannot be personally served or posted in a conspicuous place on the property, shall be sent to the address shown in the county assessor records for Weld County and shall be deemed served on the date of postmark.

C. If after service of the Notice of Violation, the Code violation is not timely corrected, an enforcement official may issue an administrative citation to a responsible party.

D. Service of administrative citation on a responsible party shall be made in the same manner as the Notice of Violation as described in subparagraph B herein, except that the enforcement official shall attempt to obtain the signature of the person receiving the administrative citation on the administrative citation. If that person refuses or fails to sign the administrative citation or is not available to sign, the failure or refusal to sign shall not affect the validity of the administrative citation and subsequent proceedings. (Ord. 466-09)

1. The Administrative Citation shall be deemed served on the date of receipt by the responsible party, if personally served, or upon the fifth day after mailing of the Administrative Citation. Notices posted in a conspicuous place on the site, in accordance with 1.17.040.B.1 shall be deemed personally served. Administrative Citations for violations that pose a threat to public health and safety or to the environment, but cannot be personally served or posted in a conspicuous place on the property, shall be sent to the address shown in the county assessor records for Weld County and shall be deemed served on the date of postmark.

#### **1.17.050 Voluntary Compliance Agreements**

A. A voluntary compliance agreement may be entered into at any time after issuance of a notice of violation or a citation pursuant to this section.

B. The voluntary compliance agreement is a commitment by the person responsible for code compliance under which the person agrees to do any combination of abating the violation, remediating the site or mitigating the impacts of the violation. The voluntary compliance agreement shall include the following:

1. Name and address of the party responsible for the violation;
  - a. Responsible party association with the property/violation;
2. Address or legal description of the location of the violation;
3. Description of the violation with reference to the applicable section of Code;
4. Description of necessary corrective action, includes:
  - a. Deadline of corrective action (the Enforcement official may either require that compliance be achieved by a specific date or that compliance be achieved by a date to be determined based on the occurrence of some future event;
5. The subsequent action the Enforcement official shall enact should voluntary compliance not be satisfied as stipulated in the agreement; unless superseded by state or federal law;
6. An acknowledgment that if the department determines that the terms of the voluntary compliance agreement are not met, the City may, abate the violation in accordance with Title 1.16.050 of this Code;

7. An acknowledgment that if any assessed penalty, fee or cost is not paid, the City may charge the unpaid amount as a lien against the property where the nuisance code violation occurred if owned by the person responsible for code compliance;

8. An acknowledgment that by entering into the voluntary compliance agreement the person responsible for code compliance waives the right to administratively appeal, and thereby admits, that the conditions described in the voluntary compliance agreement existed and constituted a civil code violation; and that if the department determines the terms of the voluntary compliance agreement are not met, the person is subject to and liable for any remedy authorized by this section, which includes the assessment of the civil penalties identified in the voluntary compliance agreement, abatement of the violation, assessment of the costs incurred by the City to pursue code compliance and to abate the violation, including legal and incidental expenses, and the suspension, revocation or limitation of a development or building permit; and

9. An acknowledgment that the person responsible for code compliance understands that he or she has the right to be served with a citation, notice and order to correct or cease and desist order for any violation identified in the voluntary compliance agreement, has the right to administratively appeal any such a citation, notice and order to correct or cease and desist order, and that he or she is knowingly, voluntarily and intelligently waiving those rights.

C. Upon entering into a voluntary compliance agreement, a person responsible for code compliance waives the right to administratively appeal, and thereby admits, that the conditions described in the voluntary compliance agreement existed and constituted a civil code violation; and agrees that if the department determines the terms of the voluntary compliance agreement are not met, he or she is liable for the civil penalty identified in the voluntary compliance agreement, is liable for the costs incurred by the City to pursue code compliance and to abate the violation, including legal and incidental expenses and is subject to all other remedies provided for in this section.

D. Voluntary Compliance Agreements shall extend the deadline for corrective action for a reasonable amount of time, but never more than thirty (30) days from the date of agreement.

1. Only one (1) extension of the time limit for compliance or a modification of the required corrective action may be granted by the department if the person responsible for code compliance has shown due diligence or substantial progress in correcting the violation, but circumstances render full and timely compliance under the original conditions unattainable.

E. The voluntary compliance agreement is not a settlement agreement.

#### **1.17.060 Contents of Administrative Citation.**

A. The administrative citation shall state the date and location of the violation(s), and the approximate time the violations were observed. Where applicable, the administrative citation shall identify the property in violation by address or legal description.

B. The administrative citation shall state the Code sections violated and describe the violations.

C. The administrative citation shall describe the action required to correct the violations.

D. The administrative citation shall require the responsible party to correct the violations within a reasonable time given the circumstances, but in no case more than seven (7) days, and shall explain the consequences of failure to correct said violations.

E. The administrative citation shall state the amount of penalty imposed for the violations.

F. The administrative citation shall explain how the penalty shall be paid, the time period by which it shall be paid, and the consequences of failure to pay the penalty.

G. The administrative citation shall identify the right and procedures for appealing the administrative citation.

H. The administrative citation shall contain the signature of the enforcement official and the signature of the responsible party if it can be obtained. (Ord. 466-09)

#### **1.17.070 Appeal of Administrative Citation.**

A. A person served with an administrative citation may file a notice of appeal in person or by mail postmarked no later than seven (7) calendar days from the service of the administrative citation. Compliance with this time limit shall be a jurisdictional prerequisite to any appeal brought under this Chapter. Failure to comply with such time limit shall be deemed to waive the right to a hearing and the adjudication of the issues related to the hearing, provided that proper notice of the administrative citation has been provided.

B. The notice of appeal shall be made in writing, filed with the City Clerk, and contain the following information.

1. The reasons the appellant believes the administrative citation is objectionable, incorrect or illegal.

2. The amount and type of claim or dispute involved, and the time during which it accrued or occurred.

3. The name, address and telephone number of the appellant.

4. The signature of the appellant, legal representative and/or corporate agent.

C. A processing fee in the amount indicated on the administrative citation shall be paid by cash, check or certified funds simultaneously with the filing of the notice of appeal. The processing fee is not refundable except as provided in Section 1.17.080.L.

D. If, in the opinion of the City Clerk, the appeal meets all of the requirements of subparagraphs A through C of this Section, the City Clerk shall forward the notice of appeal to the designated hearing officer.

E. If, in the opinion of the City Clerk, the appeal does not meet all of the requirements of subparagraphs A through C of this Section, the City Clerk shall

promptly return the appeal and notify the appellant of what requirement(s) the appeal fails to meet.

F. As soon as practicable after receiving the written notice of appeal, the designated hearing officer shall schedule a date, time and location for the hearing, unless, if requested by the appellant and in the sole discretion of the designated hearing officer it is submitted on written brief and supporting material.

G. Written notice of the date, time and location of the hearing shall be personally served upon or sent by first class mail to the responsible party at least seven (7) calendar days prior to the date of the hearing. (Ord. 466-09)

#### **1.17.080 Procedures and Standards at Administrative Citation Appeal Hearings.**

A. The procedure and format of the administrative citation appeal hearing shall follow procedures as set forth herein. Procedure: In addition to any procedural hearing requirements the hearing officer may adopt by rule, the hearing officer shall conduct hearings and make decisions in accordance with the following requirements:

1. The hearing officer may keep a record of the proceedings, either stenographically or by sound recording, and a transcript of the proceedings and copies of graphic or written material received in evidence shall be made available to any person upon request within 60 days of the hearing and payment in advance of the estimated cost of production of the transcript.

2. The hearing officer shall render written decisions, accompanied by findings of fact and conclusions based thereon. Conclusions based on any provision of Chapter 8.24 shall contain a reference to such provision and shall also contain the reason the conclusion is deemed appropriate in light of the facts found.

3. All witnesses may be sworn or affirm their testimony.

B. Administrative citation appeal hearings are intended to be informal in nature. Formal rules of evidence and discovery do not apply; however, an informal exchange of discovery may be required by the hearing officer or requested by any party. The request must be in writing. Failure to request discovery shall not be a basis for a continuance.

C. The parties to an administrative citation appeal hearing shall be the responsible party and the City.

D. The City bears the burden of proof at an administrative citation appeal hearing to establish the existence of a violation of the Code.

E. The standard of proof to be used by the hearing officer in deciding the issues at an administrative citation appeal hearing is by a preponderance of the evidence. (Ord. 466-09)

#### **1.17.090 Duties and Powers of the Hearing Officer.**

A. The hearing officer shall determine whether appeals of administrative citations are valid. In doing so the hearing officer shall determine whether the

administrative citation under appeal was issued in compliance with the requirements of the City ordinances. In each case, the hearing officer shall be charged with performing all functions relating to the final factual determinations and procedural orders, and entertaining petitions or motions made in writing. The hearing officer may perform those duties and functions necessary and incidental to determining the matter, hearing all evidence and examining all documents.

B. In the discretion of the hearing officer, parties to the hearing may be required to file a pre-hearing statement before the case is set for hearing. The pre-hearing statement may include: the issues raised by the appeal; agreed and disputed facts; copies of exhibits not previously included in the record; names of witnesses with a brief statement summarizing their testimony; an estimate of the time necessary to present a party's evidence and other matters as requested by the hearing officer.

C. All hearings or, when an appeal is submitted for determination based on written argument and written facts and figures, all examination of such written petitions and papers shall be conducted by the hearing officer assigned to conduct the hearing or to examine the written material submitted.

D. The admissibility of evidence shall be encouraged and the hearing officer shall consider all evidence of probative value. The hearing officer may utilize his or her experience, technical competence, and specialized knowledge in the evaluation of evidence presented.

E. Copies, photographs and photocopies may be admitted into evidence or substituted in evidence in place of original documents.

F. Witnesses intended to give opinion testimony as experts must be qualified as such, and their qualifications should be submitted in advance to the hearing officer.

G. Whenever it appears that an appeal is not properly before the hearing officer, or that the appellant for some other reason lacks jurisdiction or standing, the case may be dismissed on the motion of any party or the hearing officer.

H. Mailings, notices, computations of time, time limitations, service and filings shall conform to the requirements of particular law or ordinance involved.

I. The written decision of the hearing officer shall be known as an Administrative Enforcement Order.

J. The parties may enter into a stipulated agreement which must be signed by both parties. Upon approval and acceptance by the hearing officer, this agreement shall be entered as the administrative enforcement order. Entry of this agreement shall constitute a waiver of the right to a hearing and the right to appeal.

K. The hearing officer may uphold the administrative citation and all penalties, or dismiss the administrative citation and all penalties, or may conditionally reduce the penalties assessed by the administrative citation. The hearing officer may also impose conditions and deadlines to correct the violation or require payment of any outstanding penalties.

L. If the hearing officer dismisses the administrative citation and all penalties due to the City's failure to satisfy its obligations under this Chapter, the appellant's \$35 processing fee shall be promptly refunded.

M. The hearing officer has continuing jurisdiction over the subject matter of an administrative citation appeal hearing for the purposes of granting a continuance, ordering compliance by issuing an administrative enforcement order, ensuring compliance of that order, modifying an administrative enforcement order, or, where extraordinary circumstances exist, granting a new hearing. The hearing officer may schedule subsequent review hearings as may be necessary or as requested by a party to the hearing to ensure compliance with the administrative enforcement order. (Ord. 466-09)

**1.17.100 False Information or Refusal Prohibited.**

It shall be unlawful for any person to willfully make a false statement or refuse to give his or her name or address with intent to deceive or interfere with the enforcement official when in the performance of official duties under the provisions of this Chapter. Any person who willfully makes a false statement or refuses to give his or her name or address with intent to deceive or interfere with the enforcement official shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine or by confinement in jail or by both such fine and imprisonment as specified in Chapter 1.16 of this Code. (Ord. 466-09)

**1.17.110 Failure to Attend Administrative Citation Appeal Hearing.**

Any responsible party who fails to appear at the hearing is deemed to waive the right to a hearing and the adjudication of the issues related to the hearing, provided that proper notice of the hearing has been provided as required herein. (Ord. 466-09)

**1.17.120 Failure to Comply with Administrative Enforcement Order.**

It is unlawful for a responsible party to an administrative enforcement hearing who has been served with a copy of the final administrative enforcement order to fail to comply with the order. Any person who fails to comply with a final administrative enforcement order shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine or by confinement in jail or by both such fine and imprisonment as specified in Chapter 1.16 of this Code. Prosecution for failure to comply with a final administrative enforcement order shall not commence until the time to appeal such order has lapsed. (Ord. 466-09)

**1.17.130 Penalties Assessed.**

A. If the responsible party fails to correct the violation within the time required as indicated on the notice of violation, or if an additional violation of Chapter 8.24 is observed within six (6) months of the notice of violation, an administrative citation may be issued to the responsible party indicating a fine of one hundred fifty dollars (\$150.00).

B. If the responsible party fails to correct the violation within the time required as indicated on the administrative citation, or if another violation of Chapter 8.24 is observed within six (6) months of the date of the first administrative citation, a second administrative citation may be issued to the responsible party indicating a fine of five hundred dollars (\$500.00).

C. If the responsible party fails to correct the violation within the time required as indicated on the administrative citation, or if another violation of Chapter 8.24 is observed within six (6) months of the date of the second or subsequent administrative citation, a third or subsequent administrative citation may be issued to the responsible party indicating a fine of nine hundred ninety-nine dollars (\$999.00).

D. Payment of the penalty shall not excuse the failure to correct the violation(s) nor shall it bar further enforcement action by the City. (Ord. 466-09)

#### **1.17.140 Failure to Pay Penalties.**

A. All penalties assessed shall be payable to the City of Evans. Payment of the full amount of the penalty must be received in person or by mail postmarked no later than thirty (30) calendar days from the date of issuance of the administrative citation or administrative enforcement order, or within the time specified on the administrative enforcement order.

Any such penalty that is not paid within 30 days shall cause such penalty to become a lien against such property, to have priority over all liens, except general taxes and prior special assessments, to be placed upon the tax list for the current year, and to be collected in the same manner as other taxes are collected, together with a 15 percent penalty to defray the cost of collection, as provided by the laws of the state.

B. The failure of any responsible party to pay the civil penalties assessed by an administrative citation or administrative enforcement order within the time specified on the citation or order, respectively, may result in the imposition of a late fee of twenty-five dollars (\$25.00) and interest at a rate of ten (10) percent per annum.

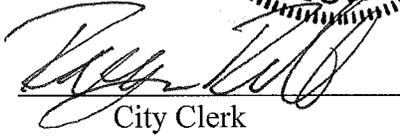
C. Any action or other process provided by law may be maintained by the City to recover or collect any amounts, including late fees, penalties, interest, and administrative costs, owing under this chapter. In the event of failure to pay all penalties assessed, the Manager may refer the matter for collection by whatever means are available to the City. (Ord. 466-09)

**Section 9.** This ordinance after its passage on final reading, shall be numbered, recorded, published and posted as required by the City Charter and the adoption, posting and publication shall be authenticated by the signature of the Mayor and City Clerk, and by the Certificate of Publication. This ordinance shall become effective upon final passage.

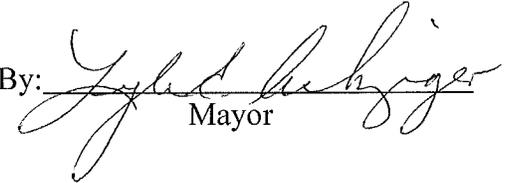
PASSED AND APPROVED at a regular meeting of the City Council of the City of Evans on this 2nd day of July, 2013.



ATTEST:

  
City Clerk

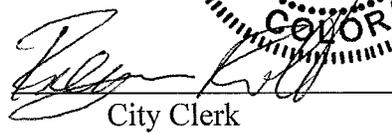
CITY OF EVANS, COLORADO

By:   
Mayor

PASSED, APPROVED, AND ADOPTED ON SECOND READING this 16<sup>th</sup> day of July, 2013.



ATTEST:

  
City Clerk

CITY OF EVANS, COLORADO

By:   
Mayor

CITY OF EVANS, COLORADO

ORDINANCE NO. 568-13

AN ORDINANCE AMENDING THE 2013 BUDGET; INCREASING GENERAL FUND REVENUES BY \$2,575,000, APPROPRIATING GENERAL FUND EXPENDITURES OF \$2,641,428, APPROPRIATING CIP STREETS FUND EXPENDITURES OF \$4,935, INCREASING WATER FUND REVENUES BY \$2,108,225, APPROPRIATING WATER FUND EXPENSES OF \$2,389,217.

WHEREAS, in accordance with Section 8.6 of the Evans Home Rule Charter the Council may make additional appropriations by ordinance during the fiscal year; and

WHEREAS, the City Manager has certified that additional funds are available for appropriations in each fund from actual and anticipated revenues of the current year and prior year cash reserves; and

WHEREAS, the City Council is advised that certain revenues, expenditures and transfers must be approved by ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF EVANS, COLORADO THE FOLLOWING:

Section 1: Upon the City Manager's certification that there are current and prior year revenues available for appropriation in the General Fund, Capital Projects – Streets Fund, Water Fund, and the City Council hereby makes supplemental appropriations as itemized in Attachment "A" attached hereto.

Section 2: The City Council hereby authorizes and directs the City Manager to enter into such contracts and execute such documents on behalf of the City as may be necessary and customary to expend the funds hereby appropriated for all operations, capital projects and debt within this budget as amended in accordance with the requirements of the Home Rule Charter and the City's Financial Policies.

Section 3: The adoption of this Ordinance will promote the health, safety and general welfare of the Evans community.

Section 4: If any provision of this Ordinance or portion thereof is held by a court of competent jurisdiction to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect any other provision which can be given effect without the invalid portion.

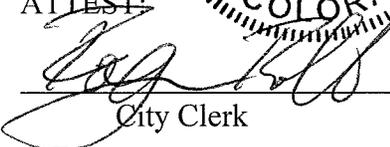
Section 5: All prior ordinances, resolutions, or other acts, or parts thereof, by the City of Evans in conflict with this Ordinance are hereby repealed, except that this repealer shall not be construed to revive any previously repealed or expired act, ordinance or resolution, or part thereof.

Section 6: This Ordinance shall be effective following the adoption by Section 8.5 of the Home Rule Charter.

PASSED and APPROVED at a regular meeting of the City Council of the City of Evans on this 16<sup>th</sup> day of July, 2013.



ATTEST:

  
City Clerk

CITY OF EVANS, COLORADO

By:   
Mayor

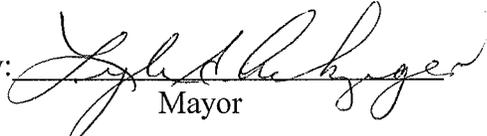
PASSED, APPROVED AND ADOPTED ON SECOND READING this 5<sup>th</sup> day of August, 2013.



ATTEST:

  
City Clerk

CITY OF EVANS, COLORADO

By:   
Mayor

CITY OF EVANS, COLORADO

ORDINANCE NO. 569-13

AN EMERGENCY ORDINANCE CONFIRMING THE DECLARATION OF  
AN EMERGENCY REQUIRING THE EXPEDITURE OF FUNDS FROM THE  
EMERGENCY CONTINGENCY FUND FOR THE EVANS FLOOD OF 2013

WHEREAS, in accordance with Section 8.7-1 of the Evans Home Rule Charter the Council may declare an emergency and expend funds from the Emergency Contingency Fund; and

WHEREAS, the City of Evans, Colorado, suffered an imminent threat from widespread or severe damage, injury or loss of life or property resulting from the flood of 2013 which started on September 13, 2013; and

WHEREAS, the magnitude of responding to and recovery from the impact of the Flood of 2013 maybe in excess of the City's available General, Water, Waste Water, and Storm Funds resources due to the cost of debris removal, rebuilding and emergency services coverage; and

WHEREAS, the City Manager has certified that funds are available for an emergency in the Emergency Contingency Fund; and

WHEREAS, the City Council must declare an emergency by ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF EVANS, COLORADO, THAT:

Section 1: The City Council declares that an emergency exists as a result of the flood of 2013 which started on September 13, 2013.

Section 2: The aforementioned emergency may necessitate the transfer and expenditure of funds from the Emergency Contingency Fund due to the sudden impact of the flood and the inadequate available General, Water, Waste Water, and Storm Funds amounts to cover the costs of the emergency.

Section 3: The adoption of this Ordinance will promote the health, safety and general welfare of the Evans community.

Section 4: Publication and Effective Date. This Ordinance is necessary for the immediate protection and preservation of the public health, safety, and welfare of the citizens of

the City of Evans for the reasons described above, and therefore, shall become effective immediately as an emergency ordinance upon adoption by the City Council.

PASSED and APPROVED at a regular meeting of the City Council of the City of Evans on this 17<sup>th</sup> day of September, 2013.



CITY OF EVANS, COLORADO

By: [Handwritten Signature]  
Mayor

ATTEST:

[Handwritten Signature]

City Clerk

CITY OF EVANS, COLORADO

ORDINANCE NO. 570-13

AN ORDINANCE AMENDING THE 2013 BUDGET; APPROPRIATING GENERAL FUND EXPENDITURES OF \$300,000, APPROPRIATING REFUSE FUND EXPENDITURES OF \$100,000, AND APPROPRIATING WASTE WATER FUND EXPENSES OF \$100,000.

WHEREAS, in accordance with Section 8.6 of the Evans Home Rule Charter the Council may make additional appropriations by ordinance during the fiscal year; and

WHEREAS, the City Manager has certified that additional funds are available for appropriations in each fund from actual and anticipated revenues of the current year and prior year cash reserves; and

WHEREAS, the City Council is advised that certain revenues, expenditures and transfers must be approved by ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF EVANS, COLORADO THE FOLLOWING:

Section 1: Upon the City Manager's certification that there are current and prior year revenues available for appropriation in the General Fund, Refuse Fund, and Waste Water Fund, and the City Council hereby makes supplemental appropriations as itemized in Attachment "A" attached hereto.

Section 2: The City Council hereby authorizes and directs the City Manager to enter into such contracts and execute such documents on behalf of the City as may be necessary and customary to expend the funds hereby appropriated for all operations, capital projects and debt within this budget as amended in accordance with the requirements of the Home Rule Charter and the City's Financial Policies.

Section 3: The adoption of this Ordinance will promote the health, safety and general welfare of the Evans community.

Section 4: If any provision of this Ordinance or portion thereof is held by a court of competent jurisdiction to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect any other provision which can be given effect without the invalid portion.

Section 5: All prior ordinances, resolutions, or other acts, or parts thereof, by the City of Evans in conflict with this Ordinance are hereby repealed, except that this repealer shall not be construed to revive any previously repealed or expired act, ordinance or resolution, or part thereof.

Section 6: Publication and Effective Date. This Ordinance is necessary for the immediate protection and preservation of the public health, safety, and welfare of the citizens of

the City of Evans for the reasons described above, and therefore, shall become effective immediately as an emergency ordinance upon adoption by the City Council.

PASSED and APPROVED at a regular meeting of the City Council of the City of Evans on this 17<sup>th</sup> day of September, 2013.



CITY OF EVANS, COLORADO

By: *[Handwritten Signature]*  
Mayor

ATTEST:

*[Handwritten Signature]*  
City Clerk

**CITY OF EVANS, COLORADO**

**ORDINANCE NO. 571-13**

**AN EMERGENCY ORDINANCE IMPOSING A MORATORIUM  
ON BUILDING OR DEVELOPMENT WITHIN  
AREAS OF SPECIAL FLOOD HAZARD AND OTHER FLOODED AREAS**

**WHEREAS**, the City Council of the City of Evans, Colorado, pursuant to Colorado statute and the Evans City Charter, is vested with the authority of administering the affairs of the City of Evans, Colorado; and

**WHEREAS**, the legislature of the state of Colorado has in Title 29, Article 20 of the Colorado Revised Statutes, as amended and other Statutes delegate the responsibility of local governmental units to adopt regulations designed to minimize flood losses; and

**WHEREAS**, the City has adopted regulations to prevent and limit flood damage, which are set forth in Chapter 16.04 of the City Code; and

**WHEREAS**, the City has designated areas that are subject to periodic inundation, which can result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the health, safety and general welfare of the public, and identified them as “areas of special flood hazard” as defined in Section 16.04.050 of the City Code; and

**WHEREAS**, heavy rains and flooding occurred throughout Weld County and Evans and various other municipalities on September 9, 2013 through September 13, 2013, causing substantial damages to private and public properties (including, but not limited to, buildings owned and maintained by the City of Evans), power outages, and closures of City roads due to flooding and standing water, with the extent of such damages being at present unknown; and

**WHEREAS**, areas beyond and in addition to those identified by the City as areas of special flood hazard were flooded as a result of the September 2013 storms; and

**WHEREAS**, as a result of such storm damage, businesses, government operations, schools, and other institutions have been closed; and

**WHEREAS**, Section 16.040.050 of the City Code contains the following definitions:

“Structure” means a walled and roofed building or manufactured home that is principally above ground.

“Development” means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of special flood hazard.

**WHEREAS**, the City Council needs time to develop and adopt appropriate standards limiting the construction, development, and other activities that will be permitted within certain areas that have been identified as special flood hazard areas and areas that have suffered flooding in September 2013.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EVANS, COLORADO AS FOLLOWS:**

1. Effective immediately, no further permits shall be approved or issued for structures or development, as those terms are defined above, on any property within the area depicted on the map attached as Exhibit A, which includes the areas of special flood hazard as defined in Section 16.04.070 and related sections of the City Code and all areas flooded during the September 9 through 13, 2013 storm.
2. No person shall construct any structure(s) or undertake any development, as those terms are defined above, on any property within the area depicted on Exhibit A.
3. This ordinance shall expire six months from its effective date, unless repealed by the City Council prior to its expiration.
4. Any person who violates any provision of this Ordinance shall be punished as provided in Chapter 1.16 of the City Code.
5. Severability. If any article, section, paragraph, sentence, clause, or phrase of this Ordinance is held to be unconstitutional or invalid for any reason such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this ordinance and each part or parts thereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.
6. Repeal. Existing ordinances or parts of ordinances covering the same matters embraced in this ordinance are hereby repealed and all ordinances or parts of ordinances inconsistent with the provisions of this ordinance are hereby repealed except that this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the effect date of this ordinance.
7. Publication and Effective Date. This Ordinance is necessary for the immediate protection and preservation of the public health, safety, and welfare of the citizens of the City of Evans for the reasons described above, and therefore, shall become effective immediately as an emergency ordinance upon adoption by the City Council.

**PASSED AND ADOPTED AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF EVANS ON THIS 17<sup>th</sup> DAY OF SEPTEMBER, 2013.**

ATTEST:



CITY OF EVANS, COLORADO

  
\_\_\_\_\_  
City Clerk

BY:   
\_\_\_\_\_  
Lyle E. Achziger, Mayor

**CITY OF EVANS, COLORADO**

**ORDINANCE NO. 572-13**

**AN EMERGENCY ORDINANCE AUTHORIZING AND DIRECTING THE REMOVAL  
AND DISPOSAL OF DEBRIS CAUSED BY THE SEPTEMBER 2013 FLOODING  
FROM PRIVATE AND PUBLIC PROPERTIES**

**WHEREAS**, the City Council of the City of Evans, Colorado, pursuant to Colorado statute and the Evans City Charter, is vested with the authority of administering the affairs of the City of Evans, Colorado; and

**WHEREAS**, the City Council is authorized to perform or direct all acts and make all regulations which may be necessary or expedient for the promotion of health or the suppression of disease; and

**WHEREAS**, Section 1.3 of the Evans City Charter grants the City all the powers which are necessary, requisite or proper for government and administration of its local and municipal matters, and all powers which are granted to Home Rule Cities by the Constitution of the State of Colorado; and

**WHEREAS**, heavy rains and flooding have occurred throughout Weld County, including Evans and various other municipalities on September 9, 2013 through September 13, 2013, causing substantial damage to private and public properties (including, but not limited to, buildings owned and maintained by the City of Evans), power outages, and closures of City roads due to flooding and standing water, with the extent of such damages being at present unknown; and

**WHEREAS**, the Weld County Department of Public Health and Environment has stated that flooding can lead to many potential health hazards including transfer of disease carrying materials, bacteria, parasites, and viruses; and

**WHEREAS**, such flooding has caused the movement and accumulation of debris on and in public and private property; and

**WHEREAS**, such debris contains numerous materials and substances that create an immediate health and safety threat to the general public, including but not limited to animal waste, human sewage and waste, contaminated water, hazardous materials, oil, fuel, and petroleum products; and

**WHEREAS**, as a result of the mixing of the flooding and contaminated waters throughout the flooded areas, the City is unable to determine which parts of the flooded areas, if any, do not contain contaminated debris, and therefore the City must treat all debris as contaminated, and

**WHEREAS**, it is essential that the debris caused by the flooding is removed and disposed in a manner that protects the health, safety and welfare of the public and ensures the City will be reimbursed to maximum extent permitted by law for its removal and disposal efforts.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EVANS AS FOLLOWS:**

1. The City of Evans, acting through its City Manager or other duly authorized designee shall promulgate regulations for the removal and disposal of all debris in the flooded area, as depicted on Exhibit A, attached hereto and incorporated by reference, regardless of whether the debris is located on or in public or private property.

2. No person shall remove or dispose of any debris from property located in the area depicted on Exhibit A, in any manner other than that set forth in the City's regulations.

3. The City of Evans Police and the City of Evans Code Enforcement Officer are hereby authorized to take such actions as necessary to enforce the City's regulations regarding removal and disposal of debris from the area depicted on Exhibit A.

4. Any person found to be in violation of this Ordinance or the regulations promulgated to implement this ordinance will be subject to penalties set forth in Chapter 1.16 of the Evans Code.

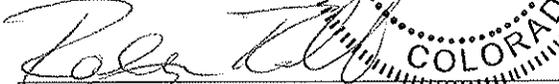
5. Severability. If any article, section, paragraph, sentence, clause, or phrase of this Ordinance is held to be unconstitutional or invalid for any reason such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this ordinance and each part or parts thereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

6. Repeal. Existing ordinances or parts of ordinances covering the same matters embraced in this ordinance are hereby repealed and all ordinances or parts of ordinances inconsistent with the provisions of this ordinance are hereby repealed except that this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the effect date of this ordinance.

7. Publication and Effective Date. This Ordinance is necessary for the immediate protection and preservation of the public health, safety, and welfare of the citizens of the City of Evans for the reasons described above, and therefore, shall become effective immediately as an emergency ordinance upon adoption by the City Council.

**PASSED AND ADOPTED AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF EVANS ON THIS 17<sup>th</sup> DAY OF SEPTEMBER, 2013.**

ATTEST:

  
\_\_\_\_\_  
City Clerk



CITY OF EVANS, COLORADO

BY:   
\_\_\_\_\_  
Lyle E. Achziger, Mayor

**CITY OF EVANS, COLORADO**

**ORDINANCE NO. 573-13**

**AN EMERGENCY ORDINANCE AUTHORIZING THE CHIEF OF POLICE  
OR DULY AUTHORIZED OFFICIAL TO PROHIBIT ACCESS TO PUBLIC  
AND/OR PRIVATE AREAS DAMAGED BY THE SEPTEMBER 2013 FLOOD  
AND DEEMED TO BE UNSAFE**

**WHEREAS**, the City Council of the City of Evans, Colorado, pursuant to Colorado statute and the Evans City Charter, is vested with the authority of administering the affairs of the City of Evans, Colorado; and

**WHEREAS**, pursuant to § 31-15-401, C.R.S., the City of Evans is empowered to regulate the police of the municipality and to pass and enforce all necessary police ordinances, and to do all acts and make all regulations which may be necessary or expedient for the promotion of health or the suppression of disease; and

**WHEREAS**, Section 1.3 of the Evans City Charter grants the City all the powers which are necessary, requisite or proper for government and administration of its local and municipal matters, and all powers which are granted to Home Rule Cities by the Constitution of the State of Colorado; and

**WHEREAS**, Section 3.17 of the Evans City Charter grants the Council the ability to constitute the Board of Health of the City and delegates all the powers, privileges and immunities granted to boards of health by statutes; and

**WHEREAS**, heavy rains and flooding have occurred throughout Weld County, including Evans and various other municipalities on September 9, 2013 through September 13, 2013, causing substantial damage to private and public properties (including, but not limited to, buildings owned and maintained by the City of Evans), power outages, and closures of City roads due to flooding and standing water, with the extent of such damages being at present unknown, and

**WHEREAS**, the Weld County Department of Public Health and Environment has stated that flooding can lead to many potential health hazards including transfer of disease carrying materials, bacteria, parasites, and viruses; and

**WHEREAS**, such flooding has caused damage to public and private structures rendering them unsafe to inhabit or occupy.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EVANS AS FOLLOWS:**

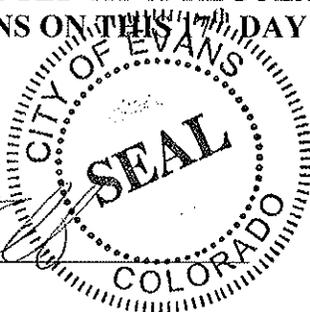
1. The City of Evans Police Chief or other designated Official of the City may prohibit access to public and/or private areas damaged by the flood and deemed to be unsafe for access or whose safety cannot be reasonably ascertained.

2. The Police Chief or other designated Official of the City may enforce such actions by constructing or causing the construction of fences and other barriers around public and/or private property until the determination has been made that the property can be accessed safely.
3. No person shall access or attempt to access property to which access has been prohibited under the provisions this Ordinance.
4. Any person found to be in violation of this Ordinance will be subject to penalties set forth in Chapter 1.16 of the Evans Code.
5. The restrictions imposed by this Ordinance shall not apply to emergency personnel or other persons duly authorized by the City.
6. Severability. If any article, section, paragraph, sentence, clause, or phrase of this Ordinance is held to be unconstitutional or invalid for any reason such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this ordinance and each part or parts thereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.
7. Repeal. Existing ordinances or parts of ordinances covering the same matters embraced in this ordinance are hereby repealed and all ordinances or parts of ordinances inconsistent with the provisions of this ordinance are hereby repealed except that this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the effect date of this ordinance.
8. Publication and Effective Date. This Ordinance is necessary for the immediate protection and preservation of the public health, safety, and welfare of the citizens of the City of Evans for the reasons described above, and therefore, shall become effective immediately as an emergency ordinance upon adoption by the City Council.

**PASSED AND ADOPTED AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF EVANS ON THIS 17<sup>TH</sup> DAY OF SEPTEMBER, 2013.**

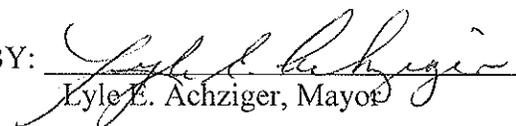
ATTEST:

  
City Clerk



CITY OF EVANS, COLORADO

BY:

  
Lyle E. Achziger, Mayor

**CITY OF EVANS, COLORADO**

**ORDINANCE NO. 574-13**

**AN EMERGENCY ORDINANCE IMPOSING A CURFEW WITHIN  
THE AREA EVACUATED DUE TO THE SEPTEMBER 2013 FLOOD**

**WHEREAS**, the City Council of the City of Evans, Colorado, pursuant to Colorado statute and the Evans City Charter, is vested with the authority of administering the affairs of the City of Evans, Colorado; and

**WHEREAS**, pursuant to § 31-15-401, C.R.S., the City of Evans is empowered to prevent and suppress riots, noises, disturbances, and all disorderly conduct in any public or private place, and to do all acts and make all regulations which may be necessary or expedient for the promotion of health or the suppression of disease; and

**WHEREAS**, Section 1.3 of the Evans City Charter grants the City all the powers which are necessary, requisite or proper for government and administration of its local and municipal matters, and all powers which are granted to Home Rule Cities by the Constitution of the State of Colorado; and

**WHEREAS**, heavy rains and flooding have occurred throughout Weld County, including Evans and various other municipalities on September 9, 2013 through September 13, 2013, causing substantial damages to private and public properties (including, but not limited to, buildings owned and maintained by the City of Evans), power outages, and closures of City roads due to flooding and standing water, with the extent of such damages being at present unknown; and

**WHEREAS**, the Weld County Department of Public Health and Environment has stated that flooding can lead to many potential health hazards including transfer of disease carrying materials, bacteria, parasites, and viruses; and

**WHEREAS**, the proper authorities have ordered the evacuation of portions of the City of Evans due to such flooding, and

**WHEREAS**, it is in the interest of the public health, safety and welfare to impose a curfew on unauthorized personnel being in the evacuated areas during the non-daylight hours.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EVANS, COLORADO AS FOLLOWS:**

1. A curfew is hereby imposed excluding all persons from the evacuation area, as depicted on Exhibit A, attached hereto and incorporated herein by reference, between the hours of 10 p.m. and 6 a.m. This curfew does not apply to emergency personnel or other persons duly authorized by the City of Evans or its designee. The evacuation area may be revised periodically at the direction of the Evans Police Chief.

2. Any person found to be in violation of this curfew will be subject to penalties set forth in Chapter 1.16 of the Evans Code.

3. Severability. If any article, section, paragraph, sentence, clause, or phrase of this Ordinance is held to be unconstitutional or invalid for any reason such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this ordinance and each part or parts thereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

4. Repeal. Existing ordinances or parts of ordinances covering the same matters embraced in this ordinance are hereby repealed and all ordinances or parts of ordinances inconsistent with the provisions of this ordinance are hereby repealed except that this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the effect date of this ordinance.

5. Publication and Effective Date. This Ordinance is necessary for the immediate protection and preservation of the public health, safety, and welfare of the citizens of the City of Evans for the reasons described above, and therefore, shall become effective immediately as an emergency ordinance upon adoption by the City Council.

**PASSED AND ADOPTED AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF EVANS ON THIS 17<sup>th</sup> DAY OF SEPTEMBER, 2013.**

ATTEST:

  
\_\_\_\_\_  
City Clerk



CITY OF EVANS, COLORADO

BY:

  
\_\_\_\_\_  
Lyle E. Achziger, Mayor

CITY OF EVANS, COLORADO

ORDINANCE NO. 575-13

AN ORDINANCE APPROPRIATING MONEY TO DEFRAY EXPENSES AS PROVIDED IN THE 2014 BUDGET

WHEREAS, it is necessary to appropriate sums from the revenues and fund balances provided in the budget to and for the purposes described below, so as not to impair the operations of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EVANS, COLORADO:

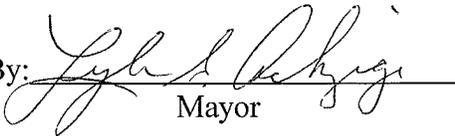
Section 1. That the following sums are hereby appropriated from the revenues and fund balances of each fund for the purposes stated:

General Fund	\$11,098,396
Emergency Contingency	-
Cemetery Perpetual Care	-
Fire Impact	-
Street Impact	520,000
Parks Impact	-
Conservation Trust	-
Refuse Collection	627,201
Capital Projects-Streets	1,708,000
Waterworks	4,458,055
Wastewater	1,542,778
Storm Drainage	395,392
Cemetery Endowment	6,000

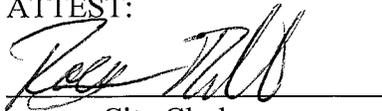
PASSED and APPROVED at a regular meeting of the City Council of the City of Evans on this 1<sup>st</sup> day of October, 2013.



CITY OF EVANS, COLORADO

By:   
Mayor

ATTEST:

  
City Clerk

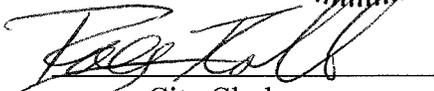
PASSED, APPROVED AND ADOPTED ON SECOND READING this 15<sup>th</sup> day of October, 2013.



CITY OF EVANS, COLORADO

By:   
Mayor

ATTEST:

  
City Clerk

**CITY OF EVANS, COLORADO**

**ORDINANCE NO. 576-13**

**AN EMERGENCY ORDINANCE WAIVING BUILDING PERMIT FEES, PLAN CHECK FEES, DEMOLITION FEES, RELATED ADMINISTRATIVE FEES AND DECLARING A MORATORIUM ON THE COLLECTION OF USE TAX ON CONSTRUCTION AND BUILDING MATERIALS, ALL IN CONNECTION WITH THE REPAIR OR REPLACEMENT OF CERTAIN STRUCTURES THAT HAVE BEEN DAMAGED OR LOST DUE TO THE SEPTEMBER 2013 FLOODING EVENTS**

**WHEREAS**, the City Council of the City of Evans, Colorado, pursuant to Colorado statute and the Evans City Charter, is vested with the authority of administering the affairs of the City of Evans, Colorado;

**WHEREAS**, on September 13, 2013, the Council declared the City of Evans to be in a state of emergency disaster, pursuant to Colorado Revised Statutes Sections 24-33.5-701 *et seq.* (the “Colorado Disaster Emergency Act”), and Title VI of PL 93-288, as amended, (the “Robert T. Stafford Disaster Relief and Emergency Assistance Act”);

**WHEREAS**, heavy rains and flooding occurred throughout Weld County and Evans and various other municipalities on September 9, 2013 through September 13, 2013, causing substantial damages to private and public properties (including, but not limited to, buildings owned and maintained by the City of Evans), power outages, and closures of City roads due to flooding and standing water, with the extent of such damages being at present unknown;

**WHEREAS**, areas beyond and in addition to those identified by the City as areas of special flood hazard were flooded and structures damaged in those areas as a result of the September 2013 storms;

**WHEREAS**, some of the fees associated with permits for repairing and/or replacing structures are assessed by the appropriate department within the City of Evans and others are paid, in part, to the City of Greeley for services associated with such permits;

**WHEREAS**, the City also assesses and collects a use tax in connection with construction materials used for repairing and/or replacing structures pursuant to the provisions of Sections 3.04.300 *et seq.* of the Evans City Code;

**WHEREAS**, the City imposed a moratorium on building or development within the areas of special flood hazard and other flooded areas on September 17, 2013 for a period of six months;

**WHEREAS**, this ordinance is intended to apply only to the repair of structures existing prior to the September 2013 flood events, or replacement of accessory structures existing prior to the September 2013 flood events, and not to the building or development of new structures; and

**WHEREAS**, in response to said flood disaster emergency, the Council desires to (1) authorize the waiver or payment of fees assessed or collected by the City of Evans, (2) declare a moratorium on use tax assessed or collected by the City of Evans, and (3) make available funds

to pay, on behalf of owners of the affected properties funds collected by the City of Greeley or the City of Evans or other entities in connection with such permits, all in the manner that maximizes potential reimbursement from FEMA and other agencies

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EVANS, COLORADO AS FOLLOWS:**

1. In connection with permits applied for in order to (1) repair structures that were damaged as a result of the September 2013 flood events, or (2) repair or replace accessory structures that have been damaged or lost due to the September 2013 flooding events, Council hereby authorizes the waiver or the payment by the City of the following fees, in the manner deemed by the City Manager to be the most efficient to ensure the maximum reimbursement to the City or its inhabitants of such costs from FEMA and other agencies:

a. Building permit fees, plan check fees, demolition fees, and administration fees assessed by the City of Evans Community Development Department, and

b. Fees and charges assessed, directly or indirectly, by the City of Greeley in connection with the review, issuance, monitoring, or finalization of building, demolition, plan check or administrative fees.

2. Council further declares a moratorium on the assessment of use tax pursuant to the provisions of Sections 3.04.300 *et seq.* of the Evans City Code in connection with the repair or replacement of the types of structures or accessory structures as described in Paragraph 1, above, with such moratorium to expire six months from the effective date of this ordinance or such earlier time as the Council deems appropriate. This moratorium shall be effectuated in such manner as the City Manager determines will maximize reimbursement to the City or its inhabitants of the revenues lost through imposition of this moratorium, including but not limited to assessing such tax and/or subsequently reimbursing the payment of such tax.

3. Severability. If any article, section, paragraph, sentence, clause, or phrase of this Ordinance is held to be unconstitutional or invalid for any reason such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this ordinance and each part or parts thereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

4. Repeal. Existing ordinances or parts of ordinances covering the same matters embraced in this ordinance are hereby repealed and all ordinances or parts of ordinances inconsistent with the provisions of this ordinance are hereby repealed except that this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the effect date of this ordinance.

5. Publications and Effective Date. This Ordinance is necessary for the immediate protection and preservation of the public health, safety, and welfare of the citizens of the City of Evans for the reasons described above, and therefore, shall become effective immediately as an emergency ordinance upon adoption by the City Council.

PASSED AND ADOPTED AT A MEETING OF THE CITY COUNCIL OF THE CITY OF EVANS ON THIS 1<sup>st</sup> DAY OF OCTOBER, 2013.

ATTEST:

  
\_\_\_\_\_  
City Clerk



CITY OF EVANS, COLORADO

BY:   
\_\_\_\_\_  
Lyle E. Achziger, Mayor

CITY OF EVANS, COLORADO

ORDINANCE NO. 577-13

AN ORDINANCE AMENDING EXHIBIT A OF CHAPTER 12.20 AND SECTIONS 15.50.100 AND 15.52.045 OF THE EVANS MUNICIPAL CODE CONCERNING ADJUSTMENTS OF IMPACT FEES

WHEREAS, Section 12.20.040D of the Evans Municipal Code allows for the adjustment of the Street Impact Fees to be adjusted annually to reflect the effects of inflation utilizing the most recent actual historical factor for the previous fully completed year for which figures are available from the Consumer Price Index for the Denver-Boulder-Greeley area; and

WHEREAS, Section 15.50.100 of the Evans Municipal Code allows for the adjustment of the Fire Impact Fees to reflect inflation, as reflected in the Engineering News Record Construction Index; and

WHEREAS, Section 15.52.100 of the Evans Municipal Code allows for the adjustment of the Park Impact Fees to reflect inflation utilizing the most recent factor in the most recent period for which figures are available from the Consumer Price Index for the Denver-Boulder-Greeley area.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EVANS, COLORADO:

Section 1. Exhibit A of Chapter 12.20 of the Evans Municipal Code is hereby changed and will read as follows:

**EXHIBIT A**

**Street Impact Fee**

**Residential (per housing unit)**

210 Detached Housing  
221 Attached Housing

**Non-Residential Per Square Foot of Floor Area**

820 Commercial/Shop Ctr. 25,000 SF or less  
820 Commercial/Shop Ctr. 25,001-50,000 SF  
820 Commercial/Shop Ctr. 50,001-100,000 SF  
820 Commercial/Shop Ctr. 100,001-400,000

Residential	Commercial / Shopping Centers	Other Non-residential
\$1,894		
\$1,306		
	\$2.84	
	\$2.62	
	\$2.28	
	\$1.68	

SF	
710 General Office 10,000 SF or less	\$1.78
710 General Office 10,001-25,000 SF	\$1.43
710 General Office 25,001-50,000 SF	\$1.22
720 Medical-Dental Office	\$2.84
610 Hospital	\$1.32
620 Nursing Homes	\$0.45
770 Business Park	\$1.01
110 Light Industrial	\$0.55
150 Warehousing	\$0.37
151 Mini-Warehouse*	\$0.20
<b><u>Other Non-Residential</u></b>	
310 Lodging (per room)	\$644
565 Day Care (per person)	\$353
530 High School (per student)	\$138
522 Middle School (per student)	\$123
520 Elementary School (per student)	\$88
*Also used for churches without weekday or school or day care functions.	

Section 2. Section 15.50.100 of the Evans Municipal Code is amended to read as follows:

15.50.100 Fire/Rescue Department Impact Fees.

Effective January 1, 2014, the Fire/Rescue Impact Fees shall be as follows:

FIRE/RESCUE DEPARTMENT IMPACT FEES:	
Each residential unit other than a motel or hotel.	\$805.00 per dwelling unit
Non-residential uses, but including a motel or hotel. <i>Exception: Any detached accessory structure related to a single family residential use.</i>	\$ 0.46 per square foot of each floor level of the building area

Annually, the fees will be updated to reflect inflation, as reflected in the Engineering News Record *Construction Index*.

Section 3. Section 15.52.045 of the Evans Municipal Code is amended to read as follows:

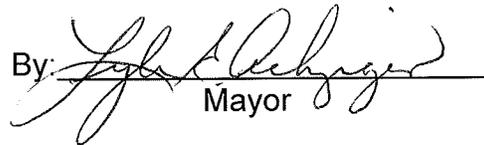
15.52.045 Park Development Impact Fees--Schedule of amounts.

- A. Effective January 1, 2013, the Park Development Impact Fees shall be as follows:
1. For each single-family dwelling, four thousand five hundred sixteen dollars (\$4,604);
  2. For each dwelling unit in a duplex, apartment building, or in any other residential structure other than a motel or hotel, four thousand five hundred sixteen dollars (\$4,604);
  3. For each space in a mobile home park or community, four thousand five hundred sixteen dollars (\$4,604);
  4. Exception: Any detached accessory structures related to residential uses described in items 1, 2, or 3 as listed above shall be exempt from this fee.

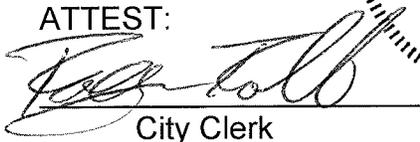
Section 4. Publication and Effective Date. This ordinance after its passage on final reading, shall be numbered, recorded, published and posted as required by the City Charter and the adoption, posting and publication shall be authenticated by the signature of the Mayor and the City Clerk, and by the Certificate of Publication. This ordinance shall become effective January 1, 2014.

PASSED AND APPROVED at a regular meeting of the City Council of the City of Evans on this 15<sup>th</sup> day of ~~October~~ November, 2013.

CITY OF EVANS, COLORADO

By:   
Mayor

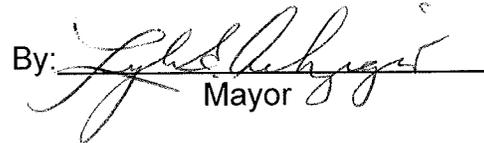
ATTEST:

  
City Clerk

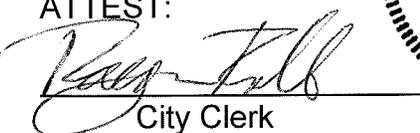


PASSED, APPROVED AND ADOPTED ON SECOND READING this 5<sup>th</sup> day of November, 2013.

CITY OF EVANS, COLORADO

By:   
Mayor

ATTEST:

  
City Clerk



CITY OF EVANS, COLORADO

ORDINANCE NO. 578-13

AN ORDINANCE AMENDING THE 2013 BUDGET; INCREASING GENERAL FUND REVENUES BY \$895,206, APPROPRIATING GENERAL FUND EXPENDITURES OF \$935,706, INCREASING CIP STREETS FUND REVENUES BY \$122,735 AND INCREASING WATER FUND REVENUES BY \$400,000, AND APPROPRIATING WATER FUND EXPENSES OF \$400,000.

WHEREAS, in accordance with Section 8.6 of the Evans Home Rule Charter the Council may make additional appropriations by ordinance during the fiscal year; and

WHEREAS, the City Manager has certified that additional funds are available for appropriations in each fund from actual and anticipated revenues of the current year and prior year cash reserves; and

WHEREAS, the City Council is advised that certain revenues, expenditures and transfers must be approved by ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF EVANS, COLORADO THE FOLLOWING:

Section 1: Upon the City Manager's certification that there are current and prior year revenues available for appropriation in the General Fund and Water Fund, and the City Council hereby makes supplemental appropriations as itemized in Attachment "A" attached hereto.

Section 2: The City Council hereby authorizes and directs the City Manager to enter into such contracts and execute such documents on behalf of the City as may be necessary and customary to expend the funds hereby appropriated for all operations, capital projects and debt within this budget as amended in accordance with the requirements of the Home Rule Charter and the City's Financial Policies.

Section 3: The adoption of this Ordinance will promote the health, safety and general welfare of the Evans community.

Section 4: If any provision of this Ordinance or portion thereof is held by a court of competent jurisdiction to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect any other provision which can be given effect without the invalid portion.

Section 5: All prior ordinances, resolutions, or other acts, or parts thereof, by the City of Evans in conflict with this Ordinance are hereby repealed, except that this repealer shall not be construed to revive any previously repealed or expired act, ordinance or resolution, or part thereof.

Section 6: Publication and Effective Date. This Ordinance is necessary for the immediate protection and preservation of the public health, safety, and welfare of the citizens of the City of Evans for the reasons described above, and therefore, shall become effective immediately as an emergency ordinance upon adoption by the City Council.

PASSED and APPROVED on first reading at a regular meeting of the City Council of the City of Evans on this 5<sup>th</sup> day of November, 2013.



CITY OF EVANS, COLORADO

By: *John A. Lehner*  
Mayor

ATTEST:

*Karen Tall*  
City Clerk

PASSED, APPROVED, AND ADOPTED ON SECOND READING this 19<sup>th</sup> day of November, 2013.



CITY OF EVANS, COLORADO

By: *John A. Lehner*  
Mayor

ATTEST:

*Karen Tall*  
City Clerk



**CITY OF EVANS, COLORADO**

**ORDINANCE NO. 579-13**

**AN ORDINANCE AMENDING BY REPLACING CHAPTER 16.04 OF THE EVANS CITY CODE REGARDING FLOOD DAMAGE PREVENTION**

**WHEREAS**, the City Council of the City of Evans, Colorado, pursuant to Colorado statute and the Evans City Charter, is vested with the authority of administering the affairs of the City of Evans, Colorado; and

**WHEREAS**, the City Council has previously adopted ordinances regarding flood damage prevention, which are codified in Section 16.04 of the Evans City Code; and

**WHEREAS**, the City Council has concluded that the City's flood damage prevention regulations should be revised as set forth below, in order to protect the health, safety and welfare of the general public and the citizenry of the City of Evans.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EVANS, COLORADO AS FOLLOWS:**

1. Section 16.04 of the Evans City Code is hereby repealed and replaced in its entirety with the following:

CHAPTER 16.04

FLOOD DAMAGE PREVENTION

Sections:

16.040.010	Statutory Authorization
16.040.020	Findings of Fact
16.040.030	Statement of Purpose
16.040.040	Methods of Reducing Flood Losses
16.040.050	Definitions
16.040.060	Lands to Which This Ordinance Applies
16.040.070	Basis for Establishing the Special Flood Hazard Areas
16.040.080	Establishment of Floodplain Development Permit
16.040.090	Compliance
16.040.100	Abrogation and Greater Restrictions
16.040.110	Interpretation
16.040.120	Warning and Disclaimer of Liability
16.040.130	Severability

16.040.140	Designation of the Floodplain Administrator
16.040.150	Duties and Responsibilities of the Floodplain Administrator
16.040.160	Permit Procedures
16.040.170	Variance Procedures
16.040.180	Penalties for Non-Compliance
16.040.190	General Standards
16.040.200	Specific Standards
16.040.210	Specific Standards for Construction in Special Flood Hazard

Areas

16.040.220	Standards for Areas of Shallow Flooding
16.040.230	Floodways
16.040.240	Alteration of a Watercourse
16.040.260	Standards for Subdivision Proposals
16.040.270	Standards for Critical Facilities

16.040.010. STATUTORY AUTHORIZATION The Legislature of the State of Colorado has, in Title 29, Article 20 of the Colorado Revised Statutes, delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses. Therefore, City Council of the City of Evans, Colorado, (the City) does hereby adopt the following floodplain management regulations:

16.040.020. FINDINGS OF FACT

(A) The flood hazard areas of the City are subject to periodic inundation, which can result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the health, safety and general welfare of the public.

(B) These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, flood proofed or otherwise protected from flood damage.

16.040.030. STATEMENT OF PURPOSE It is the purpose of this ordinance to promote public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- A. Protect human life and health;
- B. Minimize expenditure of public money for costly flood control projects;
- C. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. Minimize prolonged business interruptions;
- E. Minimize damage to critical facilities, infrastructure and other public facilities such as water sewer and gas mains; electric and communications stations; and streets and bridges located in floodplains;
- F. Help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize future flood blight areas; and
- G. Insure that potential buyers are notified that property is located in a flood hazard area.

16.040.040. METHODS OF REDUCING FLOOD LOSSES In order to accomplish its purposes,

this ordinance uses the following methods:

- A. Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;
- B. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- C. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;
- D. Control filling, grading, dredging and other development which may increase flood damage;
- E. Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

16.040.050 DEFINITIONS. Unless specifically defined below, words or phrases used in this ordinance shall be interpreted to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

- A. **100-YEAR FLOOD** - A flood having a recurrence interval that has a one-percent chance of being equaled or exceeded during any given year (1-percent-annual-chance flood). The terms "one- hundred-year flood" and "one percent chance flood" are synonymous with the term "100-year flood." The term does not imply that the flood will necessarily happen once every one hundred years.
- B. **100-YEAR FLOODPLAIN** - The area of land susceptible to being inundated as a result of the occurrence of a one-hundred-year flood.
- C. **500-YEAR FLOOD** - A flood having a recurrence interval that has a 0.2-percent chance of being equaled or exceeded during any given year (0.2-percent-chance-annual-flood). The term does not imply that the flood will necessarily happen once every five hundred years.
- D. **500-YEAR FLOODPLAIN** - The area of land susceptible to being inundated as a result of the occurrence of a five-hundred-year flood.
- E. **ADDITION** - Any activity that expands the enclosed footprint or increases the square footage of an existing structure.
- F. **AREA OF SHALLOW FLOODING** - A designated Zone AO or AH on a community's Flood Insurance Rate Map (FIRM) with a one percent chance or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.
- G. **BASE FLOOD ELEVATION (BFE)** - The elevation shown on a FEMA Flood Insurance Rate Map for Zones AE, AH, A1-A30, AR, AR/A, AR/AE, AR/A1-A30, AR/AH, AR/AO, V1-V30, and VE that indicates the water surface elevation resulting from a flood that has a one percent chance of equaling or exceeding that level in any given year.
- H. **BASEMENT** - Any area of a building having its floor sub-grade (below ground level) on all sides.
- I. **CHANNEL** - The physical confine of stream or waterway consisting of a bed and stream banks, existing in a variety of geometries.
- J. **CHANNELIZATION** - The artificial creation, enlargement or realignment of a stream channel.

- K. **CONDITIONAL LETTER OF MAP REVISION (CLOMR)** - FEMA's comment on a proposed project, which does not revise an effective floodplain map, that would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodplain.
- L. **CRITICAL FACILITY** – A structure or related infrastructure, but not the land on which it is situated, as specified in Article 5, Section H, that if flooded may result in significant hazards to public health and safety or interrupt essential services and operations for the community at any time before, during and after a flood. See Article 5, Section H.
- M. **DEVELOPMENT** - Any man-made change in improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.
- N. **DFIRM DATABASE** - Database (usually spreadsheets containing data and analyses that accompany DFIRMs). The FEMA Mapping Specifications and Guidelines outline requirements for the development and maintenance of DFIRM databases.
- O. **DIGITAL FLOOD INSURANCE RATE MAP (DFIRM)** - FEMA digital floodplain map. These digital maps serve as “regulatory floodplain maps” for insurance and floodplain management purposes.
- P. **ELEVATED BUILDING** - A non-basement building (i) built, in the case of a building in Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, to have the top of the elevated floor above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters.
- Q. **EXISTING MANUFACTURED HOME PARK OR SUBDIVISION** - A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.
- R. **EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION**- The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
- S. **FEMA** - Federal Emergency Management Agency, the agency responsible for administering the National Flood Insurance Program.
- T. **FLOOD OR FLOODING** - A general and temporary condition of partial or complete inundation of normally dry land areas from:
- a. The overflow of water from channels and reservoir spillways;
  - b. The unusual and rapid accumulation or runoff of surface waters from any source;
- or
- c. Mudslides or mudflows that occur from excess surface water that is combined with mud or other debris that is sufficiently fluid so as to flow over the surface

of normally dry land areas (such as earth carried by a current of water and deposited along the path of the current).

- U. **FLOOD INSURANCE RATE MAP (FIRM)** – An official map of a community, on which FEMA has delineated both the Special Flood Hazard Areas and the risk premium zones applicable to the community.
- V. **FLOOD INSURANCE STUDY (FIS)** - The official report provided by FEMA. The report contains the Flood Insurance Rate Map as well as flood profiles for studied flooding sources that can be used to determine Base Flood Elevations for some areas.
- W. **FLOODPLAIN OR FLOOD-PRONE AREA** - Any land area susceptible to being inundated as the result of a flood, including the area of land over which floodwater would flow from the spillway of a reservoir.
- X. **FLOODPLAIN ADMINISTRATOR** - The Evans City Official designated by Evans City Council to administer and enforce the floodplain management regulations.
- Y. **FLOODPLAIN DEVELOPMENT PERMIT** – A permit required before construction or development begins within any Special Flood Hazard Area (SFHA). If FEMA has not defined the SFHA within a community, the community shall require permits for all proposed construction or other development in the community including the placement of manufactured homes, so that it may determine whether such construction or other development is proposed within flood-prone areas. Permits are required to ensure that proposed development projects meet the requirements of the NFIP and this floodplain management ordinance.
- Z. **FLOODPLAIN MANAGEMENT** - The operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.
- AA. **FLOODPLAIN MANAGEMENT REGULATIONS** - Zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.
- BB. **FLOOD CONTROL STRUCTURE** - A physical structure designed and built expressly or partially for the purpose of reducing, redirecting, or guiding flood flows along a particular waterway. These specialized flood modifying works are those constructed in conformance with sound engineering standards.
- CC. **FLOODPROOFING** - Any combination of structural and/or non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.
- DD. **FLOODWAY (REGULATORY FLOODWAY)** - The channel of a river or other watercourse and adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. The Colorado statewide standard for the designated height to be used for all newly studied reaches shall be one-half foot (six inches). Letters of Map Revision to existing floodway delineations may continue to use the floodway criteria in place at the time of the existing floodway delineation.
- EE. **FREEBOARD** - The vertical distance in feet above a predicted water surface

elevation intended to provide a margin of safety to compensate for unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood such as debris blockage of bridge openings and the increased runoff due to urbanization of the watershed.

- FF. **FUNCTIONALLY DEPENDENT USE** - A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and boat building and boat repair facilities, but does not include long-term storage or related manufacturing facilities.
- GG. **HIGHEST ADJACENT GRADE** – The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
- HH. **HISTORIC STRUCTURE** - Any structure that is:
- a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
  - b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
  - c. Individually listed on Colorado's inventory of historic places as part of an historic preservation program which has been approved by the Secretary of Interior; or
  - d. Individually listed on a local inventory of historic places as part of a historic preservation program that has been certified either:
    - i. By an approved Colorado state program as determined by the Secretary of the Interior or;
    - ii. Directly by the Secretary of the Interior.
- II. **LETTER OF MAP REVISION (LOMR)** - FEMA's official revision of an effective Flood Insurance Rate Map (FIRM), or Flood Boundary and Floodway Map (FBFM), or both. LOMRs are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective Base Flood Elevations (BFEs), or the Special Flood Hazard Area (SFHA).
- JJ. **LETTER OF MAP REVISION BASED ON FILL (LOMR-F)** – FEMA's modification of the Special Flood Hazard Area (SFHA) shown on the Flood Insurance Rate Map (FIRM) based on the placement of fill outside the existing regulatory floodway.
- KK. **LEVEE** – A man-made embankment, usually earthen, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding. For a levee structure to be reflected on the FEMA FIRMs as providing flood protection, the levee structure must meet the requirements set forth in 44 CFR 65.10.
- LL. **LEVEE SYSTEM** - A flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.
- MM. **LOWEST FLOOR** - The lowest floor of the lowest enclosed area (including basement). Any floor used for living purposes which includes working, storage,

- sleeping, cooking and eating, or recreation or any combination thereof. This includes any floor that could be converted to such a use such as a basement or crawl space. The lowest floor is a determinate for the flood insurance premium for a building, home or business. An unfinished or flood resistant enclosure, usable solely for parking or vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of Section 60.3 of the National Flood insurance Program regulations.
- NN. **MANUFACTURED HOME** - A structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".
- OO. **MANUFACTURED HOME PARK OR SUBDIVISION** - A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
- PP. **MEAN SEA LEVEL** - For purposes of the National Flood Insurance Program, the North American Vertical Datum (NAVD) of 1988 or other datum, to which Base Flood Elevations shown on a community's Flood Insurance Rate Map are referenced.
- QQ. **MATERIAL SAFETY DATA SHEET (MSDS)** – A form with data regarding the properties of a particular substance. An important component of product stewardship and workplace safety, it is intended to provide workers and emergency personnel with procedures for handling or working with that substance in a safe manner, and includes information such as physical data (melting point, boiling point, flash point, etc.), toxicity, health effects, first aid, reactivity, storage, disposal, protective equipment, and spill-handling procedures.
- RR. **NATIONAL FLOOD INSURANCE PROGRAM (NFIP)** – FEMA’s program of flood insurance coverage and floodplain management administered in conjunction with the Robert T. Stafford Relief and Emergency Assistance Act. The NFIP has applicable Federal regulations promulgated in Title 44 of the Code of Federal Regulations.
- SS. **NEW MANUFACTURED HOME PARK OR SUBDIVISION** - A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.
- TT. **NO-RISE CERTIFICATION** – A record of the results of an engineering analysis conducted to determine whether a project will increase flood heights in a floodway. A No-Rise Certification must be supported by technical data and signed by a registered Colorado Professional Engineer. The supporting technical data should be based on the standard step-backwater computer model used to develop the 100-year floodway shown on the Flood Insurance Rate Map (FIRM) or Flood Boundary and Floodway Map (FBFM).
- UU. **PHYSICAL MAP REVISION (PMR)** - FEMA’s action whereby one or more map panels are physically revised and republished. A PMR is used to change flood risk zones, floodplain and/or floodway delineations, flood elevations, and/or planimetric features.
- VV. **RECREATIONAL VEHICLE** - means a vehicle which is:

- a. Built on a single chassis
  - b. 400 square feet or less when measured at the largest horizontal projections;
  - c. Designed to be self-propelled or permanently towable by a light duty truck; and
  - d. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
- WW. **SPECIAL FLOOD HAZARD AREA** – The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year, i.e., the 100-year floodplain.
- XX. **START OF CONSTRUCTION** - The date the building permit was issued, including substantial improvements, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
- YY. **STRUCTURE** - A walled and roofed building, including a gas or liquid storage tank, which is principally above ground, as well as a manufactured home.
- ZZ. **SUBSTANTIAL DAMAGE** - Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure just prior to when the damage occurred.
- AAA. **SUBSTANTIAL IMPROVEMENT** - Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "Start of Construction" of the improvement. The value of the structure shall be determined by the City of Evans' designee. This includes structures which have incurred "Substantial Damage", regardless of the actual repair work performed. The term does not, however, include either:
- a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the City of Evans' code enforcement official and which are the minimum necessary conditions, or
  - b. Any alteration of a "historic structure" provided that the alteration will not preclude the structure's continued designation as a "historic structure."
- BBB. **THRESHOLD PLANNING QUANTITY (TPQ)** – A quantity designated for each chemical on the list of extremely hazardous substances that triggers notification by facilities to the State that such facilities are subject to emergency planning requirements.
- CCC. **VARIANCE** - A grant of relief to a person from the requirement of this ordinance when specific enforcement would result in unnecessary hardship. A variance,

- therefore, permits construction or development in a manner otherwise prohibited by this ordinance. (For full requirements see Section 60.6 of the National Flood Insurance Program regulations).
- DDD. **VIOLATION** - The failure of a structure or other development to be fully compliant with the City's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Section 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.
- EEE. **WATER SURFACE ELEVATION** - The height, in relation to the North American Vertical Datum (NAVD) of 1988 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of riverine areas.

16.040.060. LANDS TO WHICH THIS ORDINANCE APPLIES This ordinance shall apply to all Special Flood Hazard Areas and areas removed from the floodplain by the issuance of a FEMA Letter of Map Revision Based on Fill (LOMR-F) within the jurisdiction of the City.

16.040.070. BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREA The Special Flood Hazard Areas identified by the Federal Emergency Management Agency in a scientific and engineering report entitled, "The Flood Insurance Study for the City of Evans, Colorado," dated May 31, 2013, with accompanying Flood Insurance Rate Maps and/or Flood Boundary as adopted by ordinance.

Floodway Maps (FIRM and/or FBFM) and any revisions thereto are hereby adopted by reference and declared to be a part of this ordinance. These Special Flood Hazard Areas identified by the FIS and attendant mapping are the minimum area of applicability of this ordinance and may be supplemented by studies designated and approved by resolution of the Evans City Council. The Floodplain Administrator shall keep a copy of the Flood Insurance Study (FIS), DFIRMs, FIRMs and/or FBFMs on file and available for public inspection.

16.040.080. ESTABLISHMENT OF FLOODPLAIN DEVELOPMENT PERMIT A Floodplain Development Permit shall be required to ensure conformance with the provisions of this ordinance.

16.040.090. COMPLIANCE No structure or land shall hereafter be located, altered, or have its use changed within the Special Flood Hazard Area without full compliance with the terms of this ordinance and other applicable regulations. Nothing herein shall prevent the Evans City Council or its designee from taking such lawful action as is necessary to prevent or remedy any violation. These regulations meet the minimum requirements as set forth by the Colorado Water Conservation Board and the National Flood Insurance Program.

16.040.100. ABROGATION AND GREATER RESTRICTIONS This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, easement, covenant, nor deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

16.040.110. INTERPRETATION In the interpretation and application of this ordinance, all provisions shall be:

- a. Considered as minimum requirements;

- b. Liberally construed in favor of the City; and
- c. Deemed neither to limit nor repeal any other powers granted under State statutes.

16.040.120. WARNING AND DISCLAIMER OF LIABILITY The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by man-made or natural causes.

This ordinance does not imply that land outside the Special Flood Hazard Area or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the City or any official or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

16.040.130. SEVERABILITY This ordinance and the various parts thereof are hereby declared to be severable. Should any section of this ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any portion thereof other than the section so declared to be unconstitutional or invalid.

16.040.140. DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR The City Manager or designee is hereby appointed as Floodplain Administrator to administer, implement and enforce the provisions of this ordinance and other appropriate sections of 44 CFR (National Flood Insurance Program Regulations) pertaining to floodplain management.

16.040.150. DUTIES & RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:

- A. Maintain and hold open for public inspection all records pertaining to the provisions of this ordinance, including the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures and any floodproofing certificate required by Article 4, Section C.
- B. Review, approve, or deny all applications for Floodplain Development Permits required by adoption of this ordinance.
- C. Review Floodplain Development Permit applications to determine whether a proposed building site, including the placement of manufactured homes, will be reasonably safe from flooding.
- D. Review permits for proposed development to assure that all necessary permits have been obtained from those Federal, State or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required.
- E. Inspect all development at appropriate times during the period of construction to ensure compliance with all provisions of this ordinance, including proper elevation of the structure.
- F. Where interpretation is needed as to the exact location of the boundaries of the Special Flood Hazard Area (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the necessary interpretation.
- G. When Base Flood Elevation data has not been provided in accordance with Article 3,

Section B, the Floodplain Administrator shall obtain, review and reasonably utilize any Base Flood Elevation data and Floodway data available from a Federal, State, or other source, in order to administer the provisions of Article 5.

- H. For waterways with Base Flood Elevations for which a regulatory Floodway has not been designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the City's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one-half foot at any point within the community.
- I. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, a community may approve certain development in Zones A1-30, AE, AH, on the community's FIRM which increases the water surface elevation of the base flood by more than one-half foot, provided that the community first applies for a conditional FIRM revision through FEMA (Conditional Letter of Map Revision), fulfills the requirements for such revisions as established under the provisions of Section 65.12 and receives FEMA approval.
- J. Notify, in riverine situations, adjacent communities and the State Coordinating Agency, which is the Colorado Water Conservation Board, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to FEMA.
- K. Ensure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.

16.040.160. PERMIT PROCEDURES Application for a Floodplain Development Permit shall be presented to the Floodplain Administrator on forms furnished by him/her and shall include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to Special Flood Hazard Area. Additionally, the following information is required:

- A. Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures;
- B. Elevation in relation to mean sea level to which any nonresidential structure shall be flood proofed;
- C. A certificate from a registered Colorado Professional Engineer or architect that the nonresidential flood proofed structure shall meet the flood proofing criteria of Article 5, Section B(2);
- D. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development.
- E. Maintain a record of all such information in accordance with Article 4, Section B.

Approval or denial of a Floodplain Development Permit by the Floodplain Administrator shall be based on all of the provisions of this ordinance and the following non-exclusive list of relevant factors:

- A. The danger to life and property due to flooding or erosion damage;
- B. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- C. The danger that materials may be swept onto other lands to the injury of others;

- D. The compatibility of the proposed use with existing and anticipated development;
- E. The safety of access to the property in times of flood for ordinary and emergency vehicles;
- F. The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;
- G. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;
- H. The necessity to the facility of a waterfront location, where applicable;
- I. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
- J. The relationship of the proposed use to the comprehensive plan for that area.

16.040.170. VARIANCE PROCEDURES

- A. Requests for variances from the requirements of this ordinance shall be heard and determined by the Zoning Board of Appeals of the City of Evans. The timing and process for seeking a variance from the Zoning Board of Appeals shall be that set forth in Chapter 19.58 of the Evans Municipal Code, except as modified in this Section.
- B. The Zoning Board of Appeals shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this ordinance.
- C. Any person or persons aggrieved by the decision of the Zoning Board of Appeals may appeal such decision in the courts of competent jurisdiction.
- D. The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to FEMA upon request.
- E. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in Chapter 19.58 or the procedures set forth in the remainder of this ordinance.
- F. Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors of this Ordinance have been fully considered.
- G. Upon consideration of the factors noted above and the intent of this ordinance, the Zoning Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this ordinance as stated in 16.040.030.
- H. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- I. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- J. Prerequisites for granting variances:
  - i. Variances shall only be issued upon a determination that the variance is the

- minimum necessary, considering the flood hazard, to afford relief.
- ii. Variances shall only be issued upon:
    - a. Showing a good and sufficient cause;
    - b. A determination that failure to grant the variance would result in exceptional hardship to the applicant, and
    - c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
    - d. Variances can only be approved with the vote of a supermajority of both the Zoning Board of Appeals and the City Council. Such supermajority shall consist of seventy-five percent (75%) of the positions filled as of the time the matter is considered by each respective body.
  - iii. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the Base Flood Elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
- K. Variances may be issued for new construction and substantial improvements and for other development necessary for the conduct of a Functionally Dependent Use provided that:
- i. The criteria outlined herein are met, and
  - ii. The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

16.040.180 PENALTIES FOR NONCOMPLIANCE No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this Chapter and other applicable regulations. Violation of the provisions of this Chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall be cited, prosecuted, and punished pursuant to the provisions of Chapter 1.16 of the Evans municipal Code. Nothing contained in this Chapter or in Chapter 1.16 shall prevent the City of Evans from taking such other lawful action as is necessary to prevent or remedy any violation of this Chapter.

16.040.190. GENERAL STANDARDS FOR CONSTRUCTION IN SPECIAL FLOOD HAZARD AREAS (100 YEAR FLOOD PLAIN) In all Special Flood Hazard Areas the following provisions are required for all new construction and substantial improvements:

- A. All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
- B. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;

- C. All new construction or substantial improvements shall be constructed with materials resistant to flood damage;
- D. All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
- E. All manufactured homes shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.
- G. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- H. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters; and,
- I. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

**16.040.200. SPECIFIC STANDARDS FOR CONSTRUCTION IN SPECIAL FLOOD HAZARD AREAS** In all Special Flood Hazard Areas where base flood elevation data has been provided as set forth in (i) 16.040.070, (ii) 16.040.150, or (iii) 16.040.260, the following provisions are required:

**A. RESIDENTIAL CONSTRUCTION**

New construction and Substantial Improvement of any residential structure shall have the lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated to thirty-six (36) inches above the base flood elevation. Upon completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered Colorado Professional Engineer, architect, or land surveyor. Such certification shall be submitted to the Floodplain Administrator.

**B. NONRESIDENTIAL CONSTRUCTION**

With the exception of Critical Facilities, as defined herein, new construction and Substantial Improvements of any commercial, industrial, or other nonresidential structure shall either have the lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities

(including ductwork), elevated to eighteen (18) inches above the base flood elevation or, together with attendant utility and sanitary facilities, be designed so that at eighteen (18) inches above the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

A registered Colorado Professional Engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. Such certification shall be maintained by the Floodplain Administrator.

### C. ENCLOSURES

New construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access, or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters.

Designs for meeting this requirement must either be certified by a registered Colorado Professional Engineer or architect or meet or exceed the following minimum criteria:

- i. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
- ii. The bottom of all openings shall be no higher than one foot above grade.
- iii. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

### D. MANUFACTURED HOMES

All manufactured homes that are placed or substantially improved within Zones A1-30, AH, and AE on the City's FIRM on sites (i) outside of a manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, or (iv) in an existing manufactured home park or subdivision on which manufactured home has incurred "substantial damage" as a result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home, electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), are elevated to thirty-six (36) inches above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

All manufactured homes placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A1-30, AH and AE on the community's FIRM that are not subject to the provisions of the above paragraph, shall be elevated so that either:

- i. The lowest floor of the manufactured home, electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), are thirty-six (36) inches above the base flood elevation, or
- ii. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

#### E. RECREATIONAL VEHICLES

All recreational vehicles placed on sites within Zones A1-30, AH, and AE on the City's FIRM must either:

- i. Be on the site for fewer than 180 consecutive days,
- ii. Be fully licensed and ready for highway use, or
- iii. Meet the permit requirements of Article 4, Section C, and the elevation and anchoring requirements for "manufactured homes" in paragraph (D) of this section.

A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

#### F. PRIOR APPROVED ACTIVITIES

Any activity for which a Floodplain Development Permit was issued by the City or a CLOMR was issued by FEMA prior to the effective date of this ordinance may be completed according to the standards in place at the time of the permit or CLOMR issuance and will not be considered in violation of this ordinance if it meets such standards.

#### 16.040.210. STANDARDS FOR AREAS OF SHALLOW FLOODING (AO/AH ZONES)

Located within the Special Flood Hazard Area established in Article 3, Section B, are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of 1 to 3 feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

- A. RESIDENTIAL CONSTRUCTION All new construction and Substantial Improvements of residential structures must have the lowest floor (including basement),

electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated above the highest adjacent grade at least one (1) foot above the depth number specified in feet on the City's FIRM (at least three feet if no depth number is specified). Upon completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered Colorado Professional Engineer, architect, or land surveyor. Such certification shall be submitted to the Floodplain Administrator.

B. NONRESIDENTIAL CONSTRUCTION With the exception of Critical Facilities, outlined in Article 5, Section H, all new construction and Substantial Improvements of non-residential structures, must have the lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated above the highest adjacent grade at least one (1) foot above the depth number specified in feet on the City's FIRM (at least three feet if no depth number is specified), or together with attendant utility and sanitary facilities, be designed so that the structure is watertight to at least one foot above the base flood level with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy. A registered Colorado Professional Engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this Section, as proposed in Article 4, Section C, are satisfied. Within Zones AH or AO, adequate drainage paths around structures on slopes are required to guide flood waters around and away from proposed structures.

SECTION 16.040.220. FLOODWAYS Floodways are administrative limits and tools used to regulate existing and future floodplain development. The State of Colorado has adopted Floodway standards that are more stringent than the FEMA minimum standard (see definition of Floodway in Article 2). Located within Special Flood Hazard Area established in Article 3, Section B, are areas designated as Floodways. Since the Floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and erosion potential, the following provisions shall apply:

- A. Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory Floodway *unless* it has been demonstrated through hydrologic and hydraulic analyses performed by a licensed Colorado Professional Engineer and in accordance with standard engineering practice that the proposed encroachment would not result in any increase (requires a No-Rise Certification) in flood levels within the community during the occurrence of the base flood discharge.
- B. If the above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this Article.
- C. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Regulations, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in Base Flood Elevations, provided that the community first applies for a CLOMR and floodway revision through FEMA.

16.040.220. ALTERATION OF A WATERCOURSE For all proposed developments that alter a watercourse within a Special Flood Hazard Area, the following standards apply:

- A. Channelization and flow diversion projects shall appropriately consider issues of sediment transport, erosion, deposition, and channel migration and properly mitigate potential problems through the project as well as upstream and downstream of any improvement activity. A detailed analysis of sediment transport and overall channel stability should be considered, when appropriate, to assist in determining the most appropriate design.
- B. Channelization and flow diversion projects shall evaluate the residual 100-year floodplain.
- C. Any channelization or other stream alteration activity proposed by a project proponent must be evaluated for its impact on the regulatory floodplain and be in compliance with all applicable Federal, State and local floodplain rules, regulations and ordinances.
- D. Any stream alteration activity shall be designed and sealed by a registered Colorado Professional Engineer or Certified Professional Hydrologist.
- E. All activities within the regulatory floodplain shall meet all applicable Federal, State and City floodplain requirements and regulations.
- F. Within the Regulatory Floodway, stream alteration activities shall not be constructed unless the project proponent demonstrates through a Floodway analysis and report, sealed by a registered Colorado Professional Engineer, that there is not more than a 0.00-foot rise in the proposed conditions compared to existing conditions Floodway resulting from the project, otherwise known as a No-Rise Certification, unless the City first applies for a CLOMR and Floodway revision in accordance with Section D of this Article.
- G. Maintenance shall be required for any altered or relocated portions of watercourses so that the flood-carrying capacity is not diminished.

16.040.230. PROPERTIES REMOVED FROM THE FLOODPLAIN BY FILL A Floodplain Development Permit shall not be issued for the construction of a new structure or addition to an existing structure on a property removed from the floodplain by the issuance of a FEMA Letter of Map Revision Based on Fill (LOMR-F), unless such new structure or addition complies with the following:

- A. **RESIDENTIAL CONSTRUCTION** The lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), must be elevated to eighteen (18) inches above the Base Flood Elevation that existed prior to the placement of fill.
- B. **NONRESIDENTIAL CONSTRUCTION** The lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), must be elevated to eighteen inches (18) above the Base Flood Elevation that existed prior to the placement of fill, or together with attendant utility and sanitary facilities be designed so that the structure or addition is watertight to at least one foot above the base flood level that existed prior to the placement of fill with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.

16.040.240. STANDARDS FOR SUBDIVISION PROPOSALS

- A. All subdivision proposals including the placement of manufactured home parks and subdivisions shall be reasonably safe from flooding. If a subdivision or other

development proposal is in a flood-prone area, the proposal shall minimize flood damage.

- B. All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet Floodplain Development Permit requirements of 16.040.080; 16.040.160; and the provisions of flood hazard reduction of this ordinance.
- C. Base Flood Elevation data shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions which is greater than 50 lots or 5 acres, whichever is lesser, if not otherwise provided pursuant to 16.040.070 or 16.040.150 of this ordinance.
- D. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.
- E. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

16.040.250. STANDARDS FOR CRITICAL FACILITIES A Critical Facility is a structure or related infrastructure, but not the land on which it is situated, as specified in Rule 6 of the Rules and Regulations for Regulatory Floodplains in Colorado, that if flooded may result in significant hazards to public health and safety or interrupt essential services and operations for the community at any time before, during and after a flood.

#### A. CLASSIFICATION OF CRITICAL FACILITIES

Specific structures in the City shall meet the following criteria:

Critical Facilities are classified under the following categories: (a) Essential Services; (b) Hazardous Materials; (c) At-risk Populations; and (d) Vital to Restoring Normal Services.

- i. Essential services facilities include public safety, emergency response, emergency medical, designated emergency shelters, communications, public utility plant facilities, and transportation lifelines.

These facilities consist of:

- a. Public safety (police stations, fire and rescue stations, emergency vehicle and equipment storage, and, emergency operation centers);
- b. Emergency medical (hospitals, ambulance service centers, urgent care centers having emergency treatment functions, and non-ambulatory surgical structures but excluding clinics, doctor offices, and non-urgent care medical structures that do not provide these functions);
- d. Designated emergency shelters;
- e. Communications (main hubs for telephone, broadcasting equipment for cable systems, satellite dish systems, cellular systems, television, radio, and other emergency warning systems, but excluding towers, poles, lines, cables, and conduits);
- f. Public utility plant facilities for generation and distribution ( hubs, treatment plants, substations and pumping stations for water, power and gas, but not including towers, poles, power lines, buried pipelines, transmission lines, distribution lines, and service lines); and

- g. Air Transportation lifelines (airports (municipal and larger), helicopter pads and structures serving emergency functions, and associated infrastructure (aviation control towers, air traffic control centers, and emergency equipment aircraft hangars).

Specific exemptions to this category include wastewater treatment plants (WWTP), non-potable water treatment and distribution systems, and hydroelectric power generating plants and related appurtenances. Public utility plant facilities may be exempted if it can be demonstrated to the satisfaction of the Evans City Council that the facility is an element of a redundant system for which service will not be interrupted during a flood. At a minimum, it shall be demonstrated that redundant facilities are available (either owned by the same utility or available through an intergovernmental agreement or other contract) and connected, the alternative facilities are either located outside of the 100-year floodplain or are compliant with the provisions of this Article, and an operations plan is in effect that states how redundant systems will provide service to the affected area in the event of a flood. Evidence of ongoing redundancy shall be provided to the Evans City Council on an as-needed basis upon request.

- ii. Hazardous materials facilities include facilities that produce or store highly volatile, flammable, explosive, toxic and/or water-reactive materials. These facilities may include:
  - a. Chemical and pharmaceutical plants (chemical plant, pharmaceutical manufacturing);
  - b. Laboratories containing highly volatile, flammable, explosive, toxic and/or water-reactive materials;
  - c. Refineries
  - d. Hazardous waste storage and disposal sites; and
  - e. Above ground gasoline or propane storage or sales centers.

Facilities shall be determined to be Critical Facilities if they produce or store materials in excess of threshold limits. If the owner of a facility is required by the Occupational Safety and Health Administration (OSHA) to keep a Material Safety Data Sheet (MSDS) on file for any chemicals stored or used in the work place, and the chemical(s) is stored in quantities equal to or greater than the Threshold Planning Quantity (TPQ) for that chemical, then that facility shall be considered to be a Critical Facility. The TPQ for these chemicals is: either 500 pounds or the TPQ listed (whichever is lower) for the chemicals listed under 40 C.F.R. § 302 (2010), as amended from time to time, also known as Extremely Hazardous Substances (EHS); or 10,000 pounds for any other chemical. This threshold is consistent with the requirements for reportable chemicals established by the Colorado Department of Health and Environment. OSHA requirements for MSDS can be found in 29 C.F.R. § 1910 (2010). The Environmental Protection Agency (EPA) regulation “Designation, Reportable Quantities, and Notification,” 40 C.F.R. § 302 (2010) and OSHA regulation “Occupational Safety and Health

Standards,” 29 C.F.R. § 1910 (2010) are incorporated herein by reference and include the regulations in existence at the time of the promulgation this ordinance, as well as amendments to or editions of the regulations

Specific exemptions to this category include:

- a. Finished consumer products within retail centers and households containing hazardous materials intended for household use, and agricultural products intended for agricultural use.
- b. Buildings and other structures containing hazardous materials for which it can be demonstrated to the satisfaction of the City Council or its designee by hazard assessment and certification by a qualified professional (as determined by the Evans City Council) that a release of the subject hazardous material does not pose a major threat to the public.
- c. Pharmaceutical sales, use, storage, and distribution centers that do not manufacture pharmaceutical products.

These exemptions shall not apply to buildings or other structures that also function as Critical Facilities under another category outlined in this Article.

- iii. At-risk population facilities include medical care, congregate care, and schools.

These facilities consist of:

- a. Elder care ( nursing homes);
- b. Congregate care serving 12 or more individuals ( day care and assisted living);
- c. Public and private schools (pre-schools, K-12 schools), before-school and after-school care serving 12 or more children);

- iv. Facilities vital to restoring normal services including government operations.

These facilities consist of:

- a. Essential government operations (public records, courts, jails, building permitting and inspection services, community administration and management, maintenance and equipment centers);
- b. Essential structures for public colleges and universities (dormitories, offices, and classrooms only).

These facilities may be exempted if it is demonstrated to the Evans City Council that the facility is an element of a redundant system for which service will not be interrupted during a flood. At a minimum, it shall be demonstrated that redundant facilities are available (either owned by the same entity or available through an intergovernmental agreement or other contract), the alternative facilities are either located outside of the 100-year floodplain or are compliant with this ordinance, and an operations plan is in effect that states how redundant facilities will provide service to the affected area in the event of a flood. Evidence of ongoing redundancy shall be provided to the Evans City Council on an as-needed basis upon request.

## B. PROTECTION FOR CRITICAL FACILITIES

All new and substantially improved Critical Facilities and new additions to Critical Facilities located within the Special Flood Hazard Area shall be regulated to a higher

standard than structures not determined to be Critical Facilities. For the purposes of this ordinance, protection shall include at least one of the following:

- i. Location outside the Special Flood Hazard Area; or
- ii. Elevation of the lowest floor or flood proofing of the structure, together with attendant utility and sanitary facilities, to at least two (2) feet above the Base Flood Elevation.

C. INGRESS AND EGRESS FOR NEW CRITICAL FACILITIES

New Critical Facilities shall, when practicable as determined by the Evans City Council, have continuous non-inundated access (ingress and egress for evacuation and emergency services) during a 100-year flood event.

2. Any person who violates any provision of this Ordinance shall be punished as provided in Chapter 1.16 of the City Code.
3. Severability. If any article, section, paragraph, sentence, clause, or phrase of this Ordinance is held to be unconstitutional or invalid for any reason such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this ordinance and each part or parts thereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.
4. Repeal. Existing ordinances or parts of ordinances covering the same matters embraced in this ordinance are hereby repealed and all ordinances or parts of ordinances inconsistent with the provisions of this ordinance are hereby repealed except that this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the effect date of this ordinance.

**PASSED AND ADOPTED AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF EVANS ON THIS 17<sup>th</sup> DAY OF December, 2013.**

ATTEST:



*[Handwritten signature]*  
\_\_\_\_\_

City Clerk

CITY OF EVANS, COLORADO

BY:

*[Handwritten signature]*  
\_\_\_\_\_

Lyle E. Achziger, Mayor

**PASSED, APPROVED, AND ADOPTED ON SECOND READING THIS 7<sup>th</sup> DAY OF January, 2014.**

ATTEST:



*[Handwritten signature]*  
\_\_\_\_\_

City Clerk

CITY OF EVANS, COLORADO

BY:

*[Handwritten signature]*  
\_\_\_\_\_

Lyle E. Achziger, Mayor

**CITY OF EVANS, COLORADO**

**ORDINANCE NO. 580-13**

**AN ORDINANCE CONCERNING POSSESSION AND USE OF MARIJUANA  
AND MARIJUANA ACCESSORIES AND CONCERNING PERSONAL  
CULTIVATION OF MARIJUANA**

WHEREAS, Colorado voters passed Amendment 64, which amended Article XVIII of the Constitution of the State of Colorado by the addition of a new section 16 regarding the personal use and regulation of marijuana; and

WHEREAS, Amendment 64 allows the possession, use, display, purchase or transportation of one ounce or less of marijuana for persons age twenty-one years (21) or older and of marijuana accessories; and

WHEREAS, Amendment 64 allows possessing, growing, processing, or transporting no more than six marijuana plants, with three or fewer being mature flowering plants, provided that possession of the marijuana produced by the plants is kept on the premises where the plants are grown, the growing takes place in an enclosed and locked space and is not conducted openly or publicly, and the marijuana is not made available for sale; and

WHEREAS, Amendment 64 allows local governments to prohibit the possession of marijuana and marijuana accessories by persons under the age of twenty-one years and to prohibit the open and public consumption of marijuana by persons of any age; and

WHEREAS, the City of Evans enacted Ordinance 549-12 prohibiting marijuana cultivation facilities, testing facilities, product manufacturing facilities, and retail marijuana stores within the City of Evans; and

WHEREAS, the City of Evans has determined that it is in the best interests of the City to enact an ordinance concerning possession of marijuana and marijuana accessories, use of marijuana, and personal cultivation of marijuana to conform to state statute.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EVANS, COLORADO, AS FOLLOWS:**

**Section 1.** Title 9 of the Evans Municipal Code shall be amended by the addition of the following Chapter:

**9.30 Offenses Related to Marijuana**

**Sections:**

9.30.010	Definitions
9.30.020	Possession of Marijuana and Marijuana Accessories
9.30.030	Sale and Transfer of Marijuana and Marijuana Accessories
9.30.040	Public Use of Marijuana
9.30.050	Prohibitions Regarding Minors on Private Property
9.30.060	Personal Cultivation of Marijuana
9.30.070	Violations

**9.30.010 Definitions**

The following terms have the meanings set forth herein:

- A. Colorado Medical Marijuana Code: The Colorado Medical Marijuana Code means Article 43.3 of Title 12 of the Colorado Revised Statutes.
- B. Marijuana: Marijuana means all parts of the plant of the genus cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including marijuana concentrate. Marijuana includes Marijuana Products as defined herein. Marijuana does not include industrial hemp, nor does it include fiber produced from the stalks, oil, or cake made from the seeds of the plant, sterilized seed of the plant which is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other product.
- C. Marijuana Accessories: ' Marijuana Accessories means any equipment, products, or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, composting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, vaporizing, or containing marijuana, or for ingesting, inhaling, or otherwise introducing marijuana into the human body.
- D. Marijuana Products: Marijuana Products means concentrated marijuana products and marijuana products that are comprised of marijuana and other ingredients and are intended for use or consumption, such as, but not limited to, edible products, ointments, and tinctures.
- E. Medical Marijuana Card: Medical Marijuana Card means a card properly and duly issued under the Colorado Medical Marijuana Code.

**9.30.020 Possession of Marijuana and Marijuana Accessories**

- A. No person under twenty-one (21) years of age shall possess Marijuana or Marijuana Accessories unless such person has been issued a Medical Marijuana Card. If such person has been issued a Medical Marijuana Card, such person shall not possess more than two ounces of Marijuana unless otherwise authorized to do so by the Colorado Medical Marijuana Code.
- B. No person twenty-one (21) years of age or older shall possess more than one ounce of Marijuana unless such person has been issued a Medical Marijuana Card. If such person has been issued a Medical Marijuana Card, such person shall not possess more than two ounces of Marijuana unless otherwise authorized to do so by the Colorado Medical Marijuana Code.

**9.30.030 Sale and Transfer of Marijuana and Marijuana Accessories**

- A. No person shall sell, distribute, transfer, trade, exchange or give Marijuana or Marijuana Accessories, with or without remuneration, to a person under the age of twenty-one (21).
- B. No person shall sell, distribute, transfer, trade or exchange Marijuana or Marijuana Accessories, with remuneration, to a person twenty-one (21) years of age or older.

C. No person shall give more than one ounce of Marijuana to a person twenty-one (21) years of age or older.

**9.30.040 Public Consumption or Use of Marijuana**

A. No person shall openly and publicly consume or use Marijuana.

B. No person shall consume or use Marijuana in a manner that endangers others.

C. No person shall consume or use Marijuana in a location or facility owned or operated by the City of Evans, including but not limited to public parks, public buildings and public streets.

**9.30.050 Prohibitions Regarding Minors on Private Property**

No person who is in possession and control of private property shall knowingly allow any person under the age of twenty-one (21) to possess or consume Marijuana on such private property, unless such minor person has been issued a Medical Marijuana Card. For purposes of this section, "possession and control of private property" shall mean, without limitation, the owner, tenant or designated custodian, such as a house-sitter or babysitter, of private property.

**9.30.060 Personal Cultivation of Marijuana**

A. No person twenty-one (21) years of age or older shall possess more than six marijuana plants, only three or fewer of which are mature flowering plants. The Marijuana produced by such plants, in excess of one ounce, shall be maintained on the premises where grown and shall not be sold.

B. No person shall cultivate marijuana plants except in an enclosed and locked space and in compliance with all relevant provisions of the Evans Municipal Code.

C. No person shall openly or publicly cultivate Marijuana.

**9.30.070 Violations**

A person who violates the provisions of this Chapter 9.30 shall be subject to the penalties set forth in Chapter 1.16 of the Evans Municipal Code.

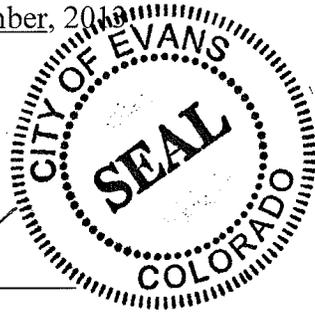
**Section 2. Severability:** If any article, section, paragraph, sentence, clause or phrase of this Ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the constitutionality or validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each part or parts hereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

**Section 3. Safety:** This Ordinance is deemed necessary for the protection of the health, welfare and safety of the community.

**Section 4. Publication and Effective Date:** This Ordinance, after its passage on final reading, shall be numbered, recorded, published, and posted as required by the City Charter and the adoption, posting, and publication shall be authenticated by the signature of the Mayor and

the City Clerk, and by the Certificate of Publication. This Ordinance shall become effective upon final passage.

PASSED and APPROVED at a regular meeting of the City Council of the City of Evans on this 3<sup>rd</sup> day of December, 2013



CITY OF EVANS, COLORADO

By: [Signature]  
Mayor Pro-Tem

ATTEST:

[Signature]  
City Clerk

PASSED, APPROVED AND ADOPTED ON SECOND READING this 17<sup>th</sup> day of December, 2013.



CITY OF EVANS, COLORADO

By: [Signature]  
Mayor

ATTEST:

[Signature]  
City Clerk

**CITY OF EVANS, COLORADO**

**ORDINANCE NO. 582-13**

**AN ORDINANCE AMENDING SECTION 1.17.130 PARAGRAPH (C) OF  
THE EVANS MUNICIPAL CODE CONCERNING PENALTIES FOR THE  
FAILURE TO PAY ADMINISTRATIVE CITATIONS**

**WHEREAS**, in 2013, the Colorado General Assembly raised the maximum amount a municipal court is entitled to fine from \$1,000 to \$2,650; and

**WHEREAS**, the City desires to have the ability to impose the increased fines on responsible parties who fail to pay the civil penalties assessed by an administrative citation or administrative enforcement order by referral of such matters, when appropriate, to the Evans Municipal Court through service of a summons and complaint; and

**WHEREAS**, it is in the best interest of the City of Evans to adopt the following amendments and revisions.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EVANS, COLORADO, AS FOLLOWS:**

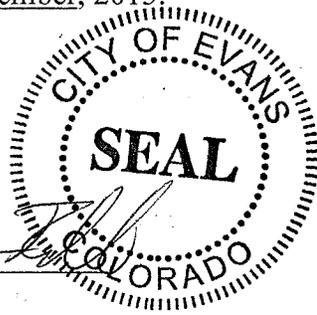
**Section 1.** Section 1.17.130 paragraph C of the Evans Municipal Code shall be amended to read as follows:

1.17.130 Failure to Pay Penalties.

C. Any action or other process provided by law may be maintained by the City to recover or collect any amounts, including late fees, penalties, interest, and administrative costs, owing under this chapter, including but not limited to referral of this matter to the Evans Municipal Court by service of a summons and complaint, in which case, notwithstanding the previously-imposed penalties, the responsible party shall be subject to the penalties set forth in Chapter 1.16. The Manager may also refer the matter for collection by whatever means are available to the City.

**Section 2.** Publication and Effective Date: This Ordinance, after its passage on final reading, shall be numbered, recorded, published, and posted as required by the City Charter and the adoption, posting, and publication shall be authenticated by the signature of the Mayor and the City Clerk, and by the Certificate of Publication. This Ordinance shall become effective upon final passage.

PASSED and APPROVED at a regular meeting of the City Council of the City of Evans on this 3<sup>rd</sup> day of December, 2013.



ATTEST:

  
\_\_\_\_\_  
City Clerk

CITY OF EVANS, COLORADO

By: 

\_\_\_\_\_  
Mayor Pro-Tem

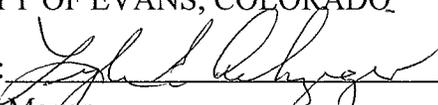
PASSED, APPROVED AND ADOPTED ON SECOND READING this 7<sup>th</sup> day of January, 2014.



ATTEST:

  
\_\_\_\_\_  
City Clerk

CITY OF EVANS, COLORADO

By: 

\_\_\_\_\_  
Mayor

CITY OF EVANS, COLORADO

**ORDINANCE NO. 584-13**

AN ORDINANCE AMENDING THE 2013 BUDGET; INCREASING GENERAL FUND REVENUES BY \$343,932, APPROPRIATING GENERAL FUND EXPENDITURES OF \$196,136, INCREASING REFUSE FUND REVENUES BY \$59,500, DECREASING REFUSE FUND EXPENDITURES BY \$32,000, INCREASING CIP – STREETS FUND REVENUE BY \$1,312,500, APPROPRIATING CIP STREETS FUND EXPENDITURES OF \$1,515,000, INCREASING WATER FUND REVENUES BY \$175,000, APPROPRIATING WATER FUND EXPENSES OF \$215,000, INCREASING WASTE WATER FUND REVENUES BY \$417,583, APPROPRIATING WASTEWATER FUND EXPENSES OF \$429,100.

WHEREAS, in accordance with Section 8.6 of the Evans Home Rule Charter the Council may make additional appropriations by ordinance during the fiscal year; and

WHEREAS, the City Manager has certified that additional funds are available for appropriations in each fund from actual and anticipated revenues of the current year and prior year cash reserves; and

WHEREAS, the City Council is advised that certain revenues, expenditures and transfers must be approved by ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF EVANS, COLORADO THE FOLLOWING:

Section 1: Upon the City Manager's certification that there are current and prior year revenues available for appropriation in the General Fund, Refuse Fund, Capital Projects – Streets Fund, Water Fund, Waste Water Fund, and the City Council hereby makes supplemental appropriations as itemized in Attachment "A" attached hereto.

Section 2: The City Council hereby authorizes and directs the City Manager to enter into such contracts and execute such documents on behalf of the City as may be necessary and customary to expend the funds hereby appropriated for all operations, capital projects and debt within this budget as amended in accordance with the requirements of the Home Rule Charter and the City's Financial Policies.

Section 3: The adoption of this Ordinance will promote the health, safety and general welfare of the Evans community.

Section 4: If any provision of this Ordinance or portion thereof is held by a court of competent jurisdiction to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect any other provision which can be given effect without the invalid portion.

Section 5: All prior ordinances, resolutions, or other acts, or parts thereof, by the City of Evans in conflict with this Ordinance are hereby repealed, except that this repealer shall not be construed to revive any previously repealed or expired act, ordinance or resolution, or part thereof.

Section 6: This Ordinance shall be effective following the adoption by Section 8.5 of the Home Rule Charter.

PASSED and APPROVED at a regular meeting of the City Council of the City of Evans on this 3<sup>rd</sup> day of December, 2019.



CITY OF EVANS, COLORADO

By: [Signature]  
Mayor Pro-Tem

ATTEST:

[Signature]  
City Clerk

PASSED, APPROVED AND ADOPTED ON SECOND READING this 17<sup>th</sup> day of December, 2013.



CITY OF EVANS, COLORADO

By: [Signature]  
Mayor

ATTEST:

[Signature]  
City Clerk

**CITY OF EVANS, COLORADO**

**ORDINANCE NO. 585-13**

**AN ORDINANCE AMENDING CHAPTER 5 OF THE CITY OF EVANS MUNICIPAL CODE REGULATING TOWING SERVICES WITHIN THE CITY OF EVANS**

**WHEREAS**, the City Council of the City of Evans, Colorado, pursuant to Colorado statute and the Evans City Charter, is vested with the authority of administering the affairs of the City of Evans, Colorado;

**WHEREAS**, the City of Evans currently contracts its towing services with a single company;

**WHEREAS**, the City of Evans desires to allow other licensed and insured towing companies to operate on a rolling list basis within the City of Evans; and,

**WHEREAS**, the City Council finds it necessary for the health, safety, and welfare of the citizens of the City of Evans to have readily available licensed and insured towing services.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EVANS, COLORADO AS FOLLOWS:**

1. Chapter 5 of the City of Evans Municipal code is amended by adding the following section:

**5. .010 Purpose.** To establish rules and regulations, pursuant to Towing Carrier Rules for the towing and storage of motor vehicles from the City of Evans public roadways by operators engaged in the business of towing and storing motor vehicles.

**5. .020 Scope.** The provisions of this chapter shall apply to those businesses that engage in towing and storage of motor vehicles within the City of Evans.

**5. .030 Definitions.** For the purposes of this chapter, the words and phrases below shall have the following meaning:

A. "Abandoned/inoperable motor vehicle" shall mean a motor vehicle as defined by 42-4-1802(1) and 42-4-2102(1), CRS and City of Evans Municipal Code Section 8.24.020 "Abandoned Vehicle" or 8.24.020 "Inoperable Vehicle".

B. "Accident Vehicle" shall mean a motor vehicle that has been involved in an accident.

C. "Disabled Vehicle" shall mean any motor vehicle that is unable to operate under its own power.

D. "Heavy-duty Recovery" shall mean the recovery of any motor vehicle over 10,000 pounds gross vehicle weight which requires the vehicle to be uprighted or recovered from either on or off the traveled portion of a public roadway.

E. "Heavy-duty Towing" shall mean the towing of any motor vehicle over 10,000 pounds gross vehicle weight.

F. "Impounded Vehicle" shall mean a vehicle which, at the direction of the Police Department, is taken into police custody because the operator of the vehicle was engaged in a violation of the law, including but not limited to the operator being arrested on a DUI charge, the operator having been arrested for driving without registration or insurance, or the operator having been arrested for stealing the motor vehicle, or the vehicle having been involved in a serious accident.

G. "Light-duty Towing" shall mean the towing of any motor vehicle up to and including 10,000 pounds gross vehicle weight.

H. "Motor Vehicle" shall mean all vehicles propelled otherwise than by muscular power, including trailers and recreational campers, excepting such vehicles as run only upon rails or tracks and motorized bicycles.

I. "Storage Rates" shall mean fees charged for the storage of motor vehicles.

J. "Towing List" shall mean a rotating list of all towing services registered with the City of Evans kept by the Chief of Police or his designee.

K. "Towing Rates" shall mean fees charged by a towing service for removal and transportation of a motor vehicle.

L. "Towing Service" shall mean a licensed and insured business engaged in the towing and storing of motor vehicles that has been approved for the towing list.

M. "Towing Vehicle" shall mean a motor vehicle employed by a towing service for the purpose of towing, transporting, conveying or removing motor vehicles from public roadways.

#### **5. .040 Towing Service Registration.**

A. No towing service shall be placed upon the towing list for the towing or storing of motor vehicles within the City of Evans unless the towing service shall first register and, upon notification of placement, retain a valid business license and sales tax license with the City. In order to facilitate expeditious response once a towing service is requested, to be placed on the towing list for light-duty towing, a towing service must be located within 5 miles of the Evans Community Complex, 1100 37<sup>th</sup> Street in the City of Evans or within the City. Registration applications shall be made available by the Evans Police Department. A towing service that has met all the specifications and requirements of this chapter and has registered with the Police Department shall be placed on the towing list by the Chief of Police or his designee; however, the maximum number of towing services on the City of Evans towing list shall be three such services. Services shall be placed on the City's towing list on a first-come first-served basis. Vacancies shall be filled in the same manner. Each towing service must submit its schedule of basic towing and storage rates with its registration application. The rates and fees for towing and

storage of motor vehicles shall not exceed the rates set by the Colorado Public Utilities Commission.

B. A non-registered tow service will not be permitted to tow a vehicle from a scene or incident, which is under the Evans Police Department control, and/or investigation, except by owner's request or where a tow service was unable to provide required service.

C. The towing service owner or its authorized representative shall sign the registration application form indicating that the full requirements of the Towing Carrier Rules (TCR) of the Rules Regulating Transportation by Motor Vehicle have been met and rules set forth in this chapter have been met by the towing service applicant.

D. If any information provided by a towing service in its registration application changes, the towing service is responsible for notifying the Evans Police Department of the change in the registration information within 30 days of such change. Failure to comply with this provision will be deemed a violation of this chapter.

**5. .050 Insurance, Evans Sales Tax License and Business License, and Operating Permit.**

A. No towing service shall operate within the City of Evans unless it carries liability insurance in the following amounts:

i. Garage liability/comprehensive general liability insurance policy in an amount not less than \$1,000,000 combined single limit covering bodily injury and property damage liability, including but not limited to personal injury, products' liability, independent contractor and completed operation coverage;

ii. Garage keeper's legal liability insurance policy in an amount not less than \$50,000;

iii. For heavy-duty towing and heavy-duty recovery vehicles, \$1,000,000 combined single limit with endorsement MSC-90;

iv. Automobile liability insurance policy in an amount not less than \$1,000,000 combined single limit covering bodily injury and property damage liability, including but not limited to owned, non-owned and hired vehicles;

v. Worker's compensation insurance as required by law, including but not limited to statutory Colorado worker's compensation benefits and employer's liability coverage;

v. All policies shall provide an endorsement for collision coverage for motor vehicles and cargo towed by towing service vehicles.

B. No towing service shall operate within the City of Evans unless it has a valid sales tax license from the City of Evans.

C. No towing service shall operate within the City of Evans unless it has a valid business license from the City of Evans.

D. Towing service must receive an operating permit from the Public Utilities Commission and provide a copy to the City of Evans Police Department. Towing services are also subject to the rules and regulations as promulgated by the Public Utilities Commission.

**5. .060 Rates, Fees and Collection of Fees.**

A. The fees and rates for the towing and storage of motor vehicles shall be established by the Public Utilities Commission (PUC), which rates shall be based on the usual, customary and reasonable rates of operators towing and storing motor vehicles. All rates shall be posted in a conspicuous location as to be visible to customers within every towing service office. The fees and rates established by the PUC, and any subsequent revisions thereto, shall be retained by the City Clerk and shall be made available to the public during normal business hours of the City.

B. The City of Evans assesses an administrative fee on each tow service provider registered with the City of Evans. The tow fees are in addition to any services provided by the tow company.

C. All towing service companies shall be responsible for collection of all fees and rates for services rendered. In addition, prior to releasing a vehicle towed at the direction of the Evans Police Department, all registered towing services shall collect the City of Evans administrative towing fee of \$26.00 from every vehicle owner. Monies collected for the City of Evans administrative fee will be sent on a monthly basis by check made payable to the "City of Evans". Failure to comply with this section will result in immediate suspension of services. The City of Evans administrative fee offsets the costs associated with tow service registration, inspections, data management, and certified mail correspondence.

**5. .070 Rules and Regulations.**

A. All towing services placed on the towing list shall be available to respond to a call in accordance with the towing rotation schedule of on-call status established by the Chief of Police or his designee.

B. All towing services shall respond to a call in any part of the City within 30 minutes. If a towing service does not respond within 30 minutes of a call, the towing service next on the rotation list shall be called and entitled to provide services as needed, and the first towing service shall lose any claim to compensation. Repeated failures to respond to calls in a timely manner by a towing service will result in removal of the towing service from the list.

C. All drivers and operators of towing vehicles shall be properly licensed to operate a motor vehicle within the State of Colorado and are subject to driver's license checks by the Evans Police Department at the time of registration and at least on an annual basis thereafter. All towing vehicles shall be properly registered and inspected in accordance with any applicable laws. Lack of reputability of the driver or owner will be cause for denial or removal from the Evans Police tow list, including but not limited to: 1) Conviction of any felony when the person's civil rights have not been restored. 2) Conviction of any felony or first-degree misdemeanor directly related to the business of operating a towing service or tow truck, regardless of whether civil rights have been restored. For the purpose of this policy, any offense involving perjury or

false statement shall be considered to be directly related to the business of operating a towing service. 3) Responding to a call while under the influence of alcohol or any controlled substance or chemical substance to the extent that his/ her normal faculties are impaired. 4) Conviction of the offense of driving under the influence of alcohol or any controlled or chemical substance to the extent that normal faculties are impaired, or driving with an unlawful blood alcohol level, or of any criminal traffic offense.

D. All vehicles must be towed in a safe manner.

E. All towing services shall be capable of providing reasonable roadside services to disabled vehicles, such as but not limited to jump-starting, changing of flat tires, and providing fuel. Such services will only be performed if they can be done safely, as determined by the police officer on the scene. All towing services shall charge only reasonable rates for such roadside services. Charging of excessive fees for roadside services shall be grounds for the removal of a towing service from the rotating list.

F. All towing services shall make available a copy of their basic rates and provide a business card to all owners and operators of motor vehicles that will be towed.

G. All towing services shall keep accurate records of all motor vehicles towed and stored at the direction of the Evans Police Department. A copy of all such records shall be provided to the Evans Police Department monthly by fax, email or mail: During the first week of every month, all registered towing services will send a report containing all the previous month's towed vehicles report at the direction of the Evans Police Department.

H. Towing services shall not remove any motor vehicle which has been abandoned or involved in an accident in any public roadway without first notifying the Evans Police Department.

I. The towing service shall notify the Evans Police Department of all vehicles found by the towing service to have been abandoned and not claimed after being stored. The Evans Police Department shall, upon notification, expeditiously process the vehicles in accordance with the Colorado Motor Vehicle Code concerning abandoned and unclaimed motor vehicles.

J. Council authorizes the Police Department to promulgate and revise administrative rules regarding the operation of towing services as necessary. Notice of said amendments will be made to all registered tow service owners, and shall become effective immediately upon receipt of said notifications.

##### **5. .080 Towing List and Towing List Rotation.**

A. A towing list will be kept with the Chief of Police or his designee. The towing list shall include all towing services that have registered with the City and will be forwarded to the Weld County Communications Center for rotation purposes. A towing service shall be placed on the bottom of the towing list upon registration. The towing list shall be a rotating list as provided in Subsections B, C, D and E of this section.

B. When the need arises, the Evans Police Department will call the towing service on the top of the list, which is on-call on the towing rotation schedule. The towing service called, if it

performs any of the services covered by this chapter, shall be placed at the bottom of the towing list after providing such service and not called again until all other on-call towing services on the towing list have been called.

C. If a towing service is unavailable to perform required services when called by the Evans Police Department, for whatever reason, said towing service shall be charged with a call and placed at the bottom of the towing list, and the next available on-call towing service shall be called. The towing service that responds in its place shall remain at the top of the list.

D. If a towing service, after being dispatched, is recalled and does not perform any duties or services covered by this chapter, the towing service shall remain on the top of the towing list. However, if a towing service arrives at the scene of an incident in which its services are required and cannot perform said services, it shall be placed at the bottom of the towing list, and the next on-call towing service on the list shall be called.

E. When a tow service is not available to respond due to equipment and/or mechanical failure, the Weld County Communication dispatcher will be notified of the condition by the tow service owner, and/or operator, and will be removed from the available list until notified by the owner, and/or operator that he is again ready for immediate service.

#### **5. .090 Storage Facilities.**

A. All storage facilities operated or used by towing services shall meet all local zoning and code requirements and must be located within 5 miles of the Evans Community Complex, 1100 37<sup>th</sup> Street in the City of Evans or within the City.

B. All towing services shall have indoor storage facilities at their disposal for motor vehicles that have been involved in criminal activity and impounded by the Evans Police Department.

C. All storage facilities shall have a business office open to the public between normal business hours at least five days a week, excluding holidays.

D. All outside storage facilities shall be secured and fully enclosed by a sturdy fence having a minimum height of six feet, with a lockable gate for ingress and egress, and shall be lighted from dusk to dawn. Towing services with additional security recorded monitoring devices (CCTV) will be preferred during the selection process over towing services without recorded monitoring devices.

E. All towing services shall be responsible for ensuring the proper and safe storage of all motor vehicles towed pursuant to this chapter, and shall be liable for any damage incurred by such motor vehicles while in transit to or while stored in the storage facilities, excepting only damage caused by law enforcement officers during a motor vehicle stop or investigation.

F. If the Evans Police Department places a hold on a towed vehicle, such hold shall last a maximum of 10 days, during which time no storage fees will accrue. At the end of the tenth business day, the hold will expire unless other arrangements have been made and storage fees

will begin to be assessed to the vehicle owner. All vehicles towed at the direction of the Evans Police department where the vehicle, not the contents, is considered evidence will have a police hold and stored without accruing storage fees.

**5. .100 Towing Vehicle and Equipment Specifications.**

A. All towing services engaged in light-duty towing shall have at least one rollback truck and one wrecker, with necessary brooms and equipment to do the complete removal. Each truck must have a manufacturer's capacity of at least 10,000 pounds gross vehicle weight and a manufacturer's boom capacity of four tons. Proof of capacity must be supplied to the Police Department at the time of registration.

B. All towing services engaged in heavy-duty towing shall have one heavy-duty wrecker with a manufacturer's capacity of not less than 27,000 pounds gross vehicle weight and a boom capacity of not less than 25,000 pounds independently or 24 tons jointly; air brakes so constructed as to lock rear wheels; and heavy-duty underreach.

C. All towing services engaged in heavy-duty recovery shall have two heavy-duty wreckers with manufacturer's capacity of not less than 27,000 pounds gross vehicle weight and boom capacity of not less than 25,000 pounds independently or 24 tons jointly; two power winches with pulling capacity of not less than 25,000 pounds each; at least 200 feet of cable at least 9/16 of an inch diameter on each drum; double boom to permit splitting, or single boom hydraulically elevated and extendable with a three-hundred-and-sixty-degree swivel on the end of the boom; air brakes so constructed as to lock rear wheels; heavy-duty underreach; and two snatch blocks with a twenty-five-thousand-pound rating and two scotch blocks.

D. All towing vehicles must have radio equipment with a twenty-four-hour dispatch service or a cellular telephone for the purpose of maintaining communications with the Weld County Communications Center.

E. All towing vehicles must be equipped per TCR specifications and the following: at least one five-pound ABC-type fire extinguisher, safety chains, substances for application to small liquid spills, and stiff push brooms to clean up debris at the scene.

F. Proof of towing vehicle and equipment specifications shall be provided to the Evans Police Department with the registration application.

G. All towing vehicles are to conform with all applicable state and federal laws and shall be subject to inspection by City officials during normal business hours at the time of registration and on an annual basis thereafter.

**5. .110 Rights of owners/operators of motor vehicles required to be towed.**

A. If a motor vehicle operator or owner wishes to have his vehicle towed by a particular towing service, his request shall be honored, providing the police officer in charge at the scene has not already dispatched a towing service or the police officer has determined that the motor vehicle in question will not be removed in an expeditious or safe manner and will jeopardize the public

safety, in which case the motor vehicle operator or owner shall be required to utilize a dispatched towing service.

B. The owner or operator of any motor vehicle required to be towed or stored shall have the right to remove all personal items and effects from the motor vehicle unless the Police Department has placed a police hold on any such vehicle or items.

C. A towing service shall provide a detailed and itemized bill for all services rendered.

**5. .120 Complaints, Violations, and Hearings.**

A. All violations of this chapter and all complaints by the public or Police Department against any towing service shall be forwarded to the City of Evans Chief of Police.

B. The Chief of Police, in his discretion, shall determine if any complaint or violation against a towing service is of such a serious nature as to warrant a hearing and possible disciplinary measures. If the Chief of Police decides that a hearing is required, it shall upon proper notice to all interested parties, conduct a hearing in which all parties may present evidence. If, after a hearing, the Chief of Police finds that a towing service has violated any provision of this chapter, they may, depending on the seriousness of the offense:

(i) Suspend the violating towing service from the towing list for not more than one month for a first offense; not more than three months for a second offense; not more than six months for a third offense.

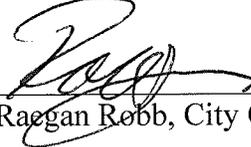
(ii) Permanently remove the violating party from the towing list for having three offenses within an 18-month period.

2. Severability. If any article, section, paragraph, sentence, clause, or phrase of this Ordinance is held to be unconstitutional or invalid for any reason such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this ordinance and each part or parts thereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

3. Repeal. Existing ordinances or parts of ordinances covering the same matters embraced in this ordinance are hereby repealed and all ordinances or parts of ordinances inconsistent with the provisions of this ordinance are hereby repealed except that this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the effect date of this ordinance.

PASSED AND ADOPTED AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF EVANS ON THIS 17<sup>th</sup> DAY OF DECEMBER, 2013.

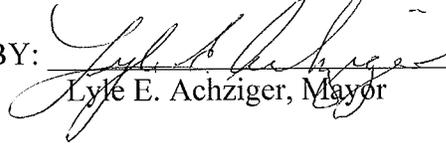
ATTEST:

  
Raegan Robb, City Clerk



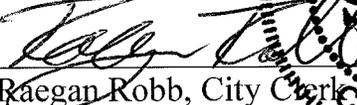
CITY OF EVANS, COLORADO

BY:

  
Lyle E. Achziger, Mayor

PASSED AND ADOPTED ON A SECOND READING THIS 7<sup>th</sup> DAY OF JANUARY, 2013.

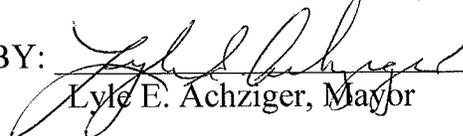
ATTEST:

  
Raegan Robb, City Clerk



CITY OF EVANS, COLORADO

BY:

  
Lyle E. Achziger, Mayor