

STATE OF COLORADO
TOWN OF PAONIA, COLORADO
ORDINANCE NO. 2019-11

AN ORDINANCE OF THE TOWN OF PAONIA, COLORADO AMENDING TOWN CODE AND THE OFFICIAL ZONING MAP TO PROVIDE FOR THE CREATION OF THE HIGHWAY 133 CORRIDOR OVERLAY DISTRICT AND CREATING HIGHWAY 133 CORRIDOR DEVELOPMENT SUBMITTAL REQUIREMENTS AND DESIGN STANDARDS.

WHEREAS, the Town of Paonia (the “Town”) is a statutory Town and municipal corporation in Delta County, Colorado governed by and through its Board of Trustees (the “Board”); and

WHEREAS, the Board is conferred with the specific enumerated authority to exercise all power conferred upon or possessed by the Town, and has the power and authority to adopt such laws, ordinances and resolutions as it shall deem proper; and

WHEREAS, Chapter 16 of the Town Municipal Code regulates zoning within the Town’s municipal boundaries (the “Paonia Zoning Code”) with the state purposes of the Paonia Zoning Code to among other concerns:

“alleviate congestion in the streets...to promote health and general welfare...to prevent overcrowding of land; to avoid undue concentration of population; and to facilitate the adequate provisions of transportation, water, sewage, schools, parks and other public requirements”; and

WHEREAS, the Paonia Zoning Code is “drawn with reasonable consideration, among other things, as to the character of the district and its peculiar suitability for particular uses and with a view to conserving the value of buildings and encouraging the most appropriate uses of land throughout the Town”; and

WHEREAS, The Board has the specific authority as set forth under C.R.S. 31-4-101 et. seq.; and

WHEREAS, the authority to zone has long been recognized as an aspect of a local government’s police powers to regulate activities in order to protect the public health, safety, morality and general welfare of its citizens; and

WHEREAS, the Town and Delta County entered into a January 24, 2011 Growth Management Agreement for the unincorporated area surrounding the Town of Paonia providing for the efficient management and administration of growth in the developing area around the Town of Paonia, including areas commonly referred to as the Highway 133 Corridor; and

WHEREAS, in 2008 the Town, in conjunction with residents of Delta County initiated a project to gather information about businesses activities in and outside the municipal limits of the Town,

focusing on both downtown Paonia and the Highway 133 Corridor, thereafter the Board appointed a 10-member Highway 133 Advisory Committee tasked with formulating a Highway 133 Corridor Master Plan; and

WHEREAS, the Highway 133 Advisory Committee, after holding 14 Advisory Committee meetings and meeting with area stake holders including the Paonia Chamber of Commerce, the Area Planning Commission, the Paonia Planning Commission and the Paonia Board of Trustees completed its Highway 133 Corridor Master Plan; and

WHEREAS, the Highway 133 Corridor Master Plan has subsequently been adopted by both the Town and the Delta County Board of County Commissioners; and

WHEREAS, the Highway 133 Corridor Master Plan is consistent with both the Town of Paonia 1996 Comprehensive Plan (hereinafter the “Comprehensive Plan”), which is remains the most recent master plan adopted by the Board, and the Delta County 1996 Master Plan, which was in place at the time the Highway 133 Corridor Master Plan was adopted; and

WHEREAS, the Town’s Comprehensive Plan includes the following goals:

- Maintain rural and agricultural settings of the community.
- Maintain small community closeness.
- Preservation of the character of downtown.
- Monitor growth and encourage controls on quality and character.
- Provide diversity of employment opportunities.
- Expand and diversify the tax based.

WHEREAS, the Board hereby affirms its commitment to the Highway 133 Corridor Master Plan, committing to the community goals and vision as outlined there in; and

WHEREAS, ensuring development along the Highway 133 Corridor in accordance with the Highway 133 Corridor Master Plan is a legitimate interest of the Town of Paonia as it fosters a sense of community, furthers preservation and zoning goals and provides for long term economic sustainability for the residents the community; and

WHEREAS, the Board wishes to amend the official zoning map of the Town of Paonia to create a Highway 133 Corridor Overlay District; and

WHEREAS, Amendments to the Official Zoning Map of the Town of Paonia are allowed so long as the amendments are not averse to the public health, safety and welfare; and the amendments are in substantial conformity with the Master Plan; and

WHEREAS, the Highway 133 Corridor Overlay District shall apply to those areas as designed in the Highway 133 Corridor Master Plan within the municipal boundaries of the Town;

WHEREAS, to the extent areas designated in the Highway 133 Corridor Master Plan are outside the municipal boundaries of the Town; in the event such areas are subsequently annexed into the

Town, the Highway 133 Corridor Overlay District shall be applied to those areas within the county that become annexed into the Town at a later date.

NOW THEREFORE BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF PAONIA, COLORADO, as follows:

Section 1. Legislative Findings.

The foregoing recitals are hereby affirmed and incorporated herein by this reference as findings of the Town Board of Trustees.

Section 2. Creation of the Highway 133 Overlay District.

The 2010 Highway 133 Corridor Master Plan specifically outlines a vision for the Town and Delta County in evaluating land development away from the Town's historic core to ensure protection of the Highway 133 West Elk Scenic Byway values. To incorporate the vision and the extensive planning of the Highway 133 Advisory Committee in developing the Highway 133 Corridor Master Plan, it is necessary to create the Highway 133 Overlay District applying to those areas within the municipal boundary of the Town, or which may be annexed into the municipal boundaries of the Town; as further detailed and defined as Areas A and B on the Town of Paonia Highway 133 Planning Areas Map attached hereto and incorporated herein as Exhibit A.

Section 3. Amendment to the Official Zoning Map of the Town of Paonia.

The Town Board of Trustees, in accordance with Sec. 16-1-50 hereby designates the tracts of land identified in the attached Highway 133 Overlay District map, attached hereto and incorporated herein as Exhibit B, as tracts that are within the Highway 133 Overlay District and the Board of Trustees hereby finds that the creation of the Highway 133 Overlay District and inclusion of these parcels within the Highway 133 Overlay District advances the public health, safety and welfare of the Town and its citizen, and is in substantial conformity with the Town's Comprehensive Plan and the Highway 133 Corridor Master Plan. To the extent the tracts of land identified in the Highway 133 Overlay District map exist outside the municipal boundary of the Town, they shall only be subject to the Highway Overlay District upon annexation into the Town of Paonia.

The Highway 133 Overlay District is hereby incorporated in the Official Zoning Map and shall be maintained by the Town of Paonia. Further, this Ordinance shall create an amendment to the Official Zoning Map of the Town of Paonia, designating those parcels as identified in the attached Highway 133 Overlay District map as included in the Highway 133 Overlay District.

Section 4. Amendment to the Town Code.

Sec. 16-1-110 of the Town of Paonia Municipal Code is amended to add a definition for the Highway 133 Overlay District:

The Highway 133 Overlay District is defined as those areas within the Highway 133 Overlay District Map, and development within the Highway 133 Overlay District shall be in substantial conformity with the Highway 133 Corridor Master Plan and the review criteria set forth in accordance with Section 16-1-130 (7).

Section 5. Additions to the Town Code.

Sec. 16-2-130 Highway 133 Overlay District is added to the Town of Paonia Municipal Code as follows:

Sec. 16-2-130 Highway 133 Overlay District.

It is the purpose and intent of the Highway 133 Overlay District is to promote the public health, safety and welfare of the citizens of the Town of Paonia. The Town shall use the Highway 133 Overlay District to implement goals, policies and action items in the Town's Comprehensive Plan and Highway 133 Corridor Master Plan; preserve, improve and protect the Highway 133 Corridor as a Town amenity; regulate buildings and structures to protect and support existing agricultural uses to support the sustainability of those activities and to protect the open scenic character of the West Elk Scenic Byway; (Private Property Rights) utilize design and development techniques that avoid, minimize and mitigate impacts to the natural environment; and ensure aesthetic and ecological qualities of the Highway 133 Corridor continue to be a community asset.

Sec. 16-3-130

(1) **Applicability.** The provisions and regulations of this Sec. 16-3-130 shall apply to all land within the Town of Paonia Official Zoning Map included as part of the Highway 133 Corridor; and as defined within these regulations. The provisions of this Sec 16-3-130 shall apply in addition to the applicable requirements of the underlying zoning district, and other regulations of the Town. When the standards of this Highway 133 Overlay District conflict with any other provision of the Paonia Municipal Code, the more stringent limitation or requirement shall apply.

(2) **Adoption of the Highway 133 Corridor Master Plan.** Within the Highway 133 Overlay District, all land use activity, development, redevelopment, renovation, and/or change in use requiring a building, development, or other land use permit shall be undertaken and reviewed in accordance with the Goals and Policies of the Highway 133 Corridor Master Plan.

(3) **Uses by Right.** Within the Highway 133 Overlay District, uses permitted by the underlying zoning district are allowed unless specifically prohibited, provided that the use generally complies with and is reviewed in accordance with the Goals and Policies of the Highway 133 Corridor Master Plan.

(4) Development. Development within the Highway 133 Overlay District shall be permitted, provided that the development generally complies with and is reviewed in accordance with the Goals and Policies of the Highway 133 Corridor Master Plan.

(5) Special Review. All Special Reviews may be permitted upon approval in accordance with Sec. 16-4-10, and provided that Special Review generally complies with and is reviewed in accordance with the Goals and Policies of the Highway 133 Corridor Master Plan.

(6) Submittal Requirements. For development within the Highway 133 Overlay District, the following information must be completed and included in all applications for development or land use activity:

(a) A development plan showing compliance with the Goals and Policies as further enumerated in the Highway 133 Corridor Master Plan.

(b) For those areas within Area A of the Highway 133 Corridor Master Plan Map, an applicant shall meet the design standards as detailed in the Highway 133 Corridor Master Plan.

(7) Review Criteria. The criteria for review and performance standards are as follows:

(a) Compliance of the application with this Code in general.

(b) The compatibility of the proposed use and the site plan with the character of the surrounding area.

(c) The desirability and need for the proposed use.

(d) The potential for adverse environmental influences that might result from the proposed use.

(e) Compatibility of the proposed use and site plan with the policies and guidelines of the Comprehensive Plan.

(f) Compatibility of the proposed use and site plan with the Goals and Policies of the Highway 133 Corridor Master Plan

(8) Exempt Uses and Activities. The following uses and activities are exempt from these regulations, including the Highway 133 Corridor Master Plan, provided plans and specifications are approved by the Town, and all local, state and federal permitting is approved:

(a) Public improvements essential for public health and safety, installed by, and/or approved by the Town, including but not limited to: public utility buildings, facilities, systems and accessory structures;

(b) Public improvements such as: pedestrian and automobile bridges, trails and recreational amenities installed by, and/or approved by the Town;

(c) Irrigation, drainage, flood control or water diversion structures installed by, and/or approved by the Town; and

(d) Bank stabilization, river restoration and planting of native vegetation installed by, and/or approved by the Town.

Section 6. Severability.

If any provision, clause, sentence or paragraph of this Ordinance or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the other provisions of this Ordinance which can be given effect without the invalid provision or application, and, to this end, the provisions of this Ordinance are declared to be severable.

Section 7. Repeal of Prior Ordinances.

All other ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 8. Ordinance Effect.

Existing ordinances or parts of ordinances covering the same matters as embraced in this Ordinance are hereby repealed and any and all ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed, provided, however, that the repeal of any ordinance or parts of ordinances of the Town shall not revive any other section of any ordinance or ordinances hereto before repealed or superseded and further provided 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 taking effect of this Ordinance.

Section 9. Effective Date.

This Ordinance shall take effect upon adoption.

Section 10. Public Notice, Hearing and Review by the Planning Commission.

A public hearing on this Ordinance was held on the 31st day of July 2019 in the Town Hall of the Town of Paonia 214 Grand Avenue, with the provisions of Sec. 16-6-10 of the Town Code being met. As required by the Code, this matter was revised by the Planning Commission on July 31, 2019.

INTRODUCED, READ AND FINALLY ADOPTED by the Board of Trustees of the Town of Paonia, Colorado, on the 13th day of August 2019.

**TOWN OF PAONIA, COLORADO, A
MUNICIPAL CORPORATION**

By: _____
CHARLES STEWART, Mayor

ATTEST:

J. CORINNE FERGUSON, Town Clerk