

TOWN OF BUENA VISTA, COLORADO

**ORDINANCE NO. 2
(SERIES OF 2017)**

**AN ORDINANCE OF THE TOWN OF BUENA VISTA, COLORADO,
ESTABLISHING THE TOWN OF BUENA VISTA ALTERNATIVE
ENERGY AND ELECTRIC VEHICLE CHARGING STATION
ENTERPRISE AND ASSOCIATED FEE.**

WHEREAS, the Town of Buena Vista wishes to support the environment, electric vehicles, and renewable energy;

WHEREAS, the Board of Trustees of the Town of Buena Vista is authorized by the Constitution and laws of the State of Colorado to establish an Alternative Energy and Electric Vehicle Charging Station Enterprise Fund and to adopt a system of fees to fund these efforts;

WHEREAS, the Town wishes to establish an Alternative Energy and Electric Vehicle Charging Station Enterprise and to enact alternative energy fees for alternative energy projects in the Town and for using the Town's electric vehicle charging stations; and

WHEREAS, it is in the interests of the public for the Town to fund alternative energy projects and electric vehicle charging stations with a user fee system;

WHEREAS, this ordinance authorizes alternative energy user fees related to alternative energy projects in order to allocate the costs of constructing and maintaining alternative energy projects, including electric vehicle charging stations, to the users who directly use and benefit from such projects.

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

Section 1. Article III within Chapter 4 of the Buena Vista Municipal Code is hereby amended by the addition of a new section 4-38 to read as follows, with subsequent renumbering of existing Section 4-38 to Section 4-39:

Sec. 4-38. – Electric Vehicle Charging Station Enterprise Fund.

There is established a special fund to be known as the Alternative Energy and Electric Vehicle Charging Station Enterprise Fund, which shall be kept separate and segregated from the general and other funds of the Town, and into such fund shall be deposited all fees the Board of Trustees may establish from time to time for alternative energy projects, including without limitation electric vehicle charging fees paid and collected pursuant to Chapter 11, Article IX, of this code. Monies in the Alternative Energy and Electric Vehicle Charging Station Enterprise Fund shall not be transferred therefrom to any other account of the Town and shall be used only for purposes authorized by Chapter 11, Article IX, of

this Code.

Section 2. Chapter 11 of the Buena Vista Municipal Code is hereby amended by the addition of a new Article IX, titled, "Alternative Energy and Electric Vehicle Charging Stations," which reads as follows:

Sec. 11-161. – Definitions.

(a) *Alternative energy* means energy that is generated with the goal of minimizing natural resource depletions and minimizing the harm to the environment, especially by avoiding the use of fossil fuels.

(b) *Director* means the Town Administrator or the Town Administrator's designee.

(c) *Electric vehicle* means a vehicle that uses a plug-in battery to provide all or part of the motive power of the vehicle, including battery electric, plug-in hybrid electric, or plug-in fuel cell vehicle.

(d) *Electric vehicle charging station* means one or more publicly available parking spaces served by Town-owned electric vehicle service equipment.

(e) *Electric vehicle service equipment* means an electric component assembly or cluster of component assemblies designed specifically to charge batteries within electric vehicles by permitting the transfer of electric energy to a battery or other storage device in an electric vehicle.

(f) *Project costs* means those costs of administration, operation, management, planning, financing, engineering, testing, installation, construction, maintenance, reconstruction, replacement, land acquisition, contingencies, fiscal and legal costs, of the Town's alternative energy projects, including electric vehicle charging stations, and including those costs incurred to comply with federal, state or local laws regulating the Town's alternative energy projects and electric vehicle charging stations.

(g) *Publicly available parking space* means a parking space owned by the Town and made available to, and accessible by, the public and may include on-street parking spaces and parking spaces in surface lots or parking garages.

(h) *Revenue bonds* means bonds, notes or other obligations lawfully issued or otherwise contracted for, payable from the revenues derived or to be derived from the functions, services, benefits, or facilities of the Alternative Energy and Electric Vehicle Charging Station Enterprise or from other available funds of the Alternative Energy and Electric Vehicle Charging Station Enterprise.

(i) *Alternative energy project and electric vehicle charging fee* means the fee or fees authorized or imposed by this Article in the amount set from time to time by resolution of the Board of Trustees.

Sec. 11-162. - Alternative energy and electric vehicle charging station enterprise.

(a) There is hereby created an Alternative Energy and Electric Vehicle Charging Station Enterprise in the Town.

(b) There is hereby imposed an electric vehicle charging fee that allocates the costs of electric vehicle charging stations and electric vehicle service equipment to the users thereof. The Board of Trustees is further authorized to impose other fees for purposes of furthering alternative energy projects in the Town, provided such fees are related to the cost of such projects and are paid by those benefitting from or served by such projects in general proportionality to the benefit derived by such persons. The amount of such fees shall be set from time to time by resolution of the Board of Trustees.

(c) The Alternative Energy and Electric Vehicle Charging Station Enterprise shall constitute an enterprise empowered to coordinate, design, conduct, manage, operate and maintain the alternative energy projects and electric vehicle charging stations and electric vehicle service equipment of the Town and to implement the provisions of this Article. The Alternative Energy and Electric Vehicle Charging Station Enterprise is authorized to issue its own revenue bonds. The enterprise shall be wholly owned by the Town and operated in accordance with the Charter, ordinances and resolutions of the Town and other applicable law.

(d) The Board of Trustees shall act ex officio as the governing body of the Alternative Energy and Electric Vehicle Charging Station Enterprise. Whenever the Board of Trustees is in session, the governing body shall also be deemed to be in session. It shall not be necessary for the governing body to meet separately from the regular and special meetings of the Board of Trustees, nor shall it be necessary for the governing body to specifically announce or acknowledge that actions taken thereby are taken by the governing body of the enterprise. The governing body may conduct its affairs in the same manner and subject to the same laws that apply to the Board of Trustees for the same or similar matters.

Sec. 11-163. – Alternative energy and electric vehicle charging station enterprise fund.

Funds on deposit in the Alternative Energy and Electric Vehicle Charging Station Enterprise Fund established in Section 4-38 of this code are alternative energy projects and electric vehicle charging fees. Such fees and income earned thereon shall be used only for the following purposes:

(a) The acquisition by gift, purchase or condemnation of real and personal property, and interests therein, necessary to construct, operate, and maintain alternative energy projects and electric vehicle charging stations and electric vehicle service equipment.

(b) All costs of administration and implementation of the Town's alternative energy projects and electric vehicle charging station program, including the establishment of reasonable operating and capital reserves to meet unanticipated or emergency requirements.

(c) Engineering and design, debt service and related financing expenses, construction costs for new facilities, and enlargement or improvement or existing facilities.

(d) Operation and maintenance of the alternative energy projects and electric vehicle charging stations and electric vehicle service equipment.

(e) Monitoring, surveillance, and inspection of alternative energy projects and charging stations and electric vehicle service equipment.

(f) Inspection and enforcement activities.

(g) Billing and administrative costs.

(h) Other activities reasonably required to develop, operate or maintain alternative energy projects, electric vehicle charging stations and electric vehicle service equipment within the Town or to comply with applicable federal and state laws, rules and regulations.

Sec. 11-164. – Alternative energy and electric vehicle charging station enterprise debt issuance.

(a) The Alternative Energy and Electric Vehicle Charging Station Enterprise is authorized to issue revenue bonds for the payment or other financing of eligible project costs or for the purpose of refunding any revenue bonds issued for such purpose.

(b) The Town may pledge all or any portion of the Alternative Energy and Electric Vehicle Charging Station Enterprise Fund, including revenues anticipated to be collected, to the payment of principal, interest, premiums, if any, and reserves for revenue bonds, issued for the payment or other financing of any of the activities of this Article, including but not limited to eligible project costs, or for the purpose of refunding any revenue bonds issued for such purposes.

Sec. 11-165. - Administration and review.

(a) The administration of the provisions of this Article is vested in and shall be exercised by the Director who may prescribe forms and rules and regulations in conformity with this Article for the proper administration and enforcement of this Article. The Director may delegate the administration of this Article, or any part thereof, to duly qualified persons in the Department of Public Works, the Town Engineer and/or the Finance Department.

(b) Every decision or determination of the Director shall be in writing and notice thereof shall be served upon or mailed by first class mail, postage prepaid to the affected person at his or her address shown on the records of the Town. Service by first class mail as provided herein shall be conclusive evidence of service of such decision or determination. The decision or determination of the Director shall be final and conclusive upon the affected person unless he or she timely files a petition for hearing.

(c) Any person aggrieved by any decision or determination of the Director may petition the Director for a hearing on revision or modification of such decision or determination no later than thirty (30) days after notice thereof is served on the aggrieved person.

(d) Such petition shall be verified in writing upon forms approved by the Director and specify in detail the aggrieved person's reasons and grounds for revision or modification. The petition shall be accompanied by all documents or other evidence supporting the petition.

(e) The Director shall schedule a hearing on the petition not less than sixty (60) days from the date the Director receives the petition. The Director may designate a representative of the Town as the hearing officer.

(f) The hearing shall take place at the time, date and location specified by the Director in the notice of hearing. Notice of the hearing shall be given to the petitioner by first class mail addressed to the petitioner at his or her address shown in the petition. The hearing shall be conducted in accordance with the rules and regulations issued by the Director. The petitioner shall have the burden of proof. Failure to timely file a petition or the failure of the petitioner or his or her representative to appear at the hearing shall constitute and be deemed to be a waiver of the right to a hearing by the aggrieved person.

(g) Within thirty (30) days after the hearing, the Director or hearing officer shall make findings of fact based upon relevant and competent information and evidence submitted at the hearing. The Director shall make a decision or determination based upon such findings and, if appropriate, modify his/her prior decision or determination accordingly. The decision or determination by the Director after hearing shall be final and conclusive upon the petitioner, subject only to judicial review as permitted by state law.

(h) A petition may be filed only once in connection with any decision or determination of the Director.

Sec. 11-166. – Non-liability of Town.

This Article does not create any liability on the part of, or cause of action against, the Town or any officer or employee thereof for injury, loss or damage resulting from or related to alternative energy projects, electric vehicle charging stations or electric vehicle service equipment. In adopting this Article, the Board of Trustees is relying on and does not waive or intend to waive by any provision of this Article, the monetary limitations or any other rights, immunities and protections provided by the Colorado Governmental Immunity Act, Section 24-10-101, *et seq.*, or any other limitation, right, immunity or protection otherwise available to the Town, its officers or its employees.

INTRODUCED, READ, ADOPTED AND ORDERED PUBLISHED this 24th day of January, 2017.

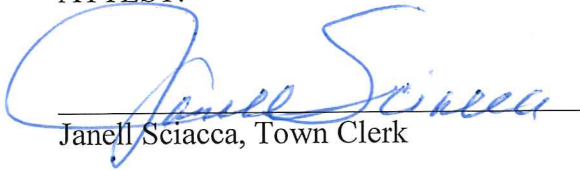
THIS ORDINANCE SHALL BECOME EFFECTIVE THIRTY DAYS FROM PUBLICATION.

TOWN OF BUENA VISTA, COLORADO

By: _____


Joel Benson, Mayor

ATTEST:


Janell Sciacca, Town Clerk

