

ORDINANCE NO. 4
Series 2002

**AN ORDINANCE OF THE TOWN OF LAKE
CITY, COLORADO, AUTHORIZING A
THIRTY-FIVE YEAR LEASE OF PART OF
THE ALLEYWAY ABUTTING LOTS 24
THROUGH 27, OF BLOCK 43 OF THE TOWN
OF LAKE CITY.**

WHEREAS, The Hartman Family Trust presently owns title to Lots 24 through 27 in Block 43, Town of Lake City, Colorado, which adjoin the alleyway in said Block 43; and

WHEREAS, several improvements (a shed, cabin, carport and garage) located on Lots 24 through 27 of said Block 43 each encroach less than 1 foot into said alleyway; and

WHEREAS, the Lake City Board of Trustees has determined that the area of said alleyway encroached upon by the aforementioned improvements is not presently used for public purposes, and is unlikely to be needed for public use in the foreseeable future;

NOW, THEREFORE, be it ordained by the Board of Trustees of the Town of Lake City, Colorado that the Mayor and Town Clerk are hereby authorized to execute in favor of The Hartman Family Trust, a lease of the segment of the said alleyway in Block 43 on which the encroachments exist. Said lease shall be for a period not to exceed thirty-five (35) years and shall be substantially in the form attached hereto.

INTRODUCED, READ, AND ADOPTED by the Board of Trustees of the Town of Lake City, Colorado this 2nd day of October, 2002.

TOWN OF LAKE CITY, COLORADO

By: Ge T Marshall
Mayor

ATTEST:

Mary Ann M Cord
Town Clerk

LEASE AGREEMENT

This Lease Agreement, made and entered into this 2nd day of October, 2002, by and between the Town of Lake City, Colorado of P.O. Box 544, Lake City, Colorado 81235, (hereinafter referred to as "Lessor") and Dudley M. Hartman and Jennifer S. Hartman, trustees of the Hartman Family Trust, 2260 Hickory Street, San Diego, California 92103-1154 (hereinafter referred to as "Lessees") is to witness:

WHEREAS, Lessees are the owners of certain real property in Block 43 of the Town of Lake City, Hinsdale County, Colorado, including Lots 24 through 27 of said Block; and

WHEREAS, a number of improvements (a shed, cabin, carport and garage) located on the aforementioned lots owned by Lessees encroach less than 1 foot onto a part of the public alleyway in said Block 43 that is not presently used as a public thoroughfare and that is not likely to be needed for such use in the foreseeable future; and

WHEREAS, the parties hereto have agreed upon a long-term lease arrangement under which the subject encroachment can be effectively allowed to continue for a period of 35 years;

NOW, THEREFORE, it is mutually agreed as follows:

1. Lessor hereby leases to Lessees that portion of the alleyway in said Block 43, Town of Lake City, Colorado affected by the aforementioned encroaching improvements, being a strip running approximately north to south along the easterly sides of Lots 24 through 27 of said Block 43 and being no greater than 1 foot in total width. (The area of the encroachments that are subject to this Lease is further depicted on an improvement location certificate prepared on August 28, 2002 by surveyor Timothy E. Pearson, a true copy of which certificate is attached hereto.) This Lease shall, in all respects remain subject to continuing easements for the operation, maintenance and repair of all public utility lines which may presently underlay or lie within the leased area.

2. The term of this lease shall be 35 years, commencing on October 1, 2002 and ending on September 30, 2037. It is provided, however, that if the improvements which encroach onto the portion of said alleyway in Block 43 covered by this Lease are destroyed or substantially damaged, or if they are abandoned or unused for allowed purposes for a period of at least six successive months, Lessor, at its sole option, may terminate this Lease as to such improvements and may contemporaneously require the pertinent property owners to promptly remove, at their own expense, any remaining portion of the such destroyed or substantially damaged improvements which continue to encroach into the area of the alleyway covered by this Lease. At the conclusion of the specified lease term, Lessor may similarly require removal of any and all encroaching portions of such improvements from the alleyway at the expense of said property owners.

3. All rights, privileges, terms and conditions of this agreement shall be deemed to run with title to the aforementioned Lots 24 through 27 of said Block 43, and shall be deemed to have been automatically assigned to and fully assumed by each successive owner of such area of land.

4. Lessees agree to hold harmless and to make no claim against Lessor, or against any of its officials, agents or employees, for any loss or damage to any of Lessees' property within the leased area that may result from Lessor's municipal activities, unless such loss or damage is the result of willful or reckless misconduct by Lessor or its officials, agents or employees.

5. Lessees agree to defend and fully indemnify Lessor against any and all claims asserted by, or adjudicated for the benefit of, third parties which arise from or on account of this lease and/or use of the leased premises by Lessees.

6. For and in consideration of this lease, Lessees agree to pay the total consideration of \$ 10.00, the receipt and sufficiency of which is hereby acknowledged by Lessor.

7. Nothing in this lease shall be construed to excuse Lessees from strict compliance with other building codes, laws or ordinances of the Town of Lake City, Colorado presently in effect or hereafter adopted. Lessees shall do nothing hereafter that will increase the existing area of

encroachment of their improvements onto the alleyway in said Block 43.

8. This agreement shall be binding upon, and inure to the benefit of, the parties hereto and the heirs, successors and lawful assigns of each of them.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day and year first above written.

TOWN OF LAKE CITY, COLORADO,
Lessor

THE HARTMAN FAMILY TRUST

By: _____
Mayor

By: _____
Dudley M. Hartman, Trustee

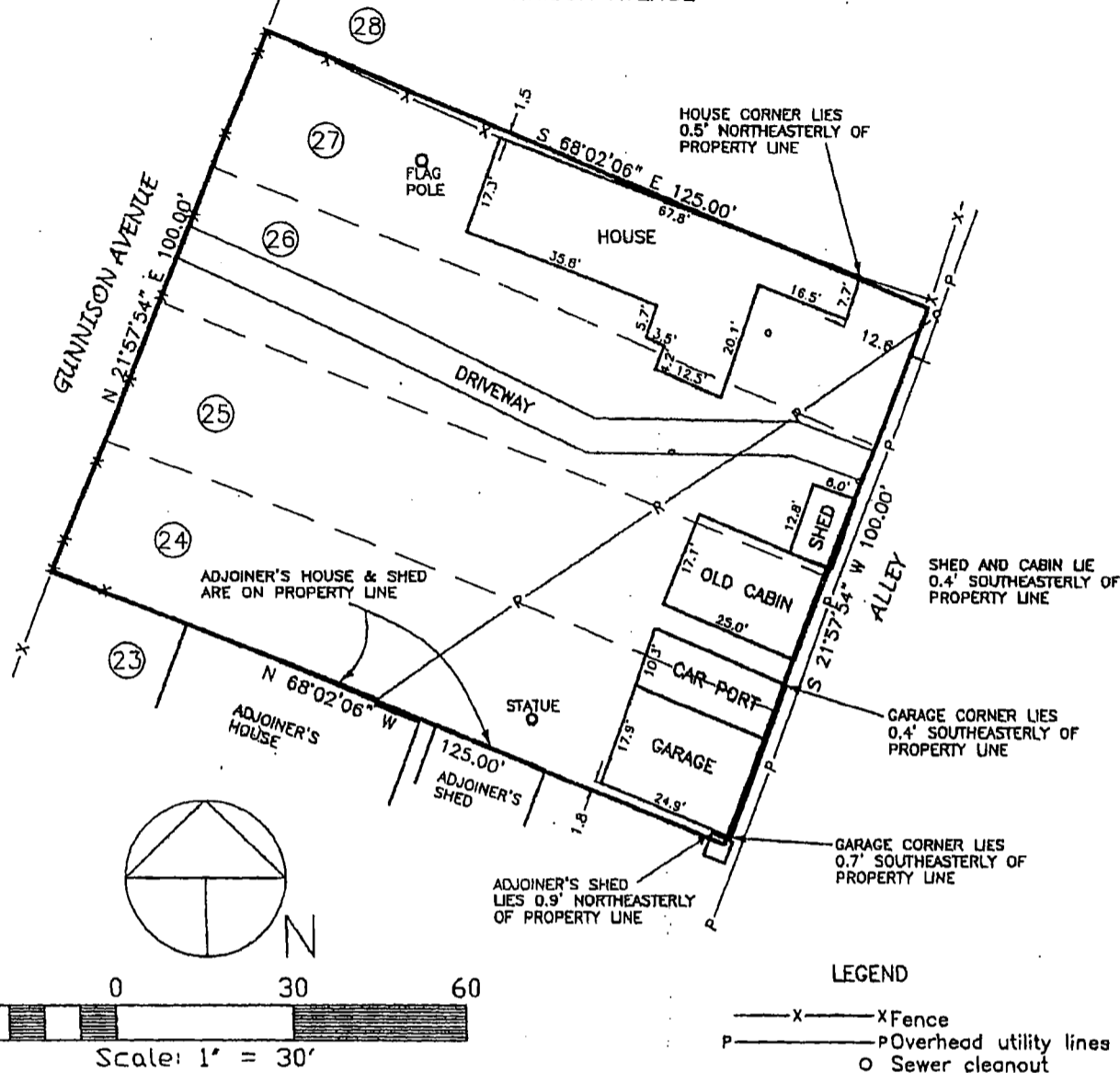
By: _____
Jennifer S. Hartman, Trustee

ATTEST:

Town Clerk

IMPROVEMENT LOCATION CERTIFICATE

LOTS 24-27, BLOCK 43
TOWN OF LAKE CITY
HINSDALE COUNTY, COLORADO
AKA 420 GUNNISON AVENUE



GENERAL NOTES: Basis of bearings for field measurements is N21°54'E between found monuments at Lake City Townsite corners No. 1 and 2. Property and buildings located by field measurements from found rebars with aluminum caps inscribed "LS 1776" at the southeast and northeast corners of Block 42, the positions of these rebars being supported by found 5/8" rebars with no caps at the northwest corner of Block 43 and at the southwest corner of Block 38, and by found rebars with aluminum caps inscribed "LS 11250" at the southwest corner of Block 42 and at the northwest corner of Block 55.

IMPROVEMENT LOCATION CERTIFICATE

I hereby certify that this Improvement Location Certificate was prepared for THE MORTGAGE SHOPPE, that it is not a land survey plat or improvement survey plat, and that it is not to be relied upon for the establishment of fence, building, or other future improvement lines.

I further certify that the improvements on the above described parcel on this date of AUGUST 26, 2002, except utility connections, are entirely within the boundaries of the parcel, except as shown, that there are no visible encroachments upon the described premises by the improvements on any adjoining premises, except as indicated, and that there is no apparent evidence or sign of any easement crossing or burdening any part of said parcel, except as noted on this drawing.

Date: 8/28/02

Timothy E. Pearson
Timothy E. Pearson
Colorado L. S. 34979

PEARSON SURVEYING
GUNNISON, CO
(970) 641-2910