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CHAPTER 2 Administration

ARTICLE I Elections

Sec. 2-1-10. Conduct of elections.

All elections shall be held and conducted in accordance with the Colorado Municipal Election Code of 1965. The Town may by ordinance determine to follow all or part of the provisions of the Uniform Election Code for any election.

Sec. 2-1-20. Write-in candidate affidavit.

Pursuant to the provisions of Section 31-10-306, C.R.S., no write-in vote for any municipal office shall be counted unless an affidavit of intent has been filed with the Town Clerk by the person whose name is written in prior to sixty-four (64) days before the day of the election indicating that such person desires the office and is qualified to assume the duties of that office if elected. In the event that the Town by ordinance determines to follow all or part of the Uniform Election Code, the deadline for filing affidavits for write-in candidates shall be as set forth in the Uniform Election Code.

(Prior code 1-9-1; Ord. 06-01 §1, 2006; Ord. No. 2020-08, § 2, 3-11-2020)

Sec. 2-1-30. Cancellation of election.

- (a) Pursuant to Section 31-10-507, C.R.S., if the only matter before the voters is the election of persons to office and if at the close of business on the nineteenth day before the election, there are not more candidates than offices to be filled at such election, including candidates filing affidavits of intent as required by Section 2-1-20 above, the Town Clerk shall certify such fact to the Board of Trustees and it shall hold a meeting and may cancel the election and by resolution declare the candidates elected.
- (b) Notice of such cancellation shall be published, if possible, and notice of such cancellation shall be posted at each polling place and in not less than one (1) other public place.

(Prior code 1-9-2; Ord. 06-01 §1, 2006)

ARTICLE II Mayor and Board of Trustees

Sec. 2-2-10. Board of Trustees.

The Board of Trustees shall consist of six (6) Trustees and the Mayor. Trustees shall be elected to serve terms of four (4) years.

Sec. 2-2-20. Board of Trustees terms.

At the April 4, 1972 election, six (6) Trustees shall be elected. The three (3) candidates for Trustee receiving the highest number of votes shall be elected for four-year terms, and the three (3) candidates for Trustee receiving the next highest number of votes shall be elected for two-year terms. In the event of a tie, the decision shall be made by lot.

Sec. 2-2-30. Board of Trustees authority; qualifications.

- (a) Authority. The Board of Trustees shall constitute the legislative body of the Town, shall have the power and authority, except as otherwise provided by statute, to exercise all power conferred upon or possessed by the Town, and shall have the power and authority to adopt such laws, ordinances and resolutions as it shall deem proper in the exercise thereof.
- (b) Qualifications. Each Trustee shall be a resident of the Town and a registered elector therein. If any Trustee shall move from or become, during the term of his or her office, a nonresident of the Town, he or she shall be deemed thereby to have vacated his or her office.

(Ord. 06-01 §1, 2006)

Sec. 2-2-40. Board of Trustees vacancies.

The Board of Trustees shall have power, by appointment, to fill all vacancies on the Board or in any other elected office, and the person so appointed shall hold office until the next regular election and until his or her successor is elected and qualified. If the term of the person creating the vacancy was to extend beyond the next regular election, the person elected to fill the vacancy shall be elected for the unexpired term. The Board of Trustees also has the power to fill a vacancy on the Board or in any other elective office of the Town by ordering an election to fill the vacancy until the next regular election and until a successor has been elected and qualified. If a vacancy on the Board or in such other elective office is not filled by appointment or an election is not ordered within sixty (60) days after the vacancy occurs, the Board of Trustees shall order an election, subject to the Municipal Election Code, to be held as soon as practicable to fill the vacancy until the next regular election and until a successor has been elected and qualified. Where a vacancy exists in the office of Trustee, and a successor is to be elected at the next election to fill the unexpired term, the three (3) candidates for Trustee receiving the highest number of votes shall be elected to four-year terms, and the candidate receiving the next highest number of votes, in descending order, shall be elected to fill the unexpired term.

Sec. 2-2-50. Mayor.

- (a) At the April 4, 1972 election, and at the regular election every four (4) years thereafter, a Mayor shall be elected to serve a four-year term. The Mayor shall meet the same qualifications as a Trustee and, in the event of a vacancy in the office of Mayor, such vacancy shall be filled in the same manner as a vacancy in the office of Trustee, as set forth in Section 2-2-40 above.
- (b) The Mayor shall preside over all meetings of the Board of Trustees and shall perform such duties as may be required of him or her by statute or ordinance. Insofar as is required by statute and for all ceremonial purposes, the Mayor shall be the executive head of the Town.
- (c) The Mayor shall execute and authenticate by his or her signature all bonds, warrants, contracts and instruments of and concerning the business of the Town, as the Trustees or any statutes or ordinances may require.
- (d) Except as may be required by statute, the Mayor shall exercise only such powers as the Trustees shall specifically confer upon him or her.

(Prior code 1-5-1; Ord. 06-01 §1, 2006)

Sec. 2-2-60. Mayor Pro Tem.

At its first meeting following each biennial election, the Board of Trustees shall choose one (1) of the Trustees as Mayor Pro Tem. In the absence of the Mayor from any meeting of the Board of Trustees, during the

absence of the Mayor from the Town or during the inability of the Mayor to act, the Mayor Pro Tem shall perform the duties of the Mayor.

Sec. 2-2-70. Acting Mayor.

In the event of the absence or disability of both the Mayor and the Mayor Pro Tem, the Trustees may designate another Trustee to serve as acting Mayor during such absence or disability.

Sec. 2-2-80. Compensation.

- (a) The Mayor shall receive three hundred dollars (\$300.00) per month as compensation.
- (b) The Trustees shall each receive one hundred fifty dollars (\$150.00) per month as compensation.
- (c) The compensation paid to any member of the Board of Trustees, including the Mayor, shall not be increased or diminished for the term of office for which he or she has been elected or appointed. Any Mayor or Trustee who has resigned or vacated an office prior to the end of his or her elective or appointed term shall not be eligible to election or reappointment to the same during such term if the rate of compensation has been increased.

(Prior code 1-5-1; Ord. 06-01 §1, 2006)

Sec. 2-2-90. Regular meetings.

The regular meetings of the Board of Trustees shall be held on the third Tuesday of each month at the Town Hall at 6:00 p.m., except on legal holidays, when no meeting shall be held; provided, however, that in the event the Board of Trustees determines it is necessary to schedule a meeting at a different time, the Board shall provide notice to the public within twenty-four (24) hours of any rescheduled or newly scheduled meeting, consistent with Section 24-6-402(2)(c), C.R.S., and consistent with Section 2-2-110 of this Chapter. Said meetings shall be open to the public.

Sec. 2-2-100. Special meetings.

- (a) Any four (4) members of the Board of Trustees may call special meetings by written notice to each member of the Board of Trustees, personally served or left at the member's usual place of residence by the Town Clerk, at least forty-eight (48) hours in advance of the meeting.
- (b) The Board of Trustees at any duly convened meeting may, by majority vote, call a special meeting for a future date. Notice of such meeting shall be given to any member of the Board of Trustees not in attendance.
- (c) Should the Board of Trustees convene for a special meeting pursuant to a request of an interested party for the purpose of accommodating time constraints of said interested party, the Board of Trustees may, in its discretion, assess fees for the special meeting against the interested party. The Board of Trustees may, from time to time by resolution, adopt a schedule of fees which may be assessed for special meetings. Said fees shall reasonably compensate the staff of the Town and the Town Attorney for time spent in preparation for attendance at special meetings.

(Ord. 06-01 §1, 2006)

Sec. 2-2-110. Place for posting notices.

- (a) In accordance with the requirements of Section 24-6-402(2)(c), C.R.S., the Board of Trustees hereby designates the Blue River Town Hall and the old Summit County Courthouse as the locations where notices of meetings may be posted.

- (b) The Board of Trustees, by resolution adopted at the first meeting of each calendar year, shall either redesignate the above locations or designate a new location for posting notices of meetings. If, in any calendar year, the Board of Trustees fails to adopt such resolution, the above-designated locations shall be deemed the designated location for such calendar year.

(Prior code 1-5-4; Ord. 08-06 §1, 2008; Ord. 13-06 §1, 2013)

Sec. 2-2-120. Conduct of meetings; voting.

- (a) Meetings of the Board of Trustees shall be conducted by the Mayor, according to *Robert's Rules of Order, Revised*.
- (b) A majority shall constitute a quorum to do business at all meetings of the Board of Trustees, and each member, including the Mayor, shall vote upon every question put by the Chair unless allowed by the Board of Trustees to abstain. The Mayor shall preside at all meetings of the Board of Trustees and shall have the same voting powers as any member of the Board of Trustees. Upon the taking of any vote, the Town Clerk shall record in the minutes the names of those voting and their votes.
- (c) At the hour appointed for meeting, the members shall be called to order by the Mayor or, in his or her absence, by the Mayor Pro Tem, and the Town Clerk shall proceed to call the roll, note the absentees and announce whether a quorum is present. If a quorum is present, the Board of Trustees shall proceed with the business before it, in the manner and order as established by the Board of Trustees.

(Ord. 06-01 §1, 2006)

Sec. 2-2-130. Boards and commissions.

The Board of Trustees shall create and appoint members to such boards and commissions as may now or hereafter exist, including but not limited to the following:

- (1) Board of Zoning Adjustment;
- (2) Planning and Zoning Commission; and
- (3) Upper Blue River Regional Planning Commission.

ARTICLE III Officers and Employees

Sec. 2-3-10. Appointed officers.

- (a) The following officers of the Town shall be appointed by a majority vote of all the members of the Board of Trustees:
 - (1) Town Attorney;
 - (2) Town Clerk;
 - (3) Municipal Judge;
 - (4) Chief of Police; and
 - (5) Town Treasurer.
- (b) Said officers shall hold their respective offices until their successors are duly appointed and qualified. Vacancies shall be filled by appointment of the Board of Trustees.

(Ord. 06-01 §1, 2006; Ord. 06-07 §1, 2006; Ord. No. 19-01, §§ 2, 5, 6-18-2019)

Sec. 2-3-15. Employed officers.

Code Enforcement Officers. Code Enforcement Officers shall have the authority of the Chief of Police but limited to the enforcement of Chapter 16, Zoning; Chapter 18, Building Regulations; Chapter 7, Health, Sanitation and Animals; Chapter 8, Article II, Parking Regulations; Chapter 11, Article III, Goose Pasture Tarn and the Town Park; and Chapter 4, Article III, Accommodations Tax.

Sec. 2-3-20. Powers and duties of officers.

Appointed officers of the Town shall have such powers and perform such duties as are now or hereafter may be prescribed by state law and the ordinances of the Town, shall further perform any additional duties required by the Board of Trustees, and shall be subject to the control and orders of the Board of Trustees.

Sec. 2-3-30. Oath of office; bond.

- (a) When required by the Board of Trustees, each officer or employee, before entering upon the duties of his or her office, shall take and subscribe to an oath to support the Constitutions and laws of the United States and the State and the ordinances of the Town.
- (b) In all cases where, by law, ordinance or resolution of the Board of Trustees, a bond is required of any such officer, he or she shall make and execute to the Town a bond in such sum as is required, to be approved by the Board of Trustees, conditioned upon the faithful performance of all duties pertaining to such office, the proper care of all money or property of the Town coming into his or her hands and the proper accounting for or delivery of the same.
- (c) The Chief of Police, Town Clerk, Town Treasurer and Municipal Court Clerk shall each be bonded by a surety acceptable to the Town in an amount of five thousand dollars (\$5,000.00). When any or all of the above offices are held by one (1) person, the aggregate amount of the bond for that person shall be five thousand dollars (\$5,000.00).

(Prior code 1-6-1; Ord. 06-01 §1, 2006; Ord. No. 19-01, §§ 2, 5, 6-18-2019)

Sec. 2-3-40. Liability of officers.

No provision of this Code designating the duties of any officer or employee shall be so construed as to make such officer or employee liable for any fine or penalty provided for a failure to perform such duty, unless the intention of the Board of Trustees to impose such fine or penalty on such officer or employee is specifically and clearly expressed in the section creating the duty.

Sec. 2-3-50. Removal of Town officers.

- (a) Cause for removal. By a majority vote of all members of the Board of Trustees, the Mayor, Town Clerk, Town Treasurer, any member of the Board of Trustees or any other officer of the Town may be removed from office. No such removal shall be made without a charge in writing and an opportunity of hearing being given unless the officer against whom the charge is made has moved out of the limits of the Town. When any elected officer ceases to reside within the limits of the Town, he or she may be removed from office pursuant to this Section. Appointed officers or employees of the Town need not reside within the limits of the Town. A Municipal Judge may be removed during his or her term of office only for cause, as set forth in Section 13-10-105(2), C.R.S.
- (b) Specification of charges. All charges preferred against any such officer of the Town, for any cause or causes specified in the foregoing subsection for the removal of such officer, shall be made in writing to the Board of Trustees and shall clearly specify any such cause or causes of removal.

- (c) Service of charges and notice of hearing. A copy of such charges and specifications, together with a notice of the time and place of hearing, shall be served upon the accused at least fifteen (15) days before the day of hearing.
- (d) Hearing. At the time and place so set, the Board of Trustees shall meet and proceed according to its rules to hear the evidence against the accused officer, as well as the evidence offered in his or her behalf, adjourning from time to time as may be necessary, until all the evidence shall have been given.
- (e) Decision. Within three (3) days after the evidence shall have been given, the Board of Trustees shall vote by yeas and nays upon each charge and specification separately. The question upon each charge shall be, "Is the accused guilty?" If the Board of Trustees, by a lawful number, finds the accused officer guilty of any specified charge aforesaid, it shall resolve that the accused be removed from office and his or her office declared vacant.
- (f) Appearance by counsel. Upon the trial as aforesaid, the accused shall be heard by himself or herself or by counsel in his or her defense, and the Town may also be represented by counsel in the prosecution of such charges. The Chief of Police, the Mayor or the Town Clerk may serve any paper required to be served by any provisions of this Article.

(Ord. 06-01 §1, 2006; Ord. No. 19-01, §§ 2, 5, 6-18-2019)

Sec. 2-3-60. Town Attorney.

- (a) Appointment. The Board of Trustees, within thirty (30) days of its first regular meeting after each biennial election, shall appoint some qualified attorney at law as the Town Attorney, in compliance with Section 31-4-304, C.R.S., and shall fix his or her compensation.
- (b) Duties. The Town Attorney shall perform the following duties:
 - (1) Act as legal advisor to, and be attorney and counsel for, the Board of Trustees and be responsible solely to the Board of Trustees. He or she shall advise any officer or department head of the Town in matters relating to his or her official duties when so requested by the Board of Trustees and shall file with the Town Clerk a copy of all written opinions given by him or her.
 - (2) Prosecute ordinance violations and conduct for the Town cases in Municipal Court.
 - (3) Prepare or review all ordinances, contracts, bonds and other written instruments which are submitted to him or her by the Board of Trustees and promptly give his or her opinion to the legal consequences thereof.
 - (4) Call to the attention of the Board of Trustees all matters of law, and changes or developments therein, affecting the Town.
 - (5) Perform such other duties as may be prescribed for him or her by the Board of Trustees.

(Prior codes 1-7-1, 1-7-2; Ord. 06-01 §1, 2006)

Sec. 2-3-70. Social Security.

In the opinion of the Board of Trustees, the extension of the social security system to employees and officers of the Town will be of great benefit not only to the employees and officers by providing that said employees and officers may participate in the provision of the old-age and survivors insurance system, but also to the Town by the efficiency of its government.

ARTICLE IV Municipal Court

Sec. 2-4-10. Creation of Municipal Court.

- (a) A Municipal Court in and for the Town is hereby created and established pursuant to and governed by the provisions of state law.
- (b) The Municipal Court shall be a qualified municipal court of record, and the presiding Municipal Judge shall provide for the keeping of a verbatim record of the proceedings and evidence at trials by either electric devices or stenographic means.

(Prior codes 1-8-1, 1-8-7; Ord. 06-01 §1, 2006)

Sec. 2-4-20. Jurisdiction and powers.

- (a) The Municipal Court shall have original jurisdiction of all cases arising under the provisions of this Code and ordinances of the Town, with full power to punish violators thereof by the imposition of such fines and penalties as are prescribed by law, ordinance or court rule. (See also Section 2-4-140.) It shall have the power to assess court costs as provided in Section 2-4-140 of this Chapter in addition to any fines or penalties for any plea entered in the designated courtroom.
- (b) It shall have the power to enforce subpoenas issued by any board, commission, hearing officer or other body or officer of the Town authorized by law or ordinance to issue subpoenas. It shall have authority to issue protection orders to prevent domestic abuse, whether or not such relief could be obtained in a domestic relations action filed in a district court.

(Prior code 1-8-2; Ord. 06-01 §1, 2006)

Sec. 2-4-30. Appointment of Municipal Judge.

The Municipal Court shall be presided over by a Municipal Judge, appointed by the Board of Trustees to a term of not less than two (2) years. The Municipal Judge may be removed from office by the Board of Trustees for cause.

Sec. 2-4-40. Qualifications of Municipal Judge.

Any person appointed to the office of Municipal Judge shall have been admitted to and shall be at the time of his or her appointment and during his or her tenure of office, licensed in the practice of law in the State.

Sec. 2-4-50. Oath and bond.

- (a) Before entering upon the duties of his or her office, the Municipal Judge shall take and subscribe, before a judge of a court of record, and file with the Board of Trustees, an oath of affirmation that he or she will support the Constitution of the United States, the Constitution and laws of the State and the ordinances of the Town and will faithfully perform the duties of his or her office.
- (b) The Municipal Judge shall give bond to the Town in an amount which shall be approved by the Board of Trustees and which shall be surety for his or her faithful performance of the duties of his or her office and for his or her faithful accounting of the payment of all monies coming into his or her hands by virtue of said office.

(Prior code 1-8-3C)

Sec. 2-4-60. Compensation of Judge.

The Municipal Judge shall receive an annual salary of six thousand five hundred dollars (\$6,500.00), which salary shall be payable monthly commencing April 1, 2008.

Sec. 2-4-70. Duties of Judge.

The presiding Municipal Judge shall supervise and direct the Municipal Court's operation and shall perform no other duties during the hours when Court is in session except as may be approved by the Board of Trustees.

Sec. 2-4-80. Additional judges.

The Board of Trustees may appoint additional judges for such terms as necessary as may be needed to transact the business of the Municipal Court or to preside in the absence of the presiding Municipal Judge.

Sec. 2-4-90. Court Clerk.

- (a) Appointment. The presiding Municipal Judge, after approval by the Board of Trustees, may appoint a person to serve as Court Clerk whose duties shall be those designated by law, by court rule or by the presiding Municipal Judge. The Municipal Judge may also act as Court Clerk in accordance with state statutes.
- (b) Salary and bond.
 - (1) The compensation of the Clerk shall be an annual salary of seven thousand two hundred dollars (\$7,200.00), which shall be payable monthly effective as of July 1, 2007.
 - (2) The Court Clerk shall post a bond as required in Section 2-3-30 of this Chapter.
- (c) Monies collected. The Court Clerk shall file monthly reports with the Town Clerk of all monies collected, either by fines or otherwise, and shall, on the last day of each month, pay to the Town Treasurer all such monies.

(Prior code 1-8-4; Ord. 06-01 §1, 2006; Ord. 08-01 §2, 2008; Ord. 08-04 §1, 2008)

Sec. 2-4-100. Sessions generally.

- (a) There shall be regular sessions of the Municipal Court for the arraignment of defendants, the trial of cases and such other matters and proceedings as the business of the Court may require. Such sessions shall be conducted no less frequently than once per month and shall be open to the public.
- (b) The Municipal Court shall be open during such hours as are set by the presiding Municipal Judge with the advice and consent of the Board of Trustees; provided, however, that the Court shall be closed on weekends and local, state and national holidays, except for extraordinary sessions.
- (c) Suitable court facilities cannot be provided within the Town; therefore, the presiding Municipal Judge may establish by court rule such facilities at any location within the County which may be in reasonable proximity to the Town.
- (d) Where the nature of the case is such that it would be in the best interest of justice to exclude persons not directly connected with the proceedings, the Municipal Judge may order that the courtroom be cleared.

(Prior code 1-8-6; Ord. 06-01 §1, 2006)

Sec. 2-4-110. Rules of procedure.

The procedures of the Municipal Court shall be in accordance with the Colorado Municipal Court Rules of Procedure as promulgated by the Colorado Supreme Court. In addition to other powers, the presiding Municipal Judge shall have full power and authority to issue local rules of procedure and regulations for conducting the business of the Municipal Court not inconsistent with any rules of procedure adopted by the Colorado Supreme Court.

Sec. 2-4-120. Failure of person to respond to process.

- (a) In all cases where a person is summoned as a juror or as a witness to the Municipal Court and fails to attend at the time and place appointed, the Municipal Court may issue a citation for the appearance of such juror or witness so failing to attend and direct such person to show cause why he or she should not be punished for contempt of court. Upon a satisfactory excuse being made, the Municipal Court may discharge such person and release any bond posted pursuant thereto.
- (b) In all cases where a person is summoned to appear at the Municipal Court or ordered to appear by the Municipal Judge, it is unlawful for such person to fail to appear at the time and place so ordered.

(Prior code 1-8-9)

Sec. 2-4-130. Contempt power.

The Municipal Court shall have power to compel attendance at sessions of court and to punish contempt of court by fine. When the Court finds any person to be in contempt, the Court may vindicate its dignity by imposing on the contemnor a fine not to exceed two thousand seven hundred dollars (\$2,700.00), as adjusted for inflation on January 1, 2018, and on January 1 of each year thereafter. In cases of indirect contempt, the alleged contemnor shall have all the rights, privileges, safeguards and protections of a defendant in a petty offense case, including but not limited to a formal written complaint, arraignment and trial.

Sec. 2-4-140. Court costs.

- (a) The Municipal Court is hereby authorized to increase court costs charged to defendants found guilty after trial or plea to up to one hundred dollars (\$100.00) in the Court's sole discretion.
- (b) The Municipal Court is hereby authorized to make any adjustments or increases in fines assessed against defendants found guilty to such amounts approved by the presiding Municipal Judge in accordance with state law.
- (c) Nothing contained herein shall deprive the Municipal Judge of the authority to permit defendants to perform labor and service for the Town in lieu of paying all or part of the fines and costs imposed, under such terms and conditions as the Municipal Judge shall require; provided, however, that no defendant shall be ordered or required to participate in any work program. Instead, such work program alternative may be granted by the Municipal Judge only upon a defendant's voluntarily requesting participation therein.

(Prior codes 1-4-4, 1-8-8)

Sec. 2-4-150. Appeals.

Appeals from the Municipal Court shall be in accordance with the practice and procedure provided by Section 13-10-116 et seq., C.R.S.

Sec. 2-4-160. Appropriations.

The Board of Trustees shall annually appropriate an amount sufficient to pay salaries and expenses incurred in connection with carrying out the provisions of this Chapter.

ARTICLE V Public Records¹

Sec. 2-5-10. Policy.

- (a) It is the policy of the Town that public records shall be open for inspection at reasonable times in accordance with the requirements of the Colorado Open Records Act, Part 2, Article 72, Title 24, C.R.S. ("CORA"), and in accordance with a Town CORA Policy to be adopted by the Town's custodian of records.
- (b) The Town Clerk shall adopt, promulgate and publish on the Town's website a Town CORA Policy that addresses at a minimum timeframes, fees and availability of public records for inspection in conformity with the requirements of CORA.

(Ord. No. 2020-13, § 1, 7-21-2020)

Sec. 2-5-20. Custody; inspection.

The Town Clerk is the custodian of all records which are maintained by the Town.

(Ord. No. 2020-13, § 1, 7-21-2020)

ARTICLE VI Planning and Zoning Commission²

Sec. 2-6-10. Establishment and purposes.

- (a) There is hereby established a Planning and Zoning Commission for the Town.
- (b) The purposes of the Planning and Zoning Commission are as follows:
 - (1) To serve as the municipal planning commission in accordance with Article 23, Title 31, C.R.S.
 - (2) To serve as the municipal zoning commission in accordance with Section 31-23-306, C.R.S.
 - (3) To serve as a board of adjustment in accordance with Section 31-23-307, C.R.S.
 - (4) To serve as the board of appeal or board of review as may be contemplated or required by any Town-adopted building or safety code.

(Ord. No. 2020-09, § 1, 8-18-2020)

¹Editor's note(s)—Ord. No. 2020-13, § 1, adopted July 21, 2020, repealed former Art. V, §§ 2-5-10—2-5-50, and enacted a new Art. V, §§ 2-5-10 and 2-5-20, as set out herein. The former article pertained to similar subject matter and derived from the prior code, §§ 1-10-1—1-10-4; and Ord. 06-01, § 1, adopted 2006.

²Editor's note(s)—Ord. No. 2020-09, § 1, adopted August 18, 2020, repealed former Art. VI, §§ 2-6-10—2-6-120, and enacted a new Art. VI, §§ 2-6-10—2-6-90, as set out herein. The former article pertained to similar subject matter and derived from Ord. 05-01, §§ 1, 2, adopted 2005; and Ord. 05-05, § 2, adopted 2005.

Sec. 2-6-20. Definitions.

Certain terms as used in this Chapter are defined in this Section.

Commission means the Planning and Zoning Commission of the Town.

(Ord. No. 2020-09, § 1, 8-18-2020)

Sec. 2-6-30. Membership and board liaison.

- (a) The Planning and Zoning Commission shall be comprised of seven (7) members. Members shall be selected by the Board of Trustees pursuant to a selection method deemed acceptable by a majority of the Board. In accordance with Section 31-23-203(2), C.R.S., all members of the Planning and Zoning Commission shall be bona fide residents of the Town and, if any member ceases to reside in the Town, his or her membership on the Commission shall automatically terminate and a vacancy shall be declared.
- (b) The Board of Trustees may appoint a trustee to serve as a non-voting liaison to the Planning and Zoning Commission. Although not a member of the Commission, the liaison may participate in the consideration of any and all matters pending before the Commission and shall provide input and direction concerning Town policies and regulations. The term of such liaison appointment and the removal of the liaison shall be subject to the discretion of the Board of Trustees provided that an appointment shall automatically expire upon the expiration of the Board office of the appointed trustee. The Board of Trustees may remove a liaison, appoint a new liaison, or otherwise direct the liaison in the performance of the liaison's duties at the Board's discretion.

(Ord. No. 2020-09, § 1, 8-18-2020)

Sec. 2-6-40. Terms.

- (a) Except for the initial resetting of terms to create staggered terms of members as provided in subsection (b) below and except for terms resulting from the filling of a vacancy as provided in Section 2-6-50(d), each member of the Commission shall be appointed to serve a term of four (4) years. Such term shall commence on January 1 of a year and shall terminate on the December 31 immediately preceding the fourth anniversary of the date of the commencement of the appointment.
- (b) On December 31, 2020, the Planning and Zoning Commission shall be reorganized in order that the Board of Trustees may create staggered terms through the reappointment of former members and/or the appointment of new members to the Commission. In November or December of 2020, the Board of Trustees shall select and appoint: (i) three (3) members to each serve a two-year term commencing January 1, 2021, and terminating on December 31, 2022; and (ii) four (4) members to each serve a four-year term commencing January 1, 2021 and terminating on December 31, 2024. Upon the termination of these initial terms, all future appointed members shall serve a four-year term as provided in subsection (a) above.

In order to fill the initial terms of the reorganized Planning and Zoning Commission described in (b) above which terms commence on January 1, 2021:

- (1) The Board shall retain and reappoint the three (3) current members who will not have fully served their currently appointed terms of office as of December 31, 2020. Each of the three (3) current members shall be appointed to new two-year terms commencing January 1, 2021 and terminating on December 31, 2022. In the event that a current member who will not have fully served their currently appointed terms of office as of December 31, 2020 is not interested in reappointment, the Board shall appoint a person to serve the two-year term in the same manner as four-year terms provided in (3) below; and

- (2) The Board shall encourage current members whose terms are scheduled to expire on December 31, 2020, to reapply for the Commission and, in addition, the Board shall cause the openings of positions on the Planning and Zoning Commission to be publicly advertised in order to solicit possible interest in service from the general public; and
 - (3) From a pool of applicants that includes interested current members whose terms expire on December 31, 2020, and any other qualified applicants for the Commission, the Board shall appoint four (4) persons to serve four-year terms, such terms commencing on January 1, 2021; and, in addition, the Board shall appoint persons to fill any positions not accepted by an existing member pursuant to (1) above.
- (c) No member may serve more than two (2) consecutive terms. A "term" shall include: (i) a four-year term; (ii) a two-year term as provided in subsection (b) above; (iii) a partial term that created a vacancy as provided in Section 2-6-50(b); (iv) a partial term served through the filling of a vacancy provided by Section 2-6-50(d); and (v) any term or portion of a term served by a member during the period of January 1, 2015 and December 31, 2020. A member having served two (2) consecutive terms shall not be eligible for a new appointment to the Commission for two (2) years following the last date of service on the Commission. Notwithstanding the forgoing, the Board of Trustees may reappoint a member to a third consecutive term where the Board determines that there are no other candidates deemed eligible and qualified by the Board for service on the Commission.

(Ord. No. 2020-09, § 1, 8-18-2020)

Sec. 2-6-50. Vacancies and removal.

- (a) Membership on the Commission is deemed at-will and a member of the Commission may be removed by the Board of Trustees for any or no reason.
- (b) A vacancy on the Planning and Zoning Commission shall occur whenever a member of the Commission is removed by the Board of Trustees, dies, resigns, becomes incapacitated or is otherwise unable or unwilling to perform his or her duties for a period of ninety (90) days, or ceases to reside within the Town.
- (c) A member's failure to attend three (3) or more Commission meetings during a twelve-month period shall be reported to the Board of Trustees by the Commission Chairperson.
- (d) In the event a vacancy occurs, the Board of Trustees shall appoint a successor to fill the vacancy and serve the remainder of the term of the former member.

(Ord. No. 2020-09, § 1, 8-18-2020)

Sec. 2-6-60. Organization.

The Commission shall select its own Chairperson and a Vice Chairperson from among its members. The Chairperson or, in his or her absence, the Vice Chairperson shall be the presiding officer of all Commission meetings. In the absence of both the Chairperson and the Vice Chairperson from a meeting, the members present shall appoint a member to serve as acting Chairperson at the meeting.

(Ord. No. 2020-09, § 1, 8-18-2020)

Sec. 2-6-70. Meeting location.

All meetings of the Planning and Zoning Commission shall be held at the Blue River Town Hall unless otherwise approved by the Town Manager.

(Ord. No. 2020-09, § 1, 8-18-2020)

Sec. 2-6-80. Duties of the Commission.

The Planning and Zoning Commission shall have the following functions and duties:

- (1) To make and recommend to the Board of Trustees plans for the physical development of the Town, including any areas outside its boundaries, subject to the approval of the legislative or governing body having jurisdiction thereof, which in the Commission's judgment relate to the planning of the Town.
- (2) To make recommendations to the Board of Trustees or to render final decisions on such matters delegated to the Planning and Zoning Commission by Chapters 16 (Zoning), 17 (Subdivision), and 18 (Building Code) of this Municipal Code.
- (3) To review and recommend to the Board of Trustees desirable or necessary modifications to Chapters 16, 17, and 18 of this Municipal Code.
- (4) To hear and decide appeals from and review any order of any administrative official charged with the enforcement of the Town's zoning or subdivision regulations as such authority may be delegated to the Commission by the Municipal Code and Section 31-23-307, C.R.S.
- (5) To hear and decide appeals from decisions of the Building Official pursuant to Chapter 18 of this Municipal Code.
- (6) To consider any other matters pertaining to the Commission as provided by law, resolution or ordinance, to act in an advisory capacity to the Board of Trustees when so requested, and to perform all other powers and duties authorized and required by ordinance or state law.

(Ord. No. 2020-09, § 1, 8-18-2020)

Sec. 2-6-90. Authority to promulgate bylaws and forms.

- (a) The Commission is authorized to promulgate and approve bylaws to govern the Commission's performance of its duties and the conduct of Commission meetings. Bylaws shall not conflict with any provisions of the Municipal Code and shall be subject to review and comment by the Town Manager and Town Attorney prior to promulgation for the purpose of ensuring conformance with applicable laws, policies, and practices of the Town. A copy of any promulgated bylaws and any bylaw amendment shall be promptly provided to the Board of Trustees after Commission approval and the Board may, at its discretion and after consultation with the Commission Chairperson, repeal, modify, or amend the bylaws.
- (b) In consultation with the Town Manager, the Commission may promulgate forms, checklists, and other materials deemed reasonably necessary by the Commission to administer, implement and supplement the purposes, powers, and duties assigned or delegated to the Commission by this Municipal Code. Such forms shall not modify, alter, amend, or repeal any provision of this Municipal Code. A copy of any promulgated form shall be promptly provided to the Board of Trustees after Commission approval and the Board may, at its discretion and after consultation with the Commission Chairperson, repeal, modify, or amend the form.

(Ord. No. 2020-09, § 1, 8-18-2020)

Sec. 2-6-100. Effective date of Planning and Zoning Commission decision.

- (a) Recommendations and advisory decisions. Recommendations or advisory decisions of the Planning and Zoning Commission that are subject to later consideration or review and a final decision by the Board of Trustees in accordance with the Municipal Code shall be effective at the time of the recommendation or decision.

- (b) Final decisions. Decisions of the Planning and Zoning Commission concerning an application for development or improvement of property which decision is final and subject to appeal to the Board of Trustees in accordance with the Municipal Code shall be deemed effective six (6) days following the date of the decision provided that no appeal is submitted pursuant to Section 2-6-110. During such six-day period, no building or other permit or authorization concerning the development or improvements that are the subject of the Commission's decision shall be issued by the Town and, if issued in error, shall not be effective and may be revoked.
- (c) Zoning variances. Decisions of the Planning and Zoning Commission concerning an application for variance as provided by Article 11 of Chapter 16 (zoning variances) shall be effective immediately upon execution of a Commission Resolution granting or denying the variance and shall not be subject to an appeal as provided by Section 2-6-110. Appeals of a zoning variance decision shall be available in accordance with state law.

(Ord. No. 2021-05, § 1, 2-16-2021)

Sec. 2-6-110. Appeal of final Planning and Zoning Commission decision.

- (a) This Section shall apply only to final decisions of the Planning and Zoning Commission as set forth in Section 2-6-100. This Section shall not apply to recommendations, advisory opinions, or to decisions to grant to deny a variance as provided by Article 11 of Chapter 16 (zoning variances).
- (b) An appeal of a final decision issued by the Planning and Zoning Commission may be brought to the Board of Trustees in accordance with this section by any person that sufficiently alleges in accordance with Colorado law: (1) a legally recognized injury-in-fact from the decision to be reviewed; and (2) such alleged injury is to a legally protected interest.
- (c) A complete and timely filing of a notice of appeal and the processing to conclusion of such appeal evidenced by the issuance of a decision by the Board of Trustees pursuant to this Section is a jurisdictional prerequisite to the further right of appeal under Rule 106(a)(4) of the Colorado Rules of Civil Procedure.
- (d) An appeal requires strict conformance with the following process:
 - (1) Within five (5) business days of the date of the Planning and Zoning Commission decision, the party seeking appeal (the "appellant") shall submit to the Town a timely and complete notice of appeal. Submission of the notice of appeal shall be made by physical delivery to the Town Manager or, as an alternative to physical delivery, the notice of appeal may be transmitted by electronic mail if addressed to both the Town Manager and the Mayor at electronic mail addresses available on the Town's official website. To be deemed timely and complete, a notice of appeal shall include:
 - a. The name, telephone number, and electronic mail contact information for the appellant, an explicit demand for appeal, the name or title associated with the application, the date of the Planning and Zoning Commission's decision, and a description of the general errors, grounds, or reasons supporting the appeal;
 - b. A statement setting forth the specific basis for an injury-in-fact and a legally protected interest which basis would confer upon the appellant the standing or legal right of appeal as required by Section 2-6-110(a) and the law of the State of Colorado.; and
 - c. Full payment of any Town-imposed appeal fee established by the Town Manager as reasonably related to the cost of providing notice and conducting a hearing. Such fee is non-refundable.
 - (2) The Town Manager, in consultation with the Town Attorney, shall determine whether a submitted notice of appeal is timely and complete. The appellant shall be promptly notified by the Town Manager of such determination.

- (3) Failure to timely submit a complete notice of appeal shall be deemed a failure to submit an appeal and a failure to meet the jurisdictional prerequisite for further right of appeal under Rule 106(a)(4) of the Colorado Rules of Civil Procedure.
- (4) Upon receipt of a timely and complete notice of appeal:
 - a. No building permits or other Town authorizations or approvals shall be issued for the development or the improvements that are the subject of the appeal of the Planning and Zoning Commission decision until the conclusion of the appeal.
 - b. The Town Manager shall schedule the appeal to be considered by the Board of Trustees at the Board's earliest available opportunity and with sufficient time to meet applicable notice requirements. Such date of appeal shall not to exceed sixty (60) days following the Planning and Zoning Commission final decision.
 - c. The Town Manager shall cause to be prepared and published and/or posted public notice of the appeal and the scheduled appeal hearing. Such notice shall comply with the same notice requirements applicable to the original hearing of the matter before the Planning and Zoning Commission.
 - d. The Town Manager shall cause the record of the Planning and Zoning Commission proceeding to be prepared and distributed to the Board of Trustees together with the notice of appeal and any materials or documents submitted by the applicant, the appellant, or other interested parties.
- (5) At the scheduled date and time of the Board of Trustees' consideration of the appeal:
 - a. The Town Manager and/or the Town Attorney shall present general information concerning the original application, the appeal, and the development or the improvements that comprise the subject of the appeal.
 - b. The Board of Trustees shall conduct a quasi-judicial, *de novo*,³ public hearing on the appeal. The applicant, appellant (if not the applicant), and all interested parties shall be provided a reasonable opportunity to address the Board of Trustees in accordance with any adopted rules of procedure or practices of the Town.
 - c. The Board of Trustees shall render a final decision on the application subject to appeal. Such decision may, at the Board's option, be evidenced by a resolution or other form of written decision. The Board of Trustee's decision shall not be subject to further appeal pursuant to this section and further appeal shall be available pursuant to Rule 106(a)(4) of the Colorado Rules of Civil Procedure or other available judicial process or procedure.
- (6) During the pendency of an appeal, the Town shall suspend the effective date of the Planning and Zoning Commission's decision pending the final decision of the Board of Trustees.
- (7) The date of the final decision for purposes of judicial review pursuant to Rule 106(a)(4) of the Colorado Rules of Civil Procedure or other available judicial process or procedure shall be the date of the Board of Trustee's final decision on appeal.
- (8) In the event of a withdrawal of the appeal by the appellant prior to the issuance of a final decision on appeal by the Board of Trustees, the Planning and Zoning Commission's original decision shall be deemed the final decision on the matter effective as of the date of the Planning and Zoning Commission's original decision.

³*De novo* means that the proceeding will be treated as a completely new matter as if it had not been previously heard or decided.

(Ord. No. 2021-05, § 1, 2-16-2021)

ARTICLE VII Upper Blue River Regional Planning Commission

Sec. 2-7-10. Creation; rules adopted.

The Board of Trustees hereby adopts a plan to cooperate with other political subdivisions in the creation of the Upper Blue River Regional Planning Commission as provided for in Title 30, Article 28, C.R.S., and further adopts the recommended rules, regulations, plan of organization and operation of the Upper Blue River Regional Planning Commission as set forth in the "Rules of Association" adopted by the official representatives of the County and towns cooperating in the organization of the Upper Blue River Regional Planning Commission, dated July 22, 1969, and the amendments thereto, which by reference thereto is hereby expressly made a part of this Chapter.

Sec. 2-7-20. Commission members from Town.

The membership from the Town shall consist of one (1) member and one (1) alternate appointed by the Mayor.

Sec. 2-7-30. Powers and duties.

The Upper Blue River Regional Planning Commission shall have the function, powers and duties which are prescribed by law.