

TOWN OF BLUE RIVER, COLORADO

ORDINANCE NO. 2020-09

**AN ORDINANCE REPEALING AND REPLACING ARTICLE VI
OF CHAPTER 2 ENTITLED
PLANNING AND ZONING COMMISSION**

WHEREAS, pursuant to Part 2, Article 23, Title 31 of the Colorado Revised Statutes, the Town of Blue River ("Town") has authority to establish a planning commission with duties set forth in such Part 2; and

WHEREAS, pursuant to Part 3, Article 23, Title 31 of the Colorado Revised Statutes, the Town has authority to establish a zoning commission with duties set forth in such Part 3 and may delegate to the planning commission the powers of the zoning commission; and

WHEREAS, pursuant to Part 3, Article 23, Title 31 of the Colorado Revised Statutes, the Town has authority to establish a Board of Adjustment to hear and decide appeals of decisions made by administrative officials and to hear and decide requests for variances to the application of regulations; and

WHEREAS, pursuant to Part 3, Article 23, Title 31 of the Colorado Revised Statutes, the Town has authority to transfer the powers of the Board of Adjustment to some other board, agency, or commission or to the governing body; and

WHEREAS, the Board of Trustees may, pursuant to Article 23, Title 31 of the Colorado Revised Statutes, establish by ordinance the powers, duties, appointment of members, removal of members, and filling of vacancies for the planning commission, the zoning commission, and the board of adjustment; and

WHEREAS, the current provisions of the Blue River Municipal Code concerning the powers, duties, appointment of members, removal of members, and filling of vacancies for the planning commission, the zoning commission, and the board of adjustment was enacted in 2005 during a period of significantly different administrative structure for the Town and the absence of paid professional administrative staff; and

WHEREAS, the Board of Trustees desires to reorganize and reconstitute the operations of the Town with regard to the powers, duties, and structure of the planning commission, the zoning commission, and the board of adjustment provided by Article 23, Title 31 of the Colorado Revised Statutes; and

WHEREAS, it is the intent of the Board of Trustees in the enactment and adoption of this Ordinance to exercise the Town's legislative authority to the greatest degree possible to best advance the health, safety, and welfare of the Town and, to this end, any deviation, modification, change, or variance from any provisions of Article 23, Title 31 of the Colorado Revised Statutes in intended and shall be effective.

BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF BLUE RIVER, COLORADO:

Section 1. Article VI of Chapter 2 of the Blue River Municipal Code is hereby repealed in its entirety and replaced with the following:

ARTICLE VI Planning and Zoning Commission

- Sec. 2-6-10. Establishment and purposes.
- Sec. 2-6-20. Definitions.
- Sec. 2-6-30. Membership and board liaison
- Sec. 2-6-50. Vacancies and removal.
- Sec. 2-6-60. Organization.
- Sec. 2-6-70. Meeting location.
- Sec. 2-6-80. Duties of the commission.
- Sec. 2-6-90. Authority to promulgate bylaws and forms.

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 of the Colorado Revised Statutes.
 - (2) To serve as the municipal zoning commission in accordance with Section 31-23-306 of the Colorado Revised Statutes.
 - (3) To serve as a board of adjustment in accordance with Section 31-23-307 of the Colorado Revised Statutes.
 - (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.

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.

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), Colorado Revised Statutes, 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.

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) 3 members to each serve a two-year term commencing January 1, 2021, and terminating on December 31, 2022; and (ii) 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 (4) 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 current members shall be appointed to new 2-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 2 year term in the same manner as 4 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 4 persons to serve 4 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 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.

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.

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.

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.

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

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

- (a) 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.
- (b) 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.
- (c) To review and recommend to the Board of Trustees desirable or necessary modifications to Chapters 16, 17, and 18 of this Municipal Code.
- (d) 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 of the Colorado Revised Statutes.
- (e) To hear and decide appeals from decisions of the Building Official pursuant to Chapter 18 of this Municipal Code.
- (f) 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.

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.

Section 2. Severability. Should any one or more sections or provisions of this Ordinance be judicially determined invalid or unenforceable, such judgment shall not affect, impair or invalidate the remaining provisions of this Ordinance, the intention being that the various sections and provisions are severable.

Section 3. Repeal. Any and all ordinances or codes or parts thereof in conflict or inconsistent herewith are, to the extent of such conflict or inconsistency, hereby repealed; provided, however, that the repeal of any such ordinance or code or part thereof shall not revive any other section or part of any ordinance or code heretofore repealed or superseded and 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 effective date of this Ordinance.

Section 4. Minor Revision or Correction Authorized. The Town Manager, in consultation with the Town Attorney, is authorized to make minor revisions or corrections to the codified version of the provisions of this Ordinance provided that such revisions or corrections are grammatical, typographical, or non-substantive and do not alter or change the meaning and intent of this Ordinance.

Section 5. Effective Date. The provisions of this Ordinance shall become effective thirty (30) days after publication following final passage.

INTRODUCED AND READ at a regular meeting of the Board of Trustees of the Town of Blue River, Colorado, held on the 21st day of July , 2020.

AMENDED ON SECOND READING, PASSED, ADOPTED AND ORDERED PUBLISHED at a regular meeting of the Board of Trustees of the Town of Blue River, Colorado, held on the day of , 2020.

Mayor

ATTEST:

APPROVED AS TO FORM:

Town Clerk

Town Attorney

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