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## **ARTICLE I**

### **Elections**

#### **Sec. 2-1. Adoption of Colorado Municipal Election Laws.**

Town elections shall be governed by the "Colorado Municipal Election Code of 1965," Part 1 of Article 10 of Title 31, C.R.S., except as otherwise provided in this Code. (Ord. 9-1992 §1)

#### **Sec. 2-2. Write-in candidate's affidavit.**

No write-in vote for any Town 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 twenty (20) 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. (Ord. 9-1992 §1)

#### **Sec. 2-3. Election may be cancelled; when.**

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 write-in candidates filing affidavits of intent pursuant to Section 2-2 above, the Town Clerk, if instructed by resolution of the Board of Trustees either before or after such date, shall cancel the election and by resolution declare the candidates elected and upon such declaration the candidates shall be deemed elected. Notice of cancellation shall be published by the Town Clerk, if possible, in order to inform the electors, and notice of cancellation shall be posted at each polling place and in not less than one (1) other public place. (Ord. 9-1992 §1)

#### **Sec. 2-4. Absentee ballots; notice.**

No later than ninety (90) days before any regular or special municipal election, other than elections conducted by mail ballot or recall elections, the designated election official shall mail a written notice advising all registered electors of the Town that they may vote by absentee ballot in accordance with the procedures for voting by absentee ballot provided by law. The notice shall be mailed by regular U.S. mail to all persons listed as registered electors of the Town as shown in the records of the County Clerk and Recorder on the date such notice is sent, and shall be mailed to the address for each registered elector listed in the then-current registration list. The designated election official shall also provide copies of the notice required by this Section to the County Clerk and Recorder's office with the request that such office provide a copy to any Town resident who registers to vote during the ninety (90) days preceding the election as to which the notice has been mailed. As to mail ballot elections, no notice pursuant to this Section shall be required. As to recall elections, the notice required by this Section shall be mailed no later than sixty (60) days before the election. (Ord. 22-2008; Ord. 1 §1, 2009)

#### **Secs. 2-5—2-20. Reserved.**

## ARTICLE II

### Mayor and Board of Trustees

#### **Sec. 2-21. Board of Trustees; terms, authority, qualifications and vacancies.**

(a) Board of Trustees. The Board of Trustees shall consist of six (6) Trustees and the Mayor, who shall be elected to serve four (4) year terms. The Board of Trustees shall constitute the legislative body of the Town and 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) 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 numbers of votes shall be elected for two-year terms. At the next subsequent election and at each regular election thereafter, three (3) Trustees shall be elected to serve four-year terms.

(c) Qualifications. Each member of the Board of Trustees shall be a registered elector and shall have resided within the limits of the Town for a period of at least twelve (12) consecutive months immediately preceding the date of the election. If any Trustee shall move from or become, during the term of this office, a nonresident of the Town, he or she shall be deemed thereby to have vacated his or her office.

(d) Vacancies. The Board of Trustees has the power, by appointment, to fill all vacancies in the Board of Trustees, and the person so appointed shall hold his or her office until the next regular election and until his or her successor is elected and has complied with Section 31-4-401, C.R.S. The Board of Trustees also has the power to fill a vacancy in the Board of Trustees by ordering an election to fill the vacancy until the next regular election and until a successor has been elected and has complied with Section 31-4-401, C.R.S. If a vacancy in the Board of Trustees 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 has complied with Section 31-4-401, C.R.S. If the term of the person creating the vacancy was to extend beyond the next regular election, at the next regular election the three (3) candidates for Trustee receiving the highest number of votes shall be elected to four (4) year terms and the candidate or candidates receiving the next highest number of votes, in descending order, shall be elected to fill the remainder of the unexpired term of the person or persons who created the vacancy on the Board. (Prior code 2.08.030, 2.12.020; Ord. 1-1972 §1; Ord. 26-1992 §1)

#### **Sec. 2-22. Mayor.**

(a) At the regular election on April 6, 1982, and at the regular election every four (4) years thereafter, a Mayor shall be elected to serve a four (4) year term.

(b) The Mayor shall be a qualified elector and shall have resided within the limits of the Town for a period of at least twelve (12) consecutive months immediately preceding the date of the election.

If any Mayor shall move from or become, during the term of this office, a nonresident of the Town, he or she shall be deemed thereby to have vacated his or her office.

(c) The Mayor is a member of the Board of Trustees. He shall preside at all meetings of the Board of Trustees, but the Mayor shall have no vote upon any question except in the case of a tie vote, when he or she shall be allowed to cast a vote. Any ordinance adopted and all resolutions authorizing the expenditure of money or the entering into of a contract shall be subject to disapproval by the Mayor as provided in Section 31-16-104, C.R.S.

(d) 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.

(e) After April 6, 1982, if a vacancy occurs in the office of Mayor, the Board of Trustees shall fill such vacancy by appointment until the next regular election, and such vacancy shall then be filled at the next regular election as provided in Section 31-4-303, C.R.S. If the office of Mayor is not an office for which a successor would otherwise have been elected at such regular election, the term of office of the successor elected pursuant to Section 31-4-303, C.R.S., shall be shortened so that the following regular election for said office is held at the time at which it would have been held if no vacancy had occurred. (Prior code 2.08.010; Ord. 26-1992 §1)

### **Sec. 2-23. Mayor Pro Tem.**

(a) At the first meeting after the regular municipal election, the Board of Trustees shall choose one (1) of the Trustees as Mayor Pro Tem.

(b) In the absence of the Mayor from any meeting of the Board of Trustees, or during the Mayor's absence from Town or his or her inability to act, the Mayor Pro Tem shall perform the Mayor's duties.

(c) When performing the Mayor's duties, the Mayor Pro Tem shall vote as a Trustee.

(d) The Mayor Pro Tem shall serve as the informational liaison between the Board of Trustees and the Town Administrator between regular or special meetings of the Board of Trustees. (Prior code 2.08.020; Ord. 6-2006 §1)

### **Sec. 2-24. Acting Mayor.**

In the event of the absence or disability of both the Mayor and the Mayor Pro Tem, the Trustees may designate another of their number to serve as acting Mayor during such absence or disability. (Ord. 26-1992 §1)

### **Sec. 2-25. Compensation of Mayor and Trustees.**

(a) The Mayor and each member of the Board of Trustees shall receive compensation in an amount fixed by ordinance.

(b) The salaries for the Mayor and Trustees shall constitute full compensation for all service rendered by them on the behalf of the Town, and salary payments shall be made to the Mayor and Trustees by the Town Treasurer on the last day of each month served.

(c) The compensation paid to any member of the Board of Trustees, including the Mayor or Trustee, 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.

(d) The members of the Board of Trustees and the Mayor shall be compensated at the rate of one hundred fifty dollars (\$150.00) per month for members of the Board of Trustees and two hundred dollars (\$200.00) per month for the Mayor. These levels of compensation shall not be effective for any member of the Board of Trustees or the Mayor during the term of office for which he or she has been elected or appointed as of the date of the ordinance codified herein. (Prior code 2.08.130; Ord. 26-1992 §1; Ord. 3-2000 §2; Ord. 5-2007 §2)

**Sec. 2-26. Regular meetings.**

The Board of Trustees shall meet on the second and fourth Tuesdays of each month, or at such times as the Board may determine. (Prior code 2.08.030)

**Sec. 2-27. Special meetings.**

(a) Special meetings of the Board of Trustees shall be called by the Town Clerk on the written request of the Mayor or any four (4) members of the Board of Trustees. At least twenty-four (24) hour's advance notice, written or oral, of a special meeting shall be given to each member of the Board of Trustees. Notice of a special meeting shall also be posted in a designated public place within the Town at least twenty-four (24) hours in advance of the special meeting. The designated place for posting public notice of a special meeting shall be the same as for the posting of notice of regular meetings of the Board of Trustees. The posting shall include specific agenda information where possible. The advance notice to Board members shall set forth the date, hour, place and purpose of such special meeting. Any Board member may waive the requirement of personal notice of a special meeting, and attendance at a special meeting shall constitute a waiver of the requirement of advance personal notice of such 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. 26-1992 §1; Ord. 19-1994 §1)

**Sec. 2-28. Conduct of meetings; voting.**

(a) Meetings of the Board of Trustees shall be conducted by the Mayor.

(b) Four (4) members of the Board of Trustees shall constitute a quorum for the transaction of business. The Mayor shall be counted as a member of the Board of Trustees in determining whether a quorum is present.

(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. (Prior code 2.08.030; Ord. 26-1992 §1)

**Sec. 2-29. 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) Planning Commission.
- (2) Tree Board.
- (3) Airport Board. (Ord. 26-1992 §1; Ord. 1-2008 §3)

**Secs. 2-30—2-40. Reserved.**

**ARTICLE III**

**Officers and Employees**

**Sec. 2-41. 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 Administrator.
- (2) Town Attorney.
- (3) Municipal Judge.
- (4) Town Clerk.
- (5) Town Treasurer.

(b) The appointment and/or reappointment of officers shall occur at the second regular meeting of the Board of Trustees after each regular municipal election.

(c) Unless removed earlier pursuant to Section 2-44 of this Article, appointed officers shall hold their respective offices until the second regular meeting of the Board of Trustees after each regular municipal election, but in no event longer than thirty (30) days after the swearing-in of newly elected trustees.

(d) Any vacancy in an office of a Town officer shall be filled by appointment made by the Board of Trustees upon an affirmative vote of a majority of its members. Such appointment shall be for the unexpired term of office created by the vacancy.

(e) One (1) person may simultaneously serve as Town Administrator, Town Clerk and Town Treasurer.

(f) The Board of Trustees, by majority vote of a quorum of its members, may make an interim appointment in order to temporarily fill a vacancy in an office of a Town officer pending a regular appointment under paragraph (d) above. (Prior code 2.08.040; Ord. 26-1992 §1; Ord. 2-1998, §1)

**Sec. 2-42. Powers and duties of officers generally.**

Appointed officers of the Town shall have such power 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. (Ord. 26-1992 §1)

**Sec. 2-43. Oath of office; bond.**

(a) Each of the officers appointed under Section 2-41 above, before entering upon the duties as such officer, shall take oath before an officer qualified by law to administer such oath, that he or she will support the Constitution and laws of the United States and of the State and the ordinances of the Town, and faithfully perform the duties of his or her office. Such oath shall be made and subscribed substantially in the following form:

I, \_\_\_\_\_, do solemnly swear that I will support the Constitution and laws of the United States, the Constitution and laws of the State of Colorado and the Ordinances of the Town of Buena Vista, and that I will faithfully perform all the duties of the office of \_\_\_\_\_, upon which I am about to enter.

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, A.D. 19\_\_.

\_\_\_\_\_  
(Official Title)

(b) The following officers shall also execute a bond with sureties approved by the Board of Trustees in the following amounts:

Treasurer	\$10,000.00
Administrator	5,000.00

Clerk	5,000.00
Municipal Judge	5,000.00
Deputy Municipal Court Clerk	5,000.00

conditioned upon the faithful discharge of the respective duties of each such officer according to law and the care and disposition of Town funds and property in his or her respective hands to his or her successor. The fees for such bonds shall be reimbursed to each respective officer by the Town after being approved by the Board of Trustees.

(c) The oath and bond provided for in Subsections (a) and (b) above, of each of the officers except the Clerk, shall be filed with and kept by the Clerk. The oath and bond of the Clerk shall be filed with and kept by the Treasurer. (Prior code 2.08.050, 2.08.060, 2.08.070; Ord. 26-1992 §1; Ord. 2-1998, §2)

**Sec. 2-44. Removal of Town officers and appointed officers.**

(a) The Mayor or any Trustee, as well as any appointed Town officer, may be removed from office by a majority vote of the full membership of the Board of Trustees. No removal from office shall be made without first providing the official or officer a written notice in plain language of the reasons for removal and an opportunity to be heard; except if the reason for the removal is the failure of the official or officer to reside within the Town as required by law or contract. Notice of removal from office shall be provided to the official or officer not less than fifteen (15) days prior to the effective date of such removal. A hearing need not be conducted unless the official or officer sought to be removed delivers a written request to be heard to the Mayor or Town Clerk not later than five (5) days after notice of removal has been provided. If a request to be heard is timely delivered, a hearing shall be promptly scheduled before the Board of Trustees at the earliest available date, and the removal of the official or officer shall be stayed pending the conclusion of the hearing.

(b) Formal rules of evidence and judicial procedure shall not apply to hearings conducted under this Section. An official or officer subject to removal may be represented by legal counsel, and the Board of Trustees shall take such steps as it deems necessary to ensure fairness in the hearing proceedings.

(c) The Municipal Judge may be removed during his or her term of office only for cause as specified in Section 13-10-105(2), C.R.S.

(d) All voting by the Board of Trustees on the removal of an official or officer from office shall be done at an open public meeting. (Ord. 26-1992 §1; Ord. 7-2000 §1)

**Sec. 2-45. Compensation of appointed officers.**

All appointed officers shall receive compensation for services rendered in an amount to be determined by the Board of Trustees. (Prior code 2.08.120)

**Sec. 2-46. Town Administrator established.**

There is created and established the position of Town Administrator. The purpose of the office of the Town Administrator is to provide the centralization of the administrative responsibilities of the

Town, with such Administrator to be the administrative head of the Town government under the direction and control of the Mayor and Trustees and to be responsible to the Mayor and Trustees for the efficient conduct of said office. (Prior code 2.04.010)

**Sec. 2-47. Appointment of Town Administrator.**

(a) The Board of Trustees shall appoint a Town Administrator who shall hold office at the pleasure of the majority of the Board. The Town Administrator shall be selected solely on the basis of executive and administrative qualifications, with special reference to training and experience, and shall be compensated at a rate deemed appropriate by the Board of Trustees.

(b) The Mayor Pro Tem shall annually conduct a job performance evaluation of the Town Administrator and submit the same to the Board of Trustees for its review and approval.

(c) The Town Administrator is subject to reappointment after every regular municipal election and shall serve at the pleasure of the Board of Trustees. The Town Administrator may be removed during his or her term of office, with or without cause, upon written notice and an opportunity to be heard before the Board of Trustees.

(d) The Town Administrator shall nominate a department head or other employee of the Town to serve as acting Town Administrator during the temporary disability or absence from the Town of the Town Administrator. Such nominee, once confirmed by the Mayor and Trustees, shall perform all the duties and exercise all the powers of the Town Administrator during the period of disability or absence of the Town Administrator, but shall receive no additional compensation therefor unless specifically authorized by the Board of Trustees. In the event of a vacancy in the position of Town Administrator, an interim town administrator shall be appointed within thirty (30) days, and a new administrator shall be appointed as soon thereafter as possible.

(e) The Town Administrator is hereby declared and determined to be a key Town employee with duties and responsibilities demanding that he or she reside in, or in close proximity to, the Town. As a result, the Town Administrator shall be required to reside within a ten-minute normal drive time radius of the Town Hall, and in no event greater than five (5) miles therefrom, throughout their term of office. (Prior code 2.04.020; Ord. 7-2000 §2; Ord. 10-2000 §1)

**Sec. 2-48. Functions and duties of Town Administrator.**

The Town Administrator shall be the chief administrative officer of the Town government and may head one (1) or more of the departments of the Town. The Town Administrator's functions and duties shall be:

(1) To be responsible to the Board of Trustees for the organization and efficient administration of all administrative departments of the Town government and to faithfully carry out directives and recommendations of the Mayor and Trustees in coordinating the administrative functions and operations of the various departments;

(2) To supervise the enforcement of all laws and ordinances of the Town, save and except to the extent that the administration of such enforcement is confined to other Town officials by law or ordinance;

(3) To appoint and discharge, subject to the review and consent of the Board of Trustees, the heads of Town departments, excepting any Town officer appointed by the Board, including the Municipal Court Judge, Town Attorney, Town Clerk and Town Treasurer, and also excepting members of any Town board or commission appointed by the Board of Trustees. The Town Administrator shall also have the authority to employ, dismiss, suspend or discipline all nondepartment head employees;

(4) To establish, subject to Trustee approval, appropriate personnel standard salary schedules and rules and regulations governing officers and employees of the Town;

(5) To issue such administrative regulations and outline general administrative procedures applicable to areas and departments confined to the Town Administrator's supervision in the form of rules which are not in conflict with the laws of the State or other Town ordinances;

(6) To recommend an annual budget to the Trustees and administer the budget as finally adopted, and to keep the Board of Trustees fully advised, at all times, as to the financial condition of the Town, including an annual report of the Town's affairs and summary of operations of all Town departments;

(7) To recommend to the Board of Trustees for its consideration proposed ordinances, changes in ordinances and such measures as may be deemed necessary, and to attend Trustee meetings with the right to take part in discussions but not to vote;

(8) To supervise and be responsible for the purchase of all supplies, material and equipment as authorized by the Board of Trustees, in the manner necessitated by and subject to the limitations imposed by law, for the various departments, divisions or services of the Town;

(9) To serve as Public Relations Officer of the Town government, in such capacity to investigate and adjust all complaints filed against any employee, department, division or service of the Town, and to cooperate with all community organizations whose aim and purpose is to advance the best interests of the Town and its citizens;

(10) To be available to assist the Town Attorney, Town Clerk, Town Treasurer and Town Engineer with all the facilities of the office of Town Administrator, and those officers in turn shall be available to assist the Town Administrator in the performance of the Town Administrator's duties; and

(11) To perform such other duties that may be prescribed by ordinance or by direction of the Board of Trustees. (Prior code 2.04.030; Ord. 4-2000 §1)

#### **Sec. 2-49. Administrative organization.**

The Town Administrator shall propose an administrative organization plan of the Town which shall be presented to the Board of Trustees for approval. When the plan is approved by the Board of Trustees, it shall become the administrative organization plan of the Town and all Town administrative procedures and functions shall be carried on in accordance with such plan. (Prior code 2.04.040)

**Sec. 2-50. Duties of Treasurer.**

It shall be the duty of the Treasurer to receive and safely keep all money belonging to the Town, and to pay out the same on the order of the Board of Trustees. The Treasurer shall keep an accurate account, in a book furnished him or her for that purpose by the Board of Trustees, of all money received and disbursed by him or her and shall render to the Board of Trustees an account thereof whenever required by it. (Prior code 2.08.080)

**Sec. 2-51. Duties of Town Clerk.**

It shall be the duty of the Town Clerk to make and keep, in a book provided by the Board of Trustees, an accurate record of all the official acts of the Board of Trustees. The Town Clerk shall be the custodian of the Town seal and shall affix the Town seal to such documents as the law or the Board of Trustees requires. The Town Clerk shall keep an accurate record of all his or her official acts in such manner as the Board of Trustees may provide. (Prior code 2.08.090)

**Sec. 2-52. Duties of Town Attorney.**

The Town Attorney shall have 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.
- (2) Prosecute ordinance violations and represent the Town in cases in Municipal Court. He or she shall file with the Town Clerk copies of such records and files relating thereto as the Board of Trustees shall request. The Board of Trustees may contract with or employ special prosecuting legal counsel for the performance of the duties specified in this Subsection.
- (3) Prepare and 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 as 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 code 2.08.110; Ord. 21-2008)

**Secs. 2-53—2-70. Reserved.**

## ARTICLE IV

### Social Security

#### **Sec. 2-71. Legislative declaration.**

(a) 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 of the Town by providing that said employees and officers may participate in the provision of the old-age and survivors insurance system, but also by enabling it to attract and retain in employment the best of personnel and thus increase the efficiency of its government.

(b) The Town Clerk is authorized to establish a system of payroll deduction to be matched by payments by the Town to be made into the contribution fund of the Social Security Act through the State Department of Employment Security, and to make charges of this tax to the fund, or funds, from which wage or salary payments are issued to employees of the Town. Such payments are to be made in accordance with the provisions of Section 1400 of the Federal Insurance Contribution Act on all services which constitute employment within the meaning of that Act. Payments made to the Department of Employment Security shall be due and payable on or before the eighteenth day of the month immediately following the completed calendar quarter, and such payments which are delinquent shall bear interest at the rate of one-half of one percent (.5%) per month until such time as payments are made.

(c) Appropriation is hereby made from the proper fund, or funds, of the Town in the necessary amount to pay into the contribution fund as provided in Section 5(c)(1) of the enabling Act and in accordance with the plan, or plans, and agreement. (Prior code 2.24.010; Ord. 26-1992 §1)

#### **Secs. 2-72--2-90. Reserved.**

## ARTICLE V

### Municipal Court

#### **Sec. 2-91. Established.**

A Municipal Court in and for the Town is created and established to be governed by the provisions of this Article, Section 13-10-101, *et seq.* C.R.S., and the Colorado Municipal Court Rules of Procedure, as from time to time amended. On and after July 1, 1981, the Municipal Court shall be a qualified municipal court of record and a verbatim record of the proceedings of said Court and evidence at trials shall be kept by either electric devices, including but not limited to tape recorders, or by stenographic means. (Prior code 2.28.010)

#### **Sec. 2-92. Jurisdiction.**

The Municipal Court shall have original jurisdiction of all cases arising under the ordinances of the Town, with full power to punish violators thereof by the imposition of such fines and penalties as are prescribed by ordinance or Court rule. The procedures of the Court shall be in accordance with

the Colorado Municipal Court Rules as promulgated by the Colorado Supreme Court. (Prior code 2.28.020)

**Sec. 2-93. Sessions.**

There shall be regular sessions of Municipal Court for the trial of cases. The Municipal Judge may hold a special session of Court at any time. All sessions of Court shall be open to the public; provided, however, 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 proceeding, the Municipal Judge may order the courtroom to be cleared. (Prior code 2.28.030)

**Sec. 2-94. Appointment of Municipal Judge; powers.**

(a) The Court shall be presided over by a Municipal Judge appointed for the term of two (2) years by resolution of the Board of Trustees. Additional judges may be appointed as may be needed to transact the business of the Court. The judges of the Court shall at all times during the term of their office be admitted to, and currently licensed in, the practice of law in Colorado. If the Municipal Judge finds it necessary to disqualify himself or herself in a given case, or should be unable to serve for any reason including vacation or illness, the Board of Trustees may, by resolution, appoint a judge to hear cases for such time as the presiding Judge is absent.

(b) In addition to other powers, the Municipal Judge shall have full power and authority to make and adopt rules and regulations for conducting the business of the Municipal Court, consistent with the Colorado Municipal Court Rules adopted by the Colorado Supreme Court. (Prior code 2.28.040)

**Sec. 2-95. Duties of Municipal Judge as Clerk.**

The presiding Municipal Judge shall act as ex officio Clerk of the Court, without receiving additional compensation as such Clerk. The Municipal Judge, in his or her capacity as ex officio Court Clerk, shall file monthly reports with the Town Clerk of all moneys collected, and on the last day of each month shall account to the Town Treasurer for all moneys received by the Municipal Court during that month. (Prior code 2.28.050)

**Sec. 2-96. Deputy Clerk.**

With the approval of the Board of Trustees, the Municipal Judge may appoint a Deputy Clerk to assist him or her in the performance of his or her duties. (Prior code 2.28.060)

**Sec. 2-97. Court expenses.**

The Board of Trustees shall, on an annual basis, budget and appropriate funds to pay the annual salary of the Municipal Judge, together with such other expenses as may be necessary for the proper operation of the Municipal Court. (Prior code 2.28.070)

**Sec. 2-98. Contempt power.**

(a) When the Municipal Court finds any person to be in contempt, the Municipal Court may vindicate its dignity by imposing on the contemnor a fine not to exceed five hundred dollars (\$500.00) and imprisonment not to exceed a term of ten (10) days.

(b) 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 by jury. (Ord. 26-1992 §1)

**Sec. 2-99. Penalty assessment generally.**

(a) Except where previously or otherwise designated by specific ordinance adopted by the Board of Trustees, the Municipal Judge may designate violations of this Code that may be processed by use of a penalty assessment notice and shall establish a schedule of fines to be paid for each such violation.

(b) At the time that any person is arrested for the commission of a municipal traffic or penal offense which has been designated by the Municipal Judge as being an offense for which a penalty assessment may be issued, the arresting officer may, except when prohibited by Subsection (h) of this Section, offer to give a penalty assessment notice to the defendant. Such penalty assessment notice shall contain the name and address of the defendant; the license number of the vehicle involved, if any; the number of the defendant's driver's license, if any; a citation of the municipal ordinance or code alleged to have been violated; a brief description of the offense; the date and approximate location thereof; the amount of the fine and surcharge prescribed for such offense; the number of penalty points, if any, prescribed for such offense pursuant to Section 42-2-123, C.R.S.; the date the penalty assessment notice is served upon the defendant; shall direct the defendant to appear in the Municipal Court at a specified date and time in the event the penalty is not paid; shall be signed by the arresting officer; and shall contain a place for the defendant to indicate an understanding that payment of the applicable fine or penalty constitutes an acknowledgement of guilt as well as such other information as may be required by law to constitute such penalty assessment notice to be a summons and complaint, should the prescribed penalty not be paid within twenty (20) days following service of the penalty assessment notice upon the defendant. One (1) copy of the penalty assessment notice shall be served upon the defendant and one (1) copy filed with the Clerk of the Municipal Court. The court appearance date specified in the penalty assessment notice must be at least thirty (30) days after the date such penalty assessment notice is served, unless the defendant demands an earlier court appearance date.

(c) The applicable fine or penalty and surcharge may be paid at the office of the Clerk of the Municipal Court, either in person or by postmarking such payment within twenty (20) days from the date the penalty assessment notice is served upon the defendant.

(d) In the case of a defendant who would otherwise be eligible to be issued a penalty assessment notice but does not furnish satisfactory evidence of identity or who the arresting officer reasonably believes will disregard the summons portion of such notice, the defendant may nevertheless be issued a penalty assessment notice if the defendant consents to be taken by the officer to the nearest mailbox and mail the amount of the fine or penalty and surcharge to the Clerk of the Municipal Court.

(e) Acceptance of a penalty assessment notice and payment of the prescribed fine or penalty and surcharge to the Clerk of the Municipal Court shall be deemed an acknowledgement of guilt or liability by the defendant and shall constitute a complete satisfaction for the violation.

(f) If the defendant refuses to accept service of the penalty assessment notice when such notice is tendered, the arresting officer shall forthwith issue and serve upon the defendant a summons and complaint, and such summons and complaint shall be processed in the manner provided by law.

(g) If the defendant accepts service of the penalty assessment notice but fails to pay the prescribed penalty within twenty (20) days thereafter, the notice shall be construed to be a summons and complaint and shall be processed in the manner provided by law.

(h) A summons and complaint, and not a penalty assessment notice, shall be issued when it appears:

(1) The offense is not one (1) which the Municipal Judge has designated as being capable of being handled by use of a penalty assessment notice;

(2) The alleged violation has caused, or contributed to the cause of, an accident resulting in appreciable damage to the property of another or an injury or death to any person; or

(3) The defendant has, in the course of the same transaction, violated a municipal law designated by the Municipal Judge as capable of being handled by use of a penalty assessment notice, and has also violated and been charged with one (1) or more municipal violations which are not designated by the Municipal Judge as being capable of being handled by use of a penalty assessment notice. (Prior code 2.28.080; Ord. 10-2003 §4)

## **Sec. 2-100. Procedures for noncriminal violations.**

(a) *Applicability.* This Section applies to all noncriminal violations of this Code. Criminal violations of the Code, including traffic offenses, shall be subject to the Colorado Municipal Court Rules of Procedure, and when a noncriminal violation is consolidated for trial with a violation which is punishable by imprisonment, then the Colorado Municipal Court Rules of Procedure shall apply to all proceedings thereon.

(b) *Purposes and construction.* This Section is intended to provide for the just determination of all noncriminal municipal ordinance violations. It shall be construed to secure simplicity in procedure, fairness in administration and the elimination of unjustifiable expense and delay.

(c) *Definitions.* As used in this Section, the following definitions shall apply:

*Charging document* shall mean the document commencing or initiating a noncriminal violation matter, whether denoted as a complaint, summons and complaint, citation, penalty assessment notice or other document charging the person with the commission of a noncriminal violation.

*Code* shall mean the Buena Vista Municipal Code.

*Criminal violation* shall mean any violation of the Code, including a traffic offense, which is punishable by imprisonment.

*Defendant* shall mean any person charged with the commission of a traffic infraction or any other violation of this Code which is not punishable by imprisonment.

*Judgment* shall mean the admission of guilt or liability for any noncriminal violation, the entry of judgment of guilt or liability or the entry of default judgment as set forth in this Section against any person for the commission of a noncriminal violation.

*Noncriminal violation* shall mean any violation of the Code which is not punishable by imprisonment.

*Penalty* shall mean a fine imposed pursuant to this Code, or any other penalty for a violation of this Code which does not include the threat or possibility of imprisonment.

*Traffic infraction* means a violation of an ordinance governing vehicles and/or traffic which is not punishable by imprisonment.

*Traffic offense* means a violation of an ordinance governing vehicles and/or traffic which is punishable by imprisonment.

(d) Commencement of noncriminal violation action; contents of charging document; service.

(1) Commencement. An action for a noncriminal violation of this Code shall be commenced by the tender or service of a charging document upon the defendant, or by conspicuously attaching a parking traffic infraction charging document to the subject vehicle, and by filing the charging document with the Municipal Court.

(2) Contents of charging document; amendment; service. The information which shall be included in the charging document, when a charging document may be amended, and how service of the charging document shall be effected, shall be as provided in the Colorado Municipal Court Rules of Procedure, as amended, relating to contents, amendment and service of a complaint or a summons and complaint.

(e) Payment of penalty assessment before appearance.

(1) The Municipal Court Clerk shall accept payment of a penalty assessment for a noncriminal violation without an appearance before the Municipal Court if:

a. Payment is made at any time prior to the date set for first appearance; and

b. Payment is allowable by and in accordance with a penalty assessment schedule in this Code and is accompanied by payment for any costs and/or surcharges.

(2) At the time of payment, the defendant shall sign a waiver of rights and acknowledgement of guilt or liability upon a form approved by the Municipal Court.

(3) This procedure shall constitute an entry in satisfaction of judgment.

(f) First appearance.

(1) If the defendant has not previously acknowledged guilt or liability and satisfied the judgment, the defendant shall appear before the Municipal Court at the time scheduled for first appearance.

(2) The defendant may appear in person or by counsel who shall enter an appearance in the case; provided, however, that if an admission of guilt or liability is entered, the Court may require the presence of the defendant for the assessment of the penalty.

(3) If the defendant appears in person, he or she shall be advised of the following:

a. The right to have the first appearance continued upon request for good cause shown;

b. The nature of the violation alleged in the charging document and the right to a copy of the charging document if it was not previously signed;

c. The penalty and fees, costs and surcharges that may be assessed and the penalty points that may be assessed against the defendant's driver's license, if applicable.

d. The consequences of failure to appear at any subsequent hearing including, with respect to violations of the Model Traffic Code, entry of default judgment against the defendant and reporting the judgment to the State Motor Vehicle Division which may assess points against the defendant's driver's license and may deny an application for a driver's license, or renewal of a driver's license, until such judgment is satisfied.

e. The right to be represented by an attorney at the defendant's own expense.

f. The right to deny the allegations and to have a trial before the court.

g. The right to remain silent and that any statement made by the defendant may be used against him or her.

h. That guilt or liability for the offense must be proven beyond a reasonable doubt.

i. The right to testify, subpoena witnesses, present evidence in accordance with the Colorado Rules of Evidence and cross-examine any witness.

j. That any plea or answer must be voluntary and not the result of undue coercion on the part of any person; and

k. That an admission of guilt or liability constitutes a waiver of the foregoing rights and any right to appeal.

(4) The defendant personally or by counsel shall answer the allegations in the charging document, either by admitting guilt or liability, or by denying the allegations.

(5) If the defendant admits guilt or liability, the Court shall enter judgment and assess the appropriate penalty, fees, surcharges and costs.

(g) Jury trial. A defendant charged solely with noncriminal violations shall have no right to trial by jury, and trial shall be to the Municipal Court. In the event that the defendant is charged with and is to be tried on more than one (1) violation arising out of the same incident and at least one (1) of the charged violations is a criminal violation, the defendant shall have the right to demand a trial by jury as set forth in Rule 223 of the Colorado Municipal Court Rules of Procedure on all violations, which shall be consolidated for purposes of trial. Also, if a defendant is charged with a violation of this Code that would constitute a violation under a counterpart state statute and if a defendant would be entitled to a jury trial for a violation of the counterpart state statute, then the defendant shall be entitled to a jury trial in the Municipal Court on the Code violation.

(h) Right to counsel. A defendant charged solely with noncriminal violations shall have the right to retain counsel, but shall have no right to appointed counsel.

(i) Speedy trial. If the trial of a defendant is delayed more than six (6) months after the date upon which the defendant first entered a plea or answer, the Court shall dismiss with prejudice the charges alleging a noncriminal violation unless the delay is occasioned by the action or request of the defendant; except that, if on the day of a final hearing set within the last ten (10) days of the above time limit, a necessity for a continuance arises which the Court, in the exercise of sound judicial discretion, determines would warrant an additional delay, then one (1) continuance, not exceeding thirty (30) days, may be allowed, after with the dismissal shall be entered as above provided if trial is not held within the additional time allowed.

(j) Final hearing of noncriminal violations. The trial of all noncriminal violations shall be conducted pursuant to the Colorado Rules of Evidence, and the conduct of the hearing shall otherwise be in a form similar to those held for criminal violations.

(k) Judgment on noncriminal violations after trial.

(1) The burden of proof shall be upon the Town and the Municipal Court shall enter judgment in favor of the defendant unless the Town proves the guilt or liability of the defendant beyond a reasonable doubt.

(2) If the defendant admits guilt or liability, or is found guilty of liable, the Municipal Court shall assess an appropriate penalty subject to any other applicable provision of this Code and such additional costs, fees and surcharges as otherwise generally imposed under this Code.

(3) The judgment shall be satisfied upon payment to the Clerk of the Municipal Court of the total amount assessed.

(4) If the defendant fails to satisfy the judgment upon an admission or finding of guilt or liability, or within the time of a reasonable extension granted upon a showing of good cause by and upon the application of the defendant, then such nonpayment in the full amount of the penalty fees, costs and surcharges, if applicable, shall be treated as a default. A default for failure to satisfy a judgment upon an admission or finding of guilt or liability for a violation of a motor

vehicle or traffic regulation under Chapter 8 of this Code shall be certified to the State Motor Vehicle Division for enforcement action.

(l) Default on noncriminal violations.

(1) If the defendant fails to appear for a first hearing on a noncriminal violation on the date set forth in the charging document, or at any hearing, including a final hearing, the Court shall enter judgment against the defendant.

(2) The amount of the judgment shall be the penalty assessment or other appropriate penalty that would be assessed upon an acknowledgement or finding of guilt or liability and such additional costs, fees and surcharges as otherwise generally imposed under this Code.

(3) The defendant may satisfy any judgment entered under this rule by paying the Clerk of the Municipal Court .

(4) No warrant shall be issued for the arrest of any defendant charged with a noncriminal violation who fails to satisfy a default judgment.

(m) Post-trial motions.

(1) There shall be no post-trial motions available in noncriminal violation matters other than a motion to set aside a default judgment.

(2) For good cause shown, the Municipal Court may set aside a default judgment entered in accordance with this Section. *Good cause* shall mean:

a. Mistake, inadvertence, surprise or excusable neglect;

b. The penalty assessment was paid to entry of default judgment.

c. The judgment has been satisfied, released or discharged; or

d. Any other reason justifying relief from the operation of the default judgment.

(3) A motion to set aside a default judgment shall be made within ten (10) days after the judgment was entered.

(n) Appeal. All appeals from the Municipal Court shall be as provided by the Colorado Municipal Court Rules of Procedure.

(o) Discovery, subpoena, disability of judge, time and service and filing of papers. Discovery, subpoena, joinder of offenses and defendants, disability of the Municipal Judge, proof of official record, time and the service and filing of papers shall be as provided by the Colorado Municipal Court Rules of Procedure. (Ord. 10-2003 §4)

**Sec. 2-101. Municipal Court costs.**

Except where a defendant is indigent, the Municipal Court Judge shall assess court costs in the sum of thirty dollars (\$30.00) against any defendant who pleads guilty or nolo contendere, or who enters into a plea agreement, or who, after trial, is found guilty of an ordinance violation. (Ord. 17-1992 §1; Ord. 6-1998 §10)

**Sec. 2-102. Deferred judgment and sentencing.**

In any case in which a defendant has entered a plea of guilty, the Municipal Judge may, upon the written consent of the defendant and the Town Prosecutor, enter a deferred judgment and sentence and continue the case for a period not to exceed one (1) year from the date of the entry of the plea, subject to such terms and conditions as recommended by the Town Prosecutor and approved by the Court. (Ord. 10-2003 §4)

**Secs. 2-103—2-120. Reserved.**

**ARTICLE VI**

**Police Department**

**Sec. 2-121. Creation; composition.**

There is hereby created a Police Department for the Town which shall consist of one (1) Chief of Police and as many police officers as may from time to time be deemed necessary for the safety and good order of the Town. (Ord. 26-1992 §1)

**Sec. 2-122. Departmental rules and regulations.**

The Police Department shall be operated and managed in accordance with such departmental rules and regulations as may from time to time be adopted by the Board of Trustees. (Ord. 26-1992 §1)

**Sec. 2-123. Chief of Police; appointment; powers and duties.**

The Chief of Police shall be appointed by the Town Administrator, subject to review by the Board of Trustees, and shall be the head of the Police Department. The Police Chief shall take the oath as provided in Section 2-43 of this Chapter prior to assuming office and shall be subject to a bond in the amount of five thousand dollars (\$5,000.00), with sureties approved by the Town Administrator, ensuring the faithful discharge by the Police Chief of his or her duties, including the care and disposition of Town funds and property. It shall be the duty of the Chief of Police to:

- (1) See that the ordinances of the Town and the laws of the State are duly enforced and the rules and regulations of the Police Department obeyed, and perform such duties as may be required by law or assigned by the Town Administrator.
- (2) Direct the operations of the Police Department, subject to the rules and regulations thereof.

(3) Render such accounts of the Police Department, his or her duties and receipts as may be required by the Town Administrator, and keep the records of his or her office open to inspection by the Board of Trustees and Town Administrator at any time.

(4) Execute all writs and processes directed to him or her by the Municipal Judge in any case arising under a Town ordinance, and receive the same fees for his or her services that sheriffs are allowed in similar cases. (Prior code 2.08.100; Ord. 26-1992 §1; Ord. 2-1998, §3)

**Sec. 2-124. Emergency response authority.**

Pursuant to Section 29-22-102(3)(a) C.R.S., the Chief of Police is designated as the primary emergency response authority for hazardous substance incidents occurring within the corporate limits of the Town. (Prior code 8.04.010)

**Sec. 2-125. Duties of police officers.**

All members of the Police Department shall have power and duties as follows:

(1) They shall perform all duties required by the Chief of Police.

(2) They shall suppress all riots, disturbances and breaches of the peace and apprehend all disorderly persons in the Town, and shall pursue and arrest any person fleeing from justice in any part of the State.

(3) They shall be the enforcement officers of the Town and shall see that the provisions of the ordinances of the Town and the laws of the State are complied with. They shall arrest without process all persons engaged in the violation in their presence of any provision of the ordinances of the Town or the laws of the State.

(4) They shall execute and return all writs and processes to them directed by the Municipal Judge in any case arising under a Town ordinance, and they may serve the same in any part of the County. (Ord. 26-1992 §1)

**Sec. 2-126. Duty of citizens to aid police officers.**

It shall be the duty of all persons, when called upon by any police officer, to promptly aid and assist such officer in the discharge of his or her duties. (Ord. 26-1992 §1)

**Secs. 2-127--2-140. Reserved.**

**ARTICLE VII**

**Volunteer Fire Department**

**Sec. 2-141. Established.**

There is established the Buena Vista Volunteer Fire Department. (Prior code 2.20.010)

**Sec. 2-142. Purpose.**

The purpose of the Buena Vista Volunteer Fire Department shall be to provide round-the-clock fire protection within the Town, to educate the citizens of the Town in fire protection and in such other areas as the Board of Trustees may direct, and to generally seek to reduce the damage and destruction brought about by fire. (Prior code 2.20.020)

**Sec. 2-143. Powers.**

The Buena Vista Volunteer Fire Department shall have the power to acquire, own and possess fire fighting and related equipment and to exercise all powers reasonably necessary to the prevention and extinguishing of fires; provided, however, that if Town funds are to be so spent, approval of the Board of Trustees shall be obtained prior to such expenditure. (Prior code 2.20.030)

**Sec. 2-144. Bylaws.**

The Buena Vista Volunteer Fire Department shall have the authority to adopt bylaws governing the operation of such department; provided, however, that such bylaws shall not be inconsistent with the ordinances of the Town or the laws of the State; and provided further that such bylaws shall be approved by the Board of Trustees prior to the effective date of such bylaws. Any amendment to the bylaws shall also be approved by the Board of Trustees prior to the effective date of such amendment. (Prior code 2.20.040)

**Sec. 2-145. Oath.**

Prior to assuming office, all officers of the Buena Vista Volunteer Fire Department shall make the same oath as required of officers of the Town. (Prior code 2.20.050)

**Sec. 2-146. Reports to Town Clerk.**

The head administrative official of the Buena Vista Volunteer Fire Department, or his or her designated representative, shall file a written report with the Town Clerk on or before the last day of each month. Such report shall detail the activities and expenditures of the Buena Vista Volunteer Fire Department during the preceding month. (Prior code 2.20.060)

**Secs. 2-147—2-160. Reserved.**

**ARTICLE VIII**

**Airport Board**

**Sec. 2-161. Creation.**

There is created and established the Buena Vista Airport Board, hereafter referred to in this Article as the "Board," which shall operate in accordance with and subject to the provisions, duties and limitations of this Article. (Prior code 2.36.010; Ord. 1-2008 §1)

**Sec. 2-162. Appointment and qualifications; alternates.**

The Board shall consist of seven (7) voting members who shall be appointed by and serve at the pleasure of the Board of Trustees, plus a nonvoting representative of the Airport Fixed Base Operator (FBO) and a nonvoting representative or designee of the Board of Trustees. Board members, inclusive of alternates, need not be residents or qualified electors of the Town. The Board of Trustees shall also appoint two (2) alternate members who shall perform all of the duties of a regular voting member in the absence of a regular voting member from a meeting of the Board. (Prior code 2.36.020; Ord. 21-1992 §1; Ord. 1, 1996 §1; Ord. 11-1998, §1; Ord. 8-2001 §1, Ord. 10-2001 §1; Ord. 1-2008 §2)

**Sec. 2-163. Term of office; vacancies.**

(a) Voting members of the Board, inclusive of alternates, shall serve staggered terms of four (4) years unless earlier removed from office; provided that two (2) of the members first appointed shall initially serve to and until the second Tuesday in April, 2002, and three (3) members and the two (2) alternates shall initially serve to and until the second Tuesday in April, 2004. Voting members may be reappointed to serve on the Board without limitation.

(b) Vacancies in voting member positions shall be filled by appointment made by the Board of Trustees to serve out an unexpired term.

(c) The nonvoting members of the Board representing the fixed base operator and the Board of Trustees shall be appointed and serve at the pleasure of the fixed base operator and Board of Trustees, respectively, and may serve indefinite terms. (Prior code 2.36.030; Ord. 21-1992 §2; Ord. 1, 1996 §2; Ord. 8-2001, §1; Ord. 10-2001 §1; Ord. 1-2008 §3)

**Sec. 2-164. Compensation.**

Members of the Board shall serve without compensation. (Prior code 2.36.040; Ord. 1-2008 §3)

**Sec. 2-165. Duties and responsibilities.**

The Board shall have the following duties and responsibilities:

(1) To serve as a liaison between the Town and the Federal Aviation Administration on all matters pertaining to the operation of the Buena Vista Airport.

(2) To review the operation and facilities of the Buena Vista Airport and make recommendations thereon to the Board of Trustees.

(3) To perform such other functions and duties as the Board of Trustees may, from time to time, assign to the Board. (Prior code 2.36.050; Ord. 1-2008 §3)

**Sec. 2-166. Operation; quorum.**

Voting members of the Board shall elect from its membership a chairperson and vice chairperson who shall serve terms of two (2) years. The Board shall keep contemporaneous minutes of its

meetings, votes and actions. Three (3) voting members shall constitute a quorum for the transaction of business. (Prior code 2.36.060; Ord. 1, 1996 §3; Ord. 17, 1996 §1; Ord. 4-1998, §1; Ord. 8-2001 §1; Ord. 10-2001 §1; Ord. 1-2008 §3)

**Sec. 2-167. Meetings.**

The Board shall meet at such time and place as the Board may determine. All meetings of the Board shall be subject to the same open meeting laws and requirements as are applicable to the meetings of the Board of Trustees. (Prior code 2.36.070; Ord. 1-2008 §3)

**Sec. 2-168. Rules and regulations.**

The Board may adopt rules and regulations governing its operation; provided, however, that no such rule or regulation, or any amendment thereto, shall become effective until such rule, regulation or amendment thereto has been approved by the Board of Trustees. (Prior code 2.36.080; Ord. 1-2008 §3)

**Secs. 2-169—2-180. Reserved.**

**ARTICLE IX**

**Planning and Zoning Commission**

**Sec. 2-181. Creation of Commission.**

A Town Planning and Zoning Commission is created pursuant to Title 31, Article 23, C.R.S. (Prior code 2.16.010; Ord. 22-1994 §1)

**Sec. 2-182. Membership.**

(a) The Town Planning and Zoning Commission shall consist of five (5) members who shall be appointed by the Board of Trustees. Neither the Mayor nor any member of the Board of Trustees shall serve on the Planning and Zoning Commission.

(b) The Board of Trustees may appoint up to two (2) alternate members of the Planning and Zoning Commission. Such alternate members shall have the right to attend all meetings of the Planning and Zoning Commission and to participate in the discussion concerning all matters coming before the Commission. However, no alternate member shall be entitled to vote on any matter coming before the Commission unless a regular member of the Planning and Zoning Commission is absent or is otherwise unable to vote on such matter. The Planning and Zoning Commission may adopt rules concerning the procedures to be followed by the Commission with respect to the voting of alternate members of the Commission.

(c) The terms of the members of the Planning and Zoning Commission shall be six (6) years, or until their successors are qualified and take office. (Prior code 2.16.020; Ord. 8-1993 §1; Ord. 7-1994 §1; Ord. 22-1994 §1)

**Sec. 2-183. Organization and rules.**

The Planning and Zoning Commission shall elect a chairperson from its membership and shall create and fill such other of its offices as it may determine. The Planning and Zoning Commission shall hold at least one (1) regular meeting each month. It shall adopt rules for the transaction of business and shall keep a record of its resolutions, transactions, findings and determinations, which record shall be a public record. (Prior code 2.16.030; Ord. 8-1993 §4; Ord. 22-1994 §1)

**Sec. 2-184. Staff and finances.**

The Planning and Zoning Commission may appoint such employees as it deems necessary for its work; except that the appointment, promotion, demotion and removal of such employees shall be subject to the same provisions of law as govern other corresponding civil employees of the Town. The Planning and Zoning Commission may also contract, with the approval of the Board of Trustees, with municipal planners, engineers, architects and other consultants for such services as it requires. The expenditures of the Planning and Zoning Commission, exclusive of gifts, shall be within the amounts appropriated for the purpose by the Board of Trustees, which shall provide the funds, equipment and accommodations necessary for the Planning and Zoning Commission's work. (Prior code 2.16.040; Ord. 22-1994 §1)

**Sec. 2-185. Powers and duties.**

The Planning and Zoning Commission shall have all of the powers and perform each and all of the duties specified in Parts 2 and 3 of Article 23, of Title 31, C.R.S. or the ordinances of the Town, together with any other duties or authority which may hereafter be conferred upon it by the laws of the State. The performance of such duties and the exercise of such authority are to be subject to each and all limitations expressed in such legislative enactment or enactments. (Prior code 2.16.050; Ord. 22-1994 §1)

**Sec. 2-186. Purposes in view.**

In the preparation of a Master Plan for the physical development for the Town, the Planning and Zoning Commission shall make careful and comprehensive surveys and studies of present conditions and future growth of the Town, with due regard to its relation to the neighboring territory. The Plan shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the Town and its environs which will, in accordance with present and future needs, best promote health, safety, morals, order, convenience, prosperity and general welfare, as well as efficiency and economy in the process of development, including, among other things, adequate provisions for traffic, the promotion of safety from fire, floodwaters and other dangers, adequate provision for light and air, the promotion of healthful and convenient distribution of population, the promotion of good civic design and arrangement, wise and efficient expenditure of public funds and the adequate provision of public utilities and other public requirements. (Prior code 2.16.060; Ord. 22-1994 §1)

**Sec. 2-187. Reference to Commission.**

Any reference in this Code or in any ordinance of the Town to the "Planning Commission" shall be to the Town Planning and Zoning Commission created pursuant to this Article IX. Ord. 22-1994 §1)

**Secs. 2-188--2-200. Reserved.**

**ARTICLE X**

**Tree Board**

**Sec. 2-201. Creation.**

There is created and established a Town Tree Board, to be known as the "Tree Board of the Town of Buena Vista," which shall operate in accordance with and subject to the provisions, duties and limitations of this Article. (Prior code 2.32.010)

**Sec. 2-202. Appointment; qualifications.**

The Tree Board shall consist of seven (7) members, six (6) of whom shall be appointed by the Board of Trustees. The seventh member shall be the Director of Public Works of the Town, who shall be an ex officio member of the Tree Board. The Director of Public Works shall have the same rights, powers and voting privileges as the appointed members of the Tree Board. (Prior code 2.32.020)

**Sec. 2-203. Term of office; vacancies.**

The term of the members shall be three (3) years, except that the term of two (2) of the members appointed to the first Tree Board shall be only one (1) year; the term of two (2) members of the first Tree Board shall be for two (2) years; and the term of the remaining two (2) members of the first Tree Board shall be for three (3) years. In the event that a vacancy shall occur during the term of any appointed member, a successor shall be appointed by the Board of Trustees to serve the unexpired portion of the term. (Prior code 2.32.030)

**Sec. 2-204. Compensation.**

Members of the Tree Board shall serve without compensation. (Prior code 2.32.040)

**Sec. 2-205. Duties and responsibilities.**

The Tree Board shall have the following duties and responsibilities:

- (1) To study, investigate, develop and recommend to the Board of Trustees the adoption of a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets and in other public areas.

(2) Once a written plan is adopted by the Board of Trustees, to recommend annual updating and modification to such plan.

(3) To bring to the attention of the Board of Trustees any action or condition which is in apparent violation of any ordinance of the Town pertaining to trees or matters related to trees, and to recommend to the Board of Trustees any specific remedial or enforcement action desired by the Tree Board.

(4) To perform such other and further duties and responsibilities with respect to the trees located within the Town as may, from time to time, be delegated by the Board of Trustees, or which are provided for by Town ordinance. (Prior code 2.32.050)

**Sec. 2-206. Operation.**

The Tree Board shall elect officers and shall fix the term of such offices. The Tree Board shall keep contemporaneous written minutes of its meetings, inclusive of discussions, votes and actions taken therein. Four (4) members of the Tree Board shall constitute a quorum for the transaction of business. (Prior code 2.32.060; Ord. 17, 1996 §2)

**Sec. 2-207. Meetings.**

The Tree Board shall meet at the Town's Community Center on such dates as the Tree Board may determine. All meetings of the Tree Board shall be subject to the same open meeting laws and requirements as are applicable to the meetings of the Board of Trustees. (Prior code 2.32.070)

**Sec. 2-208. Rules and regulations.**

The Tree Board may adopt rules and regulations governing its operation; provided, however, that no such rule or regulation, or any amendment thereto, shall become effective until such rule, regulation or amendment thereto has been approved by the Board of Trustees. (Prior code 2.32.080)

**Secs. 2-209--2-220. Reserved.**

**ARTICLE XI**

**Recreation Board**

**Sec. 2-221. Creation.**

There is created and established a Town Recreation Board, to be known as the "Recreation Board of the Town of Buena Vista," which shall operate in accordance with and subject to the provisions, duties and limitations of this Article. (Ord. 11-1993 §1)

**Sec. 2-222. Appointment; qualification.**

The Recreation Board shall consist of nine (9) members appointed by the Board of Trustees. Membership shall be representative of the various recreational activities prevalent in the Town. (Ord. 11-1993 §1; Ord. 2, 1995 §1; Ord. 1-1997 § 2)

**Sec. 2-223. Term of office; vacancies.**

The term of the members shall be three (3) years, except that the term of two (2) of the members appointed to the first Recreation Board shall be only one (1) year; the term of two (2) members of the first Recreation Board shall be for two (2) years; and the term of the remaining three (3) members of the first Recreation Board shall be for three (3) years. In the event that a vacancy shall occur during the term of any appointed member, a successor shall be appointed by the Board of Trustees to serve the unexpired portion of the term. (Ord. 11-1993 §1)

**Sec. 2-224. Compensation.**

Members of the Recreation Board shall serve without compensation. (Ord. 11-1993 §1)

**Sec. 2-225. Duties and responsibilities.**

The Recreation Board shall have the following duties and responsibilities:

(1) To study, investigate and recommend to the Board of Trustees the adoption of a plan for the operation, improvement and maintenance of the Town's recreation programs and facilities.

(2) To bring to the attention of the Board of Trustees any matter pertaining to the Town's recreation programs and facilities.

(3) To perform such other and further duties and responsibilities with respect to the Town's recreation programs and facilities as may, from time to time, be delegated by the Board of Trustees, or which are provided for by Town ordinance. (Ord. 11-1993 §1)

**Sec. 2-226. Operation.**

The Recreation Board shall elect officers and shall fix the term of such offices. The Recreation Board shall keep contemporaneous minutes of its meetings, inclusive of discussions, votes and actions taken therein. Five (5) members of the Recreation Board shall constitute a quorum for the transaction of business. (Ord. 11-1993 §1; Ord. 17, 1996, §3; Ord 1-1997 §3; Ord. 4-1998, §2)

**Sec. 2-227. Meetings.**

The Recreation Board shall meet at the Town's Community Center on such dates as the Recreation Board may determine. The Board of Trustees may vote to remove any member of the Recreation Board who is absent from three (3) successive meetings. All meetings of the Recreation Board shall be subject to the same open meeting laws and requirements as are applicable to the meetings of the Board of Trustees. (Ord. 11-1993 §1; Ord. 1-1997 §4; Ord. 4-1998, §2)

**Sec. 2-228. Rules and regulations.**

The Recreation Board may adopt rules and regulations governing its operation; provided, however, that no such rule or regulation, or any amendment thereto, shall become effective until such rule, regulation or amendment has been approved by the Board of Trustees. (Ord. 11-1993 §1)

**Secs. 2-229—2-240. Reserved.**

**ARTICLE XII**

**Trails Advisory Board**

**Sec. 2-241. Creation.**

There is hereby created and established a Town Trails Advisory Board, to be known as the "Trails Advisory Board of the Town of Buena Vista," which shall operate in accordance with and subject to the provisions, duties and limitations of this Article. (Ord. 2-2007 §2)

**Sec. 2-242. Appointment; qualifications.**

The Trails Advisory Board shall consist of seven (7) members and two (2) alternate members. Five (5) of the members and the two (2) alternate members shall be appointed by the Board of Trustees. The sixth and seventh members of the Trails Advisory Board shall be the Public Works Director and the Town Planner, both of whom shall be deemed as ex officio members of the Trails Advisory Board. (Ord. 2-2007 §2)

**Sec. 2-243. Term of office; vacancies.**

The term of the members shall be three (3) years, except that the term of two (2) of the members appointed to the first Trails Advisory Board shall be only one (1) year; the term of two (2) members of the first Trails Advisory Board shall be for two (2) years; and the term of the remaining one (1) member of the first Trails Advisory Board shall be for three (3) years. Additionally, the first alternate appointed to the first Trails Advisory Board shall have a term of two (2) years, and the second alternate appointed to the first Trails Advisory Board shall have a term of only two (2) years. In the event that a vacancy shall occur during the term of any appointed member, a successor shall be appointed by the Board of Trustees to serve the unexpired portion of the open term. (Ord. 2-2007 §2)

**Sec. 2-244. Compensation.**

Members of the Trails Advisory Board shall serve without compensation. (Ord. 2-2007 §2)

**Sec. 2-245. Duties and responsibilities.**

The Trails Advisory Board shall have the following duties and responsibilities:

(1) The Trails Advisory Board shall study, investigate, develop and recommend to the Board of Trustees the adoption of a written plan for the care, preservation, maintenance and improvements of the Buena Vista Trails System.

(2) Once a written plan for the Buena Vista Trails System has been adopted by the Board of Trustees, the Trails Advisory Board shall recommend annual updates and modifications to such plan.

(3) The Trails Advisory Board shall bring to the attention of the Board of Trustees any action or condition which is in apparent violation of any ordinance of the Town pertaining to trails or matters related to trails, or recommend to the Board of Trustees any specific remedial enforcement action desired by the Trails Advisory Board.

(4) The Trails Advisory Board shall perform such other and further duties and responsibilities with respect to trails located within the Buena Vista Trail System as may, from time to time, be delegated by the Board of Trustees or which are provided for by Town ordinance.

(5) Actual members of the Trails Advisory Board have the option to do maintenance work themselves outside of the Public Works Department. This option only applies to actual members appointed to the Trails Advisory Board and does not authorize the Trails Advisory Board to subcontract any such maintenance work to any individuals or agencies outside of the Town unless the Trails Advisory Board elects to coordinate outside volunteers with the Finance Director and submit identification forms to the Finance Director prior to any work being done by said volunteers. (Ord. 2-2007 §2)

**Sec. 2-246. Operation.**

The Trails Advisory Board itself shall elect its officers and shall fix the term of any such offices. The Trails Advisory Board shall keep contemporaneous written minutes of its meetings, inclusive of discussions, votes and actions taken therein. Three (3) members of the Trails Advisory Board shall constitute a quorum for the transaction of business. (Ord. 2-2007 §2)

**Sec. 2-247. Meetings.**

The Trails Advisory Board shall determine the times and locations of its meetings. All meetings of the Trails Advisory Board shall be subject to the same open meeting laws and requirements that are applicable to the meetings of the Board of Trustees. (Ord. 2-2007 §2)

**Sec. 2-248. Rules and regulations.**

The Trails Advisory Board may adopt rules and regulations governing its operations; provided, however, that no such rule or regulation or any amendment thereto shall become effective until such rule, regulation or amendment thereto has been approved by the Board of Trustees. (Ord. 2-2007 §2)

**Secs. 2-249—2-260. Reserved.**

## **ARTICLE XIII**

### **Town Beautification Advisory Board**

#### **Sec. 2-261. Creation.**

There is hereby created and established a Town Beautification Advisory Board, to be known as the "Town Beautification Advisory Board of the Town of Buena Vista," which shall operate in accordance with and subject to the provisions, duties and limitations of this Article. (Ord. 3-2007 §2)

#### **Sec. 2-262. Appointment; qualifications.**

The Town Beautification Advisory Board shall consist of five (5) voting members, two (2) alternate members and up to thirty-five (35) ex officio members. The five (5) voting members shall be appointed by the Board of Trustees. The ex officio members shall be appointed internally by the voting members. (Ord. 3-2007 §2)

#### **Sec. 2-263. Term of office; vacancies.**

The term of the voting members shall be three (3) years, except that the term of two (2) of the members appointed to the first Town Beautification Advisory Board shall be only one (1) year; the term of two (2) members of the first Town Beautification Advisory Board shall be for two (2) years; and the term of the remaining one (1) member of the first Town Beautification Advisory Board shall be for three (3) years. The first alternate appointed to the first Town Beautification Advisory Board shall have a term of two (2) years, and the second alternate appointed to the first Town Beautification Advisory Board shall have a term of two (2) years. Additionally, all ex officio members of the Town Beautification Advisory Board shall have terms of two (2) years. In the event that a vacancy shall occur during the term of any appointed member, a successor shall be appointed by the Board of Trustees to serve the unexpired portion of the open term. (Ord. 3-2007 §2)

#### **Sec. 2-264. Compensation.**

Members of the Town Beautification Advisory Board shall serve without compensation. (Ord. 3-2007 §2)

#### **Sec. 2-265. Duties and responsibilities.**

The Town Beautification Advisory Board shall have the following duties and responsibilities:

(1) The Town Beautification Advisory Board shall make recommendations to the Board of Trustees regarding beautification matters, projects or endeavors and, upon receiving direction from the Board of Trustees, to implement, organize and coordinate any beautification project for the Town.

(2) Members of the Town Beautification Advisory Board have the option to work on beautification projects themselves outside of the Public Works Department. This option only applies to actual members of the Town Beautification Advisory Board and does not authorize the Town Beautification Advisory Board to subcontract any such maintenance work to any

individuals or agencies outside of the Town unless the Town Beautification Advisory Board elects to coordinate outside volunteers with the Finance Director and submit identification forms to the Finance Director prior to any work being done by said volunteers. (Ord. 3-2007 §2)

**Sec. 2-266. Operation.**

The Town Beautification Advisory Board itself shall elect its officers and shall fix the term of any such offices. The Town Beautification Advisory Board shall keep contemporaneous written minutes of its meetings, inclusive of discussions, votes and actions taken therein. Three (3) members of the Town Beautification Advisory Board shall constitute a quorum for the transaction of business. (Ord. 3-2007 §2)

**Sec. 2-267. Meetings.**

The Town Beautification Advisory Board shall determine the times and locations of its meetings. All meetings of the Town Beautification Advisory Board shall be subject to the same open meeting laws and requirements that are applicable to the meetings of the Board of Trustees. (Ord. 3-2007 §2)

**Sec. 2-268. Rules and regulations.**

The Town Beautification Advisory Board may adopt rules and regulations governing its operations; provided, however, that no such rule or regulation or any amendment thereto, shall become effective until such rule, regulation or amendment thereto has been approved by the Board of Trustees. (Ord. 3-2007 §2)

**Secs. 2-269—2-280. Reserved.**