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ARTICLE 1

Elections

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

All elections shall be held and conducted in accordance with the provisions of the Charter. (Ord. 4 §1, 2009)

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

No write-in vote for any municipal office shall be counted unless an affidavit of intent has been filed with the Town Clerk by the person whose name is written in prior to 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. 4 §1, 2009)

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

(a) If the only matter before the voters is the election of persons to office and if, at the close of business on the nineteenth day before the election, there are not more candidates than offices to be filled at such election, including candidates filing affidavits of intent as set forth in Section 2-1-20 above, the Town Clerk shall certify such fact to the Town Council; and it shall hold a meeting and by resolution shall instruct the Town Clerk to cancel the election and shall declare the candidates elected.

(b) Notice of such cancellation shall be published, if possible, and notice of such cancellation shall be posted at each polling place and in not less than one (1) other public place. (Ord. 4 §1, 2009)

ARTICLE 2

Mayor and Town Council

Sec. 2-2-10. Compensation.

(a) The Mayor shall receive the sum of seven thousand two hundred dollars (\$7,200.00) per year for his or her service to the Town.

(b) Each Councilmember shall receive the sum of three thousand six hundred dollars (\$3,600.00) for his or her service to the Town.

(c) The compensation paid to any member of the Town Council, including the Mayor, shall not be increased or diminished for the term of office for which he or she has been elected or appointed. Any Mayor or Councilmember who has resigned or vacated an office prior to the end of his or her elective or appointed term shall not be eligible to election or reappointment to the same during such term if the rate of compensation has been increased. (Prior code 2-2-1, 2-2-2; Ord. 13 §1, 1989 §1; Ord. 21 §1, 1992; Ord. 1 §1, 1999; Ord. 4 §1, 2009)

Sec. 2-2-20. Attendance at meetings.

(a) Attendance requirements. In order to faithfully perform the duties of their office, the Mayor and Councilmembers shall regularly attend Town Council meetings. *Regular attendance*, for the purposes of this Section, shall mean:

(1) No more than two (2) consecutive absences at regular Council meetings; and

(2) Attendance at seventy-five percent (75%) or more of regular Council meetings during the previous one-year period.

(b) Removal for failure to meet attendance requirements. Any Councilmember, including the Mayor, may be removed from office for failure to meet the attendance requirements set forth in Subsection (a) above. Such removal shall be accomplished by the adoption of an ordinance under the procedures set forth in the Charter. No such removal shall be accomplished by an emergency ordinance. Such removal shall be effective upon the effective date of said ordinance. (Prior code 2-2-3, 2-2-4; Ord. 13 §1, 1989; Ord. 4 §1, 2009)

Sec. 2-2-30. Regular meetings.

The regular meetings of the Town Council shall be held on the first and third Mondays of each month at the Town Hall at 7:00 p.m., except on legal holidays, when no meeting shall be held or as otherwise set by the Town Council. (Ord. 4 §1, 2009)

Sec. 2-2-40. Conduct of meetings; voting.

(a) Meetings of the Town Council shall be conducted by the Mayor, according to the rules and procedures adopted by the Town Council.

(b) A majority shall constitute a quorum to do business at all meetings of the Town Council, and each member, including the Mayor, shall vote upon every question put by the Chair unless allowed by the Town Council to abstain. The Mayor shall preside at all meetings of the Town Council and shall have the same voting powers as any member of the Town Council. Upon the taking of any vote, the Town Clerk shall record in the minutes the names of those voting and their votes.

(c) At the hour appointed for meeting, the members shall be called to order by the Mayor or, in his or her absence, by the Mayor Pro Tem, and the Town Clerk shall announce whether a quorum is present. If a quorum is present, the Town Council shall proceed with the business before it, in the manner and order as established by the Town Council. (Ord. 4 §1, 2009)

Sec. 2-2-50. Designation of official public posting places.

The Town's three (3) official public posting places for posting public notices announcing Town Council meetings and other important items, and for posting copies of ordinances after adoption, shall be designated by resolution of the Town Council. (Ord. 1 §1, 1998; Ord. 25 §1, 2000; Ord. 4 §1, 2009; Ord. 2 §1, 2010)

Sec. 2-2-60. Boards and commissions.

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

- (1) Board of Zoning and Architectural Review (See Charter 8.1(B)); and
- (2) Planning Commission. (Ord. 4 §1, 2009)

ARTICLE 3

Officers and Employees

Sec. 2-3-10. Appointed officers.

(a) The following officers of the Town shall be appointed by a majority vote of all the members of the Town Council:

- (1) Town Manager;
- (2) Town Attorney; and
- (3) Municipal Judge.

(b) Said officers shall hold their respective offices until their successors are duly appointed and qualified. Vacancies shall be filled by appointment of the Town Council. (Ord. 4 §1, 2009)

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

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 Town Council, and shall be subject to the control and orders of the Town Council. (Ord. 4 §1, 2009)

Sec. 2-3-30. Administrative services.

(a) All executive and administrative offices shall adhere to the following policies, except when the Town Manager directs that deviations from these provisions are necessary to carry out the necessary administrative services of the Town:

- (1) Office hours: Be open from 8:30 a.m. through 5:00 p.m. on weekdays, and be closed on Saturdays, Sundays and legal holidays.
- (2) Cooperation between departments: Furnish, upon the direction of the Town Manager, any other department such service, labor and materials as may be requisitioned by such department and as its own facilities permit, through the same procedures and subject to the same audit controls as other expenditures are incurred.

(3) Daily deposit: Make a daily deposit of any moneys received directly from the public.

(b) Subject to the approval of the Town Council, the Town Manager may from time to time promulgate such rules and regulations as may be necessary to implement and carry out the administrative services provided by the Town, including a personnel manual; provided, however, that such rules and regulations shall not be inconsistent herewith. (Prior code 2-1-1; Ord. 4 §1, 2009)

Sec. 2-3-40. Social Security.

In the opinion of the Town Council, the extension of the social security system to employees and officers of the Town will be of great benefit not only to the employees and officers by providing that said employees and officers may participate in the provision of the old-age and survivors insurance system, but also to the Town by the efficiency of its government. (Ord. 4 §1, 2009)

ARTICLE 4

Code of Conduct

Sec. 2-4-10. Purpose.

The purpose of this Article is to protect the public health, safety and welfare and the integrity of Town government by defining and prescribing certain conflicts of interest that may arise between the Town and Town Councilmembers, employees or appointees to a Town board, commission, task force or similar body. The Town Council intends to prohibit the appearance and perception of impropriety as well as actual conflicts of interest. This Article also intends to protect the integrity of Town government by providing standards of conduct and guidelines for public officials and public employees to follow when such officials' or employees' private interests as citizens conflict with their public duties; to foster public trust by defining standards of honest government and prohibiting the use of public office for private gain; to specify rules to avoid any appearance of impropriety that may result from the dealings of a public official or public employee with the Town; and to provide a mechanism to enforce the Town's code of conduct. (Ord. 10 §1, 2009)

Sec. 2-4-20. Definitions.

As used in this Article, the following words shall have the definitions ascribed to them, unless otherwise provided:

Affiliate or affiliated with means an employee, partner, agent, stockholder, joint venturer, corporate member, director, manager or officer of any business organization, or counsel, consultant, representative or a person who shares office space with such organization.

Appear on behalf of means to act as a witness, advocate, expert or otherwise support the position of another person.

Business or undertaking means any corporation, limited liability company, partnership, sole proprietorship, trust or foundation or other individual or organization carrying on a business or personal undertaking, whether or not operated for profit.

Contract means any arrangement or agreement pursuant to which any real or personal property, service or other thing of value is to be furnished, transferred, leased or bailed for a valuable consideration.

Employment means providing personal services as an employee or an independent contractor, with or without consideration.

Gift means any payment, entertainment, subscription, forbearance, service or any other thing of value, rendering or deposit of money, which is transferred to a donor directly or in trust for his or her benefit.

Official action means any legislative, administrative or quasi-judicial act of any public official or employee and any vote, decision, recommendation, approval, disapproval or other action, including inaction (as applicable under the circumstances), which involves the use of discretionary authority.

Public employee or *employee* means any person holding any paid position of employment with the Town and whose primary income is derived from Town employment.

Public official or *official* means any person holding a position with the Town by election and any person holding a position as an appointee of the Town Council or the Town Manager, serving on any Town board, commission, task force or similar body.

Relative means any person related to a public official or an employee by blood, marriage or adoption, through the second degree of consanguinity, including, without limitation, the following: spouse, parents, parents-in-law, children, children-in-law, brothers, sisters, brothers-in-law, sisters-in-law, grandparents, grandchildren, aunts, uncles, cousins, nephews and nieces. A separation between spouses shall not be deemed to terminate relationships described above which exist only because of marriage.

Substantial interest means a situation where there exists the reasonable possibility of: (i) a pecuniary gain by the Town Councilmember, appointee to a Town board, commission, task force or similar body, or a relative thereof, or a Town employee from the outcome of any official action; or (ii) the business or undertaking for which the Town Councilmember, appointee to a Town board, commission, task force or similar body or a Town employee is an affiliate, or his or her relative is an affiliate, standing to economically benefit from the outcome of any official action where, considering all of the surrounding circumstances, a reasonably prudent person observing the situation would expect a marked tendency to make or influence a decision other than an objective decision.

Transaction means any contract; any sale or lease of any interest in land, material, supplies or services; or any granting of a development right, license, permit or application. A *transaction* does not include any official action which is legislative in nature and which is of general applicability in which the subject Town official or employee shares the same personal or financial interests as the entire membership of a common class of citizens or residents of the Town, or owners of property in the Town. (Ord. 10 §1, 2009)

Sec. 2-4-30. Conflicts of interest prohibited.

(a) Town Councilmember and board, commission or task force member conflicts of interest. No Town Councilmember or board, commission or task force member shall appear before the Town Council or any Town board, commission, task force or similar body where such individual has a conflict of interest as identified in Section 2-4-40 below.

(b) Town employee conflicts of interest. No Town employee shall appear on behalf of or be employed by a business or undertaking or other person concerning any transaction with the Town, or before the Town Council or any Town board, commission, task force or similar body where such individual has a conflict of interest as identified in Section 2-4-40. An employee may appear before such a body on his or her own behalf or on behalf of such employee's relative. Nothing in this Article shall be deemed to prohibit the Town Manager from establishing additional policies and regulations to prevent conflicts of interest between Town employees and the Town, provided that such policies are no less stringent than the requirements contained in this Article.

(c) Town Councilmembers and Municipal Court. No Town Councilmember shall appear on behalf of or be employed by another person, or be affiliated with a business or undertaking appearing on behalf of or employed by another person, concerning any matter before the Municipal Court; however, a Councilmember or a member of such a business or undertaking may appear on his or her own behalf or on behalf of such person's relative in Municipal Court.

(d) Town employees and Municipal Court. No Town employee shall appear on behalf of or be employed by another person, or be affiliated with a business or undertaking that appears on behalf of or is employed by another person, concerning any matter before the Municipal Court; however, an employee may appear before the Municipal Court on his or her own behalf, and an employee other than a Municipal Judge may appear on behalf of such employee's relative. This authority is intended to allow employees to assist relatives in matters before the Municipal Court to the extent permitted by law.

(e) Board, commission or task force member and Municipal Court. An appointee to a Town board, commission, task force or similar body may appear before the Municipal Court and may be affiliated with a business or undertaking appearing before the Municipal Court. (Ord. 10 §1, 2009)

Sec. 2-4-40. Identifying conflicts of interest.

A Town Councilmember, an appointee to a Town board, commission, task force or similar body or a Town employee shall have a conflict of interest and shall follow the procedure prescribed by Subsection 2-4-60(a) below if such member, appointee or employee:

- (1) Has a substantial interest in any transaction with the Town;
- (2) Has a substantial interest as an affiliate of a business or undertaking with a substantial interest in any transaction with the Town;
- (3) Has a substantial interest as an affiliate of a business or undertaking appearing on behalf of or employed by a person with a substantial interest in any transaction with the Town;

(4) Is an affiliate of a business or undertaking that has taken an official position on any transaction with the Town (unless the individual or such individual's relative has no substantial interest in the outcome of the official action, in which case such individual shall simply identify on the record his or her position);

(5) Is an affiliate of a business or undertaking that is or could be substantially affected by a transaction with the Town (unless the individual or such individual's relative has no substantial interest in the outcome of the official action, in which case such individual shall simply identify on the record his or her position); or

(6) Is required to receive official notice of a quasi-judicial action from the Town. (Ord. 10 §1, 2009)

Sec. 2-4-50. Consent to sue.

No Town Councilmember or appointee to any Town board, commission, task force or similar body shall be a party to or, by himself or herself or as an affiliate of a business or undertaking, appear on behalf of a party in any civil suit in which the Town is an adverse party, unless the member or appointee first obtains the consent of the Town Council. (Ord. 10 §1, 2009)

Sec. 2-4-60. Disclosure and recusal.

(a) Disclosure required. No person described in Subsection 2-4-30(a) or (b) or Section 2-4-40 above shall fail to give written notice of the interest described in such section to the Town Council or the Town board, commission, task force or similar body of which the person is a member and the Town Manager, as soon as reasonably possible after the interest has arisen. Notwithstanding the foregoing, no written notice is required if such person discloses the interest described in Subsection 2-4-30(a) or (b) or Section 2-4-40 above on the record of a public meeting of the Town Council or the Town board, commission, task force or similar body of which the person is a member. The interested Councilmember, employee or appointee shall thereafter refrain from attempting to influence the decisions of the other members of the governing body and:

(1) Refrain from voting upon or otherwise taking official action in such transaction;

(2) Physically absent himself or herself from the room in which a matter related to such transaction is being considered; and

(3) Not discuss any matter related to such transaction with any other member of the Town Council, board, commission, task force or similar body of which the person is a member.

(b) Recusal by Town Council, board, commission, task force or similar body. The Town Council and any Town board, commission, task force or similar body may order recusal of one (1) of its members if that member has an obligation to do so under Subsection 2-4-30(a) or (b) or Section 2-4-40 above and has failed to do so. Such an order is valid if reached after majority vote of the members of the body, not including the member whose recusal is sought, based on competent evidence. (Ord. 10 §1, 2009)

Sec. 2-4-70. Use of public office or confidential information.

No Town Councilmember, employee or appointee to a Town board, commission, task force or similar body shall use his or her public office or position, or disclose or use confidential information obtained as a result of holding his or her public office or position, to obtain financial gain, whether for personal gain, gain for his or her relative, gain of any property or entity in which the official or employee has a substantial interest, or gain for any person or for any entity with whom the official or employee is negotiating for or has any arrangement concerning prospective employment. However, a Town Councilmember, employee or appointee to a Town board, commission or task force may provide services to the Town for compensation, provided that the services are provided pursuant to an administrative policy established for the purpose of the fair distribution of Town contracts and employment. (Prior code 2-3-4; Ord. 4 §1, 2004)

Sec. 2-4-80. Duty to maintain confidential information.

(a) No Town Councilmember or appointee to a Town board, commission, task force or similar body shall disclose confidential information without the permission of the Town Council or similar body, when the confidentiality privilege lawfully belongs to the body as a whole. The sanction for a member of the Town Council, board, commission, task force or similar body shall be censure of the body, reached by a majority vote of the body, not including the member charged with disclosing such confidential information.

(b) No Town employee shall disclose confidential information, obtained as a result of holding his or her public office or position, unless the employee has first received approval by the Town Manager or the Town Attorney. (Prior code 2-3-5; Ord. 4 §1, 2004; Ord. 4 §1, 2009)

Sec. 2-4-90. Gifts to officials and employees.

(a) Gifts prohibited. No Town Councilmember, appointee to a Town board, commission, task force or similar body, Town employee or relative of such employee or official shall accept anything of value, including without limitation a gift, favor or promise of future employment if:

- (1) The official or employee is in a position to take official action with regard to the donor; or
- (2) The Town has an existing, ongoing or pending contract, business or regulatory relationship with the donor.

(b) Exceptions and items not considered gifts. The following shall not be considered gifts for purposes of this Section, and it shall not be a violation of this Article for a person to accept the same:

- (1) Campaign contributions as permitted by law.
- (2) An unsolicited, occasional nonpecuniary gift of a maximum amount of fifty dollars (\$50.00) or less in value. The maximum amount will be adjusted on January 1, 2005, and annually thereafter to reflect changes in the United States Bureau of Labor Statistics Consumer Price Index for the Denver-Boulder Consolidated Metropolitan Statistical Area for All Urban Consumers, All Goods, or its successor index.

(3) A gift from a relative.

(4) An award, publicly presented, in recognition of public service.

(5) Reasonable expenses paid by other governments or governmentally related organizations for attendance at a convention, fact-finding mission or trip, or other meeting, if the person is scheduled to deliver a speech, make a presentation, participate in a panel or represent the Town.

(6) Items which are similarly available to all employees of the Town or to the general public on the same terms and conditions. (Prior code 2-3-6; Ord. 4 §1, 2004)

Sec. 2-4-100. Prior and subsequent employment.

(a) Prior employment. No person shall be disqualified from service with the Town as an official or employee solely because of his or her prior employment. Officials and employees shall not take official action with respect to their former employers for a period of six (6) months from the date of termination of the prior employment.

(b) Disclosure by Town Councilmembers. Members of the Town Council shall report to the Town Manager any change in their employment status that could give rise to a conflict of interest under this Article.

(c) Activities that occur after termination of employment or office. No former official or employee shall seek or obtain employment concerning matters upon which he or she took official action during his or her service with the Town for six (6) months following termination of office or employment. This provision may be waived by the Town Council or the Town Manager.

(d) Appearance and participation after termination. No former official or employee shall appear before, or participate in, a Town board, commission, task force or similar body on which he or she was a member or served directly as an employee concerning any matter or on which he or she took official action during his or her service with the Town for twelve (12) months following termination of office or employment. This prohibition may be waived by the Town Council by appointment or vote, or by an order of a body having jurisdiction thereover.

(e) Participation in litigation after termination: No former official shall engage in any action or litigation in which the Town is involved on behalf of any other person or entity, if the action or litigation involves a matter upon which the person took official action during his or her service with the Town for twelve (12) months following termination of service with the Town. (Prior code 2-3-7; Ord. 4 §1, 2004)

Sec. 2-4-110. Employment of relatives.

No official or employee shall appoint, hire or advocate the appointment or hiring by the Town of any person who is his or her relative. In the event that an employee is concerned that the employee's decision to appoint, hire or advocate the appointment or hiring by the Town of a person who is the employee's relative may cause an appearance of violating this Section, the employee may request that the Town Manager make such decision on the employee's behalf. (Prior code 2-3-8; Ord. 4 §1, 2004)

Sec. 2-4-120. Voting on annual budget resolution.

Nothing in this Article shall prohibit a Town Councilmember from voting on the resolution adopting the annual fiscal year budget, regardless of whether or not such Town Councilmember may otherwise have a conflict of interest with respect to a line item contained in that budget, such Town Councilmember's right to vote on the resolution adopting the annual fiscal year budget being expressly permitted hereunder. (Ord. 10 §1, 2009)

Sec. 2-4-130. Enforcement.

(a) Violations prohibited. No person shall violate the requirements of this Article.

(b) Complaints. A complaint alleging a violation of this Article may be initiated by any of the following:

(1) Complaints initiated by Town Manager: The Town Manager may initiate an investigation of any Town employee, other than an employee directly reporting to the Town Council, if facts are alleged to the Town Manager in any form that, if true, would constitute a violation of the provisions of this Article.

(2) Complaints initiated by citizen: A citizen of the Town may initiate an investigation of any Town Councilmember, employee or appointee to a Town board, commission, task force or similar body by filing a sworn statement with the Town Clerk setting forth facts which, if true, would constitute a violation of a provision of this Article.

(3) Complaints initiated by Town Council: The Town Council may initiate an investigation of any of its employees, and of any Town Councilmember or appointee to a Town board, commission, task force or similar body, if facts are alleged to the Town Council that, if true, would constitute a violation of the provisions of this Article.

(c) Investigation of complaint. The Town Manager (for Town employees) or the Town Council (for all others) may appoint the Town Attorney or a special counsel to conduct an investigation regarding a violation of this Article. The Town Attorney may request that the Town Council or the Town Manager appoint special counsel to investigate and prosecute any case that may cause the Town Attorney to have a conflict of interest may cause an appearance of impropriety under the provisions of this Article or may violate any rule regarding professional responsibility.

(d) Response to all complaints required. A public official or body, or appointee thereof, conducting an investigation pursuant to Subsection (b) above shall prepare written findings of fact and conclusions of law in response to all complaints that shall be made available to the public upon completion of the investigation. The response may include a finding that the complaint has no merit, is frivolous, is groundless or is brought for purposes of harassment.

(e) Limitations. No action may be taken on any complaint that is filed later than twelve (12) months after a violation of this Article is alleged to have occurred. (Prior code 2-3-10; Ord. 4 §1, 2004; Ord. 4 §1, 2009)

Sec. 2-4-140. Sanctions and remedies for violation.

(a) Contracts voidable. If a contract or sale is consummated contrary to the provisions of Section 2-4-40 above, the Town Council may void the contract or sale.

(b) Removal by Town Council. The Town Council may remove any member of a Town board, commission, task force or similar body that it finds has willfully violated any provision of this Article, or the Town Manager; or the Town Council may direct the Town Manager to remove any employees that it finds has willfully violated any provision of this Article.

(c) Sanction recommendations. If the party conducting an investigation pursuant to Section 2-4-130 finds that a Town Councilmember, an appointee to a Town board, commission, task force or similar body, or an employee has violated any provision of this Article, the investigator shall provide its findings and recommendations to the Town Manager or Town Council, as appropriate, who or which in turn may take any of the following actions:

(1) In the case of a Town Councilmember, a motion of censure;

(2) In the case of a Town employee, a motion of censure or a recommendation that the employee's appointing authority consider disciplining or discharging the employee; or

(3) Removal as provided in Subsection (b) above.

As an alternative or in addition to the sanctions imposed herein, the Town Council may resolve that any person or entity causing, inducing or soliciting a public official or public employee to violate this Article may not be awarded any Town contract, grant, loan or any other thing of value for a period of twelve (12) months or that any such contract, grant, loan or thing of value may be terminated, repaid or forfeited.

(d) Civil remedies. Any person affected by a Town transaction may commence a civil action in the District Court in and for the County of Gunnison for equitable relief to enforce the provisions of this Article upon a showing of willful violation of any provision of this Article. Before filing such an action, the person shall present the claim to the Town Attorney to investigate in accordance with Subsection 2-4-130(c) above. The Town Attorney or appointed special counsel shall have sixty (60) days to act thereon. No civil action in district court pursuant to this Subsection may be commenced later than twelve (12) months after a violation of this Article is alleged to have occurred.

(e) Defense: It shall be a defense to any charge of a violation of this Article if the Town councilmember, employee or appointee to a Town board, commission, task force or similar body obtained an advisory opinion pursuant to Section 2-4-150 below and was acting in accordance with the advice provided thereby. (Prior code 2-3-11; Ord. 4 §1, 2004; Ord. 4 §1, 2009)

Sec. 2-4-150. Advisory opinions and outside counsel appointment.

(a) Advisory opinions. Any Town Councilmember, employee or appointee to a Town board, commission, task force or similar body may request advisory opinion from the Town Attorney whenever a question arises as to the applicability of this Article to a particular situation.

(b) Appointment of outside counsel. If a significant controversy arises under this Article, the Town Attorney may appoint a neutral outside counsel to assist in resolving the issue. (Prior code 2-3-12; Ord. 4 §1, 2004; Ord. 4 §1, 2009)

Sec. 2-4-160. Exemptions.

Nothing in this Article shall be deemed to apply to a Town employee or appointee to a Town board, commission, task force or similar body who appears before any such body to urge action on a policy or issue of a general civic nature. (Prior code 2-3-13; Ord. 4 §1, 2004)

ARTICLE 5

Municipal Court

*Division 1
Administration*

Sec. 2-5-10. Creation of Municipal Court.

There is hereby created and established a Municipal Court in and for the Town, pursuant to and governed by the provisions of state statutes. The Municipal Court is hereby designated as a "qualified municipal court of record." Pursuant to this designation, a verbatim record of the proceedings and evidence at trials of the Municipal Court shall be kept by electronic device of sufficient quality for the preparation of full and accurate transcripts from such recordings. (Prior code 12-1-1; Ord. 4 §1, 2009)

Sec. 2-5-20. Original jurisdiction.

The Municipal Court shall have original jurisdiction of all cases arising under the provisions of this Code and ordinances of the Town, with full power to punish violators thereof by the imposition of such fines and penalties as are prescribed in this Code or by ordinance. (Ord. 4 §1, 2009)

Sec. 2-5-30. Qualification of Judge.

The Town Council hereby requires that any person serving as Municipal Judge or Deputy Municipal Judge shall be admitted to the Colorado Bar and be currently licensed to practice law in the State. (Prior code 12-1-2; Ord. 4 §1, 2009)

Sec. 2-5-40. Oath of office.

Before entering upon the duties of his or her office, the Municipal Judge shall take an oath of affirmation that he or she will support the Constitution of the United States, the Constitution of the State and the laws of the Town, and will faithfully perform the duties of his or her office. (Ord. 4 §1, 2009)

Sec. 2-5-50. Court Clerk.

(a) The Municipal Judge may appoint an individual to serve as Court Clerk, whose duties shall be those assigned by the Municipal Judge. The compensation of the Court Clerk shall be an annual salary set by the Town Council, and shall be payable as are other salaries to municipal employees.

(b) The Court Clerk shall file monthly reports with the Town Clerk of all monies collected by him or her. (Prior code 12-1-4; Ord. 4 §1, 2009)

Sec. 2-5-60. Sessions generally.

There shall be regular sessions of the Municipal Court for the trial of cases as may be fixed by the Municipal Judge. The Municipal Judge may hold special sessions of court at any time, including Sundays, holidays and evenings. (Prior code 12-1-3; Ord. 4 §1, 2009)

Sec. 2-5-70. Appropriations.

The Town Council shall, on an annual basis, budget and appropriate such monies as may be necessary for the proper operation of the Municipal Court. (Prior code 12-1-5)

Sec. 2-5-80. Rules of procedure.

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 Municipal Court Rules of Procedure as promulgated by the Colorado Supreme Court. (Prior code 12-1-6; Ord. 4 §1, 2009)

Sec. 2-5-90. Contempt power.

(a) When the Court finds any person to be in contempt, the Court may vindicate its dignity by imposing on the contemnor a fine not to exceed one thousand dollars (\$1,000.00) and imprisonment not to exceed a term of one (1) year.

(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. 4 §1, 2009)

*Division 2
Procedures*

Sec. 2-5-210. Deferred judgment.

(a) In any case in which the offender has entered a plea of guilty, the Municipal Court has the power, with the consent of the offender and the Town Marshal or Town Attorney, to continue the case for a period not to exceed one (1) year from the date of entry of the plea for the purpose of entering judgment and sentence upon such plea, except that such period may be extended for an additional time of up to six (6) months if the failure to pay restitution is the sole condition of the deferred sentence which has not been fulfilled because of inability to pay, and the offender has shown a future ability to pay.

(b) If an offender has received a deferred judgment and violates one (1) or more of the conditions of the deferred judgment, the Municipal Court shall enter judgment and impose sentence upon the offender's original plea of guilty. Whether a breach of conditions has occurred shall be determined by the Municipal Court without a jury upon application of the Town Attorney and upon written notice of hearing of not less than ten (10) days to the offender or his or her attorney of record.

(c) Whenever a deferred judgment arrangement is entered into as set forth above, the offender shall pay the Town additional costs as stated in the annual fee schedule approved by the Town Council prior to the Municipal Court being requested to approve the arrangement or stipulation. (Prior code 9-10-2; Ord. 17 §1, 1992; Ord. 15 §3, 1997; Ord. 10 §1, 1998; Ord. 1 §1, 2000; Ord. 4 §1, 2009)

Sec. 2-5-220. Failure to pay judgment; confinement.

Upon the rendition of judgment against any defendant for violating any ordinance of the Town, the Municipal Judge shall make an order, and enter the same upon his or her docket, that if the defendant neglects or refuses to satisfy such judgment and cost of suit, he or she shall be confined in jail or such other place as the Town Manager may designate. Execution may be issued immediately on the rendition of judgment and placed in the hands of the Town Marshal for collection. (Prior code 12-2-1; Ord. 4 §1, 2009)

Sec. 2-5-230. Failure to pay judgment; labor.

Every person against whom any penalty, fine or forfeiture shall be recovered under this Code, who refuses or neglects to pay the same, when demanded upon execution, shall be committed to the Town jail or such other place as the Town Manager may designate. Such person shall labor at such work as his or her strength will permit until said fine, penalty or forfeiture and all costs thereon are fully paid, to be allowed at the rate of fair amount per day for each day's work performed under the direction of the Town Manager or Town Marshal; provided that no such person shall be required to work more than eight (8) hours per day; and provided further, that no such imprisonment shall exceed ninety (90) days for any one (1) offense. (Prior code 12-2-2; Ord. 4 §1, 2009)

Sec. 2-5-240. Report of work performed.

The Town Marshal shall, as often as required, make a report to the Town Council of the number of days work performed in the pursuance of this Division, and by whom performed. (Prior code 12-2-3)

Sec. 2-5-250. Confinement prior to trial.

A party in custody who cannot be tried on account of the absence of witnesses or other cause, and who cannot give bail for his or her appearances, may be confined in jail or other place of confinement provided for the purpose, as set forth by law. (Prior code 12-2-5; Ord. 4 §1, 2009)

Sec. 2-5-260. Failure to answer summons.

When a defendant fails to appear at the time set for the trial, the Municipal Judge shall hear and examine the witnesses offered on the part of the Town, and shall render judgment by default for such sum as the Municipal Judge may deem proper. (Prior code 12-2-6; Ord. 4 §1, 2009)

Sec. 2-5-270. Town officer as competent witness.

In all prosecutions instituted by the Town, any officer of the Town shall be a competent witness of the Town. (Prior code 12-2-7; Ord. 4 §1, 2009)

Sec. 2-5-280. Payment of costs.

In all prosecutions for fine or penalty, when the defendant is acquitted, the informer or prosecutor may, in the discretion of the Municipal Judge, be adjudged to pay the costs if it appears to the satisfaction of the Municipal Judge that the prosecution was instituted vexatiously or without reasonable cause. (Prior code 12-2-8)

Sec. 2-5-290. Complaint by Town Marshal.

Whenever any credible person gives information to the Town Marshal that any person has violated any ordinance of the Town, it shall be the duty of the Town Marshal thereupon to make a complaint before the Municipal Judge for a violation of such ordinance. The procedure to be followed by the Municipal Judge for such complaint and proceedings shall be the same as is prescribed for other cases in this Article. (Prior code 12-2-9; Ord. 4 §1, 2009)

Sec. 2-5-300. Basis of complaints.

Any complaint made for the violation of an ordinance of the Town may be made upon information and belief of any person. (Prior code 12-2-10; Ord. 4 §1, 2009)

ARTICLE 6

Marshal's Department

Sec. 2-6-10. Creation; composition.

There is hereby established a Marshal's Department for the Town, which shall consist of one (1) Town Marshal and such police officers as may be appointed by the Town Manager from time to time as hereinafter provided, for the safety and good order of the Town. (Prior code 7-1-1; Ord. 4 §1, 2009)

Sec. 2-6-20. Departmental regulations.

The Marshal's Department shall be operated and managed in accordance with such departmental rules and regulations as may from time to time be adopted by the Town Council. (Ord. 4 §1, 2009)

Sec. 2-6-30. Duties of Town Marshal.

It shall be the duty of the Town Marshal 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 Marshal's Department obeyed, and perform such duties as may be required by the Town Council.

(2) Direct the operations of the Marshal's Department, subject to the rules and regulations thereof.

(3) Render such accounts of the Marshal's Department, his or her duties and receipts as may be required by the Town Council, and keep the records of his or her office open to inspection by the Town Council at any time. (Ord. 4 §1, 2009)

Sec. 2-6-40. Deputy marshals.

The Town Manager is hereby authorized to appoint persons of suitable character as police officers of the Town, to act as deputies under the direction of the Town Marshal, and to pay them for their services on behalf of the Town. (Prior code 7-1-9)

Sec. 2-6-50. Special police officers.

In case of emergency, the Town Manager is hereby authorized to appoint persons of suitable character as special police officers, and may at any time appoint any officer of the Town as a special police officer. Such police officers shall possess the same powers as police officers on the regular force, shall obey the rules and regulations of the Marshal's Department and shall act under the directions of the Town Marshal. (Prior code 7-1-4; Ord. 4 §1, 2009)

Sec. 2-6-60. Duties of police officers.

All members of the Marshal's Department shall have power and duties as follows:

- (1) They shall perform all duties required by the Town Marshal.
- (2) 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.
- (3) They shall execute and return all writs and processes directed to them 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. 4 §1, 2009)

Sec. 2-6-70. Arrest power.

(a) The Marshal and police officers, as conservators of the peace, shall have the power to arrest a person when:

- (1) Such police officer has a warrant commanding that such person be arrested;
- (2) Any crime has been or is being committed by such person in his or her presence; or
- (3) Such police officer has probable cause to believe that an offense was committed by the person to be arrested.

(b) Such police officers shall have all powers granted under the laws of the State to perform their duties for the Town. (Prior code 7-1-2; Ord. 4 §1, 2009)

Sec. 2-6-80. Oath of officers.

Before entering upon the duties of his or her office, the Town Marshal and each police officer shall take and subscribe an oath that he or she will support the Constitution of the United States, the Constitution and laws of the State and the ordinances of the Town, and that he or she will faithfully perform the duties of the office upon which he or she is about to enter. (Ord. 4 §1, 2009)

Sec. 2-6-90. Parking control officers.

The Town Manager is hereby authorized to appoint persons of suitable character as parking control officers of the Town, to act under the direction of the Town Marshal, and to pay them for their services on behalf of the Town. Such parking control officers shall possess only the power to issue citations for violations of parking ordinances of the Town and other duties with respect to such power. (Prior code 7-1-10)

Sec. 2-6-100. Emergency evacuation policy.

When a situation dictates that evacuation of the citizens, residents and visitors of the Town may be necessary to protect lives, even though the real danger may be several hours away, the Town Marshal, under the direction of the Town Manager, will issue an order for evacuation. When practical, the Town Marshal shall confer with the Mayor and Town Manager prior to issuing the order. (Prior code 7-1-13; Ord. 18 §1, 2002; Ord. 4 §1, 2009)

ARTICLE 7

Planning Commission

Sec. 2-7-10. Creation.

Pursuant to state law, there is hereby created a Planning Commission for the Town. The Town Council shall serve as the Planning Commission. The Planning Commission shall have all of the authority, power and responsibilities granted and required of it as set forth in this Code and state law, and shall hereinafter be referred to as the "Planning Commission." (Prior code 15-1-1; Ord. 29 §1, 1995; Ord. 4 §1, 2009)

Sec. 2-7-20. Members; terms.

The Planning Commission shall be comprised of one (1) Chair, who shall be the Mayor, one (1) Chair who shall be the Mayor Pro Tem, and five (5) members who shall be members of the Town Council. The terms of the Chair, Vice Chair and members of the Planning Commission shall coincide with the terms of the serving Town Council members; and their removal, and the filling of any vacancies shall be the same as set forth in Section 3.8 of the Home Rule Charter. (Prior code 15-1-1; Ord. 29 §1, 1995; Ord. 4 §1, 2009)

Sec. 2-7-30. Purpose.

The Planning Commission is created for the following purposes:

- (1) To prepare and maintain, subject to periodic revision as necessary, a Master Plan as described by state statutes.
- (2) To implement the provisions of Chapters 16 and 17 of this Code, and to perform all functions and powers referred to in said chapters where reference is made.
- (3) To study and recommend to the Town Council amendments to the Zoning Map of the Town.

- (4) To study and recommend appropriate zoning classifications for all annexations to the Town.
- (5) To exchange information with the various governmental agencies charged with planning and zoning responsibilities and with the Board of Zoning and Architectural Review.
- (6) To have all other duties and powers incidental to the above and any and all powers and duties set out by state statute, except that nothing herein shall permit the Planning Commission to make amendments or changes in the zoning of the Town, such powers expressly being reserved by the Town Council. (Ord. 4 §1, 2009)

Sec. 2-7-40. Meetings; quorum.

Meetings of the Planning Commission shall be called by the Chair or, in his or her absence, by the Vice Chair, as appropriate, given the business to be transacted by the Planning Commission. Four (4) members of the Planning Commission shall be a quorum for the transaction of business. The meetings of the Planning Commission shall be open to the public, except as otherwise allowed by the Colorado Sunshine Act of 1972, as amended; and it shall take official action only at a public meeting by resolution or motion adopted by the affirmative vote of at least four (4) members of the Planning Commission, unless otherwise required by state law. (Prior code 15-1-1; Ord. 29 §1, 1995; Ord. 4 §1, 2009)

Sec. 2-7-50. Record of proceedings.

Planning Commission meetings shall be recorded for the purpose of creating a record thereof, and the Town Clerk shall be present at all meetings and shall provide written minutes of the official actions taken by the Planning Commission, which minutes shall be open for inspection by any person at reasonable times. (Prior code 15-1-1; Ord. 29 §1, 1995; Ord. 4 §1, 2009)