

## CHAPTER 2

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## ARTICLE I

### Elections

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

All elections shall be held and conducted in accordance with the Colorado Municipal Election Law. The Town may by ordinance determine to follow all or part of the provisions of the Uniform Election Code for any election. (Ord. 316 §1, 1997)

#### **Sec. 2-1-20. Write-in votes.**

No write-in vote for any municipal office shall be counted unless the candidate files an affidavit of intent with the Town Clerk prior to twenty (20) days before the day of the municipal election. The affidavit of intent shall indicate that the person desiring the office is qualified to assume the duties of that office if elected. (Prior code 2-2-1; Ord. 250 §1, 1994; Ord. 316 §1, 1997)

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

(a) In any municipal election, 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, the Town Clerk shall certify such fact to the Board of Trustees, and it shall hold a meeting and by resolution shall instruct the Town Clerk to cancel the election and declare the candidates elected. Upon such declaration, the candidates shall be deemed elected.

(b) Notice of such cancellation shall be published, if possible, in order to inform the electors of the Town, and notice of such cancellation shall be posted at each polling place and in not less than one (1) other public place. (Ord. 251 §1, 1994; Ord. 316 §1, 1997)

## ARTICLE II

### Mayor and Board of Trustees

#### **Sec. 2-2-10. Powers.**

The legislative and corporate authority of the Town is by state law vested in a Board of Trustees, consisting of one (1) Mayor and six (6) Trustees. For the purposes of this Code, the terms *Town Board*, *Board*, *Board of Trustees*, *Board members*, and *Corporate Authorities* shall mean the Mayor and the Trustees constituted together as a seven-member body, and shall be deemed to be synonymous terms. The Board of Trustees shall exercise those powers as granted to it by state law or by municipal ordinance, and to exercise all power conferred upon or possessed by the Town, including but not limited to the power to adopt ordinances, resolutions and policies, to expend funds and to enter into agreements or contracts as it shall deem proper in the exercise thereof. (Prior code 2-1-1; Ord. 316 §1, 1997; Ord. 438 §1, 2002)

**Sec. 2-2-20. Compensation.**

(a) The Mayor shall be entitled to receive, as compensation for his or her services as Mayor, the sum of two hundred eight dollars (\$208.00) per meeting, for attendance at regular or special meetings of the Board of Trustees, or at such other meetings as authorized by the Board of Trustees, with a maximum compensation of four hundred sixteen dollars (\$416.00) per month. The compensation shall be paid in arrears, in addition to reimbursement for itemized and authorized expenses incurred in the performance of Town business.

(b) Each Trustee shall be entitled to receive, as compensation for his or her services as Trustee, the sum of one hundred fifty dollars (\$150.00) per meeting, for attendance at regular or special meetings of the Board of Trustees, or at such other meetings as authorized by the Board of Trustees, with a maximum compensation of three hundred dollars (\$300.00) per month. The compensation shall be paid in arrears, in addition to reimbursement for itemized and authorized expenses incurred in the performance of Town business.

(c) Any person appointed to fill a vacancy in the office of Mayor or Trustee shall receive the same compensation as his or her predecessor until the end of the term of office occurs for which the person was appointed.

(d) Attendance at a meeting is required in order to receive the compensation provided for in this Section. For purposes of this Section, in addition to the regular or special meeting as defined in Sections 2-2-130 and 2-2-140, a workshop, public hearing, study session, Board committee-of-the-whole meeting or other similar assembly of the Board of Trustees shall also be defined as a *meeting*; except, however, that any such workshop, hearing, session or meeting that is held concurrently with or subsequently to another Board of Trustees meeting on the same date shall not be considered as a separate meeting. Any meeting or hearing that is duly continued to a new date and time certain shall be deemed a separate meeting. The Board of Trustees may from time to time, by motion made, seconded and passed, approve attendance at other meetings for which credit will be given toward the compensation provided in this Section.

(e) The Mayor or a Trustee who is directed by an affirmative vote of the Board of Trustees to attend a meeting which conflicts with the regularly scheduled meeting of the Board of Trustees shall, for the purposes of this Section, be paid for the attendance as though in attendance at the meeting of the Board of Trustees.

(f) The provisions of this Section shall become effective for the officers elected in April 2006 when they take their oath of office pursuant to Section 31-4-401, C.R.S.; except that no Trustee or Mayor currently holding office shall be entitled to increased compensation as set forth herein during the term of office in which he or she is now serving. (Ord. 252 §§1, 2, 3, 1994; Ord. 435 §1, 2002, Ord. 552 §1, 2006)

**Sec. 2-2-30. Mayor; duties.**

(a) The Mayor shall preside over the meeting of the Board of Trustees, and shall perform such duties as may be required by statute or ordinance.

(b) Insofar as required by statute, and for all ceremonial purposes, the Mayor shall be the executive head of the Town. He or she shall be the presiding officer of the Board of Trustees and have full voting privileges as a member of the Board.

(c) The Mayor shall execute and authenticate by his or her signature such instruments as the Board of Trustees, or any statutes or ordinances shall require.

(d) Except as may be required by statute, the Mayor shall exercise only such powers as the Board of Trustees shall specially confer upon him or her. (Prior code 2-3-1; Ord. 316 §1, 1997; Ord. 436 §1, 2002)

**Sec. 2-2-40. Mayor; term.**

At the April 2, 1974, election, and at the regular election every four (4) years thereafter, a Mayor shall be elected to serve a four-year term. (Prior code 2-3-2)

**Sec. 2-2-50. Mayor; qualifications.**

The Mayor shall be a registered elector who has resided in the Town for at least twelve (12) consecutive months immediately preceding the date of election or appointment. Any person who has resided within an area annexed to the Town for the time prescribed in this Section shall be deemed to have met the residency requirements for the Town. If the Mayor ceases to reside within the Town limits, he or she shall be deemed thereby to have vacated his or her office and the Board of Trustees, after adoption of a resolution declaring the office vacant, may proceed with the appointment of a successor as provided by law. (Prior code 2-3-3)

**Sec. 2-2-60. Filling vacancies.**

In the case of death, resignation, vacation or removal for cause of the Mayor during his or her term of office, the Board of Trustees shall within sixty (60) days of the vacancy appoint a successor; if the Board of Trustees has not appointed a successor within sixty (60) days of the vacancy, the Board of Trustees shall call for an election to fill the vacancy as provided by law. (Prior code 2-3-4; Ord. 316 §1, 1997)

**Sec. 2-2-70. Mayor Pro Tem.**

At its first meeting following each biennial election, the Board of Trustees shall choose one (1) of the Trustees as Mayor Pro Tem who, in the absence of the Mayor from any meeting of the Board or during the Mayor's absence from the Town or his or her inability to act, shall perform the duties of Mayor. When performing the Mayor's duties, the Mayor Pro Tem votes as a Trustee. (Prior code 2-3-5)

**Sec. 2-2-80. Acting Mayor.**

In the event of absence or disability of both the Mayor and Mayor Pro Tem, the Board of Trustees may designate one (1) of the Trustees to serve as Acting Mayor during such absence or disability. When performing the Mayor's duties, the Acting Mayor votes as a Trustee. (Prior code 2-3-6; Ord. 438 §2, 2002)

**Sec. 2-2-90. Trustees; duties.**

The six (6) Trustees shall have and perform such duties and exercise such powers as granted by Title 31 of the Colorado Revised Statutes, this Code and other ordinances of the Town, and shall vote on all ordinances, resolutions and motions in their legislative capacity, or otherwise announce an abstention and the reasons therefor. (Prior code 2-4-1; Ord. 438 §3, 2002)

**Sec. 2-2-100. Trustees; terms.**

At the April 2, 1974, election, six (6) Trustees shall be elected. The three (3) candidates for Trustee receiving the highest number of votes shall be elected for four-year terms, and the three (3) candidates for Trustee receiving the next highest number of votes shall be elected for two-year terms. At the next subsequent regular election and at each regular election thereafter, the three (3) candidates for Trustee receiving the highest number of votes shall be elected to serve four-year terms and candidates receiving the next highest number of votes, in descending order, shall be elected to fill any unexpired term or terms. A successor appointed by the Board of Trustee or elected to fill any vacancy shall serve until the next regular election, at which time a candidate shall be elected to serve the unexpired term. (Prior code 2-4-2; Ord. 316 §1, 1997; Ord. 438 §4, 2002)

**Sec. 2-2-110. Trustees; qualifications.**

Each Trustee shall be a registered elector who has resided in the Town for at least twelve (12) consecutive months immediately preceding the date of election or appointment. Any person who has resided within an area annexed to the Town for the time prescribed in this Section shall be deemed to have met the residency requirements for the Town. If a Trustee ceases to reside within the Town limits, he or she shall be deemed thereby to have vacated his or her office and the Board of Trustees, after adoption of a resolution declaring the office vacant, may proceed with the appointment of a successor as provided by law. (Prior code 2-4-3; Ord. 316 §1, 1997; Ord. 438 §5, 2002)

**Sec. 2-2-120. Filling vacancies.**

In the case of death, resignation, vacation or removal for cause of a Trustee during his or her term of office, the Board of Trustees shall by majority vote of all members of the Board of Trustees appoint a successor within sixty (60) days of the vacancy; if the Board of Trustees has not appointed a successor within sixty (60) days of the vacancy, the Board of Trustees shall call for an election to fill the vacancy as provided by law. (Prior code 2-4-4; Ord. 316 §1, 1997)

**Sec. 2-2-130. Regular meetings; procedure.**

(a) The Board of Trustees hereby sets and establishes the second and last Mondays of each month, between the hours of 7:00 p.m. and 11:00 p.m., as the regularly scheduled meeting dates and times for meetings of the Board of Trustees.

(b) By a majority vote of the Board of Trustees in attendance, the ending time of the meeting may be extended to a time certain. By a majority vote of the Board of Trustees in attendance, a subsequent regular meeting may be rescheduled to a date certain or cancelled, provided that the Board of Trustees shall conduct at least one (1) meeting per month. If the Town Manager determines that a quorum will not be present for a scheduled meeting, he or she shall have the authority to announce

that the meeting is cancelled due to lack of a quorum and shall give notice of the cancellation in accordance with state statute governing open meetings. (Prior code 2-5-1; Ord. 380 §1, 1999; Ord. 438 §6, 2002, Ord. 550 §1, 2005)

**Sec. 2-2-140. Special meetings; procedure.**

The Mayor or three (3) Trustees may call a special meeting at any time upon giving at least twenty-four (24) hours' notice to the Board of Trustees and the public. Whenever a special meeting shall be called, a summons or notice in writing signed by the Mayor or the three (3) Trustees shall be served upon each member of the Board either in person or by notice left at his or her place of residence, stating the date and hour of the meeting and purpose for which such meeting is called, at least twenty-four (24) hours prior to the date and time set for the meeting. No other business shall be transacted thereat, except such as is stated in the notice. Notice of the special meeting shall also be posted in a conspicuous place at the Town Hall at least twenty-four (24) hours before the date and time set for the meeting. (Prior code 2-5-2)

**Sec. 2-2-145. Emergency meetings.**

The Mayor or any two (2) Trustees may call an emergency meeting of the Board of Trustees in the event of an emergency that requires immediate action of the Board of Trustees in order to protect the public health, safety and welfare of the residents of the Town. Notice of such emergency meeting shall be given to the Board of Trustees by telephone, or whatever other means are reasonable to meet the circumstances of the emergency. At such emergency meeting, any action within the police power of the Board of Trustees that is necessary for the immediate protection of the public health, safety and welfare may be taken; provided, however, that any action taken at an emergency meeting shall be effective only until the first to occur of: (1) the next regular meeting; or (2) the next special meeting of the Board of Trustees at which the emergency issue is on the public notice of the meeting. At such subsequent meeting, the Board of Trustees may ratify an emergency action taken. If any emergency action is not ratified, then it shall be deemed rescinded. (Ord. 608 §1, 2007)

**Sec. 2-2-150. Quorum.**

No action shall be taken unless a quorum is present. A majority of the Board of Trustees shall constitute a quorum. A lesser number may adjourn from time to time and compel the attendance of absent members at a rescheduled meeting. Any member of the Board of Trustees, at any regular or special meeting, may, in writing, demand the attendance of absent members at a rescheduled meeting, and said demand shall be entered on the record forthwith by the Town Clerk, who shall notify the absent members of the date, time and place of the meeting. (Prior code 2-5-3; Ord. 316 §1, 1997; Ord. 438 §7, 2002)

**Sec. 2-2-160. Agenda preparation and meeting packets.**

All reports, communications, ordinances, resolutions, contracts, documents or other matters to be submitted to the Board of Trustees for a meeting from parties other than Town employees, Town officers or Town consultants or contractors shall be delivered to the Town by the close of business on the Wednesday before the date and time set for the meeting, or said materials or the matter to which they pertain may not be placed on the meeting agenda or included in the meeting packet, at the Town Manager's discretion. The Town Manager shall have the authority to establish the meeting agenda

and the order of presentation of items for consideration. Each member of the Board of Trustees shall be supplied with the agenda, the draft minutes of the last meeting and the meeting packet prior to the meeting, and as far in advance of the meeting as time for preparation will permit. The Town Manager shall have the authority to distribute the agenda, minutes and meeting packet or portions thereof to other employees, officers, Town consultants or contractors, and parties to items on the agenda as he or she shall deem appropriate to facilitate the proper conduct of Town business. The public viewing copy of the agenda, draft minutes and meeting packet shall be made available after the agenda, draft minutes and meeting packet are distributed to the Board of Trustees. (Prior code 2-5-4; Ord. 316 §1, 1997; Ord. 438 §8, 2002, Ord. 550 §2, 2005)

**Sec. 2-2-170. Order of business.**

The following order of business applies to the procedure for regular meetings. Special meeting agendas are not required to follow the same procedures as for regular meetings and may be abbreviated at the discretion of the Board of Trustees.

(a) Call to order. The Mayor shall take the chair precisely at the hour appointed for the meeting, and shall immediately call the Board of Trustees to order. The Mayor shall preserve order and decorum, decide all questions of order and conduct the proceedings of the meeting in accordance with the parliamentary rules contained in *Robert's Rules of Order* unless otherwise provided by ordinance.

(b) Roll call. Before proceeding with the business of the Board of Trustees, the Town Clerk shall call the roll of the members, and the names of those present and absent shall be entered in the minutes.

(c) The Pledge of Allegiance to the flag of the United States of America shall be said.

(d) Additions to or deletions from the agenda. The Board of Trustees shall review the agenda of the meeting and be advised of any proposed or required additions to or deletions from the previously published agenda for the meeting. The Board of Trustees may accept such additions or deletions by consensus. The Board of Trustees, at its discretion, may rearrange the order in which any item on the agenda is considered.

(e) Consent agenda. The Board of Trustees shall review the consent agenda of the meeting. The consent agenda shall consist of the approval of minutes of a previous meeting or meetings, the approval of bills to be paid, the approval of a monthly financial report or reports, the formal approval of certain actions previously approved by the Board of Trustees and other matters as may be determined to be appropriate, all of which may be voted upon simultaneously with one (1) motion. Approval of the consent agenda and all items thereon shall require a majority vote of the Board of Trustees. The Mayor or a Trustee may, as a question of privilege, remove any item from the consent agenda for consideration as a separate motion and vote. No vote of the Board of Trustees is required for the removal of an item from the consent agenda. In the event that approval of the minutes has been removed from the consent agenda, only the correction or clarification that is requested by a member of the Board of Trustees need be considered. The minutes shall not be required to be read in whole or in part.

(f) Reports or comments of officers, employees, legal counsel and consultants or contractors of the Town. Reports or comments of officers, employees, legal counsel and consultants shall be

presented if such reports or comments are necessary or available, may be given in written form or orally and may be listed on the agenda in such groupings and agenda order as the Town Manager or Board of Trustees finds desirable for the orderly conduct of business.

(1) At the first regular meeting of the month, the Town Clerk, Public Works Supervisor, Engineer, Attorney and Planner shall present reports.

(2) At the second regular meeting of the month, the Chairs of the Planning Commission, Recreation Committee and Senior Committee, and the Town Water Consultant, Town Clerk, Treasurer, Engineer and Attorney shall present reports.

(g) Presentations by other parties and reports or recommendations of Town boards, commissions and committees. Presentations by other parties and reports or recommendations of Town boards, commissions and committees, if any are available or requested, may be given in written form or orally, and may be listed on the agenda in such groupings and agenda order as the Town Manager or Board of Trustees finds desirable for the orderly conduct of business.

(h) Audience participation. Questions, petitions, communications, comments or suggestions from citizens present at the meeting shall be heard by the Board of Trustees. This is the portion of the meeting where the public may speak about topics not on the agenda. The Mayor or presiding officer shall have the further discretion at any time in the meeting to recognize and allow citizens to speak about an agenda item at the time that the agenda item is discussed by the Board of Trustees. All such questions and remarks shall be addressed to the Board of Trustees as a whole, and not to any individual member thereof. The Board of Trustees shall have the authority to establish reasonable rules of order for audience participation, including but not limited to limitations on the amount of time any one (1) specific individual may have to present questions and remarks, and for the name and address of the speaker to be stated for the benefit of the audience and the public record. The determination of said rules from time to time shall be at the discretion of the Board of Trustees.

(i) Old business. The Board of Trustees shall consider any business that has been previously considered and which is still unfinished.

(j) New business. The Board of Trustees shall consider any business not heretofore considered, including the introduction or reading of ordinances and resolutions and the consideration of licenses and permits. The general category of "New Business" may be a separate listing on the agenda from consideration of ordinances and resolutions, licenses and permits as the Town Manager or Town Board finds desirable for the orderly conduct of business.

(k) Other business. Before adjournment, the Board of Trustees shall, as it deems necessary, consider such business as is not specifically provided for herein.

(l) Executive session. The agenda shall include the provision for an executive session if required, and reports and/or actions from executive session, if any.

(m) Adjournment. The Board of Trustees may, by majority vote, adjourn the meeting after there is no further business to conduct. The Board may, by majority vote, adjourn or continue the meeting to a specific date and time certain. A motion to adjourn shall always be in order and decided without debate.

(n) Public hearings, licensing authorities and other similar Board of Trustees actions. When necessary for the orderly conduct of business or required by statute or municipal ordinance, a meeting agenda may also contain listings of public hearings, licensing authorities and other similar Board of Trustees actions, which hearings or authorities may be opened, conducted, continued if necessary and closed for the topic in question by the Mayor or presiding officer within the meeting as if said hearings or authorities had been conducted as stand-alone hearings, meetings or actions. (Prior code 2-5-5; Ord. 382, §1, 2000; Ord. 384, §1, 2000; Ord. 395, §1, 2000; Ord. 438 §§9—19, 2002, Ord. 550 §§3—9, 2005)

**Sec. 2-2-180. Form of action required.**

Every subject coming before the Board of Trustees for its formal action shall be decided by ordinance, resolution or motion. Matters of general direction or instructions for administrative follow-through may be by consensus without a formal vote being taken. (Prior code 2-5-6; Ord. 316 §1, 1997; Ord. 438 §20, 2002)

**Sec. 2-2-190. Vote required.**

(a) All ordinances and resolutions for the appropriation or expenditure of money and to enter into contracts shall require for passage or adoption the concurrence of a majority of all members of the Board of Trustees. In all other matters, a majority of the votes cast is sufficient for passage except in the case of a special emergency for the preservation of the public peace, health or safety. An ordinance dealing with a special emergency for the preservation of public peace, health or safety shall require the votes of three-fourths ( $\frac{3}{4}$ ) of the members of the Board of Trustees. The Town Clerk shall call the roll and the vote thereon shall be taken by "ayes" and "nays" for those questions involving the expenditure of money or entering into a contract. For other motions, the vote may be taken by voice or a show of hands.

(b) All members of the Board of Trustees shall be required to vote on all ordinances, resolutions and motions before the Board of Trustees, except if the member has recused himself or herself due to the prohibition of certain activities as provided by Sections 24-18-109(2) and (3), C.R.S., or except if, following the "second" to a motion and prior to the discussion and vote on the question, the member has declared his or her intent to abstain from voting, stating the reasons for his or her abstention and recusing himself or herself from all discussion of the question. (Prior code 2-5-7; Ord. 316 §1, 1997; Ord. 436 §2, 2002, Ord. 572 §1, 2006)

**Sec. 2-2-200. Reserved.**

**Sec. 2-2-210. Posting and publication of agendas, meeting notices, resolutions and other formal notices of the Town.**

The posting and publication of agendas, meeting notices, resolutions and other formal notices of the Town shall be accomplished in the same manner as the publication of ordinances provided for in Section 1-3-60 of this Code. (Prior code 2-5-9; Ord. 316 §1, 1997; Ord. 438 §21, 2002)

**Sec. 2-2-220. Committees.**

Any question pending before the Board of Trustees may be referred to a standing committee or to a special committee, for its consideration and report. When a question has been referred to a committee, such committee shall report thereon with its recommendation at the next meeting. Standing committees and special committees shall be appointed by the Mayor with the concurrence of the Board of Trustees, as shall be deemed appropriate. (Prior code 2-5-10)

**Sec. 2-2-230. Suspension of rules.**

Any of the provisions of this Section may be temporarily suspended in connection with any matter under consideration by a recorded vote of three-fourths ( $\frac{3}{4}$ ) of the members present, except that this shall not be construed to permit any action that is contrary to state statute. (Prior code 2-5-11)

**Sec. 2-2-240. Intergovernmental contracts.**

The Board of Trustees shall have the authority on behalf of the Town to enter into contractual arrangements with one (1) or more other local governments for the performance of any governmental service, activity or undertaking which should be performed by each of the local governments. Any such contract shall set forth fully the purposes, powers, rights, obligations and responsibilities, financial and otherwise, of the contracting parties. Such contract may be approved by the Board of Trustees by resolution or by ordinance. (Prior code 2-5-12)

**Sec. 2-2-250. Oath and bond.**

All officers elected or appointed in any capacity shall take an oath to support the Constitution of the United States and the Constitution of the State of Colorado. The Board of Trustees may provide that the payment of a premium on surety bonds of any officer of the Town shall be made by the Town Clerk from funds so designated by the Board of Trustees. (Prior code 2-5-13)

**Sec. 2-2-260. Removal from office.**

By a majority vote of all members of the Board of Trustees, the Mayor or any member of the Board may be removed from office. No such removal shall be made without a charge in writing and an opportunity of hearing being given unless the officer against whom the charge is made has moved out of the limits of the Town. When the Mayor or any member of the Board ceases to reside within the limits of the Town, he or she may be removed from office pursuant to this Section. An elected officer, except when he or she ceases to reside in the Town, shall not be removed except for official misconduct, such misconduct as affects the performance of his or her duties as an officer, and for offenses against the corporation of a character directly affecting its rights and interests, and the charges are sustained on a trial by competent legal evidence. (Prior code 2-5-14; Ord. 316 §1, 1997; Ord. 443 §1, 2002)

**Sec. 2-2-270. Electronic recording of discussions occurring in executive session.**

(a) Discussions that occur in an executive session of the Board of Trustees shall be electronically recorded in the same manner that is used to record the minutes of open meetings. The electronic recording of the executive session shall be retained by the Town Attorney or, if the Town Attorney is

the subject of the executive session or otherwise did not participate in the executive session, the electronic recording shall be maintained by the presiding officer, as the official custodian for such public record, for a period not to exceed ninety (90) days. In the event an application to District Court for *in camera* review of the record has not been made within ninety (90) days of the date of the executive session, the custodian of the record shall destroy the record by appropriate means.

(b) If, in the opinion of the attorney representing the Town and who is in attendance at the executive session, all or a portion of the discussion during the executive session constitutes a privileged attorney-client communication, no record shall be kept of the part of the discussion that constitutes privileged attorney-client communication. The electronic record of said executive session discussion shall reflect that no further record was kept of the discussion based on the opinion of the attorney representing the Town, as stated for the record during the executive session, that the discussion constitutes a privileged attorney-client communication.

(c) Executive session minutes recorded electronically shall stand approved with no further action necessary.

(d) No portion of the record of an executive session shall be open for public inspection or subject to discovery in any administrative or judicial proceeding, except upon the consent of the Board of Trustees, or as provided by law. (Ord. 419 §1, 2001)

### **ARTICLE III**

#### **Officers and Employees**

##### **Sec. 2-3-10. Appointed officers.**

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

- (1) Town Manager.
- (2) Town Clerk.
- (3) Town Treasurer.
- (4) Town Attorney.
- (5) Municipal Court Judge.

(b) No appointment of any officer shall continue beyond thirty (30) days after compliance with Section 31-4-401, C.R.S., except that the appointment of the Town Manager shall be for an indefinite term as provided by contract. (Ord. 316 §1, 1997; Ord. 429 §§1, 2, 2001; Ord. 445 §1, 2002; Ord. 498 §§1, 2, 2004)

**Sec. 2-3-20. 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. 316 §1, 1997)

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

(a) When required by the Board of Trustees, each officer or employee, before entering upon the duties of his or her office, shall take and subscribe to an oath to support the Constitution and laws of the United States and the State and the ordinances of the Town.

(b) In all cases where, by law, ordinance or resolution of the Board of Trustees, a bond is required of any such officer, he or she shall make and execute to the Town a bond in such sum as is required, to be approved by the Board of Trustees, conditioned for the faithful performance of all duties pertaining to such office, the proper care of all money or property of the Town coming into his or her hands and the proper accounting for or delivery of the same. (Ord. 316 §1, 1997)

**Sec. 2-3-40. Removal of Town officers.**

(a) Cause for removal. By majority vote of all members of the Board of Trustees, the Town Clerk, Town Treasurer, Town Attorney or any other appointed officers of the Town may be removed from office. No such removal shall be made without a charge in writing and an opportunity of hearing being given. A Municipal Court Judge may be removed during his or her term of office only for cause, as set forth in Section 13-10-105(2), C.R.S. Removal of the Town Manager shall be as provided by Subsection 2-3-120(d) of this Code.

(b) Specification of charges. All charges preferred against any such officer of the Town for the removal of such officer shall be made in writing by the Board of Trustees and shall clearly specify any cause or causes warranting removal.

(c) Service of charges and notice of hearing. A copy of such charges and specifications, together with a notice of the time and place of hearing, shall be served upon the accused at least fifteen (15) days before the day of hearing.

(d) Hearing. At the time and place so set, the Board of Trustees shall meet and proceed according to its rules to hear the evidence against the accused officer, as well as the evidence offered in his or her behalf, adjourning from time to time as may be necessary, until all the evidence shall have been given.

(e) Decision. Within three (3) days after the evidence shall have been given, the Board of Trustees shall vote by yeas and nays upon each charge and specification separately. The question upon each charge shall be "Is the accused guilty?" If the Board of Trustees, by a lawful number, finds the accused officer guilty of any specified charge aforesaid, it shall resolve that the accused be removed from office and his or her office declared vacant.

(f) Appearance by counsel. Upon trial as aforesaid, the accused shall be heard by himself or herself or by counsel in his or her defense, and the Town may also be represented by counsel in the prosecution of such charges. The Mayor or the Town Clerk may serve any paper required to be served by any provisions of this Article. (Ord. 316 §1, 1997; Ord. 445 §§2-4, 2002)

**Sec. 2-3-50. Town Clerk.**

(a) Appointment. The Board of Trustees shall appoint a qualified person as Town Clerk, not later than thirty (30) days after compliance with Section 31-4-401, C.R.S., by the members of the succeeding Board of Trustees, to serve a term not to exceed two (2) years, said term not to continue beyond thirty (30) days after compliance with Section 31-4-401, C.R.S., by the members of the succeeding Board of Trustees. At the discretion of the Board of Trustees, the Town Clerk may be appointed to successive terms.

(b) Vacancy. In case of a vacancy in the office of Town Clerk, the Board of Trustees shall appoint a replacement to serve for the remainder of the unexpired term.

(c) Oath and bond. Prior to entering upon the duties of the office, the Town Clerk shall take an oath of office and post a surety bond for the faithful discharge of the duties of the office.

(d) Duties. The Town Clerk shall perform the following duties and functions. These duties supersede any other job duties, whether or not officially adopted, in this Code or any iteration of the Mead Personnel Code. The Town Clerk shall:

(1) Attend all meetings of the Board of Trustees, unless otherwise excused, and make a true and accurate record of all proceedings, rules and ordinances made and passed by the Board of Trustees. In the event the Town Clerk is absent or unable to serve, the Board of Trustees may appoint a Clerk Pro Tem to take minutes of its meetings.

(2) Administer oaths as required by law or the Board of Trustees.

(3) Serve as the election official and perform those duties as prescribed by Articles 10 and 11, Title 31 of the Colorado Revised Statutes.

(4) Be the custodian of the official records of the municipality, certifying to their authenticity as required by law or the courts.

(5) Receive all petitions and citizen-initiated measures and forward the same to the Board of Trustees as a communication.

(6) Perform all other duties required by law or as assigned by the Board of Trustees from time to time. (Prior code 2-8-1, 2-8-2, 2-8-3, 2-8-4; Ord. 316 §1, 1997; Ord. 445 §5, 2002)

**Sec. 2-3-60. Town Treasurer.**

(a) Appointment. The Board of Trustees shall appoint a qualified person as Town Treasurer, not later than thirty (30) days after compliance with Section 31-4-401, C.R.S., by the members of the succeeding Board of Trustees, to serve a term not to exceed two (2) years, said term not to continue beyond thirty (30) days after compliance with Section 31-4-401, C.R.S., by the members of the

succeeding Board of Trustees. At the discretion of the Board of Trustees, the Town Treasurer may be appointed to successive terms.

(b) Vacancy. In case of a vacancy in the office of Town Treasurer, the Board of Trustees shall appoint a replacement to serve for the unexpired term.

(c) Oath and bond. Prior to entering upon the duties of the office, the Town Treasurer shall take an oath of office and post a surety bond for the faithful discharge of the duties of the office.

(d) Duties. The Town Treasurer shall perform the following duties and functions:

(1) Receive all monies belonging to the Town and give receipt therefor.

(2) Maintain and account for all monies received in such funds as may be provided by law and by the Board of Trustees and keep an accurate account of all monies received and expended by the Town.

(3) Pay such sums from the treasury of the Town as may be approved by the Board of Trustees.

(4) Perform all other duties, keep all records and make all reports required by law of the Board of Trustees. (Prior code 2-8-1, 2-8-2, 2-8-3, 2-8-4; Ord. 316 §1, 1997; Ord. 445 §6, 2002)

#### **Sec. 2-3-70. Town Attorney.**

(a) Appointment. The Board of Trustees shall appoint a qualified person as Town Attorney, not later than thirty (30) days after compliance with Section 31-4-401, C.R.S., by the members of the succeeding Board of Trustees, to serve a term not to exceed two (2) years, said term not to continue beyond thirty (30) days after compliance with Section 31-4-401, C.R.S., by the members of the succeeding Board of Trustees. At the discretion of the Board of Trustees, the Town Attorney may be appointed to successive terms.

(b) Duties. The Town Attorney shall perform the following duties:

(1) Act as legal advisor to, and be attorney and counsel for, the Board of Trustees and shall be responsible solely to the Board of Trustees. He or she shall advise any officer or department head of the Town in matters relating to his or her official duties when so requested by the Board of Trustees and shall file with the Town Clerk a copy of all written opinions given by him or her.

(2) In the absences of a prosecuting attorney, prosecute ordinance violations and conduct for the Town cases in Municipal Court. He or she shall file with the Town Clerk copies of such records and files relating thereto.

(3) Prepare or review all ordinances, contracts, bonds and other written instruments which are submitted to him or her by the Board of Trustees and promptly give his or her opinion as to the legal consequences thereof.

(4) Call to the attention of the Board of Trustees all matters of law, and changes of development therein, affecting the Town.

(5) Perform such other duties as may be prescribed for him or her by the Board of Trustees. (Prior code 2-9-1, 2-9-2; Ord. 316 §1, 1997; Ord. 445 §§7, 8, 2002)

**Sec. 2-3-75. Prosecuting attorney.**

(a) Engagement. The Board of Trustees, in its sole discretion, may contract with a qualified person as Prosecuting Attorney.

(b) Duties. The Prosecuting Attorney shall perform the following duties:

(1) Prosecute ordinance violations and conduct for Town cases in Municipal Court. He or she shall file with the Town copies of such records and files relating thereto.

(2) Call to the attention of the Board of Trustees all matters of criminal law and changes or developments therein, affecting the Town, with his or her recommendations. (Ord. 445 §9, 2002)

**Sec. 2-3-80. Compensation of appointed officers and employees.**

The Board of Trustees shall determine the compensation of all appointed officers and employees of the Town from time to time, but not less than annually, through the annual budgeting process or other compensation evaluations conducted from time to time. The administration of compensation, including but not limited to a performance review process, shall be provided for in the adopted Personnel Code and as said code is amended from time to time, except that officers or employees engaged under contract shall receive the compensation set forth in the contract, and except that the compensation of the Municipal Court Judge(s) and the Municipal Court Clerk, if any, shall be established by ordinance as an annual amount payable on a monthly or other periodic basis as provided by law. (Prior code 2-10-2; Ord. 445 §10, 2002)

**Sec. 2-3-90. Adoption of Personnel Code.**

The Board of Trustees may by resolution adopt certain rules and regulations governing the appointment of officers and employees and establishing terms and conditions of their employment. Such rules and regulations shall be known as the *Mead Personnel Code* and when adopted shall have the same force and effect as if the same were adopted by ordinance. (Prior code 2-11-1; Ord. 316 §1, 1997)

**Sec. 2-3-100. Use of Town credit card.**

There shall be one (1) credit card issued in the name of the Town of Mead. There shall be no credit card issued in the name of the Town which also contains the name of the Mayor, any member of the Board of Trustees, any officer or any employee of the Town. Any such credit cards shall hereto be destroyed. The Town Manager shall be responsible for safeguarding the Town credit card. The Mayor, any member of the Board of Trustees, any officer and any employee of the Town may check out the Town credit card from the Town Manager for purposes of Town business only. The Town credit card shall not be used for personal business. When checking out the Town credit card, the person must submit in writing to the Town Manager the purpose for using the credit card and the length of time which such person shall be in possession of the credit card. (Ord. 334 §1, 1997)

**Sec. 2-3-110. Reimbursable expenses.**

All allowable expenses incurred by the Mayor, any member of the Board of Trustees, any officer or any employee of the Town must be for a valid Town purpose and are subject to approval by the Board of Trustees at its regular monthly meetings. All requests for reimbursement shall be in the format of an "Expense Report" provided by the Town. An individual making a request for reimbursement shall include all of the information required by this Section on such "Expense Report" and shall attach the necessary receipts or bills thereto. The following expenses shall be reimbursable with the following conditions:

(1) Phone charges. All requests for reimbursable long distance phone expenses or cellular phone expenses shall contain the respective phone bill, the name of the other party to the conversation and a description of the Town purpose for such phone expenses. When out of town and away from home on a Town-related matter, the Town will reimburse the qualified individual, as set forth in the above paragraph, for one (1) personal phone call per day, not to exceed fifteen (15) minutes in duration.

(2) Travel. All travel must be by coach class on a common carrier and based upon actual receipts where possible. If a personal automobile is used, reimbursement will be at the rate of twenty-eight cents (\$0.28) per mile. All requests for travel reimbursements shall contain the dates of travel and a description of the Town purpose for such travel.

(3) Lodging. All requests for reimbursable lodging expenses shall be accompanied by actual receipts and shall contain a description of the Town purpose for such lodging. Lodging may be prepaid by the Town at the discretion of the Board of Trustees.

(4) Meals. The Town will allow for reimbursable meal expenses not to exceed twenty-five dollars (\$25.00) per day. Meal expenses incurred above the allowable amount shall be the responsibility of the individual who incurred such expense. All requests for reimbursable meal expenses shall be accompanied by actual receipts and shall contain a description of the Town purpose for such meal.

(5) Other expenses. Other expenses may be reimbursable at the discretion of the Board of Trustees, provided that the expense was incurred for a valid Town purpose and there is sufficient verification of such expense. (Ord. 334 §1, 1997)

**Sec. 2-3-120. Town Manager.**

(a) Appointment. There is hereby created the office of Town Manager (the "Manager") as authorized by Section 31-4-304, C.R.S., and Paragraph 2-3-10(a)(1) of this Code.

(b) Appointment, contract or letter of agreement, qualifications.

(1) The Town Manager shall be appointed by a majority vote of the Board of Trustees. The Town Manager shall be appointed for an indefinite term. At the time of appointment, the Town Manager need not be a resident of the Town or State.

(2) Applicants for Town Manager shall be interviewed by the Board of Trustees, and the

appointment of the Town Manager shall be contingent upon the applicant signing a contract or letter of agreement regarding conditions of employment. Said contract or letter of agreement shall be approved by a majority vote of the Board of Trustees.

(3) The Town Manager shall be chosen exclusively on the basis of administrative and executive abilities, skills, education, qualifications and experience. The office shall be considered a professional position. No elected official of the Town shall be appointed Town Manager during the term of office for which the person was elected nor within one (1) year thereafter.

(c) Acting Town Manager.

(1) To perform his or her duties during his or her temporary absence or disability, the Town Manager, with the concurrence of Board of Trustees, shall designate by letter filed with the Town Clerk, a qualified administrative Town employee who shall serve as acting Town Manager in his or her absence. In the event of the failure of the Town Manager to make such a designation, the Board of Trustees may appoint a qualified Town employee to perform the duties of the Town Manager. Such acting Town Manager shall, while he or she is in such office, have all responsibilities, duties, functions and authority of the Town Manager except hiring and employee discipline unless the Board of Trustees provides otherwise.

(2) In the event the office of Town Manager becomes vacant, the Board of Trustees, in a majority vote, shall appoint an acting Town Manager to perform the duties of the office until such time as a new Town Manager is appointed as provided herein. No member of the Board of Trustees shall be appointed acting Town Manager during the term for which he or she has been elected nor within one (1) year thereafter.

(d) Removal from office. The Town Manager may be removed from office at any time for cause by a majority vote of the Board of Trustees. Before the Town Manager may be removed, he or she shall be given, if he or she so demands, a written statement of the reasons alleged for his or her removal and he or she has the right to be heard thereon at a public meeting of the Board of Trustees prior to the final vote on the question of his or her removal. Pending and during such hearing, the Board of Trustees may suspend him or her from office. The action of the Board of Trustees in suspending or removing the Town Manager shall be final. It is the intent of this Section to vest all authority and to fix all responsibility for such suspension or removal in the Board of Trustees.

(e) Powers and duties. The Town Manager shall be the chief administrative officer of the Town. All departments shall report to the Town Manager. The Town Manager shall be responsible to the Board of Trustees for the proper administration, operation and control of all affairs of the Town. The powers and duties of the Town Manager shall be as more specifically set forth below:

(1) To see that the ordinances of the Town and the applicable laws of the State are enforced.

(2) To make such recommendations to the Board of Trustees concerning the affairs of the Town as seem desirable to him or her.

(3) To keep the Board of Trustees advised of the financial conditions and future needs of the Town.

- (4) To prepare and submit to the Board of Trustees the annual budget proposal.
- (5) To prepare and submit to the Board of Trustees such reports as are required by the body.
- (6) To prepare or cause to be prepared and submit each month to the Board of Trustees a detailed report covering all activities of the Town, including a summary statement of revenues and expenditures for the preceding month, detailed as to appropriations and funds in such a manner as to show the exact financial condition of the Town and of each department and division thereof as of the last day of the previous month.
- (7) To exercise control over and coordinate the work of all departments, and all employees of the Town with the exception of the Town Attorney. The Town Manager shall work closely with the Town Attorney to coordinate the Town Manager's efforts with the Town Attorney's activities and responsibilities so that Board of Trustee policies involving the affairs of the Town are properly implemented.
- (8) To recommend the creation or elimination of employment positions within the municipality. The Board of Trustees has the sole authority for the creation or elimination of positions.
- (9) To recruit and hire all prospective employees with the exception of department heads and the Town Clerk.
- (10) To recruit department heads and recommend a final candidate to the Board of Trustees for hiring. The final authority for hiring of department heads resides in the Board of Trustees.
- (11) To administer all forms of discipline, except termination, for all employees in accordance with the Personnel Policy Manual. The Town Manager recommends on termination matters, with the final decision residing in the Board of Trustees.
- (12) To provide written reviews of the performance of all employees not less than annually, with the Board of Trustees providing additional comments and approval as the Board deems appropriate. Changes in compensation for employees are to be approved by the Board of Trustees based on, but not limited by, such reviews and any other relevant information.
- (13) To perform such other duties as may be prescribed or required of him or her by ordinance or resolution of the Board of Trustees.
- (14) The Town Manager is entitled to a seat in all meetings of the Board of Trustees and its committees and commissions, but shall have no vote therein. The Town Manager has a right to take part in the discussion of all matters coming before the Board of Trustees and its committees and commissions.
- (15) Except for the purpose of inquiry, the Board of Trustees and its members, the Mayor and any Board committee shall deal with the various departments through the Town Manager and neither the Board of Trustees, its members, the Mayor nor any Board committee thereof shall give orders directly to any of the subordinates of the Town Manager, except that it may give directions to the Town Clerk.

(16) Additional duties. The Town Manager shall perform such other duties as may be required of, or assigned by the Board of Trustees, consistent with federal and state laws and Town ordinances.

(f) Compensation. The amount and manner of compensation for the Town Manager shall be determined by the Board of Trustees after an annual performance evaluation, or as the contract or employment agreement otherwise provides.

(g) Bond. Before entering the duties of the office, the Town Manager shall execute a bond in such amount and with such sureties as may be required by law and by ordinance, conditioned upon the faithful performance of the duties of the office, and to indemnify the Town against any loss due to any neglect of duty or wrongful acts on the part of the Town Manager. The cost of the premium for said bond shall be borne by the Town.

(h) Residency. The Town Manager need not be a resident of the Town. However, the Board of Trustees and the Town Manager may provide by contract or employment agreement a proximity of residency as a condition of employment.

(i) Other employment. The Town Manager shall devote his or her full-time effort to the performance of his or her duties, and shall not engage in any other substantial employment without the consent of the Board of Trustees. (Ord. 429 §3, 2001; Ord. 498 §3, 2004)

## **ARTICLE IV**

### **Social Security**

#### **Sec. 2-4-10. Legislative declaration.**

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 said Town 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. 316 §1, 1997)

## **ARTICLE V**

### **Municipal Court**

#### **Sec. 2-5-10. Municipal Court of record.**

(a) Creation. A qualified Municipal Court of record in and for the Town is hereby created and established pursuant to and governed by the provisions of Article 10, Title 13, C.R.S.

(b) Jurisdiction. The Municipal Court has original jurisdiction of all civil and criminal cases arising under this Chapter, and other ordinances of the Town, with power to punish violations thereof by imposing fines and penalties as authorized by this Chapter or any ordinance, and to assess and collect civil penalties, order and enforce by contempt abatement of nuisances, and perform other responsibilities prescribed by this Chapter and other ordinances of the Town.

(c) Court rules. Except as otherwise provided in this Chapter, the Municipal Court shall be conducted under the procedures prescribed by the Colorado Municipal Court Rules and Title 13, C.R.S.

(d) Civil violations. Code and ordinance violations for which imprisonment is not a possible penalty and that are not criminal under counterpart state law are civil, but the judge shall follow the Colorado Municipal Court Rules in all such cases unless the rules are clearly inapplicable. (Prior code 3-1-2; Ord. 191 §1, 1990; Ord. 282 §1, 1995; Ord. 316 §1, 1997)

**Sec. 2-5-20. Appointment of Municipal Judge.**

The Municipal Court shall be presided over by a Municipal Judge, who has been admitted to and is currently licensed in the practice of law in the State, and who shall be appointed not later than thirty (30) days after compliance with Section 31-4-401, C.R.S., by the members of the succeeding Board of Trustees to serve a term commencing with the first meeting after compliance with Section 31-4-401, C.R.S., by the members of the succeeding Board of Trustees, until the first meeting after compliance with Section 31-4-401, C.R.S., by the members of the next succeeding Board of Trustees. At the discretion of the Board of Trustees, the Municipal Judge may be appointed to successive terms. Any vacancy in the office of Municipal Judge shall be filled by appointment by the Board of Trustees for the remainder of the unexpired term. The Board of Trustees may appoint such additional judges or assistant judges as may be necessary to act in case of temporary absence, sickness, disqualification or other inability to act by the presiding Municipal Judge. In the event more than one (1) judge is appointed, the Board of Trustees shall designate the presiding Municipal Judge who shall serve in this capacity during the term for which he or she was appointed. The Municipal Judge may be removed for cause only, as specified in state law. (Prior code 3-2-2, 3-2-3; Ord. 191 §2, 1990; Ord. 316 §1, 1997; Ord. 445 §11, 2002)

**Sec. 2-5-30. Compensation of Judge.**

The Board of Trustees shall provide by ordinance for a fixed annual compensation for the Municipal Judge, payable on a monthly or other periodic basis. Compensation for the Municipal Judge shall not be based on the number of cases heard or handled nor on the amount assessed. (Prior code 3-2-4)

**Sec. 2-5-40. Clerk of the Municipal Court.**

The position of Clerk of the Municipal Court is hereby created. The Municipal Judge may serve as ex officio Clerk. If the Judge does not serve as ex officio Clerk, the Clerk shall be appointed by the presiding Municipal Judge and shall have such duties as are delegated by state law, court rule or the presiding Municipal Judge. The Board of Trustees shall provide for a salary of the Municipal Court Clerk on a fixed annual compensation basis payable on a monthly or other periodic basis. This salary shall not be dependent in any way directly or indirectly on the number of cases handled or heard in the Municipal Court. If the Municipal Judge serves as ex officio Clerk, the Municipal Judge shall not receive additional compensation for such duties. (Prior code 3-3-1; Ord. 316 §1, 1997)

**Sec. 2-5-50. Municipal Court Clerk bond.**

The Clerk of the Municipal Court shall give a performance bond in the sum of two thousand dollars (\$2,000.00) to be approved by the Board of Trustees for the faithful performance of the duties of the Municipal Court Clerk and for the faithful accounting for and payment of all funds deposited with or received by the Court. If the Municipal Judge serves as ex officio Clerk of the Court he or she shall execute the performance bond required herein. (Prior code 3-3-2; Ord. 316 §1, 1997)

**Sec. 2-5-60. Court facilities and supplies.**

The Board of Trustees shall furnish the Municipal Court with suitable courtroom facilities and sufficient funds for the acquisition of all necessary books, supplies and furniture for the proper conduct of the business of the Municipal Court. (Prior code 3-4-1; Ord. 316 §1, 1997)

**Sec. 2-5-70. Oath of Judge and Clerk.**

Before entering upon duties of the offices, the Municipal Judge and the Municipal Court Clerk shall give an oath or affirmation that they will support the Constitution of the United States, the Constitution and the laws of the State and the laws of the Town, and will faithfully perform the duties of the office. (Prior code 3-5-1; Ord. 316 §1, 1997)

**Sec. 2-5-80. Commencement of actions.**

Any action or summons brought in any Municipal Court to recover any fine or enforcement of any penalty or forfeiture under any ordinance shall be filed in the corporate name of the Town and on behalf of the people of the State. Any process issued from a Municipal Court shall run in the name of the Town by and on behalf of the People of the State. The Clerk of the Municipal Court shall issue a subpoena for the appearance of any witness in Municipal Court upon request of either the Town or the Defendant. (Prior code 3-6-1; Ord. 316 §1, 1997)

**Sec. 2-5-90. Powers and procedures.**

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 promulgated by the Colorado Supreme Court. The presiding Municipal Judge has the authority to issue local rules of procedure consistent with any rules of procedure adopted by the Colorado Supreme Court. (Prior code 3-6-2; Ord. 316 §1, 1997)

**Sec. 2-5-100. Contempt power.**

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 one (1) year. (Ord. 316 §1, 1997)

**Sec. 2-5-110. Initiation of proceedings in Municipal Court.**

(a) A proceeding in the Municipal Court is initiated by the filing of a complaint or the service of a summons and complaint; by any means provided in this Chapter, the state statutes or the Colorado Municipal Court Rules; or in any other manner that provides due process of law.

(b) A parking ticket is a form of summons and complaint.

(c) In a municipal court action it is sufficient in a complaint or summons and complaint to charge a violation of this Chapter, or any ordinance of the Town alleged to have been violated, by referring to the section describing such violation, without referring to any subsection under the section violated.

(d) A peace officer may serve any process issued by the Municipal Court anywhere within the County. (Ord. 282 §1, 1995)

**Sec. 2-5-120. Summons.**

The summons is issued by the Clerk of the Court following the filing of a sworn complaint when it appears from the complaint that there is probable cause to believe that a violation has been committed and that the defendant committed it. The summons need only contain the name of the defendant, the date, time and place of appearance of the defendant. A copy of the complaint shall be served therewith, and a copy of the summons and the complaint shall be supplied to the prosecutor. (Ord. 282 §1, 1995)

**Sec. 2-5-130. Warrant.**

In lieu of a summons, a warrant may be issued at the discretion of the Court following the filing of a sworn complaint. (Ord. 282 §1, 1995)

**Sec. 2-5-140. Summons and complaint.**

A summons and complaint may be issued by a peace officer for an offense constituting a violation which was committed in his or her presence, or, if not committed in his or her presence, when he or she has reasonable grounds for believing that the offense was committed in fact and that the offense was committed by the person charged. A copy of the summons and complaint so issued shall be filed immediately with the court before which the appearance is required. A second copy shall be supplied to the prosecutor if so requested. (Ord. 282 §1, 1995)

**Sec. 2-5-150. Contents of summons and complaint.**

(a) The complaint shall contain the name of the defendant; the date and approximate location of the offense; identification of the offense charged, citing the Chapter or ordinance section alleged to have been violated; and a brief statement or description of the offense charged; which statement or description shall be sufficient if it states the type of offense to which the Chapter or ordinance relates. The summons and complaint shall contain all the foregoing information and shall also direct the defendant to appear before a specified court at a stated date, time and place.

(b) The court may permit a complaint or summons and complaint to be amended as to form or substance at any time prior to trial; the court may permit it to be amended as to form at any time before the verdict or finding if no additional or different offense is charged and if substantial rights of the defendant are not prejudiced. (Ord. 282 §1, 1995; Ord. 316 §1, 1997)

**Sec. 2-5-160. Failure to appear, failure to pay; warrant.**

If a person upon whom a summons or summons and complaint has been served fails to appear in person or by counsel at the place and time specified therein, a bench warrant may issue for his or her arrest. If a defendant fails to pay the fine and costs ordered by the Court, a bench warrant may issue for his or her arrest. (Ord. 316 §1, 1997)

**Sec. 2-5-170. Authority.**

(a) Authority to detain temporarily.

(1) A police officer may stop any person who the officer reasonably suspects is committing, has committed or is about to commit a violation of the Charter, this Chapter or any ordinance of the Town and may require that person to give his or her name, address and an explanation of his or her actions.

(2) When a police officer has stopped a person for questioning pursuant to this Subsection and reasonably suspects that the officer's personal safety requires it, the officer may conduct a pat-down search of that person for weapons.

(3) A police officer may stop and temporarily detain a person for the purpose of issuing or serving a summons or summons and complaint.

(b) Authority to charge. A peace officer may issue a summons and complaint or sign a complaint against any person for any violation of this Chapter or any ordinance of the Town if:

(1) The violation has been or is being committed by a person in the officer's presence; or

(2) The officer has probable cause to believe that a violation has been or is being committed by the person and that the person has been or is committing it.

(c) Authority to arrest and incarcerate.

(1) A police officer may arrest a person for a violation of this Chapter or any ordinance of the Town if:

a. The violation has been or is being committed by a person in the officer's presence;

b. The officer has probable cause to believe that a violation has been or is being committed by the person and that the person has been or is committing it; or

c. Whenever any police officer is authorized by this Chapter to arrest any person, the officer has the authority to incarcerate that person if the officer has probable cause to believe that one (1) or more of the following conditions exist:

1. The person is not likely to desist from the conduct alleged to constitute a violation after issuance of a summons;

2. The person is unlikely to appear in Municipal Court in response to a summons (but the fact that the defendant does not reside in the Town is not alone such probable cause);
3. The person refuses or is unable to post the bond required by this Chapter;
4. The person refuses service of a summons;
5. The person refuses to sign the promise of appearance, if any, on the summons;
6. The person refuses to identify himself or herself by giving complete name and address verifiable by reasonable supporting data; or
7. The person falsely identifies himself or herself.

(2) A police officer shall incarcerate any person when the officer has a warrant or writ commanding that such person be arrested or has received information, which the officer reasonably believes to be reliable, that such warrant or writ exists.

(d) Use of force. An arrest may be made on any day and at any time of the day or night. All necessary and reasonable force may be used in making an arrest. All necessary and reasonable force may be used to effect an entry upon any building or property or part thereof to make an authorized arrest.

(e) Town Attorney is prosecutor. The Town Attorney or delegate thereof shall act as the prosecutor and represent the Town in all municipal court proceedings as appropriate, with all the privileges, immunities, powers and duties of such office. (Ord. 282 §1, 1995)

**Sec. 2-5-180. Presumption of innocence.**

Every person is presumed innocent until proved guilty. No person shall be convicted of any offense unless his or her guilt thereof is proved beyond a reasonable doubt. (Ord. 282 §1, 1995)

**Sec. 2-5-190. Trial by jury or by the Court.**

Trial shall be to the Court, unless the defendant is entitled to a jury trial under the Constitution, this Code, ordinances or general state laws, in which case the defendant shall have a jury if, within ten (10) days after arraignment or entry of a plea, he or she filed with the court in which he or she is ordered to appear to defend against said charge a written jury demand and at the same time tenders to that court a jury fee of twenty-five dollars (\$25.00), unless the fee is waived by the judge because of the indigence of the defendant. The written demand for jury shall state the number of jurors requested. If the action is dismissed or the defendant is acquitted of the charge, or if the defendant, having paid the jury fee, files with the court at least ten (10) days before the scheduled trial date a written waiver of jury trial, the jury fee shall be refunded. If the defendant fails to file with the court the written jury demand as provided above, he or she waives his or her right to a jury trial. (Ord. 240 §2, 1993; Ord. 282 §1, 1995; Ord. 316 §1, 1997)

**Sec. 2-5-200. Dismissal.**

If there is unnecessary delay in the trial of a defendant, the court may dismiss the case. If the trial of a defendant is delayed more than ninety (90) days after arraignment of the defendant, or unless the delay is occasioned by the action or request of the defendant, the court may dismiss the case and the defendant shall not thereafter be tried for the same offense; except that if, on the day of a trial set within the last ten (10) days of the above time limit, a necessity for a continuance arises which the court in exercise of sound judicial discretion determines would warrant an additional delay, then one (1) continuance, not exceeding thirty (30) days, may be allowed, after which the dismissal shall be entered as above provided if trial is not held within the additional time allowed. (Ord. 282 §1, 1995)

**Sec. 2-5-210. Assignment of counsel.**

(a) If the defendant appears in court without counsel, the court shall advise the defendant of the right to retain counsel. In an appropriate case, if, upon the defendant's affidavit or sworn testimony and other investigation, the court finds that the defendant is financially unable to obtain counsel, an attorney shall be assigned to represent the defendant at every stage of the trial court proceedings. No lawyer need be appointed for a defendant who, after being advised, with full knowledge of the right to counsel, elects to proceed without counsel.

(b) Whenever two (2) or more defendants have been jointly charged or have been joined for trial and are represented by the same retained or assigned counsel or by retained or assigned counsel who are associated in the practice of law, the court shall promptly inquire with respect to such joint representation and shall personally advise each defendant of the right to the effective assistance of counsel, including separate representation. Unless it appears that there is good cause to believe no conflict of interest is likely to arise, the court shall take such measures as may be appropriate to protect each defendant's right to counsel. (Ord. 282 §1, 1995)

**Sec. 2-5-220. May elect.**

Except as otherwise provided, in any prosecution for criminal violations, the prosecuting attorney may, at any time during the prosecution, state in writing whether or not he or she will seek incarceration as part of the penalty upon conviction of a crime for which the defendant has been charged. If the prosecuting attorney does not seek incarceration as part of such penalty, legal representation and supporting services need not thereafter be provided by the defendant at Town expense, and no such defendant shall be incarcerated if found guilty of the charges against him or her, but the defendant shall be subject to all alternatives available to the court under Section 16-11-502, C.R.S., and to alternatives available to each municipality under its municipal code for failure to pay fines and costs. (Ord. 282 §1, 1995)

**Sec. 2-5-230. Juveniles.**

Notwithstanding any provision of law to the contrary, the Municipal Court has the authority to order a child under eighteen (18) years of age confined in a juvenile detention facility operated or contracted by the department of institutions for failure to comply with a lawful order of the court, including an order to pay a fine. If a juvenile facility is not available, the child may be confined in an adult facility so long as he or she is separated from adult offenders. Any confinement of a child for

contempt of Municipal Court shall not exceed forty-eight (48) hours. (Ord. 282 §1, 1995; Ord. 316 §1, 1997)

**Sec. 2-5-240. Municipal Court appeals.**

Appeals from the court shall be in accordance with Rule 37 of the Colorado Rules of Criminal Procedure, and Section 13-6-310, C.R.S. (Ord. 282 §1, 1995)

**Sec. 2-5-250. Amendments.**

Any and all additions and amendments to this Chapter, when passed in such form as to indicate the intention of the Board of Trustees to make the same a part hereof, shall be deemed to be incorporated in this Chapter so that reference to the "Mead Violations Code" shall be understood and intended to include such additions to amendments. In case of amendment for which a penalty is not provided, the general penalty as provided in this Chapter shall apply. (Ord. 282 §1, 1995)

**Sec. 2-5-260. Severability.**

The Board of Trustees intends that the sections, paragraphs, sentences, clauses and phrases of this Chapter be severable. If any phrase, clause, sentence, paragraph or section of this Chapter is declared unconstitutional or invalid by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity does not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Chapter, unless it appears to the court that the valid provisions of the section or ordinance are so essentially and inseparably connected with, and so dependent upon, the void provision that it cannot be presumed the Board of Trustees would have enacted the valid provisions without the void one; or unless the court determines that the valid provisions, standing alone, are incomplete and are incapable of being executed in accordance with the legislative intent. (Ord. 282 §1, 1995)

**Sec. 2-5-270. Court costs.**

The following costs may be assessed by the presiding Municipal Judge against any defendant in the Municipal Court:

Court costs upon entry of a plea of guilty, nolo contendere or finding of guilt or liability	\$15.00
Weld County Drug Task Force fee (assessed upon entry of a plea of guilty, nolo contendere or finding of guilt or liability)	10.00
Witness fee (per witness) upon conviction after trial	5.00
Default judgment fee	30.00
Outstanding judgment warrant (OJW)	30.00
Warrant fee	30.00

(Ord. 240 §1, 1993; Ord. 312 §1, 1997; Ord. 316 §1, 1997)

**Sec. 2-5-280. Report of fines and costs.**

All fines and costs collected or received by the Municipal Court shall be reported and paid monthly or at such other intervals as may be provided by ordinance of the Town to the Town Treasurer and deposited in the general fund of the Town. (Prior code 3-6-5; Ord. 316 §1, 1997)

**Sec. 2-5-290. Alternatives in sentencing.**

When a defendant enters a plea of guilty or nolo contendere, or is convicted after trial, the Municipal Court has the following alternatives, which are not mutually exclusive, in entering judgment and imposing sentence:

- (1) The defendant may be sentenced to pay a fine, to imprisonment, or both, within the minimum and maximum sentence authorized pursuant to this Code.
- (2) All or part of the sentence may be suspended, and the defendant placed on probation for a term not longer than one (1) year.
- (3) The Court, with the consent of the defendant and the prosecution, may defer judgment and sentence for a term of not longer than one (1) year.
- (4) The Court may order that the defendant make restitution to the victim of his or her conduct for the actual damage or loss that was sustained. The Court shall fix the manner and time for performance.
- (5) The Court may order that the defendant perform public service work, upon meeting the requirements of the public service program established by the Court. (Ord. 316 §1, 1997)

**ARTICLE VI**

**Police Department**

**Sec. 2-6-05. Provision of police protection by contract.**

At the sole option of the Board of Trustees, the Town may provide police protection and the enforcement of its ordinances through contract with another municipality or political subdivision of the State. Therefore, as authorized by Section 30-11-410, C.R.S., the Town has contracted with the Weld County Board of County Commissioners for the purpose of providing law enforcement, including the enforcement of municipal ordinances, by the Sheriff. Wherever noted in this Code, so long as police duties are being performed pursuant to contract with the Weld County Sheriff's Department, duties of the police or Chief of Police are designated to the Weld County Sheriff and his or her designees. (Ord. 444 §1, 2002)

**Sec. 2-6-10. 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. 316 §1, 1997)

**Sec. 2-6-20. 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. 316 §1, 1997)

**Sec. 2-6-30. Chief of Police; appointment; powers and duties.**

(a) The Board of Trustees, upon the recommendation of the Town Manager, shall appoint a Chief of Police who shall be the head of the Police Department. 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 the Board of Trustees.

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

(3) Arrest any person violating any of the Town ordinances and take such violator before the Municipal Court for trial.

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

(b) Before entering upon the duties of such office, the Chief of Police shall take and subscribe to an oath that he or she will support the Constitution and laws of the State, the Constitution of the United States and 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. 316 §1, 1997)

**Sec. 2-6-40. 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. 316 §1, 1997)

**Sec. 2-6-50. Oath of officers.**

Before entering upon the duties of his or her office, each police officer shall take and subscribe an oath that he or she will support the Constitution and laws of the State, the Constitution of the United States 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. 316 §1, 1997)

**ARTICLE VII**

**Planning Commission**

**Sec. 2-7-10. Creation.**

The Planning Commission for the Town is hereby created in accordance with the provisions of state law. (Prior code 2-6-1; Ord. 316 §1, 1997)

**Sec. 2-7-20. 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 Chapter 16 of this Code, and to perform all functions and powers referred to in said chapter where reference is made.
- (3) To study and recommend to the Board of Trustees 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 Adjustment of the Town.
- (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 to changes in the zoning of the Town, such powers expressly being reserved by the Board of Trustees. (Ord. 316 §1, 1997)

**Sec. 2-7-30. Membership.**

(a) The Planning Commission shall consist of seven (7) regular members: the Mayor, serving as an ex officio member, and six (6) citizens appointed by the Board of Trustees.

(b) There shall be appointed to the Planning Commission by the Board of Trustees two (2) citizen alternate members, to be designated as Alternate A and Alternate B.

(1) Alternate A shall be the senior alternate and shall be designated as the voting alternate in all instances, except when two (2) regular members are absent and both alternates shall be entitled to vote or in the absence of Alternate A, in which event Alternate B shall be the voting alternate.

(2) The alternate members shall sit with the Planning Commission in all meetings and public hearings and may participate in all discussions as though a regular member.

(3) An alternate member may vote only in the event a regular member is unable to vote because of absence. An alternate member may not vote in the event a regular member is recused from voting due to a conflict of interest.

(4) Alternate members shall not be counted in determining a quorum of the Planning Commission for the conduct of business, nor for determining the maintenance of a quorum if a regular member must absent himself or herself due to illness, conflict of interest or any other reason during the course of the meeting.

(c) The term of appointment for Planning Commission regular members shall be for six (6) years or until his or her successor takes office, except for the alternate members, who shall be appointed for a two-year term. The initial term for a citizen member replacing a current member during his or her term shall be the remainder of the current member's term, or the number of years necessary to assure that one-third ( $\frac{1}{3}$ ) of the six (6) citizen members' terms expire every two (2) years.

(d) Any regular Planning Commission member who fails to attend three (3) consecutive regularly scheduled meetings without excuse from the Planning Commission may be removed from the Planning Commission by the Board of Trustees upon recommendation of the Planning Commission. The Planning Commission may excuse the absence of any Commissioners for just cause. (Prior code 2-6-2; Ord. 316 §1, 1997; Ord. 534 §1, 2005; Ord. 594 §1, 2007)

#### **Sec. 2-7-40. Organization.**

The Planning Commission shall elect from its regular members a chairman and chairman pro tem during its first meeting of each calendar year and may create and fill such other offices as it may determine. The Planning Commission shall hold at least one (1) regular meeting each month. The Planning Commission shall adopt rules for transaction of business and shall keep a record of its resolutions, transactions, findings and determinations, which shall be a public record. (Prior code 2-6-3; Ord. 316 §1, 1997)

#### **Sec. 2-7-50. Authority.**

The Planning Commission shall have the powers and authority concerning the application and enforcement of this Code as those powers are delegated to it by provisions of state law and by the specific provisions of this Code. (Prior code 2-6-4)

## **ARTICLE VIII**

### **Board of Adjustment**

#### **Sec. 2-8-10. Creation.**

The Board of Adjustment for the Town is hereby created in accordance with the provisions of state law. (Prior code 2-7-1; Ord. 316 §1, 1997)

#### **Sec. 2-8-20. Membership.**

The Board of Adjustment shall consist of the members of the Board of Trustees, sitting as the Board of Adjustment. The members of the Board of Adjustment shall serve terms commensurate with their terms as Trustees. (Prior code 2-7-2; Ord. 316 §1, 1997)

#### **Sec. 2-8-30. Organization.**

The Mayor shall serve as the chairman of the Board of Adjustment. The Board of Adjustment shall adopt rules for transaction of business and shall keep a record of its resolutions, transactions, findings and determinations, which shall be a public record. (Prior code 2-7-3; Ord. 316 §1, 1997)

#### **Sec. 2-8-40. Authority.**

The Board of Adjustment shall have the powers and authority concerning the application and enforcement of this Code as those powers are delegated to it by provisions of state statutes and by the specific provisions of this Code. (Prior code 2-7-4; Ord. 316 §1, 1997)

#### **Sec. 2-8-50. Appeals from the Board.**

Any further appeal of the decision of the Board of Adjustment may be made to the District Court as provided by law; provided however, that such appeal is made prior to thirty (30) days following the date of the final action taken by the Board of Adjustment, as provided by Rule 106, Colorado Rules of Civil Procedure. (Prior code 2-7-5)

## **ARTICLE IX**

### **Water Activity Enterprise Board**

#### **Sec. 2-9-10. Creation.**

The governing body of the respective Water Activity Enterprise (the "Governing Body") shall be the Board of Trustees, which body shall be subject to all of the applicable laws, rules and regulations pertaining to the Board. Whenever the Board is in session exercising its legal authority relating to any Water Activity Enterprise matter, the Governing Body shall also be deemed to be in session. It shall not be necessary for the Governing Body to meet separately from any meeting of the Board, nor shall it be necessary for the Governing Body to specifically announce or acknowledge that actions taken thereby are taken by the governing body of the Water Activity Enterprise. The Governing Body is authorized to exercise the Town's legal authority relating to water activities as provided in the

Water Activity Law; provided however, that the Governing Body may not levy a tax which is subject to Section 20(4) of the State Constitution. (Ord. 326 §1, 1997)

## **ARTICLE X**

### **Code Enforcement**

#### **Sec. 2-10-10. Creation.**

There is hereby created a Code Enforcement Office for the Town which shall consist of a Code Enforcer. (Ord. 403 §1, 2001)

#### **Sec. 2-10-20. Departmental rules and regulations.**

The Code Enforcement Office 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. 403 §1, 2001)

#### **Sec. 2-10-30. Code Enforcer; appointment; powers and duties; oath.**

(a) The Board of Trustees, upon the recommendation of the Town Manager, shall hire a Code Enforcer who shall perform the duties set forth herein:

- (1) Duly enforce Code violations related to health, sanitation and animals as set forth in this Code.
- (2) Duly enforce Code violations related to abandoned and junk vehicles.
- (3) Work in conjunction with the Municipal Prosecutor in the prosecution of Code violations brought before the Municipal Court.

(b) Before entering upon the duties of the office, the Code Enforcer shall take and subscribe to an oath that he or she will support the Constitution and laws of the State, the Constitution of the United States 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. 403 §1, 2001)

## **ARTICLE XI**

### **Records Retention**

#### **Sec. 2-11-10. Policy.**

It is hereby declared to be the policy of the Town to provide for the efficient, economical and effective controls over the creation, distribution, organization, maintenance, use and disposition of all municipal records through a comprehensive system of integrated procedures for their management from creation to ultimate disposition, consistent with requirements of the Colorado public records law and accepted records management practice. (Ord. 422 §1, 2001)

**Sec. 2-11-20. Model Municipal Records Retention Schedule adopted.**

The Model Municipal Records Retention Schedule promulgated by the Colorado State Archives on September 14, 2001, is hereby adopted as the records retention schedule of the Town to provide legal authority for the destruction of nonpermanent municipal records and the permanent retention of municipal records that have enduring value. The Model Municipal Records Retention Schedule shall become effective upon approval by the Colorado State Archivist for the Town to follow the Model Municipal Records Retention Schedule. Modifications to the Model Municipal Records Retention Schedule may be sought to address issues particular to the Town and, if approved by the Colorado State Archivist, shall be incorporated in the retention schedule of the Town as though set forth in full herein. (Ord. 422 §1, 2001)

**Sec. 2-11-30. Designation of official custodian of public records.**

The Town Clerk, and the successive holders of said office, shall serve as the "official custodian" for public records of the Town, as that term is defined by Section 24-72-202, C.R.S. As the official custodian for the Town's public records, the Town Clerk shall submit a request to the Colorado State Archives for authorization for the Town to follow the Model Municipal Records Retention Schedule. Following the receipt of authorization from the Colorado State Archives for the Town to follow the Model Municipal Records Retention Schedule, the Town Clerk is authorized to implement the Model Municipal Records Retention Schedule and dispose of the Town's nonpermanent municipal records and to retain the municipal records that have enduring value in accordance with said approved Schedule. The Town Clerk is authorized to seek such modifications of the Model Municipal Records Retention Schedule from time to time as may be appropriate. (Ord. 422 §1, 2001)

**Sec. 2-11-40. Annual report.**

Annually, the Town Clerk shall inform the Board of Trustees which Town records will be disposed of, according to the Model Municipal Records Retention Schedule. (Ord. 422 §1, 2001)