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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 provisions of Article II of the Charter. (Ord. 4 §1, 2005)

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

No write-in vote for any municipal office shall be counted unless the candidate files an affidavit of intent with the City Clerk by the close of business on the sixty-fourth day before the election, indicating that such person desires the office and is qualified to assume the duties of that office if elected. (Ord. 4 §1, 2005; Ord. 4 §2, 2006)

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

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

(b) Notice of such cancellation, as it pertains to City Council candidates, shall be published, if possible, and posted at each polling place and in not less than one (1) other public place. (Ord. 4 §1, 2005; Ord. 4 §3, 2006)

ARTICLE II

Mayor and City Council

Sec. 2-2-10. Compensation.

(a) The monthly compensation for the Mayor shall be three hundred dollars (\$300.00).

(b) The monthly compensation for each Council Member shall be two hundred dollars (\$200.00). (Prior code 1.01.160; Ord. 38, 2002 §1; Ord. 4 §1, 2005)

Sec. 2-2-20. Regular meetings.

Pursuant to the authority contained in Section 3.8 of the Charter, the regular City Council meetings shall commence at 7:00 p.m. on the first and third Wednesdays of each month, unless that date should fall upon a legal holiday. (Prior code 2.22.010; Ord. 4 §1, 2005)

Sec. 2-2-30. Executive sessions.

Executive sessions may be conducted during regular or special meetings of the City Council pursuant to the provisions of state statutes. Executive sessions shall not be *meetings* within the meaning of Section 3.8 or 3.9 of the Charter. (Prior code 2.22.020; Ord. 4 §1, 2005)

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

(a) Meetings of the City Council shall be conducted by the Mayor, according to *Robert's Rules of Order, Revised*.

(b) Upon the taking of any vote by the City Council, the City 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 City Clerk shall proceed to call the roll, note the absentees and announce whether a quorum is present. If a quorum is present, the City Council shall proceed with the business before it, in the manner and order as established by the City Council. (Ord. 4 §1, 2005)

Sec. 2-2-50. Boards and commissions.

In accordance with the provisions of Article VII of the Charter, the City Council shall create such boards and commissions and appoint members to such boards and commissions as may now or hereafter exist, including but not limited to the following:

- (1) Board of Adjustment;
- (2) Planning Commission;
- (3) Senior Center Advisory Board; and
- (4) Tree Board. (Ord. 4 §1, 2005)

ARTICLE III

Officers and Employees

Sec. 2-3-10. Appointed officers.

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

- (1) City Manager;
- (2) City Attorney;
- (3) City Clerk;

(4) Municipal Judge; and

(5) Chief of Police.

(b) Said officers shall hold their respective offices until their successors are duly appointed and qualified. Vacancies shall be filled by appointment of the City Council. (Ord. 4 §1, 2005)

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

Appointed officers of the City shall have such powers and perform such duties as are now or hereafter may be prescribed by state law, the Charter and the ordinances of the City, shall further perform any additional duties required by the City Council, and shall be subject to the control and orders of the City Council. (Ord. 4 §1, 2005)

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

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

(b) In all cases where, by law, ordinance or resolution of the City Council, a bond is required of any such officer, he or she shall make and execute to the City a bond in such sum as is required, to be approved by the City Council, conditioned upon the faithful performance of all duties pertaining to such office, the proper care of all money or property of the City coming into his or her hands and the proper accounting for or delivery of the same. (Ord. 4 §1, 2005)

Sec. 2-3-40. Removal of City officers.

(a) Cause for removal. By a majority vote of all members of the City Council, the City Manager, City Clerk, City Treasurer, Mayor, any member of the City Council or any other officer of the City 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 City. When any elected officer ceases to reside within the limits of the City, he or she may be removed from office pursuant to this Section. Appointed officers or employees of the City need not reside within the limits of the City, unless otherwise provided in the Charter. A Municipal Judge may be removed during his or her term of office only for cause, as set forth in Section 13-10-105(2), C.R.S.

(b) Specification of charges. All charges preferred against any such officer of the City, for any cause or causes specified in the foregoing Subsection for the removal of such officer, shall be made in writing to the City Council and shall clearly specify any such cause for 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 officer at least fifteen (15) days before the day of hearing.

(d) Hearing. At the time and place so set, the City Council 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 has been given, the City Council 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 City Council, by a lawful number, finds the accused officer guilty of any specified charge aforesaid, it shall resolve that the accused be removed from office and his or her office declared vacant.

(f) Appearance by counsel. Upon the trial as aforesaid, the accused officer shall be heard by himself or herself or by counsel in his or her defense, and the City may also be represented by counsel in the prosecution of such charges. The Chief of Police, the Mayor or the City Clerk may serve any paper required to be served by any provisions of this Article. (Ord. 4 §1, 2005)

Sec. 2-3-50. City Manager salary limitation.

(a) In order to implement the provisions of Section 6.2 of the Charter, the City Council finds and determines that the term "Cities of the approximate population of the City of Rifle" means those cities which: (1) are located in Colorado; (2) have a City Manager or Town Administrator form of government; and (3) have a population as shown by the latest figures available from the United States Census, which ranges from fifty percent (50%) smaller or larger than the City.

(b) In order to determine the "total compensation" of the City Manager, the City Council shall consider conclusive the information contained in the most recent Salary or Benefit Survey prepared by the Colorado Municipal League. (Prior code 2.30.030; Ord. 4 §1, 2005)

Sec. 2-3-60. Personnel rules.

(a) The City Council may, from time to time, adopt, amend, alter or abolish rules and regulations which deal with the employees of the City. These rules shall govern the relations between the City and its employees, and shall attempt as far as possible to provide a fair and equitable manner for hiring and employment, employment conditions, advancement, reductions in force, terminations, creation of a personnel department, discipline and grievance procedures and affirmative action programs.

(b) Personnel rules, to become effective, shall be adopted by resolution of the City Council at a regular or special meeting. At least one (1) complete set of the personnel rules shall be kept by the City Manager, and shall be made available for inspection by any City employee during normal working hours. In addition, the City Manager shall be encouraged, within budget limitations, to make copies available to all City employees. (Prior code 2.30.010, 2.30.020; Ord. 4 §1, 2005)

Sec. 2-3-70. Social Security.

In the opinion of the City Council, the extension of the social security system to employees and officers of the City 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 City by the efficiency of its government. (Ord. 4 §1, 2005)

ARTICLE IV

Municipal Court

Sec. 2-4-10. Purpose.

The Municipal Court hereby establishes the rules, regulations and methods of procedure set out in this Article in order to accomplish the following purposes:

- (1) Provide a simple and expeditious method for the prosecution of alleged violations of City ordinances in the Municipal Court;
- (2) Guarantee to the defendant a method of exercising his or her constitutional rights; and
- (3) Provide a simple and expeditious system for the administration of the Municipal Court. (Prior code 2.12.010; Ord. 4 §1, 2005)

Sec. 2-4-20. Qualified court of record.

The Municipal Court shall keep a verbatim record of the proceedings and evidence at trials by either electronic devices or stenographic means. The Municipal Court thus shall be a qualified municipal court of record, pursuant to the provisions of Section 13-10-102(3), C.R.S. (Prior code 2.12.020; Ord. 4 §1, 2005)

Sec. 2-4-30. Original jurisdiction.

The Municipal Court shall have original jurisdiction in all cases arising under the provisions of this Code and ordinances of the City, both criminal and noncriminal, with full power to punish violators thereof by the imposition of such fines and penalties as are prescribed in this Code, by ordinance or by court rules, and permitted pursuant to state law. (Prior code 2.12.030; Ord. 4 §1, 2005)

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

(a) The City Council shall appoint a Municipal Judge, who shall meet the qualifications of the Charter, this Code and state statutes. Preference shall be given by the City Council, when possible, to the appointment of a Municipal Judge who is licensed to practice law in Colorado or who is trained in the law. The Municipal Judge need not be a resident of the City and, subject to state law, may hold other judicial offices and may practice law.

(b) The City Council may appoint such additional Municipal Judges or Assistant Municipal Judges as may be necessary to act in case of the temporary absence, sickness, disqualification or other inability of the presiding Municipal Judge to act. The qualifications required for an Assistant Municipal Judge shall be the same as those specified in subsection (a) above. In the event that more than one (1) Municipal Judge is appointed, the City Council shall designate a presiding Municipal Judge, who shall serve in this capacity during the term for which he or she was appointed.

(c) In the event of the temporary absence, sickness, disqualification or other inability of all Municipal Judges appointed by the City Council to act, the presiding Municipal Judge shall designate one (1) or more substitute judges to serve on a temporary basis only.

(d) The term of office of all Municipal Judges appointed shall be for a period of two (2) years, and shall begin on the third Tuesday of September of each odd-numbered year. A Municipal Judge may be reappointed for a subsequent term, and any vacancy in the office of Municipal Judge shall be filled by appointment for the remainder of the unexpired term. (Prior code 2.12.060; Ord. 4 §1, 2005)

Sec. 2-4-50. Removal from office of Municipal Judge.

A Municipal Judge may be removed during his or her term of office only for cause. A Municipal Judge may be removed for cause if he or she:

- (1) Is found guilty of a felony or any other crime involving moral turpitude;
- (2) Has a disability which interferes with the performance of his or her duties and which is, or is likely to become, a permanent character;
- (3) Has willfully or persistently failed to perform his or her duties; or
- (4) Is habitually intemperate. (Prior code 2.12.070; Ord. 4 §1, 2005)

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

Each Municipal Judge appointed shall receive such fixed compensation as may be established by resolution of the City Council; however, such compensation shall not be based upon the fees or fines assessed by the Municipal Court, nor upon the basis of per-case handled. Said salary shall be a fixed annual compensation and may be payable on a monthly basis, a per-hour basis or other periodic basis. (Prior code 2.12.080)

Sec. 2-4-70. Oath of office.

Before entering upon the duties of his or her office, the Municipal Judge, or any Assistant or Associate Municipal Judge, shall make an oath or affirmation that he or she supports the Constitution of the United States, the Constitution of the State and the laws and ordinances of the City; and that he or she will faithfully perform the duties of his or her office. (Prior code 2.12.090)

Sec. 2-4-80. Court Clerk established.

There is established the position of Municipal Court Clerk. The presiding Municipal Judge may serve as ex officio Court Clerk if the business of the Municipal Court is insufficient to warrant a separate full-time or part-time Court Clerk. In addition, the presiding Municipal Judge may serve as ex officio Court Clerk in the event of a temporary absence of the appointed Court Clerk. (Prior code 2.12.100; Ord. 4 §1, 2005)

Sec. 2-4-90. Appointment of Court Clerk.

The Court Clerk shall be appointed by the City Manager after consultation with the presiding Municipal Judge. The Court Clerk shall be an employee of the City, supervised by the City Manager. (Prior code 2.12.110; Ord. 14 §2, 2004)

Sec. 2-4-100. Duties of Court Clerk.

The Court Clerk shall have such duties as are delegated to him or her by ordinance, court rule, the City Manager or the presiding Municipal Judge. The Court Clerk shall file monthly reports with the City Clerk of all fines and costs collected or received by the Municipal Court; and, at such intervals as are established by the City Manager, shall pay to the City Treasurer said fines and costs which shall be deposited in the General Fund of the City. (Prior code 2.12.120; Ord. 14 §2, 2004)

Sec. 2-4-110. Compensation of Court Clerk.

The City Council shall provide by resolution for the salary of the Court Clerk, except that if the Municipal Judge serves as ex officio Court Clerk, he or she shall not receive any additional compensation. (Prior code 2.12.130)

Sec. 2-4-120. Court Clerk bond.

The Court Clerk shall give a performance bond in the sum of at least two thousand dollars (\$2,000.00) to the City. Said performance bond may be part of a blanket bond covering other municipal employees, but shall be approved by the City Council and be conditioned upon the faithful performance of his or her duties, and for the faithful accounting for and payment of all funds deposited with or received by the Municipal Court. The Municipal Judge, as ex officio Court Clerk, shall also execute the performance bond required by this Section. (Prior code 2.12.140)

Sec. 2-4-130. Court facilities and supplies.

The City Council 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 Court. (Prior code 2.12.150)

Sec. 2-4-140. Municipal Court appropriations.

The City Council shall, on an annual basis, budget and appropriate funds to pay the annual salary of the presiding Municipal Judge, any assistant or associate judges and the Court Clerk, together with such other expenses as may be necessary for the proper operation of the Municipal Court. (Prior code 2.12.160; Ord. 4 §1, 2005)

Sec. 2-4-150. Sessions generally.

(a) There shall be regular sessions of the Municipal Court for the hearing and trial of cases as may be fixed by the Municipal Judge. The Municipal Judge may hold special sessions of court any time, including Sundays, holidays and evenings. All sessions of court shall be open to the public, unless otherwise provided by law or court rules or in Subsection (b) below.

(b) Where the nature of the case is such that it would be in the best interest of justice to exclude persons not directly connected with the proceedings, the Municipal Judge may order that the courtroom be cleared. (Prior code 2.12.040; Ord. 4 §1, 2005)

Sec. 2-4-160. 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 Colorado Municipal Court Rules of Procedure, as promulgated by the Colorado Supreme Court, and applicable state statutes. The Municipal Judge shall have authority to issue local rules of procedure consistent with the rules promulgated by the Colorado Supreme Court and applicable law. (Prior code 2.12.050; Ord. 4 §1, 2005)

Sec. 2-4-170. Commencement of action.

Commencement of an action for violation of the Charter, this Code or City ordinances, whether criminal, quasi-criminal or civil in nature, shall be commenced in the manner provided in Section 13-10-111, C.R.S., the Colorado Rules of Municipal Court Procedure, or as otherwise provided by ordinance. (Prior code 2.12.170; Ord. 4 §1, 2005)

Sec. 2-4-180. Notice to defendant.

(a) Upon obtaining jurisdiction over a defendant, all written notices by the Municipal Court to the defendant shall be deemed to be effective if mailed to the last known address of the defendant, as shown in the Municipal Court's records.

(b) The address shown on the summons and complaint contained in the Municipal Court's records shall be considered the last known address of the defendant, unless the defendant provides the Municipal Court with a different address. (Prior code 2.12.175)

Sec. 2-4-190. Penalty assessment procedure.

(a) When a person is charged with an offense pursuant to this Code, the charging officer may either give the person a penalty assessment notice and release him or her upon its terms or take him or her before the Municipal Judge if a penalty assessment has been established for said offense pursuant to Court order or by ordinance. The choice of procedures shall be based upon the circumstances which reasonably persuade the officer that the alleged offender is likely or unlikely to comply with the terms of the penalty assessment notice. Such circumstances may include the officer accompanying the offender to a post office or mail box and witnessing the deposit in the mail of the notice with payment of the penalty attached.

(b) The penalty assessment notice shall be a summons and complaint containing identification of the alleged offender, specification of the offense and applicable fine or penalty, a requirement that the alleged offender pay the fine or penalty or appear to answer the charge at a specified time and place, and any other matter reasonably adopted to effectuate the purposes of this Section. A duplicate copy shall be sent to the Court Clerk. The provisions of this Section shall not apply unless a penalty assessment for the alleged offense has been authorized by the Municipal Court or by ordinance.

(c) If the person given a penalty assessment notice chooses to acknowledge his or her guilt, he or she may pay the specified penalty in person or by mail at the place and within the time specified in the notice. If he or she chooses not to acknowledge his or her guilt, he or she shall appear as required in the notice. Upon trial, if the alleged offender is found guilty or liable, the penalty imposed shall be that specified in

the notice for the offense of which he or she was found guilty or liable; and customary court costs may be assessed against him or her in addition to the fine or penalty.

(d) Penalty assessments may be authorized for both criminal and noncriminal offenses by ordinance or by order of the Municipal Court. (Prior code 2.12.200)

Sec. 2-4-200. Suspensions, deferred judgments and prosecutions, and stays of execution.

(a) When the Municipal Court determines that the ends of justice will be served thereby, the Municipal Court shall have the power to suspend the imposition of any fine or incarceration, and shall have the power to stay execution of the sentence for such period, not to exceed twelve (12) months, upon such terms and conditions as deemed appropriate by the Municipal Court.

(b) In any case in which the defendant has entered a plea of guilty or no contest, the Municipal Court has the power, with the written consent of the defendant, his or her attorney of record and the prosecuting attorney, to continue the case for a period not to exceed one (1) year from the date of entry of such plea for the purpose of entering judgment and sentence upon such plea of guilty. During such time, the Municipal Court may place the defendant under the supervision of any appropriate human services agency or mental health professional.

(c) Prior to the entry of a plea of guilty to be followed by deferred judgment and sentence, the prosecuting attorney, in the course of plea discussions, is authorized to enter into a written stipulation, to be signed by the defendant, his or her attorney of record and the prosecuting attorney, under which the defendant obligates himself or herself to adhere to such stipulation. The conditions imposed in the stipulation shall be similar in all respects to conditions permitted as part of probation. Said stipulation shall only be effective upon consideration and approval by the Municipal Court. Upon full compliance with such conditions by the defendant, the plea of guilty previously entered shall be withdrawn and the action against the defendant dismissed with prejudice. Such stipulation shall specifically provide that, upon a breach by the defendant of any conditions regulating the conduct of the defendant, the Municipal Court shall enter judgment and impose sentence upon such guilty plea.

(d) When, as a condition of the deferred judgment, the Municipal Court orders the defendant to pay restitution, compensation to appointed counsel, fines, fees or costs, evidence of the failure to pay shall constitute prima facie evidence of a violation. Whether a breach of condition has occurred shall be determined by the Municipal Court without a jury upon application of the prosecuting attorney and upon notice of hearing thereon of not less than five (5) days to the defendant or his or her attorney of record. Application for entry of judgment and imposition of sentence may be made by the prosecuting attorney at any time within the term of the deferred judgment or within forty-five (45) days thereafter. The burden of proof at such hearing shall be by preponderance of the evidence, and the procedural safeguards required in a revocation of probation hearing shall apply. When a defendant signs a stipulation providing that judgment and sentence shall be deferred for a specific time, certain, he or she thereby waives all rights to a speedy trial.

(e) In any case, the Municipal Court may, prior to trial or entry of a plea of guilty and with the consent of the defendant and the prosecuting attorney, order the prosecution of the offense to be deferred for a period not to exceed one (1) year. During that time, the Municipal Court may place the defendant under the supervision of any appropriate human services agency or mental health professional and may

require the defendant to undergo counseling or treatment for his or her mental condition, for alcohol or drug abuse or for both conditions.

(f) Upon defendant's satisfactory completion of and discharge from supervision, the charge against the defendant shall be dismissed with prejudice. If the conditions of supervision are violated, the defendant shall be tried for the offense for which he or she is charged. The violation of conditions of supervision shall be determined by a hearing before the Municipal Court. The burden in such hearing shall be upon the prosecuting attorney by a preponderance of the evidence to show that a violation has in fact occurred. However, if the alleged violation is a failure to pay court-ordered compensation to appointed counsel, probation fees, court costs, restitution or reparations, evidence of the failure to pay shall constitute prima facie evidence of a violation. The Municipal Judge at the hearing may temper the rules of evidence in the exercise of sound judicial discretion.

(g) Upon consenting to a deferred prosecution as provided in this Section, the defendant shall execute a written waiver of his or her right to a speedy trial. Consent to a deferred prosecution under this Section shall not be construed as an admission of guilt, nor shall such consent be admitted in evidence in trial for the offense for which he or she is charged. (Prior code 2.12.210; Ord. 4 §1, 2005)

Sec. 2-4-210. Probation.

(a) When it appears to the satisfaction of the Municipal Court that the ends of justice and the best interests of the public, as well as the defendant, will be served thereby, the Municipal Court may grant the defendant probation for such period not to exceed twelve (12) months, and upon such terms and conditions as it deems best. In addition to imposing other conditions, the Municipal Court has the power to require the defendant to pay any fines and costs in one (1) or more installments, and require the defendant to serve a period of imprisonment not to exceed thirty (30) days.

(b) Conditions of probation shall be such as the Municipal Court, in its discretion, deems necessary to ensure that the defendant will lead a law-abiding life and to assist him or her to do so. The Municipal Court shall provide as explicit conditions of every sentence to probation that the defendant not commit another offense, except minor traffic offenses, during the period for which the probation remains subject to revocation, and that the defendant make restitution, if applicable.

(c) When granting probation, the Municipal Court may, as a condition of probation, require that the defendant:

(1) Work faithfully at a suitable employment or faithfully pursue a course of study or vocational training that will equip him or her for suitable employment.

(2) Undergo available medical, psychological or mental health treatment and counseling, and remain in a specified institution if required for that purpose. The Municipal Court may require the defendant to undergo an evaluation by a mental health professional or similar professional person and may require the defendant to comply with the recommendation of said mental health professional or other professional person.

(3) Undergo counseling or treatment for alcohol or drug abuse, or for both such conditions.

(4) Attend or reside in a facility established for the instruction, recreation or residence of persons on probation.

(5) Support his or her dependents and meet other family obligations.

(6) Make restitution to the victim of his or her conduct or to a member of the victim's immediate family for the actual damages which were sustained. The amount of such restitution shall be based on the actual, pecuniary damages sustained by the victim; the ability of the defendant to pay; and the defendant's obligation to support his or her dependents and to meet other family obligations. The Municipal Court shall fix the manner and time of performance.

(7) Pay reasonable costs of the court proceedings, costs related to probation or both. When the payment of costs of court or probation is a condition of probation, the Municipal Court shall fix the amounts thereof, which shall not exceed an amount which the defendant can or will be able to pay, and shall fix the manner of performance.

(8) Pay any fines or fees imposed by the Municipal Court.

(9) Refrain from possessing a firearm, destructive device or other dangerous weapon unless granted written permission by the Municipal Court.

(10) Refrain from the use of alcohol or any unlawful use of controlled substances or any other dangerous or abusable drug without a prescription.

(11) Report to a human services agency, mental health professional or other similar professional person at reasonable times as directed by the Municipal Court.

(12) Remain within the jurisdiction of the Municipal Court, unless granted permission to leave by the Court.

(13) Answer all reasonable inquiries by the Municipal Court and promptly notify the Court of any change in address or employment.

(14) Satisfy any other conditions reasonably related to his or her rehabilitation and the purposes of prohibition.

(d) The order of priority for any payments required of the defendant pursuant to a grant of probation shall be as follows: restitution or reparation; support of defendant and meeting other family responsibilities; costs of court proceedings or costs related to probation; and any fines or other fees imposed by the Municipal Court.

(e) When a defendant is granted probation, he or she shall be given a written statement explicitly setting forth the conditions on which he or she is being released.

(f) For good cause shown and after notice to the defendant, the prosecuting attorney and, after a hearing if the defendant requests it, the Municipal Judge may reduce or increase the term of probation, alter the conditions or impose new conditions. (Prior code 2.12.220; Ord. 4 §1, 2005)

Sec. 2-4-220. Revocation of probation.

(a) If a police officer or prosecuting attorney has reason to believe that the conditions of probation have been violated by a probationer, he or she may cause a summons to be issued requiring the probationer to appear before the Municipal Court at a specified time and place to answer charges of the violation of the conditions of probation. The summons, unless accompanied by a copy of the complaint, shall contain a brief statement of the violation and the date and place thereof. Failure of the probationer to appear before the Municipal Court as required by the summons shall be deemed a violation of the conditions of probation. A complaint filed by a police officer or prosecuting attorney shall contain the name of the probationer, shall identify the violation charged and the condition of probation alleged to have been violated, including the date and approximate location thereof, and shall be signed by the police officer or prosecuting attorney. A copy thereof shall be given to the probationer a reasonable length of time before he or she appears before the Municipal Court. A summons and/or complaint alleging a violation of probation may be issued any time during the period of probation or within forty-five (45) days thereafter; provided, however, that the Municipal Court may, for good cause shown, extend the period for filing the summons and complaint.

(b) A warrant for the arrest of any probationer for violation of the conditions of probation may be issued by the Municipal Court upon the verified complaint of any person establishing, to the satisfaction of the Municipal Court, probable cause to believe that a condition of probation has been violated and that the arrest of the probationer is reasonably necessary. The warrant may be executed by any peace officer authorized to execute warrants in the county in which the probationer is found.

(c) At the first appearance of the probationer in Municipal Court or at the commencement of the hearing, whichever is first in time, the Court shall advise the probationer of the nature of the proceeding and his or her rights; except that there shall be no right to a trial by jury in proceedings for revocation of probation. The Municipal Court shall advise the probationer of the charges against him or her and any penalties therefor, and shall require the probationer to plead guilty or not guilty.

(d) At the hearing, the prosecution has the burden of establishing by a preponderance of the evidence the violation of a condition of probation; except that the commission of a criminal offense must be established beyond a reasonable doubt unless the probationer has been convicted thereof in a criminal proceeding. When, during a revocation hearing, the alleged violation of a condition is the probationer's failure to pay court-ordered compensation to appointed counsel, probation fees, court costs, restitution or reparations, evidence of the failure to pay shall constitute prima facie evidence of a violation. The Municipal Court may, when it appears that the alleged violation of conditions of probation consists of an offense with which the probationer is charged in a criminal proceeding then pending, continue the probation revocation hearing until the termination of the criminal proceeding. Any evidence having probative value shall be received regardless of its admissibility under the exclusionary rules of evidence if the defendant is accorded a fair opportunity to rebut any such evidence, whether hearsay or otherwise.

(e) If the Municipal Court determines that a violation of a condition of probation has been committed and the term of probation has not expired, it shall, within five (5) days after the hearing, either revoke or continue the probation. If probation is revoked or has expired, the Municipal Court may impose any sentence or grant any probation which may originally have been imposed or granted. (Prior code 2.12.230)

Sec. 2-4-230. Restitution.

(a) In any case where the victim has suffered pecuniary loss and the defendant pleads guilty or no contest, or is found guilty, the Municipal Court may, at its discretion, require a restitution hearing and, when found to be appropriate at such hearing, the Municipal Court shall order restitution in an amount determined at the restitution hearing as a condition of any sentence imposed. The restitution hearing, if required, shall be set by the Municipal Court at the time the defendant is found guilty or enters a plea of guilty or no contest, or when the defendant's plea bargain is accepted by the Municipal Court.

(b) For purposes of this Section, a victim shall be the party immediately and directly aggrieved by a defendant who is convicted of a criminal act.

(c) For purposes of this Section, the amount of restitution shall be based on the actual, pecuniary damages sustained by the victim, the ability of the defendant to pay and the defendant's obligations to support such defendant's dependents and to meet other family obligations.

(d) For purposes of this Section, compensable losses for which restitution may be ordered include but are not limited to the following:

- (1) Reasonable medical and hospital expenses and expenses incurred for dentures, eyeglasses, hearing aids or other prosthetic or medically necessary devices.
- (2) Loss of earnings.
- (3) Outpatient care.
- (4) Property damage.
- (5) Mental health consulting.
- (6) Payment of the deductible amount on an insurance policy.

(e) At the restitution hearing, the Municipal Court may consider any competent evidence establishing the monetary loss sustained by the victim. Formal rules of evidence shall not apply to any restitution hearing. The standard of proof at such hearings shall be a preponderance of the evidence. The issue to be decided by the Municipal Court is the amount of reasonable restitution that should be paid by the defendant. Once the amount of restitution is established, the Municipal Court shall order such restitution be paid by the defendant to the victim as part of any sentence imposed by the Municipal Court. (Ord. 22 §2, 2005)

Sec. 2-4-240. Fees and costs.

(a) Costs and fees taxable. The following fees and costs, if applicable, shall be taxed and paid in all Municipal Court proceedings. All fees and costs shall be paid to the City. When judgment is entered against a defendant, all fees and costs shall be taxed as a part of the judgment, unless otherwise provided in this Chapter.

(1) Costs shall be paid by the City when a defendant is acquitted, when charges are dismissed against a defendant or when a defendant is convicted and the Court determines that he or she is unable to pay them, unless otherwise provided herein.

(2) If any private person complainant, in an action before the Municipal Court, requests dismissal of the prosecution of said action, willfully absents himself or herself from trial or fails to appear at trial, and said action is dismissed, the Court shall give judgment against said private person complainant for all applicable fees and costs. In addition, if charges against an accused pursuant to a private person complaint are dismissed, and it appears to the Court there was no reasonable grounds for the complaint or that it was maliciously made, the Court shall give judgment against said complainant for all applicable fees and costs.

(b) Docket fee. In all proceedings before the Municipal Court, a docket fee shall be charged to a defendant if a conviction is imposed. Pursuant to the Colorado Municipal Model Traffic Code, in all Municipal Court traffic infraction actions, the docket fee is set forth in Appendix A to this Code. In all other Municipal Court ordinance actions, the docket fee is set forth in Appendix A to this Code. A separate docket fee in the same amount shall be charged if a defendant is found guilty of a violation of probation, deferred sentence and judgment, or contempt of court.

(c) Surcharge. In addition to any docket fee or other costs imposed by this Section, a surcharge of the fine imposed for violation of all municipal ordinances, including ordinance violations under the Model Traffic Code, is hereby levied in an amount set forth in Appendix A to this Code on each Municipal Court action resulting in a conviction, plea of guilty or no contest, or in a deferred judgment and sentence, which municipal ordinance violation is charged pursuant to City ordinances. All calculated surcharge amounts resulting in dollars and cents shall be rounded to the nearest whole dollar. In the event a portion of the fine is suspended, the surcharge shall be computed based on the amount of the fine as suspended. The defendant shall pay such surcharge to the Court Clerk at the time the fine is paid, whether the defendant appears in Court or pays the fine through the mail. The Clerk shall deposit the money so received in the fund, and all such surcharges collected shall be used exclusively for training City police officers in the performance of their duties.

(d) Jury fee. At the time he or she demands a jury trial, the defendant shall pay a jury fee as set forth in Appendix A to this Code to the Court Clerk. If the defendant is subsequently found not guilty, or the charges against him or her are dismissed, the jury fee shall be returned.

(e) Witness fee.

(1) A witness fee in the amount set forth in Appendix A to this Code for each witness shall be assessed for each witness testifying in a trial. Said fees shall be paid by the defendant upon his or her conviction.

(2) Witnesses shall receive the sum set forth in Appendix A to this Code for testifying before the Municipal Court; provided, however, that witnesses called to testify only to an opinion founded on special study or experience in any branch of science or to make scientific or professional examinations and state the result thereof shall receive additional compensation, to be fixed by the Municipal Court, with reference to the value of the time employed and the degree of learning or skill required. Said fees fixed by the Municipal Court shall be assessed against the defendant upon his or her conviction and paid to such witnesses.

(3) Any witness fee collected by the Court Clerk shall be paid to the person entitled to the witness fee, if claimed by such person. Any witness fee collected, but not claimed by a witness in the same month, shall be paid by the Court Clerk to the City Treasurer. All unclaimed witness fees shall become the property of the City and shall not be refunded. If a fee claimed by a witness has not previously been collected by the Court Clerk, the City shall pay the witness claimant if said claim was submitted in a timely manner.

(f) Juror fees. For attending Municipal Court, jurors shall receive the amount set forth in Appendix A to this Code while actually engaged on the jury, and the amount set forth in Appendix A to this Code for attendance on the panel alone. Said fee shall be paid by the City.

(g) Mileage fees. All witnesses and jurors shall receive an amount set forth in Appendix A to this Code per mile for each mile actually and necessarily traveled in going from their places of residence to the Municipal Court; provided, however, that no witness shall receive mileage fees unless such witness claims the same before the adjournment of the Municipal Court. Mileage fees shall be paid by the City. This Subsection shall not apply to an officer of the court who attends in his or her official capacity, including clerks, sheriffs, bailiffs and police officers.

(h) Deferred judgment or deferred prosecution fee. In all actions in which a defendant is granted a deferred judgment and sentence or a deferred prosecution, the defendant shall be assessed a fee in the amount set forth in Appendix A to this Code to defray the costs of preparing applicable court documents and of monitoring compliance with the terms of the deferred judgment and sentence. Nothing contained in this Article shall prevent the Court from assessing additional fees in the event the defendant is required to undergo counseling, treatment or supervision by a human services agency, mental health professional or similar professional.

(i) Probation fee. In all actions in which the Municipal Court grants a defendant either probation or a conditionally suspended sentence, the Court shall assess a fee set forth in Appendix A to this Code against the defendant to defray the costs of preparing applicable court documents and of monitoring compliance with the terms of probation or suspended sentence. Nothing contained in this Article shall prevent the Court from assessing additional fees in the event the defendant is required to undergo counseling, treatment or supervision by a human services agency, mental health professional or similar professional.

(j) Bench warrant fee. In all actions in which a bench warrant is issued for the arrest of a defendant for failure to appear or failure to pay fines and costs as ordered by the Municipal Court, the Municipal Court shall assess against said defendant a fee in the amount set forth in Appendix A to this Code in addition to all other fees and costs due and owing.

(k) Incarceration fee. In all actions in which a defendant is sentenced to incarceration in the county jail, the Municipal Court may assess against said defendant an incarceration fee in an amount equal to the sum charged the City by Garfield County for such incarceration. (Prior code 2.12.240; Ord. 6-03 §§3—5; Ord. 37 §8, 2004; Ord. 4 §1, 2005; Ord. 22 §3, 2005)

Sec. 2-4-250. Witness immunity.

(a) Whenever a witness refuses, on the basis of his or her privilege against self-incrimination, to testify or provide other information in a proceeding before the Municipal Court, and the Municipal Judge

presiding over the proceeding communicates to the witness an order as specified in Subsection (b) below, the witness may not refuse to comply with the order on the basis of his or her privilege against self-incrimination; except that no testimony or other information compelled under the order, or any information directly or indirectly derived from such testimony or other information, may be used against the witness in any criminal case, except a prosecution for perjury, false statement or otherwise failing to comply with the order.

(b) In the case of any individual who has been or may be called to testify or provide other information at any proceeding before the Municipal Court, the Municipal Court may issue, upon request of the prosecuting attorney, an order requiring such individual to give testimony or provide other information which he or she refuses to give or provide on the basis of his or her privilege against self-incrimination, such order to become effective as provided in Subsection (a) above.

(c) The prosecuting attorney may request an order as specified in Subsection (b) above when, in his or her judgment, the testimony or other information from such individual may be necessary to the public interest and such individual has refused or is likely to refuse to testify or provide other information on the basis of his or her privilege against self-incrimination. (Prior code 2.12.250; Ord. 22 §3, 2005)

Sec. 2-4-260. 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 ten (10) days.

(b) In cases of indirect contempt, the alleged contemnor shall have all the rights, privileges, safeguards and protections of a defendant in a petty offense case, including but not limited to a formal written complaint, arraignment and trial by jury. (Ord. 4 §1, 2005; Ord. 22 §3, 2005)

ARTICLE V

Police Department

Sec. 2-5-10. Creation; composition.

There is hereby created a Police Department for the City, 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 City. (Ord. 4 §1, 2005)

Sec. 2-5-20. Chief of Police; appointment and duties.

(a) The City Manager, upon the approval of the City Council, 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 this Code, the ordinances of the City and the laws of the State are duly enforced and the rules and regulations of the Police Department obeyed, and perform such other duties as may be required by the City Council.

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

(3) Render such accounts of the Police Department, his or her duties and receipts as may be required by the City Council, and keep the records of his or her office open to inspection by the City Council 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 of the United States, the Constitution and laws of the State and ordinances of the City, 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, 2005)

Sec. 2-5-30. 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 be the enforcement officers of the City and shall see that the provisions of the ordinances of the City 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 City ordinance, and they may serve the same in any part of the County. (Ord. 4 §1, 2005)

ARTICLE VI

Planning Commission

Sec. 2-6-10. Creation.

Pursuant to state law, there is hereby created a Planning Commission for the City. (Prior code 2.04.010; Ord. 4 §1, 2005)

Sec. 2-6-20. 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 chapters where reference is made.

(3) To study and recommend to the City Council amendments to the Zoning Map of the City.

(4) To study and recommend appropriate zoning classifications for all annexations to the City.

(5) To exchange information with the various governmental agencies charged with planning and zoning responsibilities.

(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 City, such powers expressly being reserved by the City Council. (Ord. 4 §1, 2005)

Sec. 2-6-30. Membership.

The Planning Commission shall consist of seven (7) members who shall be bona fide residents of the City and who shall hold no other municipal office. The Planning Commission shall also consist of two (2) alternate members with the same qualifications as regular members. The regular and alternate members of the Planning Commission shall be appointed by the Mayor with the advice and consent of the City Council. (Prior code 2.04.010; Ord. 4 §1, 2005)

Sec. 2-6-40. Compensation and terms of office.

The members of the Planning Commission, both permanent and alternate, shall receive monthly compensation in the amount of one hundred dollars (\$100.00), irrespective of such member's attendance at any given Planning Commission meeting. The terms of office of the Planning Commission members, regular and alternate, shall be four (4) years, which terms shall be staggered with four (4) regular members and one (1) alternate member terms beginning on January 1, 2003, and three (3) regular members and one (1) alternate member terms beginning January 1, 2005. (Prior code 2.04.020; Ord. 38 §2, 2002)

Sec. 2-6-50. Powers and duties.

The Planning Commission shall have all the powers granted and shall perform all the duties imposed by Part 2 of Article 23, Title 31, C.R.S. (Prior code 2.04.030)

Sec. 2-6-60. Organization.

The Planning Commission, upon its organization and adoption of its rules, shall proceed to function. (Prior code 2.04.040; Ord. 4 §1, 2005)

ARTICLE VII

Senior Center Advisory Board

Sec. 2-7-10. Establishment.

There is established a Senior Center Advisory Board, with powers delegated as provided in this Article, for the purpose of the operation and maintenance of the Rifle Senior Center. (Prior code 2.32.010)

Sec. 2-7-20. Membership and qualifications.

(a) The Senior Center Advisory Board shall consist of seven (7) members and two (2) alternates, to be appointed by the City Council for three-year terms. The term of each member of the Senior Center Board shall expire on April 15 of each year. For the purpose of providing overlapping terms of office, the

initial Senior Center Advisory Board shall consist of two (2) members to be appointed for a term of one (1) year, two (2) members to be appointed for a term of two (2) years, and three (3) members and two (2) alternates to be appointed for a term of three (3) years.

(b) All members and alternates of the Senior Center Advisory Board shall be at least sixty (60) years of age, with the exception of the City Council member at large, and at least five (5) of the members of the Senior Center Advisory Board shall, at the time of their appointment, be residents of the City. A position shall become vacant when a member of the Senior Center Advisory Board moves his or her permanent residence from the City. (Prior code 2.32.020; Ord. 4 §1, 2005; Ord. 35 §2, 2006)

Sec. 2-7-30. Meetings, procedures and quorum.

Meetings of the Senior Center Advisory Board shall be held no less than monthly, unless members are notified to the contrary, at such times and places as the Senior Center Advisory Board may determine by resolution. The Senior Center Advisory Board shall elect, by ballot, a chairman and secretary from members of the Board. The Senior Center Advisory Board may also adopt its own rules of procedure and bylaws, which shall be approved by the City Council prior to becoming effective, and shall keep records of its meetings, which shall show the actions of the Senior Center Advisory Board and the vote of each member on each question considered. The presence of four (4) members shall constitute a quorum. (Prior code 2.32.030; Ord. 4 §1, 2005; Ord. 35 §3, 2006)

Sec. 2-7-40. Duties.

Under the supervision of the City Manager, the Senior Center Advisory Board shall conduct and supervise the operation and maintenance of the Rifle Senior Center. For the purpose of providing consistent guidelines for the use of the Senior Center, the Senior Center Advisory Board shall adopt policies and rules governing the use of the Senior Center, and shall submit these policies and goals to the City Council for its approval no less than sixty (60) days after the creation of the Senior Center Advisory Board. Any amendment shall be submitted in writing for review and approval to the City Council. (Prior code 2.32.040; Ord. 4 §1, 2005)

Sec. 2-7-50. Financial transactions.

The Senior Center Advisory Board shall not be authorized to receive money on behalf of the City, nor shall it be authorized to make direct expenditures of City funds, except with the prior approval of the City Council or as otherwise provided by ordinance. (Prior code 2.32.050)

ARTICLE VIII

Tree Board

Sec. 2-8-10. Creation and establishment.

There is hereby created and established a Tree Board, with powers as set out in this Article, for the purpose of regulating tree care in the City. (Prior code 17.18.200; Ord. 4 §1, 2005)

Sec. 2-8-20. Membership.

(a) The Tree Board shall consist of seven (7) members, of which one (1) shall be a City Council member, the City Manager or his or her duly authorized representative and five (5) citizens of the City who are interested and enthusiastic about improving and protecting trees, who shall be recommended by the Mayor and approved by a majority vote of the City Council. The Tree Board shall be governed by bylaws recommended by the Tree Board and approved by the City Council.

(b) The existence of vacancies for the citizen Tree Board members will be published in a newspaper of general circulation and appear on the Community Access TV Bulletin Board, if available. The term of each citizen Tree Board member shall be for two (2) years, except that the term of one (1) of the citizen members appointed to the first Tree Board shall be for one (1) year. In the event that a vacancy shall occur during the term of any member, his or her successor shall be appointed for the unexpired portion of the term. The City Council member and the City Manager shall serve a two-year term or until such person is no longer on the City Council or no longer holds the position of City Manager, whichever term first expires. (Prior code 17.18.200; Ord. 4 §1, 2005)

Sec. 2-8-30. Duties and responsibilities.

It shall be the responsibility of the Tree Board to study, investigate, counsel, monitor and foster community tree care for the City by performing the following duties:

(1) The Tree Board, with counsel of the Colorado State Forester, will develop and annually update an "undesirable tree" and a "desirable tree" list. This list will become effective for the purposes of this Article once approved by the City Council by resolution.

(2) The Tree Board will develop and periodically update guidelines for the maintenance of trees on public property. These guidelines will become effective for the purposes of this Article once approved by the City Council by resolution.

(3) The Tree Board will develop, update and administer a recommended annual work plan for the care, preservation, pruning, planting, replanting and removal or disposition of public access trees, as defined in Section 7-4-10 of this Code.

(4) The Tree Board is responsible for any community education programs and/or literature concerning community forestry, and is authorized to arrange, advertise and conduct educational programs.

(5) The Tree Board is responsible for organizing and conducting the annual Arbor Day Celebration.

(6) The Tree Board is responsible for cooperating with the City Manager concerning identifying areas where street trees and private trees, as defined in Section 7-46-10 of this Code, pose a threat or danger to the public safety for any reason and need immediate attention. The Tree Board will not have the authority to contact any private citizen concerning these public safety hazards, and shall report only to the City Manager. Any action taken concerning these trees will not involve the Tree Board.

(7) It shall be the responsibility of the Tree Board to counsel and educate the public on care and recommended trees to plant on private property. (Prior code 17.18.300; Ord. 4 §1, 2005)

ARTICLE IX

Parks and Recreation Advisory Board

Sec. 2-9-10. Creation and establishment.

There is hereby created and established a Parks and Recreation Advisory Board, with powers delegated as provided in this Article, for the purpose of providing advice and recommendations to the City Council on parks and recreation issues and performing other duties as set forth in this Article. (Ord. 19 §2, 2005)

Sec. 2-9-20. Membership.

(a) The Parks and Recreation Advisory Board shall consist of seven (7) voting members, plus one (1) alternate member with voting rights only in the absence of a regular member. Six (6) members shall be bona fide residents of the City, and one (1) member may be a nonresident living in the Rifle area. One (1) of the members shall be a representative of the senior population at least fifty-five (55) years of age or older. The Recreation Director and the Parks Director of the City shall be ex officio, nonvoting members of the Parks and Recreation Advisory Board.

(b) Appointments to the Parks and Recreation Advisory Board shall be made by the City Council. Persons interested in serving shall complete an application expressing their interest in serving on the Parks and Recreation Advisory Board and responding to representative questions as approved by the Board. In the event a regular member of the Parks and Recreation Advisory Board resigns or is removed from his or her position, the alternate, if interested in filling that position, will be required to submit an application and participate in the interview process. The City shall be responsible for advertising for positions that need to be filled. The Chair or acting Chair of the Parks and Recreation Advisory Board shall be responsible for notifying the City Manager if and when there is a vacancy due to a resignation or other reason within two (2) weeks of the vacancy. The current Parks and Recreation Advisory Board shall formulate an appropriate application form for prospective members. (Ord. 19 §2, 2005)

Sec. 2-9-30. Compensation and terms of office.

The members of the Parks and Recreation Advisory Board shall serve without compensation for their services as such, but may receive reimbursement for necessary travel and other expenses incurred on official duty when such expenditures have received prior authorization within the municipal budget. The members shall serve three-year staggered terms. The initial Parks and Recreation Advisory Board shall consist of two (2) members to be appointed for a term of one (1) year, two (2) members to be appointed for a term of two (2) years and three (3) members and one (1) alternate to be appointed for a term of three (3) years. Terms shall commence November 1 of each year. Nothing shall preclude a member from serving succeeding terms if so appointed. (Ord. 19 §2, 2005)

Sec. 2-9-40. Duties and responsibilities.

It shall be the responsibility of the Parks and Recreation Advisory Board to perform the following duties:

- (1) Act in an advisory capacity to the City Council in all matters pertaining to parks and recreation.
- (2) Review the preliminary budget prepared by the Parks Director and Recreation Director and provide input as needed before submission to the City Manager and City Council.
- (3) Assist in the planning of a recreation program for the inhabitants of the City and surrounding area, promote and stimulate public interest therein and, to that end, solicit to the fullest extent possible the cooperation of the school authorities and other public and private agencies.
- (4) Advise the City Council with respect to the acceptance of money, personal property or real estate donated or offered to the City for recreational or park purposes.
- (5) Create and recommend to the City Council for approval a parks and recreation master plan and review and update such plan annually prior to the budget process.
- (6) Perform such other duties not inconsistent with this Article as may be requested by the City Council or City Manager to other City departments or agencies. (Ord. 19 §2, 2005)

Sec. 2-9-50. Meetings and officers.

As soon as practicable following the first day of November every year, the Parks and Recreation Advisory Board shall organize by electing three (3) of its members to serve as Chair, Vice-Chair and Secretary, respectively, to serve at the pleasure of the Parks and Recreation Advisory Board. The Parks and Recreation Advisory Board shall hold such regular and special meetings as may be required. All proceedings shall be open to the public. The affirmative vote of a majority of the entire membership of the Parks and Recreation Advisory Board shall be necessary for it to take any action except to adjourn. A member of the Parks and Recreation Advisory Board shall serve as Secretary for the recording of minutes for the Parks and Recreation Advisory Board, who shall keep a record of its proceedings and transactions. The Secretary may request a member of the City administration to keep such minutes and records if he or she so desires. The Board may prescribe regulations for the conduct of its internal affairs, which shall be consistent with this Article and the Municipal Code, and copies of which shall be kept on file in the office of the City Clerk where they shall be available for public inspection. (Ord. 19 §2, 2005)

Sec. 2-9-60. Removal of members.

Members of the Parks and Recreation Advisory Board may be removed by action of the City Council for malfeasance or nonfeasance or for unexcused failure to attend three (3) consecutive meetings of the Parks and Recreation Advisory Board. The Parks and Recreation Advisory Board may recommend such action to the City Council. (Ord. 19 §2, 2005)

ARTICLE X

Urban Renewal Authority

Sec. 2-10-10. Creation and establishment.

Pursuant to Resolution No. 5, Series of 2007, there is hereby created and established an Urban Renewal Authority, with powers as set forth in this Article and Title 31, Article 25, Part 1, C.R.S. (Ord. 3 §2, 2007)

Sec. 2-10-20. Membership.

The City Council, pursuant to the authority granted by Section 31-25-115(1), C.R.S., appoints the members of the City Council, as they are in office from time to time, as the Urban Renewal Authority Board. (Ord. 3 §2, 2007)

Sec. 2-10-30. Jurisdiction.

The Urban Renewal Authority shall exercise its powers within the boundaries of the Urban Renewal Area shown on Exhibit A to Resolution No. 5, Series of 2007, available for review in the office of the City Clerk, and shall also exercise its powers within any of the urban renewal plan areas that may be adopted within the boundaries of the Urban Renewal Authority. (Ord. 3 §2, 2007)

Sec. 2-10-40. Duties and responsibilities.

The Urban Renewal Authority shall be a body corporate with all the purposes and powers authorized by Title 31, Article 25, Part 1, C.R.S., and all additional and supplemental powers necessary or convenient to carry out and effectuate the purposes and provisions of said statutes. (Ord. 3 §2, 2007)

ARTICLE XI

Housing Authority

Sec. 2-11-10. Creation and establishment.

There is created and established a Housing Authority, with powers as set forth in this Article, the Bylaws of the Housing Authority dated June 6, 1977, as amended, and Title 29, Article 4, Part 2, C.R.S. (Ord. 4 §2, 2007)

Sec. 2-11-20. Membership.

The Housing Authority Board shall consist of five (5) members, no more than one (1) of whom may be a City official, who shall serve for five-year terms. Board members shall hold office until his or her successor has been appointed and has qualified. Vacancies, other than by reason of expiration of terms, shall be filled for the unexpired term. The City Council, pursuant to the authority granted by Section 29-4-205(3)(a), C.R.S., shall appoint the members of the Housing Authority Board as positions become vacant. (Ord. 4 §2, 2007)

Sec. 2-11-30. Duties and responsibilities.

The Housing Authority shall be a body corporate with all the purposes and powers authorized by Title 29, Article 4, Part 2, C.R.S., and all additional and supplemental powers necessary or convenient to carry out and effectuate the purposes and provisions of said statutes. (Ord. 4 §2, 2007)

ARTICLE XII

Visitor Improvements Fund Advisory Board

Sec. 2-12-10. Creation and establishment.

There is hereby created and established a Visitor Improvements Fund Advisory Board, with powers delegated as provided in this Article, for the purpose of providing advice and recommendations to the City Council on the use of the Visitor Improvements Fund and performing other duties as set forth in this Article. (Ord. 33 §4, 2007)

Sec. 2-12-20. Membership.

(a) The Visitor Improvements Fund Advisory Board shall consist of seven (7) voting members, plus one (1) alternate member with voting rights only in the absence of a regular member, all of which but one (1) shall be bona fide residents of the City. City staff members shall not be precluded from being on the Visitor Improvements Fund Advisory Board and need not be a resident of the City. Any nonresident City staff member appointed to the Visitor Improvements Fund Advisory Board shall not count against the appointment of the one (1) nonresident board member provided for above.

(b) Appointments to the Visitor Improvements Fund Advisory Board shall be made by the City Council. Persons interested in serving shall complete an application expressing their interest in serving on the Visitor Improvements Fund Advisory Board and responding to representative questions as approved by the Board. In the event a regular member of the Visitor Improvements Fund Advisory Board resigns or is removed from his or her position, the alternate, if interested in filling that position, will be required to submit an application and participate in the interview process. The City shall be responsible for advertising for positions that need to be filled. The chair or acting chair of the Visitor Improvements Fund Advisory Board shall be responsible for notifying the City Manager if and when there is a vacancy due to a resignation or other reason within two (2) weeks of the vacancy. (Ord. 33 §4, 2007)

Sec. 2-12-30. Compensation and terms of office.

The members of the Visitor Improvements Fund Advisory Board shall serve without compensation for their services as such, but may receive reimbursement for necessary travel and other expenses incurred on official duty when such expenditures have received prior authorization within the municipal budget. The members shall serve three-year staggered terms. The initial Visitor Improvements Fund Advisory Board shall consist of two (2) members to be appointed for term of one (1) year, two (2) members to be appointed for a term of two (2) years and three (3) members and one (1) alternate to be appointed for a term of three (3) years. Terms shall commence January 1st of each year. Nothing shall preclude a member from serving succeeding terms if so appointed. (Ord. 33 §4, 2007)

Sec. 2-12-40. Duties and responsibilities.

It shall be the responsibility of the Visitor Improvements Fund Advisory Board to perform the following duties:

(1) Act in an advisory capacity to the City Council in all matters pertaining to the Visitor Improvements Fund, which monies are designated for the development and marketing of visitor improvements and attractions, special events and beautification projects in the City, historic preservation, and the general promotion of the City and its environs.

(2) Review the preliminary budget for the Visitor Improvements Fund prepared by the City Manager and provide input as needed before submission to the City Council.

(3) Create and recommend to the City Council for approval a master plan for the use of the Visitor Improvements Fund for the development and marketing of visitor improvements and attractions, special events and beautification projects in the City, historic preservation, and the general promotion of the City and its environs, and review and update such plan annually prior to the budget process.

(4) Perform such other duties not inconsistent with this Article as may be requested by the City Council or City Manager to other City departments or agencies. (Ord. 33 §4, 2007)

Sec. 2-12-50. Meetings and officers.

As soon as practicable following the first day of January every year, the Visitor Improvements Fund Advisory Board shall organize by electing three (3) of its members to serve as Chair, Vice-Chair and Secretary, respectively, to serve at the pleasure of the Visitor Improvements Fund Advisory Board. The Board shall hold such regular and special meetings as may be required. All proceedings shall be open to the public. A majority of the membership of the Board shall constitute a quorum. The affirmative vote of a majority of the quorum of the Visitor Improvements Fund Advisory Board shall be necessary for it to take any action except to adjourn. A member of the Board shall serve as secretary for the recording of minutes for the Board, who shall keep a record of its proceedings and transactions. The Secretary may request a member of the City administration to keep such minutes and records if he or she so desires. The Visitor Improvements Fund Advisory Board may prescribe regulations for the conduct of its internal affairs, which shall be consistent with this Article and this Code, and copies of which shall be kept on file in the office of the City Clerk where they shall be available for public inspection. (Ord. 33 §4, 2007)

Sec. 2-12-60 Removal of members.

Members of the Visitor Improvements Fund Advisory Board may be removed by action of the City Council for malfeasance or nonfeasance or for unexcused failure to attend three (3) consecutive meetings of the Board. The Board may recommend such action to the City Council. (Ord. 33 §4, 2007)

ARTICLE XIII

Code of Ethics

Sec. 2-13-10. Definitions.

Definitions relevant to this Article are incorporated herein as follows:

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

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

Confidential information means any information which is not available to the general public or deemed confidential in accordance with local, state or federal law and which is obtained by reason of an official's or employee's position or under circumstances by which a reasonable person could anticipate that such information not be disclosed. Confidential information shall also include information which, by determination of two-thirds ($\frac{2}{3}$) of the entire City Council, any commission, board or agency or by determination of the City Manager or City Attorney, would not be in the best interests of the City if such information was made available to the public at the time it is provided to the recipient; provided, however, that such determination shall be in compliance with any applicable law. Confidential information shall also include privileged attorney-client information and communication in compliance with applicable law.

Employee means any seasonal, temporary, part-time or regular employee of the City subject to the ultimate direction and supervision of the City Manager.

Financial interest means a substantial financial or monetary interest held by an individual or immediate family member which is:

- a. An ownership interest in a business, including ownership of the corporate stock issued, or any other form of interest in a business;
- b. A creditor interest in an insolvent business;
- c. An employment, or prospective employment, for which negotiations have begun;
- d. An ownership in real or personal property;
- e. A loan or other debtor interest in a business; or
- f. A position as director, manager or officer in a business.

Immediate family means a spouse or child, parent, brother, sister, any dependent or person assuming a relationship being the substantial equivalent of those listed herein.

Official means any person or officer holding a position by election or appointment in the service of the City, whether paid, unpaid or volunteer, including without limitation, members of the City Council or any board, agency, committee, commission or entity of the City.

Official act or *official action* means a vote, decision, recommendation, advisory opinion, approval, disapproval, discussion or other action, including inaction, which involves the use of discretionary authority.

Personal interest or *private interest* means a benefit, advantage or right of or pertaining to or peculiar to a certain individual.

Transaction means any contract, agreement; any sale or lease of any interest in land, material, supplies or services; or any granting of a development right, license, authorization, approval, permit or application. (Ord. 1 §2, 2007)

Sec. 2-13-20. Financial interest in transaction.

No official or employee having the power or duty to perform an official act or action, related to a transaction which is or may be the subject of an official act or action of the City, shall:

(1) Have a financial interest in such transaction; or

(2) Have a financial interest in any business entity representing, advising, affiliated with or appearing on behalf of, whether paid or unpaid, any individual or business involved in such transaction. (Ord. 1 §2, 2007)

Sec. 2-13-30. Rules of conduct for officials and employees.

(a) No official or employee in his or her official capacity may solicit or accept from any person any present or future gift, favor, loan of service or thing of value:

(1) Which would tend improperly to influence a reasonable person in his or her position to depart from the faithful and impartial discharge of his or her public duties; or

(2) Which he or she knows or which a reasonable person in his or her position should know under the circumstances is primarily for the purpose of rewarding him or her for official action he or she has taken.

(b) No official or employee in his or her official capacity may solicit or accept from any person a present or future gift, favor, loan, service or thing of value, whose cumulative value is more than fifty dollars (\$50.00) per annum. This prohibition shall not apply to:

(1) Acceptance of food and refreshment at conferences, seminars, training sessions, luncheon and dinner meetings, special occasions and other instances in conjunction with City business;

(2) Campaign contributions and contributions in kind as authorized by law;

(3) An award publicly presented in recognition of public service;

(4) Any gift which would have been offered or given to an individual if he or she was not an official or employee;

(5) Educational scholarships and grants available to members of the general public similarly situated;

(6) Grants and services provided for medical, respite or hospice care or other social welfare needs available to members of the general public similarly situated;

(7) An occasional, unsolicited gift having a fair market value of fifty dollars (\$50.00) or less;

(8) Unsolicited informational material, publications or subscriptions related to the City official's or employee's performance of his or her official duties;

(9) An unsolicited token or award of appreciation in the form of a plaque, trophy, desk item, wall memento or similar item;

(10) Payment of or reimbursement for actual and necessary expenditures for registration, travel, lodging and meals for attendance at a convention, training seminar or other meeting at which the City official or employee is scheduled to participate as a representative of the City or to attend as part of his or her official duties; and

(11) Payment received by a Council member for a speech, appearance or publication required to be reported by the Council member pursuant to Section 24-6-203 C.R.S. . (Ord. 1 §2, 2007)

Sec. 2-13-40. Legislative action.

(a) Any official who has a financial interest, personal interest or private interest in any matter proposed or pending before the City Council, any board, commission, agency, committee or entity shall disclose such interest to the governing body of such entity and shall not vote thereon, and shall refrain from influencing or attempting to influence the decisions of the other members of such entity in voting on the matter.

(b) Upon disclosure of such interest, the official may work with or continue to work with City employees or City staff on the matter related to the conflict of interest. Such official shall not attend public meetings of the governing bodies of the entities referred to in Subsection (a) above.

(c) An official may vote notwithstanding Subsection (a) if the official follows the procedures set forth in Section 2-13-50 below. (Ord. 1 §2, 2007)

Sec. 2-13-50. Disclosure and disqualification.

Any official with a financial, personal or private interest in a transaction pursuant to Section 2-13-20 shall do the following:

(1) Give written notice of such interest to the City Manager and the governing board of the public entity, as soon as reasonably possible after the interest has arisen.

(2) Refrain from voting and refrain from influencing or attempting to influence other officials regarding the matter, except that it is permissible for an official to vote if the official's participation is necessary to establish a quorum or otherwise enable the public body to act but only if written disclosure is made both to the Colorado Secretary of State pursuant to Colorado Revised Statutes, and to the public body, which shall record such disclosure and include the same in its minutes. (Ord. 1 §2, 2007)

Sec. 2-13-60. Confidential information.

No official or employee with respect to any matter which is or may be the subject of an official act or action of the City shall, without legal authorization, disclose confidential information concerning the property, government or affairs of the City or use such information to advance the financial, personal or private interest of himself or herself or others. The City Council or other public body may waive its privileged attorney-client communication and information regarding confidential information and matters by vote of two-thirds ($\frac{2}{3}$) of the entire Council or public body. (Ord. 1 §2, 2007)

Sec. 2-13-70. Equality of treatment.

No official or employee shall grant any special consideration, treatment or advantage to any person other than that which is available to every other person. (Ord. 1 §2, 2007)

Sec. 2-13-80. Requests for opinion.

An official or employee, upon full disclosure of facts to the City Manager, may request an advisory opinion of the City Manager, with the advice of the City Attorney, regarding the application of this Article to the official or employee. (Ord. 1 §2, 2007)

Sec. 2-13-90. Enforcement.

(a) The City Council shall have the sole and exclusive responsibility and authority for the enforcement of this Article. All complaints under this Article shall be filed with the Council within one (1) year after the date of the alleged violation. The City Council shall promptly review and/or investigate any such complaint and take such action thereon as the City Council shall deem to be appropriate. In exercising its authority hereunder, the City Council shall have the power to make a determination that any complaint is founded or unfounded, to impose discipline upon any official of the City, to initiate any suit and to prosecute any criminal or civil action on behalf of the City wherein it believes, in its sole and exclusive discretion, such action is appropriate. The City Council may direct the City Attorney to review, investigate and/or prosecute any complaint, or, in its sole and exclusive discretion, the City Council may employ or appoint any qualified attorney to do so. Final action by the Council on any complaint shall be the final action of the City on the matter.

(b) City officials or employees shall not discharge, threaten or otherwise discriminate against any other City official or employee regarding compensation, terms, conditions, location or privileges of employment or office, on the basis of any report made against any other official or employee suspected of violating this Article, or for participating in any investigation, hearing or inquiry conducted pursuant thereto. This Subsection shall not apply to any City official or employee who knowingly or with reckless indifference to the truth makes a false report or provides false information. (Ord. 1 §2, 2007)

