

## 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 Code unless the Board of Trustees by resolution determines to follow all or part of the Uniform Election Code for any election. (Ord. 96-O-4 §1 1996; Ord. O-7 §1, 2009)

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

No write-in vote for any Town office shall be counted unless the candidate files an affidavit of intent with the Town Clerk at least twenty-one (21) days before the election. (Ord. 96-O-4 §1 1996; Ord. O-7 §1, 2009)

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

(a) If the only matter before the voters is the election of persons to office and if, at the close of business on the 19th day before the election, there are not more candidates than offices to be filled at such election, including candidates filing affidavits of intent as set forth in Section 2-1-20 above, the Town Clerk shall certify such fact to the Board of Trustees, and the Board of Trustees by resolution shall instruct the Town Clerk to cancel the election and declare the candidates elected.

(b) Notice of such cancellation shall be published, if possible, and notice of such cancellation shall be posted at each polling place and in not less than one (1) other public place. (Ord. 96-O-4 §1, 1996; Ord. O-7 §1, 2009)

## **ARTICLE II**

### **Mayor and Board of Trustees**

#### **Sec. 2-2-10. Qualifications.**

Every registered elector shall be eligible to hold any office to be filled by a municipal election, provided that he or she has resided in the Town, or in an area annexed to the Town, for a period of at least twelve (12) consecutive months immediately preceding the date of the election. (Ord. 96-O-4 §1, 1996; Ord. O-12 §1, 2008)

#### **Sec. 2-2-20. Vacancies.**

If any elective officer of the Town becomes, during his or her term of office, a nonresident of the Town, he or she shall be deemed to vacate his or her office. If any vacancy occurs in any elective office by death, resignation, removal or otherwise, the same shall be filled by appointment by a majority vote of the Board of Trustees, and such appointee shall hold his or her office only until the next general municipal election, when such vacancy shall be filled by election as in other cases. (Ord. 96-O-4 §1, 1996; Ord. O-12 §1, 2008)

**Sec. 2-2-30. Terms of office.**

(a) The term of office of the Mayor shall be four (4) years.

(b) The terms of office for Trustees shall be four (4) years; provided, however, that in the event that there are more than three (3) Trustee positions to be filled in any election, the persons receiving the fourth highest number of votes or less shall be elected to two-year terms. (Ord. 797 §§1, 2, 3, 4, 1989; Ord. O-12 §1, 2008)

**Sec. 2-2-40. Mayor.**

(a) The Mayor shall be a member of the Board of Trustees with the same voting powers as any Trustee.

(b) The Mayor, or in his or her absence, one (1) of the Trustees who may be elected Mayor Pro Tem, shall preside at all meetings of the Board of Trustees. The Mayor shall preside as provided herein to preserve order and decorum during the meetings. (Ord. 602 §§1, 2, 1982; Reso. 675 §4, 1987; Ord. 98-O-4 §1, 1998; Ord. O-12 §1, 2008)

**Sec. 2-2-50. Mayor Pro Tem.**

The Board of Trustees shall, at its first meeting, elect one (1) of its members as Mayor Pro Tem who, in the absence of the Mayor or upon his or her inability to act, shall perform the Mayor's duties. (Ord. 16 §11, 1905; Ord. 96-O-4 §1, 1996; Ord. O-12 §1, 2008)

**Sec. 2-2-60. Compensation.**

(a) The compensation for each Trustee shall be one hundred dollars (\$100.00) per month, payable on the last day of each month.

(b) The compensation for the office of Mayor shall be four hundred dollars (\$400.00) per month, payable on the last day of each month.

(c) The compensation paid to any member of the Board of Trustees shall not be increased or diminished for the term of office for which he or she has been elected or appointed. Any member of the Board of Trustees who has resigned or vacated an office prior to the end of his or her elective or appointed term shall not be eligible to serve in the same office during such term if the rate of compensation has been increased. (Ord. 941 §§1, 2, 1992; Ord. 96-O-1 §§1, 2, 1996; Ord. 96-O-4 §1, 1996; Ord. O-2 §1, 2000; Ord. O-2 §1, 2002; Ord. O-12 §1, 2008)

**Sec. 2-2-70. Regular meetings.**

(a) The regular meetings of the Board of Trustees shall be held on the second and fourth Mondays of each month at 7:00 p.m.; provided, however, that when the date fixed for any regular meeting of the Board of Trustees falls upon a day designated by law as a legal or national holiday, such meeting shall be held on such other day as set by the Board of Trustees.

(b) All regular meetings shall be held in the Town Hall, or at such other location as designated by the Board of Trustees with public notice as required by law. (Ord. 16 §1, 1905; Ord. 527 §1, 1969;

Ord. 704 §1, 1988; Ord. 98-O-14 §1, 1998; Ord. O-14 §1, 2001; Ord. O-7 §1, 2002; Ord. O-12 §1, 2008)

**Sec. 2-2-80. Special meetings.**

(a) Special meetings of the Board of Trustees may be called by the Mayor or two (2) members of the Board of Trustees for the transacting of business described in the notice of the meeting.

(b) Written notice of the meeting shall be delivered to each member of the Board of Trustees and posted in the glass display case located at Town Hall at least twenty-four (24) hours prior to the meeting. Any Trustee may waive notice of the meeting, and a Trustee's presence shall constitute waiver of notice of the meeting.

(c) The notice of the meeting shall include the date, time, place and purpose of the meeting. No business shall be transacted except as provided in the notice. (Reso. 660 §§1, 2, 3, 4, 1987; Ord. 96-O-4 §1, 1996; Ord. O-12 §1, 2000; Ord. O-12 §1, 2008)

**Sec. 2-2-90. Posting of meeting notices.**

The Town Hall, 124 East Coal Creek Drive, Superior, Colorado, shall constitute the designated public place for the posting of meeting notices. (Reso. 935, 1992; Ord. 96-O-4 §1, 1996; Ord. O-12 §1, 2008)

**Sec. 2-2-100. Conduct of meetings.**

(a) A majority of the members of the Board of Trustees shall constitute a quorum to do business at all meetings of the Board of Trustees, and each member shall vote upon every question unless allowed by the Board of Trustees to abstain. The Board of Trustees may allow a member to abstain in the event the member has a conflict as provided by Colorado law or other grounds approved by a majority of the members present at such meeting.

(b) If a quorum is not present, a majority of the members of the Board of Trustees present may continue the meeting to a future date and time, but may take no other action.

(c) If neither the Mayor nor the Mayor Pro Tem is present at the meeting, the members present shall determine by majority vote who shall serve as chair of the meeting.

(d) All members of the Board of Trustees and individuals in attendance shall observe proper decorum and avoid the use of abusive or profane language in the meeting room and when addressing the Board of Trustees. In the event that abusive or profane language is used or an individual otherwise disrupts the meeting, such individual may be removed from the meeting room. (Ord. 96-O-4 §1, 1996; Ord. O-12 §2, 2000; Ord. O-12 §1, 2008)

**Sec. 2-2-110. Removal from office.**

(a) Five (5) members of the Board of Trustees may remove a Trustee for good cause after issuance of written notice of the alleged grounds to the Trustee and a public hearing thereon. Issuance of the notice of alleged grounds for removal and setting of a hearing thereon shall require a majority vote of all of the members of the Board of Trustees.

(b) The following shall constitute good cause for removal:

- (1) Conviction of a felony or a crime of moral turpitude during the current term of office;
- (2) Violation of the conflict of interest provisions of this Code or state law;
- (3) Neglect of duty as an elected or appointed official;
- (4) Loss of residence in the Town; or
- (5) Malfeasance or misfeasance of office. (Ord. 96-O-4 §1, 1996; Ord. 96-O-12 §1, 1996; Ord. O-12 §1, 2008)

**Sec. 2-2-120. Appointment to boards and commissions.**

The Board of Trustees shall appoint members to such boards and commissions as may now or hereafter exist. (Ord. 96-O-4 §1, 1996; Ord. O-12 §1, 2008)

**ARTICLE III**

**Officers and Employees**

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

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

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

(b) Vacancies shall be filled by appointment of the Board of Trustees. (Ord. 96-O-4 §1, 1996; Ord. O-7 §1, 2009)

**Sec. 2-3-20. General powers and duties.**

Appointed officers shall have such powers and perform such duties as 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 direction of the Board of Trustees. (Ord. 96-O-4 §1, 1996; Ord. O-7 §1, 2009)

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

Each appointed officer, 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. (Ord. 96-O-4 §1, 1996; Ord. O-7 §1, 2009)

**Sec. 2-3-40. Town Clerk.**

(a) The Town Clerk shall attend all meetings of the Board of Trustees and make a true and accurate record of all the proceedings, rules and ordinances made and passed by the Board of Trustees.

(b) The Town Clerk shall certify by signature all ordinances and resolutions enacted by the Board of Trustees.

(c) The Town Clerk shall provide and maintain in the office a supply of forms for all petitions required to be filed for any purpose provided by the Board of Trustees.

(d) The Town Clerk shall be the custodian of the Town seal and shall have power to administer oaths and take acknowledgements under the seal of the Town.

(e) The Town Clerk shall handle local elections.

(f) The Town Clerk shall be the custodian of Town records. (Ord. 696 §1, 1988; Ord. 96-O-4 §1, 1996; Ord. O-7 §1, 2009)

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

(a) The Town Treasurer or designee shall maintain a record showing all funds authorized by the budget adopted by the Town, all warrants and all funds transferred in a manner such that the record reflects at all times the unexpended balance of each fund budgeted.

(b) The Town Treasurer shall countersign all warrants drawn on the Town treasury. (Ord. 696 §1, 1988; Ord. 96-O-4 §1, 1996; Ord. O-12 §3, 2000; Ord. O-7 §1, 2009)

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

(a) The Town Manager shall be paid a salary fixed by resolution of the Board of Trustees. The Town Manager shall be subject to the control and direction of the Mayor with the approval of the Board of Trustees and shall be appointed without regard to any consideration other than his or her fitness, competency, training and experience in professional public administration.

(b) The Board of Trustees, at a regular or special meeting, may, upon the vote of the majority of the entire Board of Trustees, remove the Town Manager from office for reasonable cause. Upon such termination, the Board of Trustees may, in its discretion, provide termination pay.

(c) The Board of Trustees may appoint an acting Town Manager to fill a vacancy or during the absence or disability of the Town Manager. The acting Town Manager shall, while he or she is in such office, have all responsibilities, duties, functions and authority of the Town Manager.

(d) The Town Manager shall be the chief executive and administrative officer of the Town and shall have the following powers and duties:

- (1) Enforcing the laws and ordinances of the Town;
- (2) Hiring, suspending, transferring and removing Town employees on the basis of ability, training and experience of such employees in the work which they are to perform;
- (3) Submitting to the Board of Trustees a proposed budget and administering the budget after its adoption;
- (4) Submitting to the Board of Trustees at the end of the fiscal year a complete report on finances and administrative activities of the Town for the preceding year and, upon request of the Board of Trustees, making reports concerning the affairs of the Town.
- (5) Keeping the Board of Trustees advised of the financial condition and future needs of the Town and making necessary recommendations to the Board of Trustees;
- (6) Recommending to the Board of Trustees proposals to create or establish, consolidate or abolish administrative departments and exercise supervision and control over all executive and administrative departments;
- (7) Being responsible for the enforcement of all contracts and public utility franchises and, upon knowledge of any violation thereof, reporting the same to the Board of Trustees;
- (8) Attending Board of Trustees meetings and participating in discussions with the Board of Trustees in an advisory capacity;
- (9) Establishing a system of accounting and auditing for the Town which shall reflect, in accordance with generally accepted accounting principles, the financial condition and financial operation of the Town;
- (10) Providing for engineering, architectural, maintenance and construction services required by the Town;
- (11) Serving in an ex officio capacity on all present and future boards, committees and commissions of the Town; and
- (12) Performing such other duties as prescribed by ordinance or other applicable law or required by the Mayor and Board of Trustees.

(e) Except for the purpose of inquiries, Board of Trustees members and the Mayor shall deal with the administrative services solely through the Town Manager, and neither the Board of Trustees, the Mayor nor any committee thereof shall give direction to any subordinate of the Town Manager. (Ord. 696 §2, 1988; Ord. 96-O-4 §1, 1996; Ord. O-7 §1, 2009)

## ARTICLE IV

### Municipal Court

#### **Sec. 2-4-10. Established.**

A Municipal Court in and for the Town is established pursuant to Section 13-10-101, et seq., C.R.S. The Municipal Court shall be a qualified municipal court of record, and a verbatim transcript of the proceedings and evidence of trials therein shall be kept by such electronic devices as may be approved by the Municipal Judge. The Municipal Court shall be empowered to hear and try all alleged violations of ordinance provisions of the Town. (Ord. 752 §1, 1988; Ord. 96-O-4 §1, 1996; Ord. O-7 §1, 2001; Ord. O-7 §1, 2009)

#### **Sec. 2-4-20. Municipal Judge.**

(a) The Municipal Judge shall serve as ex officio Clerk of the Municipal Court pursuant to Section 13-10-108, C.R.S.

(b) The compensation of the Municipal Judge shall be an annual salary in an amount set by the Board of Trustees, payable monthly.

(c) The term of office of the Municipal Judge shall be two (2) years. (Ord. 752 §2, 1988; Ord. O-7 §1, 2009)

## ARTICLE V

### Police Department

#### **Sec. 2-5-10. Designation of Town Marshal.**

The Boulder County Sheriff is designated as the Town Marshal. (Ord. 96-O-4 §1, 1996; Ord. O-7 §1, 2009)

#### **Sec. 2-5-20. Contract for law enforcement services.**

The Town may contract with a qualified law enforcement agency to provide law enforcement services. All law enforcement services shall be governed by an agreement which is signed by the appropriate representative of the law enforcement agency and approved by the Board of Trustees. (Ord. O-7 §1, 2009)

#### **Sec. 2-5-30. Duty to aid police officers.**

It is the duty of all persons, when called upon by any police officer, to promptly aid and assist such officer in the discharge of his or her duties. (Ord. 96-O-4 §1, 1996; Ord. O-7 §1, 2009)

## ARTICLE VI

### Planning Commission

#### **Sec. 2-6-10. Created.**

Pursuant to the authority conferred by Title 31, Article 23, Parts 2 and 3, C.R.S., there is hereby created a Planning Commission for the Town. (Ord. 550 Art. I §1, 1974; Ord. O-7 §1, 2009)

#### **Sec. 2-6-20. Members; terms; removal; vacancies.**

(a) Members. The Planning Commission shall be comprised of nine (9) members, consisting of one (1) appointed official of the Town and eight (8) at large members appointed by the Mayor with approval of the Board of Trustees.

(b) Term. The term of the Town Clerk or other administrative official shall correspond to their term of tenure with the Town. The terms of the eight (8) at large members shall be four (4) years or until the member's successor takes office. Terms shall be staggered.

(c) Removal. Members may be removed after notice and an opportunity for hearing by the Board of Trustees for inefficiency, neglect of duty or malfeasance in office. The notice shall include a written statement of the reason for such removal.

(d) Vacancies. Vacancies occurring prior to the expiration of a term shall be filled for the remainder of the unexpired term by the Mayor with approval of the Board of Trustees. (Ord. 93-O-4 §1, 1993; Ord. 96-O-11 §1, 1996; Ord. O-7 §1, 2009)

#### **Sec. 2-6-30. Qualifications of members.**

All members of the Planning Commission shall be residents of the Town, and if any member ceases to reside in the Town, his or her membership shall immediately terminate. All members shall serve without compensation, and the members shall hold no other municipal office. (Ord. 550 Art. I §3, 1974; Ord. O-7 §1, 2009)

#### **Sec. 2-6-40. Organization and rules.**

(a) The Planning Commission shall elect its chair from among the appointed members and create and fill such other of its offices as it may determine. The term of the chair shall be one (1) year, with eligibility for reelection.

(b) The Planning Commission shall hold at least one (1) regular meeting on each month, provided that the chair may cancel the meeting for lack of business or lack of a quorum.

(c) The Planning Commission shall adopt rules for transaction of business and shall keep a record of its resolutions, transactions, findings and determinations. (Ord. 550 Art. 1 §4, 1974; Ord. O-7 §1, 2009)

**Sec. 2-6-50. Staff and finances.**

(a) The Planning Commission may, with the consent of the Board of Trustees, appoint such employees as it may deem necessary for its work, whose appointment, promotion, demotion and removal shall be subject to the same provisions as govern other Town employees. The Planning Commission may also, with the consent of the Board of Trustees, contract with Town planners, engineers, architects and other consultants for such services as it may require.

(b) The expenditures of the Planning Commission, exclusive of gifts, shall be within the amounts appropriated by the Board of Trustees, which shall provide the funds, equipment and accommodations necessary for the Planning Commission's work. (Ord. 550 Art. I §5, 1974; Ord. O-7 §1, 2009)

**Sec. 2-6-60. Powers and duties.**

(a) The Planning Commission shall have all of the powers and perform each and all of the duties specified by said Title 31, Article 23, Parts 2 and 3, C.R.S., together with any other duties or authority which may hereafter be conferred upon them by state laws.

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

(c) In performing its zoning functions, the Planning Commission shall prepare its regulations in accordance with a comprehensive plan and design to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to promote health and general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; and to facilitate the adequate provisions of transportation, water, sewerage, schools, parks and other public requirements. Such regulations shall be made with reasonable consideration, among other things, as to the character of the district and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the Town.

(d) The Planning Commission shall review all public improvement projects referred to it by the Board of Trustees and make a recommendation to the Board of Trustees. (Ord. 550 Art. I §§6, 7, 1974; Ord. O-7 §1, 2009)

## ARTICLE VII

### Board of Adjustment

#### **Sec. 2-7-10. Created.**

Pursuant to the authority conferred by state law, there is hereby created a Board of Adjustment for the Town. (Ord. 676 §2, 1987; Ord. O-7 §1, 2009)

#### **Sec. 2-7-20. Membership.**

The Board of Trustees shall serve as the Board of Adjustment. (Ord. 676 §2, 1987; Ord. 764 §1, 1988; Ord. O-3 §1, 2003; Ord. O-7 §1, 2009)

#### **Sec. 2-7-30. Powers and duties.**

The Board of Adjustment shall have all of the powers and perform each and all of the duties specified by Chapter 16 of this Code and state law subject to all of the limitations expressed in such legislative enactments. (Ord. 676 §2, 1987; Ord. O-3 §3, 2003; Ord. O-7 §1, 2009)

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

(a) The Mayor shall act as the chair of the Board of Adjustment.

(b) The Board of Adjustment shall hold such meetings as may be required to fulfill its purposes, and it shall adopt rules for transaction of business and shall keep a record of its resolutions, transactions, findings and determinations. (Ord. 676 §2, 1987; Ord. O-3 §3, 2003; Ord. O-7 §1, 2009)

## ARTICLE VIII

### Code of Ethics

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

(a) The purpose of this Article is to promote public confidence in the Town government, to maintain conformity with the provisions and intent of the Town Code and to provide guidance in the event of real or potential conflicts of interest to the members of the Board of Trustees and to the boards, commissions, committees and other authorities operating on behalf of the Town. This Article is intended to foster public trust by defining the parameters of honest government and by prohibiting the use of public office for private gain.

(b) To the extent matters addressed in this Article are also addressed in state or federal law, it is the intent of the Board of Trustees that the more restrictive provisions shall control. (Ord. O-20 §1, 2001; Ord. O-7 §1, 2009)

**Sec. 2-8-20. Definitions.**

For purposes of this Article, the following terms shall have the following meanings:

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

*Board* means the Board of Trustees, the Planning Commission, the Board of Adjustment and such other boards, commissions, committees or other authorities operating on behalf of the Town, except those boards whose functions are advisory only.

*Board member* means a member of any board, including regular and alternate members and the Mayor, but does not include any full-time or part-time Town employee, unless the employee is also a board member.

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

*Conflict of interest* means a personal or financial interest of a board member that interferes with or influences or may interfere with or influence the performance of his or her duties on behalf of the Town.

*Contract* means any arrangement or agreement pursuant to which any land, material, service or other thing of value is to be furnished to the Town for a valuable consideration to be paid by the Town or sold or transferred by the Town.

*Family* means any board member's parents, siblings, spouse and children and the spouse of any of them.

*Financial interest* means a substantial interest held by a board member that is:

- a. An ownership of securities of a corporation or of any beneficial interest in a partnership or business, the aggregate amount of which securities or interest owned by the board member and the board member's family is five percent (5%) or more of any class of securities of such corporation or five percent (5%) or greater ownership in such partnership or firm.
- b. A creditor interest in an insolvent business;
- c. An employment or a prospective employment for which negotiations have begun or a contractual relationship that directly relates to a matter under consideration;
- d. An ownership interest in real or personal property;
- e. A loan or any other debtor interest; or
- f. A directorship or officership in a business.

*Official action* means any vote, decision, discussion, recommendation, approval, disapproval or other action, including inaction, that involves the use of discretionary authority.

*Personal interest* means an interest having value unique to a particular board member, whether the value is pecuniary or nonpecuniary, which interest is not shared by the general public. (Ord. O-20 §1, 2001; Ord. O-7 §1, 2009)

**Sec. 2-8-30. Rules of conduct.**

(a) The following shall apply to all board members:

(1) Transactions.

a. No member of the Board of Trustees shall have any direct or indirect personal or financial interest in any contract with the Town. This prohibition shall not apply to other board members so long as the board member does not review the contract as a part of his or her official duties. Any such contract entered into in violation of the prohibition of this Section shall be void. This Subsection shall not apply to contracts of two thousand five hundred dollars (\$2,500.00) or less.

b. No board member shall engage in a financial transaction for his or her private business purposes with a person whom he or she inspects or supervises in the course of his or her official duties.

(2) Use of information.

a. No board member may use any information obtained by virtue of his or her public position in furtherance of his or her personal or financial interest or the personal or financial interest of any other person.

b. No board member shall disclose or use any confidential information acquired in the course of his or her official duties.

(3) Gifts. No board member, in his or her official capacity, may solicit or accept from any one (1) donor a present or future gift, favor, loan, service or item of value, whose cumulative value is more than one hundred dollars (\$100.00) per annum, or under circumstances that would lead a reasonably prudent person to believe that such gift, favor, loan, service or item of value was made or given to influence such board member in connection with an official act, or as a reward for official action previously taken by the board member. This prohibition shall not apply to:

a. Acceptance of food and refreshment at conferences, seminars, training sessions, luncheon and dinner meetings, special occasions and other instances in conjunction with Town business.

b. Campaign contributions reported as required by law.

(4) Official acts.

a. No board member shall perform an official act that provides an economic benefit to a business or other undertaking in which such board member has a personal or financial interest; or that provides an economic detriment to any business or other undertaking competing with a business in which such board member has a personal or financial interest.

b. No board member shall perform any official act under circumstances that give rise to an appearance of impropriety on the part of the board member.

(5) Appearances.

a. No member of the Board of Trustees, during his or her term with the Town, may appear on behalf of a person before a board.

b. A board member, other than a member of the Board of Trustees, may appear on behalf of another person before any board except the body of which the board member is a member.

c. A board member may appear before any board in the same manner and under the same circumstances as any other person, on his or her own behalf.

(6) Private employment. No board member shall engage in or accept private employment or render service, for private interests, when such employment or service is incompatible with the proper discharge of his or her official duties or would tend to impair his or her independence of judgment or action in the performance of his or her official duties.

(7) Personal use. No board member shall request or permit the unauthorized use of Town-owned vehicles, equipment, materials or property for personal convenience or profit.

(8) Special privilege. No board member shall grant any special consideration, treatment or advantage to any citizen beyond that which is available to every other citizen.

(b) Paragraphs (a)(1) through (a)(8) above shall continue to apply to all board members appointed or elected after the effective date of the ordinance codified herein for a period of one (1) year after termination of their board terms.

(c) No board member shall, at any time within one (1) year after completion of his or her term of office, appear on behalf of another person before any board in relation to any matter concerning which the board member performed an official act.

(d) The following shall apply to all members of the Board of Trustees:

(1) During his or her term in office, no member of the Board of Trustees, including the Mayor, shall be a salaried employee of the Town, except as a board member.

(2) If a newly elected or appointed member of the Board of Trustees, including the Mayor, finds himself or herself in violation of any portion of this Article, he or she shall have forty-five (45) days after his or her election or appointment to either correct the violation or resign from the Board of Trustees. (Ord. O-20 §1, 2001; Ord. O-7 §1, 2009)

**Sec. 2-8-40. Conflicts of interest.**

(a) No board member may vote on any matter before the board if the board member has a conflict of interest. On such a question, the member shall disclose the nature of the conflict of interest to the board prior to initiation of any official action on the subject.

(b) The declaration of a board member that he or she has a conflict of interest shall be conclusive. If a board member fails to declare a conflict of interest, the other board members may determine, by motion adopted by the affirmative vote of a majority of the remaining members present at the meeting, whether a conflict of interest exists. Such motion shall state the basis of the determination and shall be conclusive of the question of whether a conflict of interest exists.

(c) When a board member declares a conflict of interest or a board by majority vote determines that a board member has a conflict of interest, the board member shall physically remove himself or herself from the board and the meeting room and shall refrain from attempting to influence the decisions of the other members of the board of which the person is a member. After the board has completed consideration of the matter, the board member may return and resume his or her duties as a member of the board. (Ord. O-20 §1, 2001; Ord. O-7 §1, 2009)

**Sec. 2-8-50. Voting required.**

Except as provided in this Article, each board member who is present at a meeting shall vote when the question is called. Any board member who refuses to vote, except when abstaining pursuant to this Article, shall be deemed guilty of misconduct in office, and a negative vote shall be cast and recorded in the board member's name. (Ord. O-20 §1, 2001; Ord. O-7 §1, 2009)

**Sec. 2-8-60. Violation and penalty.**

Violations of this Article shall be subject to the following:

(1) If a violation by any member of the Board of Trustees is established to the satisfaction of a majority of the Board of Trustees, the violation shall be grounds for an official reprimand by the Board of Trustees, provided, however, that if such violation constitutes statutory grounds for the removal of a Town officer, the violation shall be grounds for removal from office.

(2) If a violation by any board member other than a Trustee is established to the satisfaction of a majority of the Board of Trustees, the violation shall be grounds for removal of the board member from the board of which he or she is a member. If the Board of Trustees votes to remove a board member from a board, there shall exist a vacancy on such board that shall be filled as provided in this Code. (Ord. O-20 §1, 2001; Ord. O-7 §1, 2009)

**ARTICLE IX**

**Tree Board**

**Sec. 2-9-10. Created.**

There is hereby created a Tree Board for the Town. (Ord. O-20 §1, 2003; Ord. O-7 §1, 2009)

**Sec. 2-9-20. Members.**

The Board of Trustees shall serve as the Tree Board. (Ord. O-20 §1, 2003; Ord. O-7 §1, 2009)

**Sec. 2-9-30. Powers and duties.**

The Tree Board shall develop and administer a comprehensive tree management program and create and implement an annual community forestry work plan. The Tree Board may incorporate all or any part of the parks, recreation, open space and trails master plan as may qualify to be included in the community forestry work plan. The Tree Board shall follow all rules and regulations, in particular those relating to open meetings, imposed on the Board of Trustees. (Ord. O-20 §1, 2003; Ord. O-7 §1, 2009)

**Sec. 2-9-40. Organization and rules.**

The Tree Board shall take into consideration all applicable sections of Chapter 16 of this Code when developing the annual community forestry program and tree management program. (Ord. O-20 §2, 2003; Ord. O-7 §1, 2009)

**ARTICLE X**

**Design-Build Contract Procedures**

**Sec. 2-10-10. Definitions.**

For purposes of this Article, the following terms shall have the following meanings:

*Adjusted score design-build contract process* means a process to award contracts based on the lowest adjusted score of proposals submitted to the Town.

*Best value* means the overall maximum value of a proposal to the Town after considering all of the evaluation factors described in the specifications for the project or the request for proposals, including but not limited to the time needed for performance of the contract, innovative design approaches, the scope and quality of the work, work management, aesthetics, project control and the total cost of the project.

*Design-build contract* means the procurement of both the design and the construction of a project in a single contract with a single design-build firm or a combination of such firms that are capable of providing the necessary design and construction services.

*Design-build firm* means any company, firm, partnership, corporation, association, joint venture or other entity permitted by law to practice engineering, architecture or construction contracting in the State. (Ord. O-3 §1, 2006; Ord. O-7 §1, 2009)

**Sec. 2-10-20. Authority.**

The Town may select a design-build firm and award a design-build contract for any public improvement project. Nothing in this Article shall require the Town to use the design-build process. (Ord. O-3 §1, 2006; Ord. O-7 §1, 2009)

**Sec. 2-10-30. Criteria.**

(a) The Town may use a design-build contract for a public improvement project if the design work for such project must be performed before a potential bidder can develop a price or cost proposal for such project and if the Town determines that using a design-build contract is appropriate.

(b) The Town shall consider the following factors in determining whether to use a design-build contract process:

- (1) The project requirements and the time constraints for completing the project.
- (2) The capability and experience of potential design-build firms.
- (3) The suitability of the project for a design-build contract.
- (4) The capability of the Town to manage the design-build contract. (Ord. O-3 §1, 2006; Ord. O-7 §1, 2009)

**Sec. 2-10-40. Public notice procedures.**

At least thirty (30) days prior to the anticipated date of selecting a design-build firm for a project, the Town shall publish a public notice at least twice in a newspaper or trade journal of general circulation in the Town and likely to be available to design-build firms. The public notice shall set forth a general description of the project. (Ord. O-3 §1, 2006; Ord. O-7 §1, 2009)

**Sec. 2-10-50. Selection procedures.**

The Town shall describe in the specifications for the project the particular selection procedures to be used in awarding the contract, including but not limited to the following:

- (1) A scope of work statement that defines the project and provides prospective design-build firms with sufficient information regarding the Town's requirements for the project.
- (2) If the Town uses an adjusted score design-build contract process to select a design-build firm, a scope of work statement that is flexible and that identifies the end result that the Town wants to achieve. The Town may determine the adjustment factors and methods it will use to adjust scores and shall state such factors and methods in the specifications for the project.
- (3) In the first phase of the process, the Town shall issue a request for qualifications for information on the design-build firm's qualifications and technical approach to the proposed project. The request for qualifications shall include appropriate evaluation factors, but shall not include cost-related or price-related factors. From the proposals submitted, the Town shall develop a short list of the highest qualified design-build firms.

(4) In the second phase of the process, the Town shall issue a request for proposals to the design-build firms included on the short list. The request for proposals shall include:

a. A request to separately submit a sealed technical proposal and a sealed cost proposal for the project.

b. The required content of the technical proposal, including design concepts for the project, the proposed solutions to the requirements addressed in the scope of work, or both.

c. Any other evaluation factors the Town considers appropriate, including the estimated cost of the project.

d. Any formula the Town determines is appropriate to adjust the total score of a proposal. (Ord. O-3 §1, 2006; Ord. O-7 §1, 2009)

**Sec. 2-10-60. Award.**

(a) The Town may use any basis for awarding a design-build contract that it deems appropriate so long as the basis for awarding such contract is adequately described in the specifications for the project or the request for proposals. Such basis may include awarding a contract to the design-build firm with the proposal that provides the best value to the Town.

(b) The Town may cancel any request for qualifications, request for proposals or other solicitation, or may reject any or all proposals in whole or in part when the Town determines that such cancellation or rejection is in the best interest of the Town. (Ord. O-3 §1, 2006; Ord. O-7 §1, 2009)

## **ARTICLE XI**

### **Code Enforcement Officers**

**Sec. 2-11-10. Created.**

There is hereby created the position of code enforcement officer. All code enforcement officers shall be hired by the Town Manager and may be employees, agents or independent contractors. (Ord. O-3 §1, 2008; Ord. O-7 §1, 2009)

**Sec. 2-11-20. Authority.**

(a) Code enforcement officers shall have the authority to enforce the following provisions of this Code:

(1) Articles I, III, V and VI of Chapter 6 (Business Licenses and Regulations), which establish requirements for business licenses, peddler and solicitor licenses, trash hauler licenses and miscellaneous licenses;

(2) All articles of Chapter 7 (Health, Sanitation and Animals);

(3) Parking infraction violations of Chapter 8 (Vehicles and Traffic), for which the penalty is set forth in Section 8-1-60 of this Code;

(4) All articles of Chapter 11 (Streets, Sidewalks and Public Property);

(5) All articles of Chapter 16 (Land Use Code); and

(6) Article XII of Chapter 18 (Building Regulations), which is the International Property Maintenance Code.

(b) Code enforcement officers may issue administrative citations and Municipal Court summonses and complaints for violations of the provisions of this Code they are authorized to enforce pursuant to Subsection (a) hereof, provided that code enforcement officers shall have no authority to detain or arrest individuals or impound property. (Ord. O-3 §1, 2008; Ord. O-7 §1, 2009; Ord. O-2 §1, 2011)