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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 of 1965. The Town may by ordinance or resolution determine to follow all or part of the provisions of the Uniform Election Code for any election. (Prior code 4-1-1; Ord. 526 §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 Town Clerk prior to twenty (20) days before the election, indicating that such person desires the office and is qualified to assume the duties of that office if elected. (Ord. 312 §1, 1994; Ord. 526 §1, 2005)

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

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

(b) Notice of such cancellation shall be published, if possible, in order to inform the electors of the Town of such cancellation, and notice of such cancellation shall be posted at each polling place and in not less than one (1) other public place in the Town. (Ord. 312 §2, 1994; Ord. 526 §1, 2005)

## **ARTICLE II**

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

#### **Sec. 2-2-10. Structure of government.**

The corporate authority of the Town is by state law vested in a Board of Trustees, consisting of one (1) Mayor and six (6) Trustees, who shall be registered electors residing within the limits of the Town. Members of the Board of Trustees are elected for four-year terms. The Board of Trustees is given the power to appoint such other officers as it may deem necessary for the good government of the Town, prescribe their duties and fix their compensation. (Prior code 2-1-1; Ord. 526 §1, 2005)

#### **Sec. 2-2-20. Board of Trustees.**

The Board of Trustees shall constitute the legislative body of the Town, shall have the power and authority, except as otherwise provided by statute, to exercise all power conferred upon or possessed by the Town, and shall have the power and authority to adopt such laws, ordinances and resolutions as it shall deem proper in the exercise thereof. (Prior code 2-1-5; Ord. 526 §1, 2005)

**Sec. 2-2-30. Qualifications.**

The Mayor and each Trustee shall be a resident of the Town for a period of at least twelve (12) consecutive months immediately preceding the date of the election and shall be a registered elector therein. If the Mayor or any Trustee shall move from or become, during the term of his or her office, a nonresident of the Town, he or she shall be deemed thereby to have vacated his or her office. (Prior code 2-1-6; Ord. 526 §1, 2005)

**Sec. 2-2-40. Term of office.**

At each regular biennial election, subsequent to the 1980 election, the registered electors of the Town shall elect three (3) Trustees to a four-year term. (Prior code 4-1-3, 4-1-4; Ord. 526 §1, 2005)

**Sec. 2-2-50. Mayor.**

(a) The Mayor shall, beginning at the regular election held on the first Tuesday in April in 1980, be elected for a four-year term. Each four (4) years following said election, the registered electors of the Town shall elect a Mayor for a four-year term.

(b) The Mayor shall meet the same qualifications as a Trustee and, in the event of a vacancy in the office of Mayor, such vacancy shall be filled in the same manner as a vacancy in the office of Trustee, as set forth in Section 2-2-80 below.

(c) The Mayor shall preside over all meetings of the Board of Trustees and shall perform such duties as may be required of him or her by statute or ordinance. Insofar as is required by statute and for all ceremonial purposes, the Mayor shall be the executive head of the Town. The Mayor shall be considered a member of the governing body and the Board of Trustees and entitled to vote on any matter before the Board.

(d) The Mayor shall execute and authenticate by his or her signature all bonds, warrants, contracts and instruments of and concerning the business of the Town, as the Trustees or any statutes or ordinances may require.

(e) Except as may be required by statute, the Mayor shall exercise only such powers as the Trustees shall specifically confer upon him or her. (Prior code 2-1-2, 4-1-2, 4-1-5; Ord. 526 §1, 2005)

**Sec. 2-2-60. Mayor Pro Tem.**

At its first meeting following each biennial election, the Board of Trustees shall choose one (1) of the Trustees as Mayor Pro Tem. In the absence of the Mayor from any meeting of the Board of Trustees, during the absence of the Mayor from the Town or during the inability of the Mayor to act, the Mayor Pro Tem shall perform the duties of the Mayor. (Prior code 2-1-3; Ord. 526 §1, 2005)

**Sec. 2-2-70. Acting Mayor.**

In the event of the absence or disability of both the Mayor and the Mayor Pro Tem, the Trustees may designate another Trustee to serve as acting Mayor during such absence or disability. (Prior 2-1-4; Ord. 526 §1, 2005)

**Sec. 2-2-80. Vacancies.**

In case of the death, resignation, vacation or removal for cause of the Mayor or any of the Trustees during his or her term of office, the Board of Trustees, by a majority vote of all remaining members thereof, may select and appoint, from among the duly registered electors of the Town, a suitable person to fill the vacancy. The person so appointed shall hold office until the next regular election and until his or her successor is elected and qualified. If the term of the person creating the vacancy was to extend beyond the next regular election, the person elected to fill the vacancy shall be elected for the unexpired term. Where vacancies exist in the offices of Trustee and successors are to be elected at the next election to fill the unexpired terms, the three (3) candidates for Trustee receiving the highest number of votes shall be elected to four-year terms, and the candidates receiving the next highest number of votes, in descending order, shall be elected to fill the unexpired terms. (Prior code 2-1-7; Ord. 526 §1, 2005)

**Sec. 2-2-90. Recall.**

All actions of recall shall be conducted in accordance with the provisions of state statutes. (Prior code 4-2-1; Ord. 526 §1, 2005)

**Sec. 2-2-100. Compensation.**

Effective with the mayoral term beginning in April 2008, the Mayor and each member of the Board of Trustees who attends at least one (1) entire regular or special meeting per month shall be compensated in the amount of forty-five dollars (\$45.00) per month for the Mayor and twenty-five dollars (\$25.00) per month for each Trustee. (Ord. 263 §1, 1988; Ord. 580 §1, 2008)

**Sec. 2-2-110. Contracts.**

The Board of Trustees shall have the authority on behalf of the Town to enter into contractual arrangements with one (1) or more other local governments for the performance of any governmental service, activity or undertaking which could be performed by each of the local governments. Any such contract shall set forth fully the purposes, powers, rights, obligations and responsibilities, financial and otherwise, of the contracting parties. Such contract may be approved by the Board of Trustees by resolution or by ordinance. (Prior code 2-1-14)

**Sec. 2-2-120. Boards and commissions.**

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

- (1) Board of Adjustment;
- (2) Historic Preservation Commission; and
- (3) Planning and Zoning Commission. (Ord. 526 §1, 2005)

## **ARTICLE III**

### **Meetings**

#### **Sec. 2-3-10. Regular meetings.**

The Board of Trustees shall hold regular meetings on the second and fourth Tuesdays of each and every month at 7:00 p.m.; provided, however, that when the day 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 at the same hour at the next succeeding Tuesday, not a holiday. All regular meetings of the Board of Trustees will be held in the Bennett Town Hall. (Prior code 2-2-1; Ord. 200 §1, 1984)

#### **Sec. 2-3-20. Special meetings.**

(a) The Mayor or any Trustee may convene the Board of Trustees at any time. Notice of a special meeting shall be posted in the Town Hall at least twenty-four (24) hours in advance of such meeting.

(b) The Board of Trustees at any duly convened meeting may, by majority vote, call a special meeting for a future date. Notice of such meeting shall be given to any member of the Board of Trustees not in attendance and shall be posted in the Town Hall at least twenty-four (24) hours in advance of such meeting.

(c) Should the Board of Trustees convene for a special meeting pursuant to a request of an interested party for the purpose of accommodating time constraints of said interested party, the Board of Trustees may, in its discretion, assess fees for the special meeting against the interested party. The Board of Trustees may from time to time by resolution adopt a schedule of fees which may be assessed for special meetings. Said fees shall reasonably compensate the staff of the Town and the Town Attorney for time spent in preparation for attendance at special meetings. (Prior code 2-2-2; Ord. 526 §1, 2005)

#### **Sec. 2-3-30. Quorum.**

No action shall be taken unless a quorum is present. A majority of the Board of Trustees shall constitute a quorum. A lesser number may adjourn from time to time and compel the attendance of absent members. Any member of the Board of Trustees, at any regular or special meeting, may in writing demand the attendance of the absent members, which demand shall be entered on the record forthwith by the Town Clerk, who shall thereupon notify the absent members of the time and place of the meeting. (Prior code 2-2-3)

#### **Sec. 2-3-40. Conduct of meetings.**

The Board of Trustees shall have the authority to adopt from time to time rules of procedure for the conduct of its meetings. Meetings of the Board of Trustees shall be conducted by the Mayor. (Ord. 526 §1, 2005)

#### **Sec. 2-3-50. Agenda.**

Each Trustee and the Mayor will be furnished a copy of the minutes of the last preceding meeting, prior to the Board of Trustees' meeting and as far in advance of the meeting as time for preparation

will permit. In addition to the above, four (4) copies of these minutes shall be prepared and made available for any registered electors who are in attendance at the meeting. These copies shall be made available as handouts and may be reviewed by those present, prior to their approval. (Prior code 2-2-4; Ord. 526 §1, 2005)

**Sec. 2-3-60. Order of business.**

All meetings shall be conducted in an orderly manner. It shall be the presiding officer's duty to enforce this procedure. The presiding officer may change the order of procedure, if necessary, in order to expedite the meeting. The following shall be the generally accepted order of business:

(1) Call to order. The Mayor shall take the chair precisely at the hour appointed for the meeting, and shall immediately call the Board of Trustees to order. The Mayor or the temporary chair shall preserve the order and decorum, decide all questions of order and conduct the proceedings of the meetings.

(2) Roll call. Before proceeding with the business of the Board of Trustees, the Town Clerk shall call the roll of the members, and the names of those present shall be entered in the minutes. If a quorum does not exist, the procedures shall not start until such time as sufficient members arrive to make a quorum. If, in the opinion of the members present, no quorum will exist, the Mayor shall set the time and place for the meeting to reconvene and adjourn the meeting. The Town Clerk shall make the proper record in the Town records.

(3) Reading of minutes. Unless a reading of the minutes of a Board of Trustees' meeting is requested by a member of the Board of Trustees, the minutes of the preceding meeting shall be approved by motion, if correct, and errors rectified if any exist.

(4) Payment of bills. Bimonthly, the Town Clerk shall prepare a list of all bills due, all income for the month and a current Town financial statement as far in advance of the meeting as practical. Each Trustee and the Mayor shall be furnished a copy as soon as practical. In addition, four (4) copies shall be prepared and made available for any registered electors who are in attendance at the meeting. These copies shall be made available as handouts and may be reviewed by those present, prior to their approval. All financial items are open for discussion. If all items are resolved or if there are no objections to any of the items, a motion is in order to approve payment. A roll call vote shall then be taken and duly recorded.

(5) Petitions and communications. Petitions, communications and comments or suggestions from citizens present shall be heard by the Board of Trustees. All such remarks shall be addressed to the Board of Trustees as a whole, and not to any member thereof. Such remarks shall be limited to a reasonable time and such determination will be at the discretion of the presiding officer. No person other than the individual speaking shall enter into the discussion without the permission of the presiding officer.

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

(7) Report of officers. The Town officials and/or committees shall present such reports as may be required by the Board of Trustees.

(8) New business. The Board of Trustees shall consider any business not heretofore considered, including the introduction and adoption of ordinances and resolutions.

(9) Adjournment. The Board of Trustees may, by a majority vote of those present, adjourn from time to time to a specific date and hour. A motion to adjourn shall always be in order and decided without debate. (Prior code 2-2-5; Ord. 526 §1, 2005)

**Sec. 2-3-70. Action of Board.**

Each Trustee is required to vote on every proper motion before the Board of Trustees that has a proper second. If a Trustee desires to abstain from voting on a motion, he or she must give his or her reason for this request. The motion to abstain is then handled as a regular motion and the results are final. (Prior code 2-2-6; Ord. 526 §1, 2005)

**ARTICLE IV**

**Ordinances**

**Sec. 2-4-10. Majority vote for appropriation ordinances.**

All ordinances, resolutions and orders for the appropriation of money shall require for their passage or adoption a concurrence of a majority of the Board of Trustees. Unless otherwise specifically provided by statute or ordinance, all other actions of the Board of Trustees upon which a vote is taken shall require for adoption the concurrence of a majority of those present, if a quorum exists. All ordinances may be proven by the Seal of the Town and, when printed in book or pamphlet form and purporting to be printed and published by authority of the Town, the same shall be received in evidence in all courts and places without further proof. (Prior code 2-3-2; Ord. 196 §1, 1984; Ord. 526 §1, 2005)

**Sec. 2-4-20. Record and publication of ordinances.**

All ordinances, as soon as may be after their adoption, shall be recorded in a book kept for that purpose and shall be authenticated by the signature of the presiding officer of the Board of Trustees and the Town Clerk. All ordinances of a general or permanent nature and those imposing any fine, penalty or forfeiture, following adoption, shall be published, by title only rather than in full, in some newspaper published within the limits of the Town, or if there is none, in some newspaper of general circulation in the Town. It is a sufficient defense to any suit or prosecution for such fine, penalty or forfeiture to show that no publication was made. If there is no newspaper published or having a general circulation within the limits of the Town, then upon a resolution being passed by the Board of Trustees to that effect, ordinances may be published by posting the title thereof in three (3) public places within the limits of the Town, to be designated by the Board of Trustees. Except for ordinances calling for special elections or necessary to the immediate preservation of the public health or safety and containing the reasons making the same necessary in a separate section, such ordinances shall not take effect and be enforced before thirty (30) days after they have been so published by title. The excepted ordinances shall take effect upon adoption. The book of ordinances provided for in this Section shall be taken and considered in all courts of this State as prima facie evidence that such ordinances have been published as provided by law. (Ord. 306 §1, 1993; Ord. 526 §1, 2005)

**Sec. 2-4-30. Reading of title only.**

Whenever the reading of an ordinance or of a code which is to be adopted by reference is required by statute, any such requirement shall be deemed to be satisfied if the title of the proposed ordinance is read and the entire text of the proposed ordinance or of any code which is to be adopted by reference is submitted in writing to the Board of Trustees before adoption. (Prior code 2-3-6)

**Sec. 2-4-40. Majority of all members required.**

On the adoption of every ordinance and of every resolution authorizing the expenditure of money or the entering into of a contract by the Board of Trustees, the yeas and nays shall be called and recorded. All appointments of officers by the Board of Trustees shall be by the concurrence of a majority of all members elected to the Board of Trustees. The names of those who voted and the vote each candidate received upon the vote resulting in an appointment shall be recorded. (Prior code 2-3-7; Ord. 526 §1, 2005)

**Sec. 2-4-50. Disposition of fines and forfeitures.**

All fines and forfeitures for the violation of ordinances and all monies collected for licenses or otherwise shall be paid into the treasury of the Town at once. (Prior code 2-3-8)

**Sec. 2-4-60. One-year limitation of suits.**

All suits for the recovery of any fine and prosecution for the commission of any offense made punishable under any ordinance of the Town shall be barred one (1) year after the commission of the offense for which the fine is sought to be recovered. (Prior code 2-3-10)

**ARTICLE V**

**Officers and Employees**

**Sec. 2-5-10. Appointed officers.**

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

- (1) Town Attorney;
- (2) Town Clerk;
- (3) Town Treasurer;
- (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 Board of Trustees. (Ord. 526 §1, 2005; Ord. 554 §1, 2006)

**Sec. 2-5-20. Powers and duties of officers.**

Appointed officers of the Town shall have such power and perform such duties as are now or hereafter may be prescribed by state law and the ordinances of the Town, shall further perform any additional duties required by the Board of Trustees, and shall be subject to the control and orders of the Board of Trustees. (Ord. 526 §1, 2005)

**Sec. 2-5-30. Oath of office; bond.**

(a) Before entering upon the duties of his or her office, each officer, elected or appointed, 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 Town. Such oath shall be taken before the Town Clerk, Mayor or Municipal Judge for the Town.

(b) In all cases where, by law, ordinance or resolution of the Board of Trustees, a bond is required of any such officer, he or she shall make and execute to the Town a bond in such sum as is required, to be approved by the Board of Trustees, conditioned upon the faithful performance of all duties pertaining to such office, the proper care of all money or property of the Town coming into his or her hands and the proper accounting for or delivery of the same. (Prior code 2-1-8.1, 2-1-15, 2-1-15.1; Ord. 526 §1, 2005)

**Sec. 2-5-40. Removal of Town officers.**

(a) Cause for removal. By a majority vote of all members of the Board of Trustees, the Mayor, Town Clerk, Town Treasurer, any member of the Board of Trustees or any other officer of the Town may be removed from office. No such removal shall be made without a charge in writing and an opportunity of hearing being given unless the officer against whom the charge is made has moved out of the limits of the Town. When any elected officer ceases to reside within the limits of the Town, he or she may be removed from office pursuant to this Section. Appointed officers or employees of the Town need not reside within the limits of the Town. 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 Town, for any cause specified in the foregoing Subsection for the removal of such officer, shall be made in writing to the Board of Trustees and shall clearly specify any such cause of 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 said officer at least fifteen (15) days before the day of hearing.

(d) Hearing. At the time and place so set, the Board of Trustees shall meet and proceed according to its rules to hear the evidence against said 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 Board of Trustees shall vote by yeas and nays upon each charge and specification separately. The question upon each charge shall be, "Is said officer guilty?" If the Board of Trustees, by a lawful number, finds said officer guilty of any specified charge aforesaid, it shall resolve that said officer be removed from office and his or her office declared vacant.

(f) Appearance by counsel. Upon the trial as aforesaid, said officer shall be heard by himself or herself or by counsel in his or her defense, and the Town may also be represented by counsel in the prosecution of such charges. The Chief of Police, Mayor or Town Clerk may serve any paper required to be served by any provisions of this Article. (Prior code 2-1-16; Ord. 526 §1, 2005)

### **Sec. 2-5-50. Town Clerk.**

(a) The Board of Trustees, after each biennial election in accordance with state statute, shall appoint some qualified person as Town Clerk. In case a vacancy should occur in the office of Town Clerk, the Board of Trustees shall appoint a Town Clerk for the unexpired term.

(b) The Town Clerk shall perform the following duties:

(1) Be the Town Clerk of the Board of Trustees, attend all meetings of the Board of Trustees and keep a permanent record of its proceedings.

(2) Be the custodian of all of the Town's records; such records shall be open at all reasonable times for inspection by electors of the Town.

(3) Certify by his or her signature all ordinances and resolutions enacted or passed by the Board of Trustees.

(4) Provide and maintain in his or her office a supply of forms for all petitions required to be filed for any purpose provided by the Board of Trustees.

(5) Countersign all warrants drawn on the Town Treasury.

(6) Be custodian of all bonds of all officers or employees of the Town.

(7) Be the designated official of all municipal elections.

(8) Be the designated official for all municipal liquor licensing.

(9) Perform all the duties of the Municipal Court Clerk

(10) Perform such other duties as may be prescribed for him or her by law or by the Board of Trustees.

(c) The Board of Trustees, after each biennial election in accordance with state statute, shall appoint some qualified person as Town Clerk Pro Tem who, in the absence of the Town Clerk or the Town Clerk's inability to act, shall perform the duties of the Town Clerk. (Prior code 2-1-8, 2-1-8.2, 2-1-10; Ord. 515 §1, 2, 2004; Ord. 526 §1, 2005)

**Sec. 2-5-60. Town Treasurer.**

The Town Treasurer shall perform the following duties:

(1) The Town Treasurer shall receive all monies belonging to the Town and give receipts therefor; shall keep his or her books and accounts in such manner as may be prescribed by the Board of Trustees; shall keep a separate account of each fund or appropriation and the debts and credits belonging thereto; shall report to the Board of Trustees at each regular monthly meeting thereof, the state of the treasury at the date of such account, and the balance of money in the treasury; and shall accompany such statement of accounts with a statement of all monies received in the treasury and on what account, during the preceding month, together with all warrants redeemed and paid. All books and accounts of the Town Treasurer shall always be subject to inspection of any member of the Board of Trustees.

(2) Annually within thirty (30) days after the close of the fiscal year, the Town Treasurer shall make out a full and detailed account of all receipts and expenditures of the Town, and shall cause such account to be published in a newspaper published or of general circulation in the Town.

(3) The Town Treasurer shall prepare the Town's annual budget and oversee the Town's annual audit.

(4) The Town Treasurer shall perform all other duties, keep all records and make all reports that are required by other provisions of this Code or by state law. (Prior code 2-1-9; Ord. 526 §1, 2005)

**Sec. 2-5-70. Town Attorney.**

(a) The Board of Trustees, after each biennial election in accordance with state statute, shall appoint some qualified attorney at law as the Town Attorney and shall fix compensation. In case a vacancy should occur in the office of Town Attorney, the Board of Trustees shall appoint a Town Attorney for the unexpired term.

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

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

(2) Prosecute or oversee the prosecution of ordinance violations, conduct for the Town cases in Municipal Court, and file with the Town Clerk copies of such records and files relating thereto.

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

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

(5) Perform such other duties as may be prescribed by the Board of Trustees. (Prior code 2-1-11, 2-1-11.1; Ord. 515 §3, 2004; Ord. 526 §1, 2005)

**Sec. 2-5-80. Social Security.**

In the opinion of the Board of Trustees, the extension of the social security system to employees and officers of the Town will be of great benefit not only to the employees and officers by providing that said employees and officers may participate in the provision of the old-age and survivors insurance system, but also to the Town by the efficiency of its government. (Ord. 526 §1, 2005)

**Sec. 2-5-90. Town Administrator.**

(a) The Board of Trustees may hire a Town Administrator, who shall serve at will for an indefinite term at the pleasure of the Board of Trustees. The Town Administrator may be removed at any time without cause by a majority vote of the entire Board of Trustees.

(b) The Town Administrator shall be the chief administrative officer of the Town and shall be responsible to the Board of Trustees for the administration of all matters placed in the charge of the Town Administrator by the Board of Trustees.

(c) The compensation of the Town Administrator shall be as established by the Board of Trustees. (Ord. 554 §2, 2006)

**ARTICLE VI**

**Public Hearing**

**Sec. 2-6-10. Purpose and application.**

The purpose of the rules of procedure contained herein is to provide a uniform, consistent and expeditious method of procedure for the conduct of all hearings held before the Board of Trustees or any board, commission or official of the Town. The provisions of this Article shall be applied uniformly in all such hearings; provided, however, that any board, commission or official may supplement the provisions of this Article by the adoption of further rules of procedure not inconsistent herewith. All rules adopted to supplement the provisions of this Article by any board, commission or official shall be reduced to writing, and copies thereof shall be made available to the public. (Prior code 2-6-1)

**Sec. 2-6-20. Referral to hearing body.**

Upon receipt by the Town Clerk or the secretary of any board, commission or other appropriate officer of the Town, of any application, petition, notice of appeal, complaint or other instrument initiating a hearing, the same shall be referred to the Board of Trustees, board, commission or official, who shall direct public notice thereof to be given; provided, however, that the Board of Trustees or any board or commission may authorize its clerk or secretary to set a date, time and place for hearing upon receipt of such instrument without the necessity for action by the Board of Trustees, board, commission or official. (Prior code 2-6-2)

**Sec. 2-6-30. Public notice.**

Public notice of the date, time and place of the public hearing shall be given in the manner provided by this Code or state statute. In the absence of provisions specifically delineating the manner in which public notice is to be given, notice of the date, time, place and purpose of the hearing to be held shall be published once in a generally circulated publication in the Town not less than ten (10) days prior to the date of said hearing. (Prior code 2-6-3)

**Sec. 2-6-40. Preserving order.**

Each hearing body shall have the right to preserve order during the hearing and to take such steps, including the ejection of any disorderly or obstreperous person interfering with the proceedings as may be necessary, and the hearing body may, prior to any presentations and as a condition to the taking of testimony or information from any person, require the registration of all persons desiring to be heard during the hearings. It may restrict the testimony of any person to the material issues pending before it and, to prevent duplicative or cumulative presentations, it may impose reasonable time restrictions on any person. (Prior code 2-6-4)

**Sec. 2-6-50. Deliberation and notice of decision.**

Each hearing body is hereby authorized to deliberate upon the issues presented at the hearing in private, nonpublic sessions; provided that decision shall be effective, except upon a vote of the members of the hearing body, conducted in an open session thereof, which shall be duly recorded in the minutes of the public body. Written copies of all decisions shall be delivered to the applicant, petitioner, appellant, complainant and other interested party requesting the same. (Prior code 2-6-5)

**Sec. 2-6-60. Judicial enforcement and review.**

Any party aggrieved by any decision rendered by the hearing body in any quasi-judicial hearing, as well as department heads or authorized officials of the Town or the Town itself, may apply to have said decision reviewed by a court of competent jurisdiction, in accordance with the provisions of the Colorado Rules of Civil Procedure. (Prior code 2-6-6)

**Sec. 2-6-70. Quasi-judicial hearings.**

The provisions of this Section and Sections 2-6-80 through 2-6-100 shall be applicable only to those hearings where the Board of Trustees, board, commission or official is called upon to exercise a power of a judicial or quasi-judicial nature, which, for purposes of this Article, shall be deemed to consist of the following:

- (1) Hearings before the Board of Trustees upon application for the issuance or hearings for the suspension or revocation of liquor or fermented malt beverage licenses, upon subdivision and development applications, upon ordinances which zone or rezone realty, and upon all appeals from the decisions of any Town official, board or commission, where such appeals are otherwise authorized, and which require an evidentiary hearing to determine such appeal.
- (2) Hearings before the Board of Trustees respecting the issuance, suspension or revocation of any license issued by the Town. (Prior code 2-6-7; Ord. 526 §1, 2005)

**Sec. 2-6-80. Rights of participants.**

All quasi-judicial hearings shall be conducted under procedures designed to ensure all interested parties due process of law and shall, in all cases, provide for the following:

- (1) The administration of oaths to all parties or witnesses who appear for the purpose of testifying upon factual matters.
- (2) The cross-examination, upon request, of all witnesses by the interested parties.
- (3) The stenographic, or other verbatim, such as tape-recorded, reproduction of all testimony presented in the hearing, or an adequate summary of such testimony.
- (4) A clear decision by the hearing body which shall set forth the factual basis and reasons for the decision rendered. (Prior code 2-6-7.1)

**Sec. 2-6-90. Order of procedure.**

(a) In all quasi-judicial hearings, the following order of procedure shall be followed:

- (1) Presentation of those documents showing the regularity of the commencement of the proceedings and the form of the public notice given.
- (2) Presentation of evidence by the applicant, petitioner, appealing party or complainant.
- (3) Presentation of evidence in support of the applicant, petitioner, appealing party or complainant by any other person.
- (4) Presentation of evidence by the Town.
- (5) Presentation of evidence from any person opposing the application, petition, appeal or complaint.
- (6) Presentation of evidence in opposition or rebuttal to the matters presented by the opposition.

(b) All documents or other items of physical evidence, shall be marked as exhibits with such identifying symbols as may be necessary to determine the exhibit referred to by any witness or other person. (Prior code 2-6-7.2; Ord. 526 §1, 2005)

**Sec. 2-6-100. Rules of evidence.**

The hearing body shall not be required to observe any formal rules of evidence, but may consider any matter which a majority thereof concludes is reasonably reliable and calculated to aid the hearing body in reaching an accurate determination of the issues involved. (Prior code 2-6-7.3)

**Sec. 2-6-110. Administrative hearings.**

All other hearings before the Board of Trustees or any board, commission or official shall be deemed to be administrative hearings, the purpose of which is to obtain information to enable the Board of Trustees to determine legislative policy or to enable any board, commission or official to make recommendations to the Board of Trustees on pending legislation. Such hearing shall be conducted in compliance with the provisions of Sections 2-6-10 through 2-6-60 hereof and in such a manner as to enable any person desiring to be heard a reasonable opportunity for the presentation of his or her views. (Prior code 2-6-8)

**Sec. 2-6-120. Planning and zoning hearing.**

When a request is received for platting, replatting, zoning, a zoning change or a zoning variance, the request shall be given to the chair of the Planning and Zoning Commission. The Planning and Zoning Commission shall then promptly schedule a public hearing to review the request. The requirements for planning and zoning hearings as outlined in state statutes and this Code shall be followed. (Prior code 2-6-9; Ord. 526 §1, 2005)

**Sec. 2-6-130. Adjournments.**

After commencement of any hearing, the hearing body may, if it is deemed necessary to obtain a full presentation, adjourn the hearing from time to time by publicly announcing the fact of such adjournment and the date, time and place when and where the adjourned hearing shall reconvene, without the necessity of any further published notice thereof. (Prior code 2-6-10)

**Sec. 2-6-140. Zoning and annexation hearing.**

The Board of Trustees shall not act in the case of any request for platting, replatting, zoning, zone change or a zoning variance until such item has been submitted to the Planning and Zoning Commission for the appropriate action. The Planning and Zoning Commission shall conduct the investigations and hearings as required and submit its detailed recommendations to the Board of Trustees for review and action as prescribed by state statutes. (Prior code 2-6-11; Ord. 526 §1, 2005)

**Sec. 2-6-150. Failure to reply.**

If the Planning and Zoning Commission fails to submit its recommendations to the Board of Trustees within thirty (30) days of the receipt of such request, it shall be deemed approved, and the Board of Trustees shall proceed with the same as if it had been approved by the Planning and Zoning Commission. (Prior code 2-6-11.1; Ord. 526 §1, 2005)

## **ARTICLE VII**

### **Municipal Court**

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

A Municipal Court in and for the Town is hereby created and established and is hereby designated as a qualified municipal court of record as provided in Section 13-10-102(3), C.R.S. (Ord. 325 §2, 1995)

#### **Sec. 2-7-20. Jurisdiction and powers.**

The Municipal Court shall have original jurisdiction of all cases arising under the ordinances of the Town, with full power to carry the same into effect and to punish violations thereof by the imposition of such fines and penalties as are prescribed by law, ordinances or court rule. The Municipal Court shall have the power to compel the attendance of witnesses and to punish for contempt of court by a fine or a jail sentence, or both, and shall have all the powers incident to a court of record in relation to same. It shall have the power to enforce subpoenas issued by any board, commission, hearing officer or other body or officer of the Town authorized by law or ordinance to issue subpoenas. (Ord. 407 §1, 2000)

#### **Sec. 2-7-30. Municipal Judge.**

(a) The Board of Trustees, after each biennial election in accordance with state statute, shall appoint a Municipal Judge. The Municipal Judge shall preside over the Municipal Court until the next biennial election. In case of a vacancy, the Board of Trustees shall appoint a qualified person to serve as Municipal Judge until the next biennial election.

(b) Any Municipal Judge may be removed by a majority vote of all members of the Board of Trustees during his or her term of office only for cause, as set forth in Section 13-10-105(2), C.R.S. (Ord. 325 §2, 1995; Ord. 515 §4, 2004; Ord. 526 §1, 2005)

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

The Municipal Judge shall be a qualified attorney who is currently admitted to and licensed in the practice of law in the State. (Ord. 325 §2, 1995; Ord. 526 §1, 2005)

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

Before entering upon the duties of his or her office, the Municipal Judge shall take and be authorized to administer oaths, and file with the Board of Trustees an oath or affirmation that he or she will support the Constitution of the United States, the Constitution of the State and the ordinances of the Town and will faithfully perform the duties of his or her office. (Ord. 325 §2, 1995)

#### **Sec. 2-7-60. Compensation of Judge; operating expenses.**

(a) The approved compensation of the Municipal Judge shall be an amount approved by the Board of Trustees and shall be payable monthly.

(b) The Board of Trustees shall from time to time budget and appropriate such moneys as it deems fit for the operation of the Municipal Court. (Ord. 325 §2, 1995; Ord. 526 §1, 2005)

**Sec. 2-7-70. Court Clerk.**

(a) The position of Municipal Court Clerk is hereby established. The Board of Trustees may appoint a person to serve as Municipal Court Clerk and such assistants as may be necessary to carry out efficiently the business of the Municipal Court. The Municipal Court Clerk and assistants shall receive such salary as the Board of Trustees may decide. The Municipal Court Clerk and assistants shall have the powers and duties as designated by law, by court rule or by the presiding Municipal Judge.

(b) The Municipal Court Clerk shall post bond as may be required by state statute.

(c) The Municipal Court Clerk and assistants, or the presiding judge if there is no Municipal Court Clerk, shall keep a judgment record and a register of actions in said Municipal Court including all fees and money collected and pay over to the Town Treasurer all fees, fines and penalties received. (Ord. 325 §2, 1995; Ord. 526 §1, 2005)

**Sec. 2-7-80. Sessions.**

(a) There shall be regular sessions of Municipal Court for the arraignment of defendants, the trial of cases and such other matters and proceedings as the business of the Municipal Court may require. Such sessions shall be conducted no less frequently than once per month and shall be open to the public.

(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. (Ord. 325 §2, 1995; Ord. 526 §1, 2005)

**Sec. 2-7-90. Record of proceedings.**

All proceedings and evidence at trials before the Municipal Court shall be recorded verbatim through the use of an electronic recording device, or a certified court stenographer shall make a verbatim record of the proceedings. In the event either the defendant or the Town desires a stenographic record, the cost of making such a record shall be assessed as a court cost by the Municipal Judge against the party making the request. (Ord. 325 §2, 1995)

**Sec. 2-7-100. Rules of procedure.**

The procedures of the Municipal Court shall be in accordance with state statutes and with the Colorado Municipal Court Rules of Procedure as promulgated by the Colorado Supreme Court. The presiding Municipal Judge shall have authority to issue local rules of procedure not inconsistent with any rules of procedure adopted by the Colorado Supreme Court. (Ord. 325 §2, 1995)

**Sec. 2-7-110. Failure to appear as offense.**

It is unlawful for any person to fail to obey a written promise to appear, given to an officer upon arrest, issuance of a summons or obtaining bail. (Ord. 325 §2, 1995)

**Sec. 2-7-120. Failure to respond to process.**

In all cases where a person is summoned as a juror or a witness to the Municipal Court and fails to attend at the time and place appointed, the Municipal Court may issue a citation for the appearance of such juror or witness so failing to attend and direct such person to show cause why he or she should not be punished for contempt of court. It shall be lawful for such Municipal Court or Municipal Judge to punish him or her for contempt by a fine or jail or both, or, upon a satisfactory excuse being made, the Municipal Court may discharge such person and release any bond posted pursuant thereto. (Ord. 325 §2, 1995)

**Sec. 2-7-130. Bond forfeiture.**

In the event any defendant in any case before the Municipal Court shall fail to appear according to the terms, requirements and conditions of his or her bond for appearance or, appearing, shall depart the Municipal Court without leave, the bond shall automatically be forfeited. (Ord. 325 §2, 1995)

**Sec. 2-7-140. Bench warrant.**

When any defendant, duly summoned or admitted to bail, fails to appear at the time his or her case is made returnable or set for trial, the Municipal Judge may issue a warrant for the arrest of said defendant. (Ord. 325 §2, 1995)

**Sec. 2-7-150. Contempt power.**

(a) When the Municipal Court finds any person to be in contempt, the Municipal Court may vindicate its dignity by imposing on the contemnor a fine not to exceed one thousand dollars (\$1,000.00) and imprisonment not to exceed a term of twenty (20) 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. 526 §1, 2005)

**Sec. 2-7-160. Sentencing alternatives.**

Within the limitations of the penalties provided for the offense of which a person is found guilty or pleads guilty or no contest and subject to the provisions of this Article, the Municipal Court has the following alternatives, which are not mutually exclusive, in entering judgment and imposing sentence:

(1) The defendant may be sentenced to pay a fine, within the minimum and maximum sentence authorized.

(2) All or part of the sentence may be suspended upon such terms and conditions as may be ordered by the Municipal Court.

(3) The Municipal Court, with the consent of the defendant and the prosecution, may defer judgment and sentence for a term not longer than one (1) year. (Ord. 407 §1, 2000)

**Sec. 2-7-170. Court costs.**

The Municipal Court shall have the power to assess the following court costs and fees, in addition to fines, penalties and sentencing alternatives set forth in Section 2-7-160 above:

- (1) Court costs in the amount of thirty dollars (\$30.00).
- (2) Jury trial costs in the amount of fifty dollars (\$50.00).
- (3) An outstanding judgment warrant fee in the amount of thirty dollars (\$30.00).
- (4) A bench warrant fee in the amount of thirty dollars (\$30.00).
- (5) A default judgment fee in the amount of thirty dollars (\$30.00).

(6) Upon the entry of any deferred prosecution, deferred judgment and sentence, or where the defendant is placed on probation, the Municipal Court may assess a supervision fee in the amount of twenty-five dollars (\$25.00).

(7) For any stay of execution entered by the Municipal Court, the Municipal Court may assess an administrative fee in the amount of ten dollars (\$10.00). (Ord. 407 §2, 2000)

**Sec. 2-7-180. Penalties and violations.**

(a) Any person who violates any of the specific Code provisions or ordinances listed in Appendix 2-A to this Chapter shall, upon conviction, or a plea of guilty or no contest, be fined in a sum of not less than the amounts set forth in the schedule of fines and penalties listed in Appendix 2-A to this Chapter.

(b) Pursuant to Colorado Municipal Court Rules of Procedure Rule 210(b)(4) and Section 1701 of the Model Traffic Code for Colorado Municipalities, the Municipal Court is authorized to adopt a schedule of fines for violations of Chapter 8 of this Code.

(c) Unless otherwise provided in this Code, any person who is convicted of or pleads guilty or no contest to a violation of any such provision of this Code or other ordinance, resolution or rule of the Town, whether now in existence or hereinafter enacted, shall be punished by a fine of not more than one thousand dollars (\$1,000.00). (Ord. 407 §3, 2000; Ord. 526 §1, 2005; Ord. 591 §2, 2009)

**ARTICLE VIII**

**Police Services**

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

There is hereby created the office of the Chief of Police. (Prior code 2-7-1; Ord. 526 §1, 2005)

**Sec. 2-8-20. Powers and duties.**

The Chief of Police shall be an officer of the Town and shall have the same power that sheriffs have by law, coextensive with the County in cases of violation of Town ordinances and for offenses committed within the limits of the Town. He or she shall execute the process of the Mayor and receive the same fees for his or her services that sheriffs are allowed in similar cases. (Prior code 2-7-2)

**Sec. 2-8-30. Contract with Adams and Arapahoe Counties.**

The Town has contracted with Adams and Arapahoe Counties for the services of a deputy sheriff who shall serve in the capacity of Chief of Police for the Town. All rules and regulations of the Adams County Sheriff's Department and Arapahoe County Law Enforcement and the conditions of the above contract shall apply. (Prior code 2-7-3; Ord. 526 §1, 2005)

**ARTICLE IX**

**Emergency Protection**

**Sec. 2-9-10. Purpose.**

The Town will from time to time in the future, in all probability, have within its corporate limits fire, flood, civil disturbances and riots; therefore, it is deemed in the best interest of the Town to exercise certain emergency police powers necessary to and incidental to the maintenance of the safety, health and welfare of the citizens of the Town. (Prior code 2-8-1; Ord. 526 §1, 2005)

**Sec. 2-9-20. Mayor's authority.**

Emergency police powers shall be placed in the hands of the Mayor. These powers should be exercised only in the event of an emergency as herein contemplated and shall only be exercised for such period of time as the actual emergency exists. Said powers shall only be invoked after a declaration and proclamation of an emergency. (Prior code 2-8-2; Ord. 526 §1, 2005)

**Sec. 2-9-30. Powers of Mayor.**

(a) In addition to any and all powers enumerated in this Code, the Mayor shall have further emergency powers necessary to preserve the peace and order of the Town as follows:

(1) The Mayor shall have the power to declare an emergency to exist when, in his or her opinion, one (1) or more of the following conditions exist;

a. There is extreme likelihood or danger of destruction of life or property due to unusual conditions.

b. Civil unrest, commotion or uprising is imminent or exists.

(2) The emergency shall be declared in a proclamation of the Mayor, and the public shall be immediately notified of said proclamation and that violators will be arrested and subject to penalty.

(3) After declaration of such emergency, the Mayor shall have the authority to exercise any or all of the following powers:

a. To call upon regular and auxiliary enforcement agencies and organizations within or without the Town to assist in preserving and keeping the peace and the preservation of life and property of the citizenry of the Town.

b. To close streets and sidewalks and to delineate areas within the Town wherein an emergency exists.

c. To impose a curfew upon all or any portion of the Town, thereby requiring all persons in such designated curfew areas to forthwith remove themselves from the public streets, alleys, parks or other public places; provided, however, that physicians, nurses and ambulance operators performing medical services, utility personnel maintaining essential public services, firemen and Town-authorized or Town-requested enforcement officers and personnel may be exempted from such curfew.

d. To order the closing of any business establishments anywhere within the Town for the period of the emergency, such businesses to include, but not be limited to, those selling intoxicating liquors and malt beverages.

e. The power to do any and all acts necessary and incidental to the preservation of life, limb and property within the Town.

(b) Any emergency proclaimed in accordance with the provisions of this Article shall terminate after issuance of a proclamation determining an emergency no longer exists or a period of seven (7) days has passed, whichever comes first. (Prior code 2-8-3; Ord. 286 §1, 1990)

## **ARTICLE X**

### **Town Departments**

#### **Sec. 2-10-10. Water Department.**

(a) A Water Department for the Town is hereby established. The Board of Trustees shall serve in the capacity of the Water Department.

(b) All rules and regulations governing meetings, notices, public hearings and publications of the Board of Trustees hereby apply to the meetings of the Water Department, and meetings of the Water Department may be held in conjunction with meetings of the Board of Trustees.

(c) The Water Department shall have all the powers and duties bestowed on such Department by statute or ordinance. These powers shall include but not be limited to:

(1) To enter into contracts and agreements, including but not limited to contracts with the federal government, the State and any other public body.

(2) To trade, exchange, purchase, condemn or otherwise acquire, operate, maintain and dispose of real property and personal property, including interest therein, either within or without or both within and without the territorial limits of the Town.

(3) To borrow money, to issue municipal securities evidencing any loan to or amount due by the Town, to provide for and secure the payment of any municipal securities and the rights of the holders thereof, and to purchase, hold and dispose of municipal securities.

(4) To fund or refund any loan or obligation of the Town and to issue funding or refunding securities to evidence such loan or obligation without any election.

(5) To construct public wells, cisterns and reservoirs in the streets and other public and private places within the Town or beyond the limits thereof for the purpose of supplying the same with water, to provide proper pumps and conducting pipes or ditches, to regulate the distribution of water for irrigating and other purposes, and to levy an equitable and just tax upon all consumers of water for the purpose of defraying the expense of such improvements.

(6) To regulate the water supply used in the Town for domestic or household purposes and to prohibit and condemn the use of any and all surface wells and the waters thereof for domestic or household purposes when the same are found injurious to the health of the Town or of the inhabitants thereof.

(7) To supply water from its water system to consumers outside the limits of the Town and to collect such charges upon such conditions and limitations as the Town may impose by ordinance.

(d) At its first regular meeting following each biennial election, the Board of Trustees shall appoint one (1) of its Trustees to serve as Water Director. It shall be his or her duty to inspect, advise and keep the Board of Trustees informed as to the requirements and conditions of the water system. (Prior code 2-10-1, 2-10-2, 2-10-3, 2-10-4)

#### **Sec. 2-10-20. Street Department.**

(a) A Street Department for the Town is hereby established. The Board of Trustees shall serve in the capacity of the Street Department for the Town.

(b) All rules and regulations governing meetings, notices, public hearings and publications of the Board of Trustees hereby apply to the meetings of the Street Department, and meetings of the Street Department may be held in conjunction with meetings of the Board of Trustees.

(c) The Street Department shall have all the powers and duties bestowed upon it by statute or ordinance. These powers shall include but not be limited to:

(1) To lay out, establish, open, alter, widen, extend, grade, pave or otherwise improve streets, parks and public grounds and vacate the same; to direct and regulate the planting of ornamental and shade trees in such streets, alleys, parks and public grounds; to plant trees upon the same; to regulate the use of the same; to prevent and remove encroachments or obstructions upon the same; to provide for the lighting of the same; and to provide for the cleansing of the same.

(2) To regulate the openings therein for the laying out of gas or water mains and pipes, the building and repairing of sewers, tunnels and drains, and the erecting of utility posts. Any company organized under the general laws of the State or any association of persons organized for the purpose of manufacturing energy to supply municipalities or the inhabitants thereof with the same has the right by consent of the Board of Trustees, but not without such consent, subject to existing right, to erect factories and lay down pipes in the streets or alleys.

(3) To regulate the use of sidewalks along the streets and alleys and all structures thereunder and to require the owner or occupant of any premises to keep the sidewalks, or along the same, free from snow and other obstruction.

(4) To regulate and prevent the throwing or depositing of ashes, refuse, garbage or any offensive matter in and to prevent any injury to any street, alley, park or public ground.

(5) To provide for and regulate crosswalks, curbs and gutters.

(d) At its first regular meeting following each biennial election, the Board of Trustees shall appoint one (1) of its Trustees to serve as Street Director. It shall be his or her duty to inspect, advise and keep the Board of Trustees informed as to the requirements and conditions of the streets and alleys in the Town. (Prior code 2-11-1, 2-11-2, 2-11-3, 2-11-4; Ord. 526 §1, 2005)

**Sec. 2-10-30. Park Director.**

(a) At its first regular meeting following each biennial election, the Board of Trustees shall appoint one (1) of its Trustees to serve as Park Director.

(b) The Park Director shall coordinate all efforts between the Board of Trustees, the Bennett Park and Recreation District, and any citizen groups, clubs and organizations which desire to establish or improve any park or recreation areas, within the corporate limits of the Town and shall keep the Board of Trustees advised of their progress. The Park Director shall be the authorized representative in all affairs between the Board of Trustees and Bennett School District 29J in connection with the operation of the Bennett Swimming Pool or any other co-sponsored activities.

(c) The Park Director shall make recommendations to the Board of Trustees concerning allocations of money for park and recreation projects; however, no such funds shall be allocated without the authorization of the Board of Trustees as prescribed by ordinance, statute or code. (Prior code 2-13-1, 2-13-1.1, 2-13-2; Ord. 526 §1, 2005)

**Sec. 2-10-40. Building Inspector.**

(a) The Board of Trustees shall appoint a qualified person as Building Inspector. The Building Inspector shall be the Chief Enforcement Officer for all building regulations contained in this Code, including the various codes adopted by reference. He or she is empowered to enforce all building regulations contained in this Code, the Building Code and related codes adopted by reference. He or she shall make the required inspections, and he or she shall perform such other duties as the Board of Trustees may direct. All fees provided herein shall be paid to the Town Clerk and deposited in the General Fund.

(b) Whenever any work is being done in violation of the provisions of this Code, or in variance with the terms of any permit issued for such work, the Building Inspector may order all work on the job stopped until such violation or variance is eliminated and any work or installation made in violation of this Code corrected. Such stop order, if oral, shall be followed by a written order within twenty-four (24) hours (excluding Saturday, Sunday or holidays). It is unlawful to do or perform any work in violation of such stop order, except as may be necessary to prevent injury or damage to persons or property. Such stop order may be revoked by the Building Inspector or the Board of Trustees.

(c) Wherever in this Code, the Building Code or other codes adopted by reference, it is provided that anything must be done for the approval of or subject to the direction of the inspecting agents or any other officer of the Town, this shall be construed to give such officer only the discretion of determining whether the rules and standards established by ordinance or the respective codes have been complied with; and no such provision shall be construed as giving any officer or agent discretionary powers to determine such conditions and things not prescribed by ordinance or code, or to enforce ordinance provisions in an arbitrary or discriminatory manner.

(d) All work on the construction, alteration and repair of buildings and other structures and any form of work done in connection therewith shall be performed in a good, workmanlike manner according to accepted standards and practices in the trade. (Prior code 2-14-1, 2-14-2, 2-14-3, 2-14-4; Ord. 526 §1, 2005)

#### **Sec. 2-10-50. Director of Environment.**

(a) At its first regular meeting following each biennial election, the Board of Trustees shall appoint one (1) of its Trustees to serve as Director of Environment.

(b) The Director of Environment shall investigate any conditions that are unhealthy, dangerous or unattractive to the Town and has the responsibility to see that the same are corrected in compliance with this Code and state statutes. (Prior code 2-15-1, 2-15-2; Ord. 526 §1, 2005)

## **ARTICLE XI**

### **Fair Housing**

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

As used in this Article, the following definitions shall apply:

*Coordinator* shall mean the Fair Housing Coordinator of the Town.

*Discriminate* means to both segregate and separate.

*Housing* means any building, structure, vacant land, or part thereof during the period it is advertised, listed or publicly advertised for sale, lease, rent or transfer of ownership; except that *housing* shall not include any room offered for rent or lease in a single-family dwelling maintained and accepted in part by the owner or lessee of said dwelling as his or her household.

*Person* means one (1) or more individuals, partnerships, associations, corporations, legal representatives, trustees or receivers, or any owner, lessee, proprietor, manager, employee or agent of such person, but shall not include any nonprofit, fraternal, educational or social organization or club, unless such nonprofit, fraternal, educational or social organization or club has the purpose of promoting discrimination in the matter of housing against any person because of race, creed, color, national origin or ancestry.

*Probable cause* exists if, upon all the facts and circumstances, a person of reasonable prudence and caution would be warranted in a belief that the transaction would have proceeded to completion except that an unfair housing practice of refusal to sell, transfer, rent or lease had been committed. As to all unfair housing practices, *probable cause* shall exist if upon all the facts and circumstances a person of reasonable prudence and caution would be warranted in a belief that an unfair housing practice has been committed.

*Restrictive covenants* means any specification limiting transfer, rental or lease of any housing because of race, creed, color, sex, national origin or ancestry.

*Transfer*, as used in this Article, shall not apply to transfer of property by will or by gift.

*Unfair housing practices* means those practices specified in Section 2-11-30 below. (Ord. 215 §2, 1985; Ord. 526 §1, 2005)

#### **Sec. 2-11-20. Fair Housing Coordinator.**

(a) The Board of Trustees shall appoint a Fair Housing Coordinator for such period of time and on such terms as it deems appropriate.

(b) The powers and duties of the Fair Housing Coordinator are as follows:

(1) To receive, investigate and pass upon complaints alleging any unfair housing practice as defined in this Article.

(2) To investigate and study the existence, character, causes and extent of unfair housing practices by any person and to formulate plans for the elimination thereof by educational or other means.

(3) To issue such publications and reports of studies and research that will tend to promote goodwill among the various racial, religious and ethnic groups in the Town and which will tend to reduce or eliminate unfair housing practices because of race, creed, color, sex, national origin or ancestry.

(4) To make recommendations for such further legislation concerning unfair housing practices because of race, color, creed, sex, or national origin or ancestry.

(5) To cooperate with other agencies or organizations, both public and private, whose purposes are consistent with those of this Article in the planning and conducting of educational programs designed to eliminate social, religious, cultural and inter-group tensions. (Ord. 215 §3, 1985)

**Sec. 2-11-30. Unfair housing practice.**

(a) It shall be an unfair housing practice, unlawful and hereby prohibited as follows:

(1) For any person having the right of ownership or possession or the right of transfer, sale, rental or lease of any housing, as defined in this Article, or any agent of such person, to refuse to show, sell, transfer, rent or lease, or to refuse to receive and transmit any bona fide offer to buy, sell, rent or lease, or otherwise to deny to or withhold from any person such housing because of race, creed, color, sex, marital status, religion, national origin or ancestry; to discriminate against any person because of race, creed, color, sex, marital status, religion, national origin or ancestry in the terms, conditions or privileges pertaining to any housing, the transfer, sale, rental or lease thereof, or the furnishing of facilities or services in connection therewith; or to cause to be made any written or oral inquiry or record concerning the race, creed, color, sex, marital status, religion, national origin or ancestry of a person seeking to purchase, rent or lease any housing.

(2) For any person to whom application is made for financial assistance for the acquisition, construction, rehabilitation, repair or maintenance of any housing, to make or cause to be made any written or oral inquiry concerning the race, creed, color, sex, marital status, religion, national origin or ancestry of any person seeking such financial assistance or concerning the race, creed, color, sex, marital status, religion, national origin or ancestry of prospective occupants or tenants of such housing, or to discriminate against any person because of race, creed, color, sex, marital status, religion, national origin or ancestry of such person, or prospective occupants or tenants in the terms, conditions or privileges relating to the obtaining or use of any such financial assistance.

(3) For any person to include in any transfer, sale, rental or lease of housing any restrictive covenants, or for any person to honor, exercise or attempt to honor or exercise any restrictive covenant pertaining to housing.

(4) For any person to print or publish or cause to be printed or published any notice or advertisement relating to the sale, transfer, rental or lease of any housing which indicates any preference, limitation, specification or discrimination based on race, creed, color, sex, marital status, religion, national origin or ancestry.

(5) For any person to aid, abet, incite, compel or coerce the doing of any act defined in this Section as an unfair housing practice, to obstruct or prevent any person from complying with the provisions of this Article or any order issued thereunder, or to attempt, either directly or indirectly, to commit any act defined in this Section to be an unfair housing practice.

(6) For any person to discharge, demote or discriminate in matters of compensation against any employee or agent because of said employee's or agent's obedience to the provisions of this Article.

(b) Nothing contained in this Article shall be construed to bar any religious or denominational institution or organization which is operated, supervised or controlled by or is operated in connection with a religious or denominational organization from limiting admission to or giving preference to persons of the same religion or denomination or from making such selections of buyers, lessees or tenants as are calculated by such organization or denomination to promote the religious or denominational principles for which it is established or maintained.

(c) Nothing in this Article shall be construed to bar any person from leasing premises only to members of one (1) sex. (Ord. 215 §4, 1985)

**Sec. 2-11-40. Confidences.**

Neither the Fair Housing Coordinator nor any assigned staff shall disclose the filing of any complaint, or the information gathered during any investigation or the endeavor to eliminate such unfair housing practice, by conference, conciliation and persuasion, unless such disclosures are made in connection with the conduct of such investigation or unless such disclosures are made in connection with the filing of a petition seeking appropriate relief against the person named in the complaint. (Ord. 215 §5, 1985)

**Sec. 2-11-50. Complaints.**

(a) Any person claiming to be aggrieved by an unfair housing practice may, by himself or herself or by his or her attorney-at-law, make, sign and file with the Fair Housing Coordinator a verified written complaint in duplicate which shall state the name and address of the person alleged to have committed the unfair housing practice complained of, and which shall set forth the particulars thereof and contain such other information as may be required by the Fair Housing Coordinator.

(b) After the filing of the complaint, the Fair Housing Coordinator shall make a prompt investigation to determine whether probable cause exists for crediting the allegations of the complaint. If the Fair Housing Coordinator determines that probable cause does not exist, he or she shall promptly advise the complainant in writing. If probable cause exists for crediting the allegations of the complaint, the Fair Housing Coordinator may immediately endeavor to eliminate the unfair housing practice by conference, conciliation and persuasion and shall advise the complainant that the Fair Housing Coordinator has no enforcement authority in the event such efforts are fruitless. Upon filing of the complaint, the Fair Housing Coordinator must also advise the complainant that effective redress can only be had by filing a complaint within ninety (90) days from the date of the alleged unfair housing practice with the Colorado Civil Rights Commission. (Ord. 215 §6, 1985)

## **ARTICLE XII**

### **Historic Preservation Commission**

**Sec. 2-12-10. Intent.**

It is hereby declared to be a matter of public policy that the protection, enhancement, perpetuation and use of structures, land and districts of historical, architectural or geographic significance, located within the Town, is in the public interest. (Ord. 358 §1, 1998)

**Sec. 2-12-20. Definitions.**

As used in this Article, the following definitions shall apply:

*Alter* or *alteration* means the act or process of changing one (1) or more of the exterior architectural features of a designated structure or district.

*District* means any structures, improvements or group of structures or improvements and the surrounding environs.

*Site* refers to a structure, parcel of land or district. (Ord. 358 §2, 1998; Ord. 526 §1, 2005)

**Sec. 2-12-30. Commission established.**

The Planning and Zoning Commission shall serve as the Bennett Historic Preservation Commission (the "Commission"). (Ord. 358 §3A, 1998)

**Sec. 2-12-40. Powers and duties.**

(a) The Commission shall review from time to time the criteria for designation of historic sites as set forth in Section 2-12-50 hereof, and shall make recommendations to the Board of Trustees for amendments.

(b) The Commission shall prepare application forms, shall review applications for designation of sites as being historic pursuant to this Article, and shall make recommendations to the Board of Trustees as to whether it should designate the site described in the application as historic.

(c) The Commission may advise and assist owners of historic properties on the physical and financial aspects of preservation, renovation, rehabilitation and reuse.

(d) The Commission may assist local nonprofit historic preservation groups in public education programs, research, grant applications or other efforts to promote historic preservation. (Ord. 358 §3B, 1998; Ord. 526 §1, 2005)

**Sec. 2-12-50. Standards for designation of sites for preservation.**

In order to qualify for designation as an historic site pursuant to this Article, the Commission must determine that the site has historic significance due to one (1) or more of the following factors:

(1) Its character, interest or value as part of the historical development, heritage or culture of the community, State or Nation.

(2) Its location as a site of a significant historic event.

(3) Its identification with a person who significantly contributed to the culture and development of the Town.

(4) Its exemplification of the cultural, economic, social or historic heritage of the Town.

(5) Its portrayal of the environment of a group of people in an era of history characterized by a distinctive architectural style.

(6) Its embodiment of distinguishing characteristics of an architectural type or specimen.

(7) Its identification as the work of an architect or master builder whose individual work has influenced the development of the Town.

(8) Its embodiment of the elements of architectural design, detail, materials or craftsmanship that represent a significant architectural innovation.

(9) Its relationship to other distinctive areas that are eligible for preservation according to a plan based on an historic, cultural or architectural motif.

(10) Its unique location or singular physical characteristic representing an established and familiar visual feature of a neighborhood or of the Town. (Ord. 358 §4, 1998)

**Sec. 2-12-60. Designation of historic sites.**

(a) Recommendations for designation of historic sites. Pursuant to the procedures set forth in this Article, the Commission may make written recommendation to the Board of Trustees that a site be designated as an historic site for preservation, meeting the criteria set forth in Section 2-12-50. Each such recommendation shall include a description of the characteristics of the site which justify its designation and shall include a legal description of the site. The recommendation may indicate alterations that would have a significant impact on, or be potentially detrimental to, the historic features of the site. Any such designation shall be in furtherance of and in conformance with the purposes and standards of the ordinance codified herein.

(b) Procedures for designating historic sites.

(1) Applications. Applications for designation of historic sites must be made to the Town staff on forms provided by the Town. Applications shall be made only by the owners of one hundred percent (100%) of the site for which the application is submitted.

(2) Staff review. The Town staff shall review applications for designation of historic sites for content and for completeness. The staff shall, within thirty (30) days of receipt, forward complete applications and staff recommendations to the Commission.

(3) Commission review. The Commission shall consider and act upon applications at regularly scheduled or special meetings within thirty (30) days of receipt of staff recommendations. The Commission shall approve, approve with conditions or disapprove applications, and shall immediately forward notice of its decisions to the Board of Trustees. In the event of failure of the Commission to act in a timely manner, the Board of Trustees may proceed without a Commission recommendation.

(4) Board of Trustees action. Within thirty (30) days of action by the Planning Commission, the Board of Trustees shall by resolution approve, modify and approve or disapprove the proposed historic designation.

(5) Withdrawal of applications. Prior to action on applications by the Board of Trustees, applicants may withdraw applications by submitting a written request to the Town Clerk.

(6) Recording. The resolution designating a site as a local historic landmark shall be recorded in the records of the County Clerk and Recorder. (Ord. 358 §5, 1998)

**Sec. 2-12-70. Limitation on resubmission and reconsideration.**

Whenever the Board of Trustees disapproves an application for historic designation, or whenever an owner withdraws an application, no person shall submit an application for the same site within one (1) year of the disapproval or withdrawal. (Ord. 358 §6, 1998)

**Sec. 2-12-80. Amendment of designation.**

Designation of an historic site may be amended to add features or property to the site according to the application process described in this Article for new designations. (Ord. 358 §7, 1998)

**Sec. 2-12-90. Alteration of designated historic landmark.**

All modifications to designated historic landmarks shall be done in conformance with the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings as published by the U.S. Department of the Interior, National Park Service. (Ord. 358 §8, 1998)

**Sec. 2-12-100. Notification of intent to alter designated historic landmark.**

Any owner filing an application for designation of a site shall, as a part of the application, agree that any time after a site is designated as an historic site, the owner shall notify the Town Clerk of the owner's intention to alter, demolish, move or remove the site and provide plans for the work at least thirty (30) days prior to beginning such work. This notification requirement shall run with the land and shall bind successors and assigns. The Town Clerk shall, upon receipt, forward the notification and plans to the Commission for review. The Commission shall review the plans and may advise the owner on the potential effect of the plans on the historic designation. The Commission may forward a recommendation to the Board of Trustees that, based on the plans, the historic designation be modified or revoked. (Ord. 358 §9, 1998)

**Sec. 2-12-110. Revocation of designation.**

The Board of Trustees may by resolution revoke or modify the designation of a site, after fifteen (15) days' notice to the owner and after public hearing, if any of the following conditions exist:

- (1) If any owner of a designated site fails to provide notification as required in Section 2-12-100, or if alterations to the site will significantly alter the historic character of the site.
- (2) If an owner of a designated historic site submits a written request to the Town for revocation of a historic designation.
- (3) If the Commission makes a recommendation for modification or revocation based on an owner's written intent to alter a designated historic site.
- (4) If modifications are made to an historic landmark that are found by the Commission to not be in accordance with the standards specified in Section 2-12-90. (Ord. 358 §10, 1998)

## **ARTICLE XIII**

### **Planning and Zoning Commission**

#### **Sec. 2-13-10. Planning and Zoning Commission.**

A Planning and Zoning Commission, which shall also be known as the Planning Commission, for the Town is hereby established, which shall consist of seven (7) members who shall be appointed by the Board of Trustees, and who shall be residents of the Town. (Ord. 563 §2, 2007)

#### **Sec. 2-13-20. Duties and powers.**

The Planning and Zoning Commission shall act as the Planning Commission and as the Zoning Commission, shall prepare plans and conduct hearings and shall be governed by and have the responsibilities as provided for in Section 31-23-201, et seq., C.R.S., and other applicable statutes and ordinances. (Ord. 563 §2, 2007)

#### **Sec. 2-13-30. Term of office.**

The Board of Trustees shall, in January of each year, appoint members to the Planning Commission to staggered three-year terms. Members shall serve until the Board of Trustees has made appointments for the succeeding term. Any vacancy created during the unexpired term of a member shall be filled to the end of the unexpired term by the Board of Trustees. (Ord. 563 §2, 2007)

#### **Sec. 2-13-40. Removal; vacancies.**

(a) Members may be removed by the Board of Trustees after public hearing for inefficiency, neglect of duty or malfeasance in office. Three (3) absences within any twelve-month period for reasons other than medical condition or emergency shall be grounds for removal.

(b) In the event of a vacancy on the Planning Commission, the Board of Trustees shall appoint replacements for the balance of the unexpired term of the vacant position. (Ord. 563 §2, 2007)

#### **Sec. 2-13-50. Officers.**

Each year, at the first regular meeting of the Planning Commission following appointment of Commissioners, the Planning Commission shall select a Chair and a Vice-Chair for the year. The Chair shall preside at all meetings. The Vice-Chair shall preside in the absence of the Chair. (Ord. 563 §2, 2007)

#### **Sec. 2-13-60. Quorum.**

A quorum of the Planning Commission shall be four (4) members. (Ord. 563 §2, 2007)

#### **Sec. 2-13-70. Rules of procedure.**

The Planning Commission shall adopt rules of procedure, subject to approval by the Board of Trustees. (Ord. 356 §1, 1998; Ord. 563 §2, 2007)

**Sec. 2-13-80. Meetings.**

The Planning Commission shall hold at least one (1) regular meeting in each month. All meetings shall be open to the public. The Chair of the Planning Commission may cancel any regular meeting if there is no business to come before the Planning Commission at the regular meeting. Copies of all records and minutes of all meetings shall be kept in the office of the Town Clerk for public inspection. (Ord. 563 §2, 2007)

**Sec. 2-13-90. Compensation.**

Members of the Planning Commission shall serve without compensation. (Ord. 563 §2, 2007)

**APPENDIX 2-A**

**Municipal Court  
Penalties and Violations**

<i>Code Section</i>	<i>Violation</i>	<i>1<sup>st</sup> Offense</i>	<i>2<sup>nd</sup> Offense</i>	<i>3<sup>rd</sup> Offense</i>
7-2-10	Debris prohibited	\$250	\$ 500	
7-2-100	Dumping on property (Nuisance)	250	500	
7-3-30	Responsibility of owners	250	500	\$1,000
7-5-20	Nuisance declared (weeds)	250	500	
7-7-20	Animals running at large	100*	150*	300
7-7-90, 7-7-100	Vicious animals	300	600	
7-7-110	Guard dogs	300	600	
10-4-40	Defacing property	150*	250*	350*
10-4-50	Defacing and destroying landmarks	150*	250*	500*
10-4-120	Shoplifting	150	300	600
10-4-160	Defacing or destruction of written instruments	150*	250*	500*
10-5-40	Harassment	200	500	1,000
10-5-80	Assault	250	500	1,000
10-5-140	Throwing of stones or missiles	100*	250*	500*
10-6-20	Curfew	25	50	100
10-7-30	Possession of alcoholic beverage by a minor	250	400	
10-7-80	Possession of drug paraphernalia	100	200	300
10-7-100	Possession of cannabis	100	200	300
10-8-10	Possession, use or sale of an illegal weapon	500	1,000	1,000
10-8-40	Concealed weapon	500	1,000	1,000
10-9-10	Noisy animals	75	200	400
11-5-60	Glass bottles, containers (park)	50	100	200
11-5-70	Hours of public use (park)	25	50	100

\* plus restitution

(Ord. 407 §3, 2000; Ord. 526 §1, 2005; Ord. 591 §1, 2009)