

CHAPTER 2

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ARTICLE I

Elections

Sec. 2-1. Conduct of elections.

All elections shall be held and conducted in accordance with the Colorado Municipal Election Code. (Ord. 435 §1, 1996; Ord. 714 §1, 2013)

Sec. 2-2. Regular elections.

Regular Town elections shall be held on the first Tuesday in April of every even-numbered year. (Ord. 177 §2, 1980; Ord. 714 §1, 2013)

Sec. 2-3. Two-year term for Mayor.

At every regular election held, there shall be elected a Mayor for a term of two (2) years. (Ord. 177 §3, 1980; Ord. 714 §1, 2013)

Sec. 2-4. Four-year term for Trustees.

The persons elected to Trustee positions at every regular election shall serve four-year terms; provided, however, that in the event that in any election year there are more than three (3) Trustee positions to be filled, the persons receiving the fourth highest number of votes or less shall be elected to two-year terms. (Ord. 177 §4, 1980; Ord. 435 §1, 1996; Ord. 714 §1, 2013)

Secs. 2-5—2-20. Reserved.

ARTICLE II

Mayor and Board of Trustees

Sec. 2-21. Board of Trustees.

(a) The legislative and corporate authority of the Town shall be vested in a Board of Trustees, consisting of one (1) Mayor and six (6) Trustees.

(b) The Board of Trustees shall constitute the legislative body of the Town and 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. (Ord. 177 §1, 1980; Ord. 435 §1, 1996; Ord. 714 §2, 2013)

Sec. 2-22. Mayor duties.

The Mayor shall preside at all meetings of the Board of Trustees and shall be allowed to cast a vote. The Mayor shall be responsible for ceremonial purposes. He or she will act as the official representative of the Town and is authorized and empowered to sign his or her name officially for and on behalf of the Town on all contracts, documents and papers to which the Town is a party, and to

require that the conditions in any instrument are faithfully performed. He or she shall from time to time provide for the Board of Trustees such information and recommend such measures as he or she may deem beneficial to the Town. The Mayor shall examine the grounds of all complaints against any elected or appointed official of the Town to determine the existence of a violation or neglect of duty and report to the Board of Trustees the evidence thereof, if deemed sufficient for the removal of said officer. He or she shall have such other powers as the Board of Trustees may prescribe. (Ord. 177 §7, 1980; Ord. 435 §1, 1996; Ord. 623 §1, 2006; Ord. 714 §2, 2013)

Sec. 2-23. Reimbursement.

The members of the Board of Trustees and the Mayor shall be paid actual expenses incurred by them or any of them in the transaction of the business of the Town, including mileage traveled, either in or out of Town, while engaged in transacting such business, at the rate of the current federal rate of reimbursement per mile, upon the presentation of an itemized statement of such expense and the allowance thereof by the Board of Trustees. Such expenditures other than mileage shall be approved for reimbursement by the Board of Trustees prior to being incurred. Such reimbursement shall be presented for payment within one (1) month of occurrence. (Ord. 177 §12, 1980; Ord. 714 §2, 2013)

Sec. 2-24. Confidential matters.

It shall be a violation of this Chapter for any member of the Board of Trustees to disclose any confidences of the Town, any matter discussed in executive session, or any matter which is subject to the attorney-client privilege between the Town and the Town Attorney, unless a majority of the Board of Trustees determines that such privilege should be waived and disclosure should be made. (Ord. 714 §2, 2013)

Secs. 2-25—2-50. Reserved.

ARTICLE III

Board Meetings

Sec. 2-51. Regular meetings.

The Board of Trustees shall meet in regular session on the first and third Tuesdays of each month at 7:00 p.m. When a regular meeting falls on a holiday as provided in the Town Personnel Rules and Regulations, the regular meeting shall be held on the following day, at the same hour, unless otherwise scheduled by the Mayor. The Mayor may dispense with any regular meeting or reschedule any regular meeting with at least forty-eight (48) hours' notice to Board members, except that at least one (1) regular meeting shall be held each month. The place of all regular meetings shall be designated by the Board of Trustees. (Ord. 413 §1.1, 1995; Ord. 421 §1, 1996; Ord. 571 §1, 2003; Ord. 714 §3, 2013)

Sec. 2-52. Special meetings.

(a) Special meetings shall be called by the Town Clerk on the request of the Mayor or any two (2) members of the Board of Trustees on at least forty-eight (48) hours' written notice to each member of the Board of Trustees and the Town Administrator, served personally or left at such person's usual

place of residence. Said notice shall indicate the business to be performed at such special meeting. If any member shall have moved from the Town and shall be a nonresident thereof, no notice shall be required. Any Trustee may waive notice of the meeting, and a Trustee's presence shall constitute waiver of notice of the meeting.

(b) No business shall be transacted at any special meeting of the Board of Trustees unless the same has been stated in the notice of such meeting unless otherwise determined by unanimous vote of those members present. (Ord. 413 §1.2, 1995; Ord. 714 §3, 2013)

Sec. 2-53. Emergency meetings.

Emergency meetings may be called by the Mayor or any two (2) Board of Trustees members in the event of an emergency that requires the immediate action of the Board of Trustees in order to protect the public health, safety and welfare of the residents of the Town. Notice of such emergency meeting may be given to the Board of Trustees by telephone or whatever other means are reasonable to meet the circumstances of the emergency. At such emergency meeting, any action within the police power of the Board of Trustees that is necessary for the immediate protection of the public health, safety and welfare may be taken; provided, however, that any action taken at an emergency meeting shall be effective only until the first to occur of (a) the next regular meeting, or (b) the next special meeting of the Board of Trustees at which the emergency issue is on the public notice of the meeting. At such subsequent meeting, the Board of Trustees may ratify any emergency action taken. If any emergency action taken is not ratified, then it shall be deemed rescinded. (Ord. 413 §1.3, 1995; Ord. 714 §3, 2013)

Sec. 2-54. Public participation in Board meetings.

The Board of Trustees recognizes the importance and value of public comment and participation at public Board of Trustees meetings as well as the importance of conducting such meetings in an efficient and orderly manner. Public comment shall be permitted on both agenda and nonagenda items at each public Board of Trustees meeting. The details concerning the parameters of and process for such public comment shall be as set forth in the Town of Nederland Board of Trustees Rules of Procedure, as adopted and amended from time to time by the Board of Trustees by resolution. In the absence of any such Rules of Procedure in place at any given time, the Mayor shall prescribe the rules and procedures governing public comment. A majority vote of the quorum present may overrule any such decision of the Mayor concerning public comment. (Ord. 413 §1.7, 1995; Ord. 714 §3, 2013)

Secs. 2-55—2-80. Reserved.

ARTICLE IV

Reserved

Secs. 2-81—2-110. Reserved.

ARTICLE V

Reserved

Secs. 2-111—2-130. Reserved.

ARTICLE VI

Reserved

Secs. 2-131—2-170. Reserved.

ARTICLE VII

Officers and Employees

Sec. 2-171. Appointment of officers and oath of office.

(a) A majority vote of all members of the Board of Trustees in office at the time shall be required to appoint any Town official. Such appointment shall be accomplished through the adoption of a resolution by the Board of Trustees. The Town Clerk, Mayor or Mayor Pro Tem shall administer the oath of office before the Board of Trustees.

(b) Except as specifically provided by law, each officer appointed by the Board of Trustees shall serve at the pleasure of the Board of Trustees and nothing herein is intended to create an expectation of continued employment. Except as specifically provided by law, the Personnel Plan of the Town shall not apply to the officers appointed, unless provisions of such Personnel Plan are hereafter specifically made applicable to any such officers. (Ord. 375 §7, 1994; Ord. 413 §4.1, 1995; Ord. 630 §§1, 2, 2007)

Sec. 2-172. Officers and employees.

The Town Clerk, Town Administrator, Town Attorney, Town Treasurer, Town Marshal and other officers and employees of the Town shall be under the control and direction of the Chair during sessions of the Board of Trustees. (Ord. 413 §4.2, 1995)

Sec. 2-173. Appointments by Mayor.

Whenever the Mayor shall, at any meeting, submit a written resolution of appointment to be made with the advice and consent of the Board of Trustees, consideration of such appointment may be deferred until the next meeting by a majority vote of the Board of Trustees. (Ord. 413 §4.3, 1995)

Sec. 2-174. Residency requirements.

(a) The appointed Town Clerk, Town Attorney, Town Treasurer, Municipal Judge and Town Administrator may reside outside of the corporate limits of the Town.

(b) The appointed Town Marshal or a designated deputy may reside outside of the corporate limits of the Town, but not to exceed five (5) miles and within a fifteen-minute response time. (Ord. 371 §§1, 2, 1994; Ord. 435 §1, 1996; Ord. 464 §1, 1997; Ord. 601 §1, 2005)

Sec. 2-175. Town Administrator.

(a) The Town Administrator shall be responsible for the proper administration of all affairs of the Town placed in his or her charge by the Mayor on behalf of the Board of Trustees.

(b) The duties of the Town Administrator are as prescribed by the Board of Trustees from time to time.

(c) The Town Administrator shall attend all meetings of the Board of Trustees, unless excused by the Board. The Town Administrator shall keep the Board of Trustees fully advised as to the conditions and needs of the Town. The Town Administrator may make recommendations to the Board of Trustees and may take part in discussions as allowed by the Board of Trustees, but shall have no vote in the meetings of the Board of Trustees. (Ord. 178 §11, 1980; Ord. 413 §4.4, 1995; Ord. 435 §1, 1996)

Sec. 2-176. Town Treasurer.

(a) The Town Treasurer shall, before entering upon the duties of his or her office, execute a bond to the Town, with good and sufficient surety, to be approved by the Board of Trustees, conditioned for the faithful discharge of his or her duties, and that he or she will, whenever required by law, pay over all moneys and deliver all papers, books and property in his or her custody, belonging to the Town, to his or her successor in office, or to the persons authorized to receive the same, which bond shall be for ten thousand dollars (\$10,000.00).

(b) It shall be the duty of the Town Treasurer to receive and receipt for all monies belonging to the Town, and pay from the Town treasury such sums of money, and only such sums of money, as shall be ordered paid by the Board of Trustees upon review and approval of bills to be paid. Such bills shall state the particular fund against which they are chargeable. He or she shall keep the account of each fund separate from others, charging each fund with all payments and crediting it with all monies received on account thereof. The Town Treasurer shall keep a true and accurate account of all monies belonging to the Town and of the several funds to which such monies belong, and shall report to the Board of Trustees, in writing, once in each month, all monies received and paid out by him or her as such Treasurer.

(c) The Town Treasurer shall attend all meetings of the Board of Trustees as required by the Mayor, Board of Trustees or Town Administrator. (Ord. 178 §§6, 7, 1980; Ord. 413 §4.5, 1995; Ord. 435 §1, 1996)

Sec. 2-177. Town Clerk.

(a) The duties of the Town Clerk shall be as prescribed by Section 31-4-305, C.R.S.

(b) It shall be the duty of the Town Clerk to attend all meetings of the Board of Trustees and to make, in a book kept for that purpose, a full, legible and accurate record of all the proceedings, rules

and ordinances of the Board of Trustees; to maintain personnel files; to sell all licenses and keep records of the same; to be responsible for proceedings of municipal elections; and to keep accurate records of all transactions of his or her office and, whenever required by the Board of Trustees, provide a true report of such.

(c) The Town Clerk shall be ex officio clerk of the Board of Trustees and shall keep minutes of the meetings and perform such other and further duties as may be ordered by the Mayor, Town Administrator or Board of Trustees.

(d) The Town Clerk shall attend all scheduled meetings of the Local Liquor Licensing Authority and serve as secretary thereto; arrange a court reporter's presence at liquor licensing hearings as necessary; distribute and review all liquor license applications for completeness; accept changes of corporate structure, changes of trade name or corporate name and manager registrations and report the same to the Board of Trustees; refer liquor license applications to the Town Marshal and Town Attorney for statutory compliance review prior to consideration by the Authority; assess and collect application fees and issue the local license upon approval; maintain records of liquor licenses and notify the Town Marshal of any violations; and maintain a working knowledge of state and local liquor and fermented malt beverage statutes and regulations. (Ord. 178 §8, 1980; Ord. 375 §5, 1994; Ord. 413 §4.6, 1995; Ord. 646 §1, 2008; Ord. 648 §9, 2008)

Sec. 2-178. Town Attorney.

(a) The Town Attorney must be currently licensed in the practice of law in the state. It shall be the duty of the Town Attorney to act as legal advisor to, and be attorney and counsel for, the Board of Trustees and to be responsible solely to the Board. He or she shall advise any officer or department head of the Town in matters relating to his or her official duties when so requested by the Board of Trustees and shall file with the Town Clerk a copy of all written opinions given by him or her. He or she shall prosecute ordinance violations and all other proceedings brought by the Town in Municipal Court. The Town Attorney shall prepare or review all ordinances, contracts, bonds and other written instruments which are submitted to him or her by the Board of Trustees and shall promptly give his or her opinion as to the legal consequences thereof as requested. He or she shall perform such other duties as may be prescribed for him or her by the Board of Trustees.

(b) The Town Attorney shall, either in person or by deputy, attend all meetings of the Board of Trustees as required by the Mayor, Board or Town Administrator. Any member of the Board of Trustees, by collective decision, may call upon the Town Attorney for an oral or written opinion to decide any questions of law, but not to decide upon any parliamentary rules. The Town Attorney may retain special counsel with the prior approval of the Board of Trustees. (Ord. 178 §10, 1980; Ord. 413 §4.7, 1995; Ord. 435 §1, 1996)

Sec. 2-179. Officers and employees to attend.

The head of any department, or any officer or employee of the Town, when requested by the Mayor, Mayor Pro Tem, Board member or Town Administrator, shall attend any regular, adjourned, special, emergency or study/work session and confer with the Board of Trustees on all matters relating to the Town. Such officers and employees, from time to time, may be required to attend an executive session of the Board of Trustees. (Ord. 413 §4.8, 1995)

Secs. 2-180—2-190. Reserved.

ARTICLE VIII

Reserved

Secs. 2-191—2-220. Reserved.

ARTICLE IX

Municipal Court

Sec. 2-221. Creation of Municipal Court.

A qualified Municipal Court of record in and for the Town is hereby created and established pursuant to and governed by the provisions of state law. (Ord. 435 §1, 1996)

Sec. 2-222. Appointment of Municipal Judge.

The Municipal Court shall be presided over by a Municipal Judge, who shall be appointed by the Board of Trustees. Such Municipal Judge, when so appointed, shall hold his or her office for not less than two (2) years and until his or her successor is appointed unless sooner removed by the Board of Trustees, and who may be reappointed for a subsequent term. Any vacancy in the office of the Municipal Judge shall be filled by appointment of the Board of Trustees for the remainder of the unexpired term. The compensation for the Municipal Judge shall be prescribed by ordinance. (Ord. 179 §1, 1980; Ord. 435 §1, 1996)

Sec. 2-223. Original jurisdiction.

The Municipal Court shall have original jurisdiction of all cases arising under the provisions of this Code and ordinances of the Town, with full power to punish violators thereof by the impositions of such fines and penalties as are prescribed by ordinance. (Ord. 435 §1, 1996)

Sec. 2-224. Qualifications.

The Municipal Judge must be currently licensed in the practice of law in the State. (Ord. 179 §3, 1980; Ord. 435 §1, 1996)

Sec. 2-225. Rules of procedure.

In addition to other powers, a Municipal Judge shall have full power and authority to make and adopt rules and regulations for conducting the business of the Municipal Court, consistent with the Municipal Court Rules of Procedure promulgated by the Colorado Supreme Court. (Ord. 435 §1, 1996)

Sec. 2-226. Contempt power.

(a) When the Court finds any person to be in contempt, the Court may vindicate its dignity by imposing on the contemnor a fine not to exceed three hundred dollars (\$300.00) and imprisonment not to exceed a term of ten (10) days.

(b) In cases of indirect contempt, the alleged contemnor shall have all the rights, privileges, safeguards and protections of a defendant in a petty offense case, including but not limited to a formal written complaint, arraignment and trial by jury. (Ord. 435 §1, 1996)

Sec. 2-227. Records to be kept.

A verbatim record of the proceedings and evidence at all proceedings held in the Municipal Court shall be made and kept by either electronic devices or by stenographic means. (Ord. 179 §4, 1980; Ord. 435 §1, 1996)

Sec. 2-228. Execution of process or writ.

The Town Marshal, or any deputy, may execute any process or writ issued out of or by the Municipal Court in any case arising under the ordinances of the Town. (Ord. 179 §6, 1980; Ord. 435 §1, 1996)

Secs. 2-229—2-250. Reserved.

ARTICLE X

Police Department

Sec. 2-251. Creation; composition.

There is hereby created a Police Department for the Town which shall consist of one (1) Town Marshal and as many police officers as may from time to time be deemed necessary for the safety and good order of the Town. (Ord. 435 §1, 1996)

Sec. 2-252. Departmental rules and regulations.

The Police Department shall be operated and managed in accordance with such departmental rules and regulations as may from time to time be adopted by the Board of Trustees. (Ord. 435 §1, 1996)

Sec. 2-253. Town Marshal; appointment; powers and duties.

(a) The Town Marshal shall be the principal law enforcement officer of the Town.

(b) The Board of Trustees, upon the recommendation of the Town Administrator, shall appoint a Town Marshal who shall be the head of the Police Department. It shall be the duty of the Town Marshal to:

(1) Execute all the legal orders of the Board of Trustees and of the Mayor as prescribed by law.

(2) See that the ordinances of the Town and the laws of the State are duly enforced and the rules and regulations of the Police Department obeyed, and perform such other duties as may be required by the Board of Trustees.

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

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

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

(c) Before entering upon the duties of such office, the Town Marshal shall take and subscribe to an oath that he or she will support the Constitution and laws of the State, the Constitution of the United States and ordinances of the Town, and that he or she will faithfully perform the duties of the office upon which he or she is about to enter. (Ord. 178 §9, 1980; Ord. 435 §1, 1996)

Sec. 2-254. Duties of police officers.

All members of the Police Department shall have power and duties as follows:

(1) To perform all duties required by the Town Marshal.

(2) To suppress all riots, disturbances and breaches of the peace and apprehend all disorderly persons in the Town, and shall pursue and arrest any person fleeing from justice in any part of the State.

(3) To serve as the enforcement officers of the Town and shall see that the provisions of the ordinances of the Town and the laws of the State are complied with. They shall arrest without process all persons engaged in the violation in their presence of any provision of the ordinances of the Town or the laws of the State.

(4) To execute and return all writs and processes to them directed by the Municipal Judge in any case arising under a Town ordinance, and they may serve the same in any part of the County. (Ord. 435 §1, 1996)

Sec. 2-255. Oath of officers.

Before entering upon the duties of his or her office, each police officer shall take and subscribe an oath that he or she will support the Constitution and laws of the State, the Constitution of the United States and the ordinances of the Town, and that he or she will faithfully perform the duties of the office upon which he or she is about to enter. (Ord. 435 §1, 1996)

Secs. 2-256—2-270. Reserved.

ARTICLE XI

Planning Commission

Sec. 2-271. Creation.

Pursuant to state law, there is hereby created a Planning Commission for the Town. (Ord. 435 §1, 1996)

Sec. 2-272. Purpose.

The Planning Commission is created for the following purposes:

(1) To prepare and maintain, subject to periodic revision as necessary, a Master Plan as described by state statutes.

(2) To implement the provisions of Chapters 16 and 17 of this Code, and to perform all functions and powers referred to in said chapters where reference is made.

(3) To study and recommend to the Board of Trustees amendments to the Zoning Map of the Town.

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

(5) To exchange information with the various governmental agencies charged with planning and zoning responsibilities and with the Board of Zoning Adjustment of the Town.

(6) To have all other duties and powers incidental to the above and any and all powers and duties set out by state statute, except that nothing herein shall permit the Planning Commission to make amendments to changes in the zoning of the Town, such powers expressly being reserved by the Board of Trustees. (Ord. 435 §1, 1996)

Sec. 2-273. Membership.

(a) The membership of the Planning Commission shall consist of seven (7) residents of the Town. One (1) member shall be a member of the Board of Trustees appointed by the Mayor with the approval of the Board of Trustees, with the term to coincide with the member's term as Trustee. This member shall vote only in the event of a tie vote among the other members. Six (6) members shall be residents of the Town. The terms of such resident members shall be four-year staggered terms. One (1) said member may be a member of the Board of Zoning Adjustment. It is the intent of the Board of Trustees to encourage diversity of participation on the Planning Commission by avoiding overlapping of membership between the Planning Commission and other boards and commissions of the Town. To initiate the staggered terms, two (2) terms shall expire June 1, 1997, two (2) shall expire June 1, 1998, and the other two (2) shall expire June 1, 1999.

(b) All members of the Planning Commission shall be bona fide residents of the Town and if any member ceases to reside in the Town, his or her membership on the Planning Commission shall immediately terminate.

(c) All members of the Planning Commission shall serve as such without compensation and the appointed members shall hold no other municipal office, except that one (1) such appointed member may be a member of the Board of Zoning Adjustment or Appeals. The terms of ex officio members shall correspond to their respective official tenures, except in the case of an administrative official or other designated person selected by the Mayor; his or her term shall terminate with the term of the Mayor selecting him or her. Members other than the member representing the Board of Trustees may be removed, after public hearings, by the Mayor for inefficiency, neglect of duty or malfeasance in office. The Mayor, or the Board of Trustees, as the case may be, shall file a written statement of reasons for such removal. Vacancies occurring otherwise than through the expiration of term shall be filled for the remainder of the unexpired term by the Mayor in the case of members selected or appointed by him or her, or by the Board of Trustees in the case of the Board member. (Ord. 140, 1976; Ord. 299 §1, 1988; Ord. 387 §1, 1994; Ord. 405 §1, 1995; Ord. 423 §1, 1996; Ord. 435 §1, 1996; Ord. 725 §1, 2013)

Secs. 2-274—2-290. Reserved.