

(Updated on May 18 following further discussion on May 15—additional changes are highlighted)

Section II – Elective Offices (cont'd)

Section 2.7. Vacancies.

(a) A Town Elective Official shall continue to hold a Town Elective Office until the official's successor is duly qualified except when such office is vacated as set forth in this Section. A Town Elective Office shall become vacant whenever any officer fails to qualify within thirty (30) days after the date of the officer's election or the date of the officer's appointment or retain qualification for Town Elective Office as set forth in Section 2.6, or is recalled, removed, dies, becomes incapacitated, resigns, refuses to serve, or is judicially declared incompetent or ceases to be a resident of the Town.

(b) In the event of a vacancy in a Town Elective Office, the Town Council may fill the vacancy by appointment or by calling for a special election as soon as practicable.

(1) If the Town Elective Office is filled by appointment, the person appointed to fill the vacated Town Elective Office shall hold such office only until the term of office of a successor elected at the next Regular Town Election has commenced.

(2) If the Town Elective Office is filled by special election, the person elected to fill the vacated Councilmember office shall hold office only until the expiration of the term of office held by the Councilmember whose office was vacated.

(3) In order to maintain staggered terms on the Town Council, in the event that in any election year there are more than three (3) councilmember positions to be filled, the persons receiving the three highest numbers of votes shall be elected to four-year terms and all others shall be elected to two-year terms. In the event of a tie in number of votes such that persons with the three highest number of votes cannot be determined, the Town Clerk shall hold a lot drawing open to the public to assign terms to the persons tied with the three highest number of votes.

(c) If the Town Council, at the time a vacancy occurs or within sixty days thereafter, lacks a sufficient number of members to establish a quorum to fill the vacancy as provided in subsection (b), the Town Clerk shall, without further action by the Town Council, call a special election to be held as soon as practicable to fill the vacancy until the term of office of a successor elected at the next regular election has commenced. The Town Council may cancel such election if the Town Council is able to fill the vacancy prior to the date of the special election.

Section 2.8. Compensation.

The compensation of the Mayor shall be \$1000 per month. The compensation for a Council Member shall be \$500 per month. Town Council may, by Ordinance, increase or decrease such compensation by Ordinance; All persons holding Town Elective Offices shall receive such compensation as established by Ordinance of the Town Council; provided, however, that the compensation of any person holding Town Elective Office shall not be increased or decreased in any term of office during which the increase or decrease is approved by the Town Council. All persons holding Town Elective Offices may, upon order of the Town Council, be paid their actual and necessary expenses incurred in the performance of their duties of office.

Section 2.9. Powers of Town Council.

The Town Council shall constitute the legislative and governing body of the Town and shall have all legislative powers and functions of municipal government, except as otherwise provided in the Constitution of the State of Colorado or this Charter and shall have the power and authority to adopt such Ordinances, Resolutions, and Motions, as it shall deem proper.

Section 2.10. Oath of Office.

Every person holding elected office, before entering upon the duties of such office, shall take an oath or affirmation of office that the officer will support the Constitution and the laws of the United States and of the State of Colorado and this Charter and the Ordinances of the Town and will faithfully perform the duties of the office upon which the officer is about to enter in accordance with the requirements of Article 12, Title 24, C.R.S., as may be amended.

[NOTE: Colorado state statute on who may administer oaths:

§ 24-12-103. Who may administer oaths or affirmations

All courts in this state and each judge, justice, magistrate, referee, clerk, and deputy clerk thereof; court reporters who hold the registered professional reporter certification or higher; members and referees of the division of labor standards and statistics; members of the public utilities commission; and notaries public have power to administer oaths or affirmations to witnesses and others concerning any matter, thing, process, or proceeding pending, commenced, or to be commenced before them respectively. The courts, judges, magistrates, referees, clerks, and deputy clerks within their respective districts or counties; court reporters who hold the registered professional reporter certification or higher; a person designated by the governing body, or any officer thereof; and notaries public within any county of this state have the power to administer all oaths or affirmations of office and other oaths or affirmations required to be taken by any person upon any lawful occasion and to take affidavits and depositions concerning any matter or thing, process, or proceeding pending, commenced, or to be commenced in any court or on any occasion an affidavit or a deposition is authorized or by law required to be taken.]

Section 2.11. Standards of Conduct.

The Town Council may adopt an Ordinance governing disclosure of conflicts of interest, recusals from voting and other standards or code of conduct or ethics that shall supersede statutory or constitutional provisions governing or addressing the same matters. To the extent not superseded by or conflicting with this Charter or such local Ordinance, the Town Council shall be governed by the Standards of Conduct as contained in Title 24, Article 18 of the C.R.S., as may be amended.

Section 2.12. Removal from Office.

By an affirmative roll call vote of two-thirds (2/3) of the members of the Town Council in office at the time of such vote, the Mayor or any Councilmember may be removed from office for good cause. Good cause is defined to include but not be limited to a felony conviction for embezzlement, bribery, perjury, solicitation of bribery, subornation of perjury, or other felony involving a breach of public trust or an excessive number of unexcused absences at meetings; No removal shall be made without notice to such elected official which contains the charge in writing and the facts upon which the charge is based and an opportunity of a hearing before the Town Council, which hearing shall be held no sooner than ten (10) days after the date the notice is given.

[NOTE: Colorado case law defines “good cause” as follows: “The term “good cause” connotes substantial or legal justification, as opposed to an assumed or imaginary

pretense. *People v. Gillett*, 629 P.2d 613, 618 (Colo.1981); *Tucker v. People*, 136 Colo. 581, 586, 319 P.2d 983, 986 (1957). The good cause standard thus requires objective evaluation of different interests in varied factual contexts, and its application is subject to judicial review. See, e.g., *Cardiel v. Brittan*, 833 P.2d 748 (Colo.1992); *Cordova v. People*, 817 P.2d 66 (Colo.1991).” *Watso v. Colorado Dep't of Soc. Servs.*, 841 P.2d 299, 311 (Colo. 1992).]

ARTICLE III MEETINGS OF TOWN COUNCIL

Section 3.1. Regular Town Council Meetings.

The Town Council shall meet regularly at least once each month at a day and hour and place to be fixed by the procedures and rules of order of each Town Council adopted by Resolution. The intent is that the Town Council will conduct in person meetings, unless circumstances necessitate another form of meeting. The procedures for in person meetings and the circumstances necessitating another form of meeting shall be defined by the procedures and rules of order of the Town Council.

Section 3.2. Special Meetings.

Special meetings of the Town Council shall be called by the Town Clerk on the oral request of two (2) or more members of Town Council with at least twenty-four (24) hours notice to each member of the Town Council and to the public, delivered in accordance with the procedures and rules of order of the Town Council and the requirements of this Charter and the Colorado Open Meetings Law, as now in effect and as may be amended.

Section 3.3. Emergency Meetings.

Emergency meetings of the Town Council shall be called by the Town Clerk on the oral request of two (2) or more members of Town Council with less than twenty-four (24) hours notice. An emergency meeting may be called in the event of an immediate danger or threat to the public health, welfare, peace, safety or property for the purpose of preservation or protection of the public health, welfare, peace, safety or property. Unless it is impractical, all members of the Town Council shall be notified of such meeting and such meeting may be held if a Quorum consents. Maximum practical notice, including posted notice, shall be given to the public stating the purpose, time, place and manner of any such meeting.

Section 3.4. Work Sessions.

The Town Council may hold study or work sessions as deemed necessary in accordance with its procedures and rules of order, as may be adopted. No Quorum shall be required at any study or work session and no legally binding or formal action shall be taken at any such session.

Section 3.5. Open Meetings.

All meetings of the Town Council shall be open to the public except as permitted by law. At Town Council meetings, members of the public shall have a reasonable opportunity to be heard except for those meetings that are designated as study or work sessions. In compliance with the Colorado Open Meetings Law, the Town Clerk shall keep a record of the proceedings of each meeting.

Section 3.6. Executive Sessions.

Executive sessions may be held in compliance with the Colorado Open Meetings Law, ~~as now in effect.~~

Section 3.7. Quorum.

In order for the Town Council to conduct business, a Quorum shall be required at all meetings of the Town Council except for study or work sessions. In the absence of a Quorum, a lesser number may reschedule any meeting to a later date and time.

Section 3.8. Procedures and Rules of Order.

The Town Council may prescribe the procedures and rules of order governing meetings, which rules shall remain in effect until amended in accordance with the provisions of the adopted procedures and rules of order.

Section 3.9. Attendance Required.

Three (3) or more unexcused absences by a member of the Town Council in any one (1) calendar year shall constitute grounds for sanctions or removal. The Mayor and Town Councilmembers are expected to attend Town Council meetings in person unless a different form of attendance is authorized or in person attendance is excused. The procedures for excusing absences, including which types of meetings require attendance, ~~and appropriate sanctions,~~ excusing in person attendance, and appropriate sanctions shall be as set forth in procedures and rules of order of the Town Council, as may be adopted and amended. ~~from time to time.~~

ARTICLE IV POSTING OF MEETINGS

Section 3.10. Posting of Meetings.

The Town Council shall adopt a Resolution which establishes public notice and posting requirements in accordance with the Colorado Open Meetings Law, as now in effect and as may be amended from time to time, including designating the Town official web site for posting the agenda at least 24 hours in advance of the public meeting (except for emergency meetings as governed by Section 3.3) and such designation shall be deemed automatically readopted at the Town Council's first regular meeting of each calendar year unless otherwise determined by the Town Council.

ARTICLE VI RECALL, INITIATIVE AND REFERENDUM

Section 6.1. Right of Recall.

(a) Any person holding Town Elective Office may be recalled at any time after six (6) months in office by the electors entitled to vote for a successor of such incumbent.

(b) The procedures for recall shall be those set forth in Title 31, Article 4, Part 5, C.R.S., as now in effect and as may be amended, except that the Town Council may, by Ordinance and consistent with this Charter, amend such procedures.

(c) A recall petition shall be signed by registered electors entitled to vote for a successor to the incumbent in number equal to at least twenty-five percent (25%) of the entire vote cast at the last preceding Regular Town Election for all candidates for the office (either Mayor or Councilmember as relevant) to which the incumbent sought to be recalled was elected.

(d) After the first recall petition and election, a subsequent recall petition against the same officer in the same term shall be signed by registered electors entitled to vote for a successor to the incumbent in a number equal to at least fifty percent (50%) of the entire vote cast in the last preceding Regular Town Election for all candidates for the office (either Mayor or Councilmember as relevant) to which the incumbent sought to be recalled was elected.

(e) A recall petition may not be circulated or filed against a Town Elective Official whose office is up for election within six months.