

CHAPTER II

ADMINISTRATIVE ORGANIZATION

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MAYOR

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2-1-1 Mayor-Board of Trustees

- (a) The corporate authority of the Town of Hotchkiss is by state law vested in a Board of Trustees, consisting of one Mayor and six Trustees, who shall be qualified electors who have resided within the limits of the corporation for a period of at least twelve consecutive months immediately preceding the date of the election at which said mayor or trustee shall have been elected to office; except that, in case of annexation, any person who has resided within the annexed territory to the Town for the time prescribed shall be deemed to have met the residence requirements for the Town.

Members of the Board are elected to two-year term. The Board is authorized and power to appoint and remove officers as it may deem necessary for the good government of the corporation, prescribe their duties and fix their compensation.

ORDINANCE 1982 - 1

1. FOUR-YEAR TERMS FOR TRUSTEES

At the April 6, 1982, election six (6) Trustees shall be elected. The three (3) candidates for Trustee receiving highest number of votes shall be elected for four-year terms, and the three candidates for Trustee receiving the next highest numbers of votes shall be elected for two-year terms. At the next subsequent regular election and at each regular election thereafter, three (3) Trustees shall be elected to serve four-year terms.

2. FOUR-YEAR TERMS FOR MAYOR

At the April 6, 1982, election, and at the regular election every four years thereafter, a Mayor shall be elected to serve a four-year term.

3. VACANCIES

The Board of Trustees shall have the power, by appointment, to fill vacancies in the Board or in any other elected office, and the person so appointed shall hold office until the next regular election until his 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 a vacancy or vacancies exist in the office of Trustee and a successor or successors are to be elected at the next election to fill unexpired term or terms, the three candidates for Trustee receiving the highest number of votes shall be elected to four-year terms and the candidate or candidates receiving the next highest number of votes, in descending order, shall be elected to fill the unexpired term or terms.

- (b) **All municipal officers elected under this provision shall hold their offices until their successors are elected and qualified.**
- (c) **The Mayor and the members of the Board of Trustees shall receive such compensation as may, from time to time, be fixed by ordinance; but not in an amount greater than allowed by state law. Until amended that compensation shall be:**

Mayor: TWO HUNDRED and no/100 (\$200.00) DOLLARS per month.

Board of Trustees: Fifty and no/100 (\$50.00) Dollars per month.

2-1-2

Mayor-Duties

- (a) The Mayor shall preside over the meeting of the Board of Trustees, and shall perform such duties as may be required of him by statute or ordinance.
- (b) Insofar as required by statute, and for all ceremonial purposes, the Mayor shall be the executive head of the Town. He shall be the presiding officer of the Board of Trustees and shall have no vote upon any question, except in the case of a tie vote, when he shall be allowed the casting of a vote.
- (c) He shall execute and authenticate by his signature such instruments as the Trustees, or any statutes, or ordinances shall require.
- (d) Except as may be required by statute, the Mayor shall exercise only such powers as the Trustees shall specifically confer upon him.

2-1-3

Mayor Pro-Tem

At its first meeting following each biennial election, the Board shall choose one of the Trustees as Mayor Pro Tem who, in the absence of the Mayor from any meeting of the Board or during the Mayor's absence from the Town, or his inability to act, shall perform the duties of mayor.

2-1-4

Acting Mayor

In the event of absence or disability of both the Mayor and Mayor Pro Tem, the Trustees may designate another of its members to serve as Acting Mayor during such absence or disability.

PLANNING COMMISSION

Composition of the Board: The Town Planning Commission shall consist of seven (7) members selected as follows: There shall be four (4) ex-officio members of the Planning Commission consisting of the Mayor, one (1) administrative official selected by the Mayor, a member of the Board of Trustees selected by the mayor, and a member of the Board of Trustees selected by the Board of Trustees. The remaining three members of the Board shall be appointed by the Mayor. If the Town employs no resident administrative officials, that seat on the Commission shall be filled by an appointee of the Mayor.

Residency: All members of the Planning Commission shall be bona fide residents of the Town of Hotchkiss, Colorado, and, if any member ceases to reside in the Town of Hotchkiss, Colorado, his membership on the Commission shall automatically terminate.

Compensation and Terms: All members of the Commission shall serve without compensation and the appointed members shall hold no municipal office. The terms of ex-officio members shall correspond to their respective official tenures; except that the term of any administrative official selected by the Mayor shall terminate with the expiration of the term of the Mayor who selected him.

The term of each appointed member shall be six (6) years, or until his successor takes office; except that the respective terms of one-third of the members first appointed shall be two (2) years, one-Third shall be four (4) years, and one-third shall be six (6) years. Members other than the member representing the governing body may be removed, after public hearings, by the Mayor for inefficiency, neglect of duty, or malfeasance in office, and the governing body may remove the member representing it for the same reasons. The Mayor or the governing body, as the case may be, shall file a written statement of reasons for such removal. Vacancies occurring otherwise than through the expiration of a term shall be filled for the remainder of the unexpired term by the Mayor in the case of members selected or appointed by him, by the governing body in the case of the member appointed by it.

2-1-8 Officers, Meetings, Rules and Records; The

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

The Commission shall hold at least one regular meeting in each month. The Commission shall adopt rules for the transaction of business and shall keep a record of its Resolutions, transactions, findings, and determinations, which records shall be of public record.

2-1-9

Finances: The Planning Commission may also, with the consent of the Board of Trustees, contract with Town planners, engineers, and architects and other consultants for such services as the Commission may require. The expenditures of such Planning Commission, exclusive of gifts, shall be within the amounts appropriated for the purpose by the Board of Trustees, which shall provide the funds, equipment, and accommodations, necessary for the Commission's work.

2-1-10

Duties and Powers: The Planning Commission shall have all of the powers and perform each and all duties specified by Title 31, Article 23 of the Colorado Revised Statutes, together with any other duties or authority which may hereafter be conferred upon it by the laws of the State. The performance of such duties and the exercise of such authority is to be subject to each and all the limitations expressed in such legislative enactment or enactments.

Preparation and Purpose of Master Plan and

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

The Planning Commission shall prepare its regulations in accordance with a comprehensive plan, designed to prevent congestion in the streets, to secure safety from fire, panic, flood and other dangers, to promote health and general welfare, to provide adequate light and air, to prevent the overcrowding of land, to avoid undue concentration of population, and to facilitate the adequate provision of transportation, water, sewage, parks, schools, and other public requirements.

Such regulations shall be made with reasonable consideration, among other things, as to the character of the area and its particular suitability for certain uses, and with a view to conserving the value of existing structures and encouraging the most appropriate use of land throughout the Town.

ARTICLE 2

BOARD OF TRUSTEES

2-2-1 Board of Trustees - Qualifications, Vacancies

2-2-2 Procedure - Regular and Special Meetings

2-2-3 Intergovernmental Contracts

2-2-4 Oath and Bond

2-2-5 Removal from Office

2-2-1 Board of Trustees - Qualifications, Vacancies

The Board of Trustees shall constitute the legislative body of the Town and shall have 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.

- (a) **"Qualifications"**. Each Trustee shall be a resident of the Town and a qualified elector herein. If any Trustee shall move from, or become, during the term of his office, a nonresident of the Town, he shall be deemed thereby to have vacated his office, upon the adoption by the Board of Trustees of a resolution declaring such vacancy to exist.
- (b) **"Filling Vacancies"**. In case of death, resignation, vacation or removal for cause, of any of the Town officers during their term of office, the Board by a majority vote of all the members thereof, may select and appoint from among the duly qualified electors of the Town, a suitable person to fill the vacancy, who shall hold the office until the next regular Town election and until his successor is elected and qualified.

2-2-2 Procedure Regular and Special Meetings

(a) "Regular Meetings". The Trustees shall hold regular meetings on the second and fourth Thursdays of each calendar month at 6:30 P.M.; provided, however, that when the day fixed for any regular meeting of the Board falls upon a day designated by law as a legal or national holiday, such meeting shall be held at the same hour on the next succeeding Wednesday not a holiday. All regular meetings of the Board will be held in the Town Hall of the Town of Hotchkiss, Colorado, unless otherwise determined by a majority vote of the Board of Trustees, and public notice posted a minimum of seven (7) days at the Town Hall. The Board of Trustees may change the time of its regular meetings by Resolution adopted by a majority vote and notice posted a minimum of five (5) days at the Town Hall.

- (b) "Special Meetings". The Mayor may convene the Board at any time. Whenever a special meeting shall be called, a summons or a notice in writing signed by the Mayor shall be served upon each member of the Board either in person or by notice left at his place of residence, stating the date and hour of the meeting and the purpose for which such meeting is called, and no business shall be transacted thereat, except such as is stated in the notice. If the Mayor is absent from the Town a special meeting may be convened by a majority of the Board.
- (c) "Quorum". No action shall be taken unless a quorum is present. Four of said Trustees elected to the governing body 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 at any regular or special meeting, may, in writing, demand the attendance of the absent members, which said demand shall be entered on the record forthwith by the Clerk, who shall thereupon notify the absent members of the time and place of the meeting.
- (d) "Agenda". All reports, communications, ordinances, resolution, contracts, documents, or other matters to be submitted to the Board shall, at least four hours prior to each meeting, be delivered to the Town Clerk, whereupon the Clerk shall immediately arrange a list of such matters according to the order of business,
- (e) The order of business of a Board meeting shall be as follows:
- (1) Call to Order. The Mayor shall take the chair precisely at the hour appointed for the meeting, and shall immediately call the Board to order. The Mayor or temporary chairman shall preserve the order and decorum, decide all questions of order and conduct the proceedings of the meeting in accordance with the parliamentary rules contained in **ROBERT'S RULES OR ORDER** unless otherwise provided by ordinance.

ADMINISTRATION: Board of Trustees

- (2) **Roll Call.** Before proceeding with the business of the Board, the Clerk or his deputy shall call the roll of the members, and the names of those present shall be entered in the minutes.
- (3) **Minutes.** The Clerk shall type the minutes of each Board meeting, and, at each regular or special meeting, he shall provide each Board member with a full and correct copy of the minutes of the preceding meeting. Such minutes shall be considered approved if correct, and errors shall be rectified, if any exist.
- (4) **Reports by Officers.** Town officials and/or committees shall present such reports as may be required by the Board.
- (5) **Old Business.** The Board shall consider any business that has been previously considered and which is still unfinished.
- (6) **New Business.** The Board shall consider any business not heretofore considered, including the introduction or reading of ordinances and resolutions.
- (7) **Petitions.** Petitions, remonstrances, communications, and comments or suggestions from citizens present, shall be heard by the Board. All such remarks shall be addressed to the Board as a whole, and not to any member thereof. Such remarks shall be limited to a reasonable time and such determination will be in 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.
- (8) **Other Business.** Prior to adjournment the Board shall, as it deems necessary, consider such business as is not specifically provided for herein.

ADMINISTRATION: Board of Trustees

- (9) Adjournment. The Board 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.
- (f) Resolution or Motion Required- Roll Call Vote. Every subject coming before the Board for its action shall be submitted by resolution on motion. The Mayor shall take the vote thereon by calling for a show of hands, and the Clerk shall record the votes of the respective Trustees; provided, however, if a call of the roll is requested, the Clerk shall call the roll and the vote thereon shall be taken by ayes and nays, and the same shall be duly recorded by the Clerk.
- (g) Adoption of Ordinances. No ordinance shall be passed finally on the date it is introduced, except-in cases of special emergency, for the preservation of the public peace, health, or safety, and then only by the affirmative vote of three-fourths of the members of the Board. In all other cases an ordinance shall be introduced and read at one regular meeting of the Board, and if the ordinance is passed on first reading, the ordinance shall be read by title only and again voted upon at the next regular meeting of the Board. if the ordinance receives the required vote on its second reading, the same shall be duly adopted.
- (h) Vote Required. All ordinances, all resolutions or orders for the appropriation of money, all resolutions or orders to enter into contract, and all appointments of officers, shall require for the passage or adoption the concurrence of a majority of all the members elected to the Board. In all other matters a majority of the votes cast is sufficient for passage except in cases of special emergency, for the preservation of the public peace, health or safety, and then only by the affirmative vote of three-fourths of the members of the Board.
- (i) Publication of Ordinances. All ordinances, as soon as may be after their passage, shall be recorded in a book kept for that purpose, and authenticated by the signature of the Mayor and Clerk.

ADMINISTRATION: Board of Trustees

All ordinances of a general or permanent nature, and those imposing any fine, penalty, or forfeiture, shall be published in The North Fork Herald-Chronicle or in any other legal newspaper published in Delta County and having a general circulation in the Town. Such ordinances shall not take effect until thirty days after such publication, except for ordinances calling for special elections or necessary for the immediate preservation of the public peace, health or safety which shall take effect in five (5) days. The reasons making the ordinance necessary for the immediate preservation of the public peace, health or safety shall be set forth in a separate section. Codes may also be adopted by reference as provided by state law.

- (j) **Committees**. Any question pending before the Board may be referred to the appropriate committee, or to a special committee, for its consideration and report. When a question has been referred to a committee, such committee shall report thereon with its recommendation at the next meeting.
- (k) **Suspension of the Rules**. Any of the provisions of this section may be temporarily suspended in connection with any matter under consideration by a recorded vote of three-fourths of the members present, except that this shall not be construed to permit any action that is contrary to state statute.

2-2-3 Intergovernmental Contracts

The Board of Trustees shall have the authority on behalf of the Town to enter into contractual arrangements with one or more other 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 the responsibilities, financial and otherwise, of the contracting parties. Such contract may be approved by the Board by resolution or by ordinance; provided, however, that each such ordinance or resolution shall set forth, in writing, the record of the votes of the respective Trustees.

2-2-4

Oath and Bond All officers elected or appointed in Any capacity shall take an oath or affirmation to support the Constitution of the United States and the Constitution of the State of Colorado. The Board of Trustees may provide that the payment of premiums on surety bonds of any officer of the Town shall be made by the Town Treasurer from funds so designated by the Board.

2-2-5

Removal from Office Any officer appointed by the Board of Trustees may be removed from office or suspended for a specific time, with or without pay, by a vote of three-fourths majority of all Board members whenever such officer shall-, after a hearing before the Board, be found of a dereliction or violation of his duty, conduct unbecoming an officer or incompetency. This right of hearing shall not extend to employees of the Town who are not considered to be officers under State law.

ARTICLE 3

TOWN CLERK OR RECORDER

- 2-3-1 Appointment
- 2-3-2 Oath and Bond
- 2-3-3 Duties

2-3-1 Appointment

The Board of Trustees at its first regular meeting after each biennial election shall appoint some qualified person as Town Clerk or Recorder, hereinafter called the Clerk. In case a vacancy should occur in said office, the Board shall appoint a Clerk for the unexpired term. No appointment of any person to this office shall continue beyond one week after the qualification of the members of the succeeding Board.

2-3-2 Oath and Bond

Before entering upon the duties of the office, the Clerk shall take an oath of office and furnish a surety bond in the amount of \$2,000.00 conditioned upon the faithful discharge of his duties as Town Clerk.

2-3-3 Duties

The Town Clerk shall perform the following duties:

- (a) He shall be Clerk of the Board and shall attend all meetings of the Board and shall keep a permanent journal of its proceedings.
- (b) He shall be the custodian of all the Town's records and such records shall be open at all reasonable times for inspection by electors of the Town.
- (c) He shall certify by his signature all ordinances and resolutions enacted or passed by the Board.
- (d) He shall provide and maintain in his office a supply of forms for all petitions required to be filed for any purpose provided by the Board.
- (e) He shall countersign all warrants drawn on the Town treasury.

ADMINISTRATION: Town Clerk or Recorder

- (f) He shall be custodian of all bonds of all officers or employees of the Town.
- (g) He shall perform such other duties as may be prescribed for him by the Board of Trustees.

ARTICLE 4
TOWN TREASURER

- 2-4-1 Appointment
- 2-4-2 Oath and Bond
- 2-4-3 Duties

2-4-1 Appointment

The Board of Trustees at its first regular meeting after each biennial election shall appoint some qualified person as Town Treasurer. In case a vacancy should occur in the office of Treasurer, the Board shall appoint a Treasurer for the unexpired term. The Board may in its discretion appoint the Town Clerk as Treasurer.

2-4-2 Oath and Bond

Before entering upon the duties of the office, the Treasurer shall take an oath of office and furnish a surety bond in the amount of \$5,000.00, to be approved by the Board or Trustees, conditioned upon the faithful performance of his duties as Town Treasurer and that when he shall vacate such office he will turn over and deliver to his successor all monies, books, papers, property or things belonging to the Town of Hotchkiss and remaining in his charge as Treasurer.

2-4-3 Duties

The Town Treasurer shall perform the following duties:

- (a) He shall pay from the treasury such sums of money as may be ordered by the Board, and the warrants therefore shall be signed by the Mayor and countersigned by the Clerk, and shall state for what purpose the money is appropriated. He shall keep the account of each fund separate and distinct from all others, charging such fund with all payments, and crediting it with all monies received on account thereof, and upon all warrants payable out of any particular fund there shall be legibly written the name of the fund out of which same is payable.

ADMINISTRATION: Town Treasurer

- (b) Annually within ten days after the close of the fiscal year, the Town Treasurer shall make out and file with the Clerk a full and detailed account of all receipts and expenditures of the Town and all of his transactions as such Treasurer during the preceding fiscal year, and shall show in such account the state of the treasury at the close of the fiscal year. The Town Clerk shall immediately cause such account to be published in a legal newspaper published in Delta County.
- (c) If there shall be no funds in his hands for the payment of any Town warrant presented to him for such payment, it shall be his duty to register such warrants in a book to be kept by him for that purpose, and he shall endorse upon all such warrants so presented to him the time and date of such registry. Whenever he shall pay such warrant, he shall enter the payment and the amount of interest allowed or paid on such warrant in the registry.
- (d) He shall perform all other duties, keep all records, and make all reports that are required by other provisions of this Code or by the laws of the State of Colorado.

ARTICLE 5
TOWN ATTORNEY

- 2-5-1 Appointment
- 2-5-2 Duties

2-5-1 Appointment

The Board of Trustees at its first regular meeting after each biennial election shall appoint some qualified attorney at law as the Town Attorney and shall fix his compensation. In case a vacancy should occur in the office of Town Attorney, the Board shall appoint a Town Attorney for the unexpired term.

2-5-2 Duties

The Town Attorney may perform the following duties:

- (a) He shall act as legal advisor to, and be attorney and counsel for, the Board and shall be responsible solely to the Board. He shall advise any officer or department head of the Town in matters relating to his official duties when so requested by the Board and shall file with the Clerk a copy of all written opinions given by him.
- (b) He shall prosecute ordinance violations and he shall conduct for the Town, cases in municipal court. He shall file with the Clerk, copies of such records and files relating thereto.
- (c) He shall prepare or review all ordinances, contracts, bonds and other written instruments which are submitted to him by the Board and shall promptly give his opinion as to the legal consequences thereof.
- (d) He shall call to the attention of the Board all matters of law, and changes or developments therein affecting the Town, so far as the same may come to his knowledge.
- (e) He shall perform such other duties as may be prescribed for him by the Board.

ARTICLE 6

SALARIES OF THE TOWN EMPLOYEES

2-6-1 Salaries and Compensation

2-6-1 Salaries and Compensation

The Board of Trustees shall fix the salaries and compensation of all appointed officials and employees of the Town.

ARTICLE 7
RULES OF PROCEDURE

- 2-7-1 Purpose and Applicability
- 2-7-2 Quasi-Judicial Hearings
- 2-7-3 Rights of Participants
- 2-7-4 Order of Procedure
- 2-7-5 Rules of Evidence
- 2-7-6 Deliberation and Notice of Decision
- 2-7-7 Judicial Enforcement and Review
- 2-7-8 Administrative Hearings
- 2-7-9 Commencement of Proceedings
- 2-7-10 Referral to Hearing Body
- 2-7-11 Public Notice
- 2-7-12 Preserving Order
- 2-7-13 Adjournments

2-7-1 **Purpose and Applicability** 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/and Board, commission or official of the Town. The provisions of this ordinance by the adoption of further rules of procedure not inconsistent herewith. All rules adopted to supplement the provision of this ordinance by the Board, commission or official shall be reduced to writing and copies thereof shall be made available to the public.

2-7-2 **Quasi-Judicial Hearings**

The provisions of Sections 2-7-2 through 2-7-7 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 ordinance, shall be deemed to consist of the following:

- (a) Hearings before the Board of Trustees upon application for the issuance or hearings for the suspension or revocation of liquor or fermented malt beverage license, upon ordinances which zone or re-zone realty; and upon all appeals from the decisions of any city official, board or commission, where such an appeal is otherwise authorized, and which requires an evidentiary hearing to determine such appeal.

ADMINISTRATION: Rules of Procedure

- (b) Hearing before the Board of Zoning Adjustment upon appeals from any decision of the Building Inspector or upon request for a variance or exception from the terms of any ordinance.
- (c) Hearing before any board, commission or official respecting the issuance, suspension or revocation of any license issued by the Town.

2-7-3**Rights of Participants**

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

- (a) The administration of oaths to all parties or witnesses who appear for the purpose of testifying upon factual matters.
- (b) The cross-examination, upon request, of all witnesses by the interested parties.
- (c) The stenographic, or other verbatim, reproduction of all testimony presented in the hearing, or an adequate summary of such testimony, at the expense of the party requesting same.
- (d) A clear decision by the hearing body which shall set forth the factual bases and reasons for the decision rendered.

2-7-4**Order of Procedure**

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

- (a) Presentation of those documents showing the regularity of the commencement of the proceedings and the form of the public notice given.

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- (b) Presentation of evidence by the applicant, petitioner, appealing party or complainant.
- (c) Presentation of evidence in support of the applicant, petitioner, appealing party or complainant by any other person.
- (d) Presentation of evidence from any person opposing the application, petition, appeal of complaint.
- (e) Presentation of evidence in opposition or rebuttal to the matters presented by the opposition.
- (f). 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.

2-7-5 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.

2-7-6 Deliberation and Notice of Decision

Each hearing body is hereby authorized to deliberate upon the issues presented at the hearing in private, non-public sessions; provided that no 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 same.

2-7-7 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

ADMINISTRATION: Rules of Procedure

reviewed by a court of competent jurisdiction, in accordance with the provisions of the Colorado Rules of Civil Procedure.

2-7-8 Administrative Hearings

All other hearings before the Board of Trustees of any board or commission or official shall be deemed to be administrative hearings, the purpose of which is to obtain information to enable the Board to determine legislative policy or to enable any board, commission or official to make recommendations to the Board on pending legislation. Such hearing shall be conducted in compliance with the provisions of Sections 2-7-9 through 2-7-13 hereof and in such a manner so as to enable any person desiring to be heard a reasonable opportunity for the presentation of his views.

2-7-9 Commencement of Proceedings

All proceedings conducted pursuant to the provisions of this ordinance shall be commenced in the manner provided by the ordinance or statute governing the matter.

2-7-10 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 having jurisdiction over the matter, and a date, time and place for hearing thereon shall be set by said 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.

ADMINISTRATION: Rules of Procedure

2-7-11 Public Notice

Public notice of the date, time and place of the public hearing shall be given in the manner provided by the ordinance or 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 that newspaper designated by the Board, not less than fifteen (15) days prior to the date of said hearing.

2-7-12 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.

2-7-13 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 re-commence, without the necessity of any further published notice thereof.

ARTICLE 8
POLICE DEPARTMENT

- 2-8-1 Creation; Composition
- 2-8-2 Departmental Rules and Regulations
- 2-8-3 Appointment, Powers and Duties of the Police Chief
- 2-8-4 Duties of Police Officer
- 2-8-5 Oath and Bond
- 2-8-6 Subsistence Allowance
- 2-8-7 Uniforms
- 2-8-8 Duty of Citizens to Aid
- 2-8-9 Extraterritorial Duty
- 2-8-10 Special Deputies or Special Constables; Appointment; Powers
- 2-8-11 Private Police
- 2-8-12 Personal Property in the Possession of the Police Department
- 2-8-13 Sale
- 2-8-14 Proceeds
- 2-8-15 Disposal
- 2-8-16 Exceptions

2-8-1 Creation; Composition

There is hereby created a Police Department for the Town of Hotchkiss which shall consist of a Chief of Police and as many full time Police Officers and staff as is deemed necessary and is budgeted for by the Board for the safety and good order of the Town.

2-8-2 Departmental Rules and Regulations

The Police Department shall be operated and managed in accordance with the departmental rules and regulations adopted by the Chief of Police. The Town Board or otherwise delegated committee shall act as a regulatory agency in this respect to insure that the rules adopted by the Police Department conform to all Town, State, and Federal fair and equal employment practices.

2-8-3 Appointment, Powers and Duties of the Police Chief

The Town Board shall appoint the Chief of Police. It shall be the duty of the Chief of Police to:

- (a) See that the Ordinances of the Town and Laws of the State are enforced in a fair and impartial manner.
- (b) To manage and direct the police department in a spirit of cooperation with the Town Board and/or its designated committee and subject to rules and regulations promulgated thereby.

- (c) Be responsible for the actions of the Officers of the Department and to take such disciplinary action as is deemed necessary to insure adequate police protection of the Town. In disciplinary actions which termination of an individual by the Chief from the department is deemed necessary by the same, the Town Board or its designated committee shall act as the final authority on the recommendations of the Chief unless the Town Board on a case by case basis specifically grants that authority to the Chief.
- (d) Generally the Chief of Police shall hold all responsibilities and duties normally associated with his office and shall have the same powers the Sheriff of Delta County has by law, co-extensive with the Sheriff in cases of violation of Town Ordinances or for offenses committed within the Town limits. He shall execute the process of the Mayor and receive the same fee for services as those received by the Sheriff of Delta County. This article is in no way to relieve the Chief of Police from his accountability to the Town Board or its designee.

2-8-4 Duties of Police Officers

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

- (a) They shall perform all duties required of the Police Chief or as directed by the Police Chief or his designee.
- (b) Enforce all Town Ordinances and State laws in a fair and impartial manner.
- (c) The Officers shall to the best of their ability, at all times promote the good order, safety, and security of the Town.
- (d) They shall execute and serve all process and writs as directed by the Municipal Judge in any case arising under the jurisdiction of the Municipal Court.
- (e) They shall perform all other duties normally associated with law enforcement and at all times perform these duties within the confines of the Department Regulations, Town Ordinances, Laws of the State of Colorado, and the laws of the United States of America.

- (f) They shall observe the condition of the streets, sidewalks and alleys of the Town, and of any obstruction, nuisance, or impediments therein, and shall take necessary measures to remove or abate the same.
- (g) They shall observe the various buildings in the Town and observe the occurrence of any fire, water line break, or any other disaster and immediately report the same to the proper officials.
- (h) They shall, at least once each night, check the doors of the various businesses in the Town to see that each is properly secured.

2-8-5 Oath and Bond

Each Police Officer shall take an oath of office and subscribe that he/she will support the laws and Constitution of the State of Colorado and the laws and Constitution of the United States of America.

2-8-6 Uniforms

Every police officer shall wear at all times while on duty, a uniform of the type and quality prescribed by the Board.

2-8-7 Duty of Citizens to Aid

It shall be the duty of all persons, when called upon by any police officer, to promptly aid and assist such officer in the discharge of his duties.

2-8-8 Extraterritorial Duty

The Mayor may, in his discretion, upon request of the Chief of Police, County Sheriff, Mayor or any other person exercising the functions thereof in any other jurisdiction, assign police officers under his control together with such equipment as he shall deem to be proper, to perform temporary duty in the requesting Jurisdiction.

2-8-9 Special Deputies or Special Constables; Appointment; Powers

The Mayor may upon any emergency, riot, pestilence, invasion or at any time he shall deem it necessary for the peace, good order or health of the Town, order the Police Chief to appoint Special Deputies or Special Constables for a specified time, not exceeding two (2) days, without the approval of a majority of the Board of Trustees; the Mayor may also order the Police Chief to appoint such a number of Special Deputies or Special Officers as may be agreed upon by the Board, to serve upon days of election, public celebration and holidays. Said Special Deputies or Special officers shall have and possess only such powers and privileges as may be necessary to fulfill the special duties for which they were appointed and only for the period of time for which they are appointed.

2-8-10 Private Police

Before engaging in any private security, investigation, or police work within the Town, all persons are required to submit an application for such in which the person shall submit to an investigation of his/her background to determine eligibility for such license. The Town Board shall act as the licensing authority in such instances. They shall act on the recommendations of the Chief and all other pertinent data. If such license is granted, the Police Department will issue the applicant an identification card which will be different from the identification used by the Hotchkiss Police Department. If the security or private police is to be uniformed, it shall also be mandated that the uniform is substantially different from the currently used HPD uniform. This Article is in no way to be construed as granting police powers to such private agencies or individuals.

2-8-11 Personal Property in the Possession of the Police Department.

Any personal property held by the Hotchkiss Police Department in the course of their law enforcement duties and under circumstances supporting a reasonable belief that such property was abandoned, lost, stolen or otherwise illegally possessed, including property left in abandoned vehicles, unclaimed property obtained by a search and seizure and unclaimed property used as evidence in any criminal trial, shall be retained in custody by the Chief of Police or his appointed designee, who shall make reasonable inquiry and effort to identify and notify the owner or person entitled to possession thereof and shall return the property after such owner or person provides reasonable and satisfactory proof of ownership or right to possession and reimburses the Hotchkiss Police Department for all expenses of such recovery and custody.

2-8-12 Sale.

If the identity or location of the owner or person entitled to possession of the property has not been ascertained within six (6) months after the Hotchkiss Police Department obtains possession of the property described in Section 2-8-12 of this Article, the Chief of Police or his appointed designee shall effectuate the sale of such property for cash to the highest bidder at public auction, prior notice of which (including time, place and brief description of such property) shall be published at least once in a newspaper designated as a newspaper of general circulation in the Town of Hotchkiss.

2-8-13 Proceeds.

Proceeds from the sale of property at public auction shall be deposited in the general fund of the Town of Hotchkiss.

2-8-14 Disposal.

Pursuant to Section 2-8-12 of this Article, any items of personal property, the possession of which is declared illegal under any Federal or State statute, or municipal Ordinance of the Town of Hotchkiss, or which is property consisting of burglar tools of any description, or explosives, or armored or bulletproof clothing or other dangerous weapons, or gambling apparatus, beer, wine, spirituous liquors or fermented malt beverages, or soiled, bloody or unsanitary clothing, or solids or liquids of unknown or uncertain composition, or drugs, or hallucinogenic substances, or hypodermic syringes and needles, or obscene pictures, prints, effigies, statues, or any poisonous, noxious or deleterious solids or liquids, or any other property which reasonably might result in injury to the health or safety of the public, or which might be subject to unlawful use, and when said item or items are no longer needed as evidence, shall be destroyed in an appropriate and efficient manner. A record of the items so destroyed and a record of the time, place and manner of destruction shall be kept by the Chief of Police or his appointed designee. An exception to this section shall be the destruction of narcotic drugs, the disposal of which is provided for in Colorado Revised Statutes, Section 12-2:2-316.

2-8- 15 Exceptions.

in the event that the Town Attorney, District Attorney, or other person charged with the duty of prosecuting violations of the Town, State, or Federal laws, requests that any of the lost, abandoned, or recovered stolen property be held by the Chief of Police because it is required in a criminal prosecution, the Chief of Police shall retain custody and shall not sell the same until written notice is received that the property is no longer needed for prosecution purposes.

ARTICLE 9

EMERGENCY PROTECTION

- 2-9-1 Purpose
- 2-9-2 Mayor's Authority
- 2-9-3 Powers of Mayor
- 2-9-4 Penalties

2-9-1 Purpose

The Town of Hotchkiss will from time to time in the future, in all probability, have within its corporate limits fire, flood, civil disturbances and riots; and, therefore, it is deemed in the best interest of the Town of Hotchkiss to exercise certain emergency police powers necessary to and incidental to the maintenance of the safety, health and welfare of the citizens of Hotchkiss.

2-9-2 Mayor's Authority

Emergency police powers shall be placed in the hands of the Mayor of the Town of Hotchkiss and that 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 and further that said powers shall only be invoked after a declaration and proclamation of an emergency.

2-9-3 Powers of Mayor

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

- (a) The Mayor shall have the power to declare an emergency to exist when, in his opinion, one or more of the following conditions exists:
 - (1) That there is extreme likelihood of danger of destruction of life or property due to unusual conditions.

ADMINISTRATION: Emergency Protection

- (2) Unusual or extreme weather conditions, making use of Town streets or areas difficult or impossible.
 - (3) Civil unrest, commotion or uprising is imminent or exists.
 - (4) There is a stoppage or loss of electrical power affecting a major portion of the Town.
- (b) The emergency shall be declared in a proclamation of the Mayor, which proclamation shall be delivered to the Town Marshall, who shall then see that said proclamation is delivered to all news media within the Town and who shall also use public address systems throughout the Town and immediately notify the public of said proclamation and that violators will be arrested and subject to penalty.

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

- (1) To call upon regular and auxiliary enforcement agencies and organizations within or without the Town to assist in preserving and keeping the peace and preservation of life and property of the citizenry of Hotchkiss.
- (2) The power to close streets and sidewalks and to delineate areas within the Town wherein an emergency exists.
- (3) 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, ambulances, operators performing medical services, utility personnel maintaining essential public services, firemen and Town authorized or requested enforcement officers and personnel may be exempted from such curfew.

ADMINISTRATION: Emergency Protection

- (5) The power to do any and all acts necessary and incidental to the preservation of life, limb and property within the Town of Hotchkiss.
- (d) The proclamation shall specify with exactness, the area in which the emergency is declared to exist and shall become effective upon its issuance and dissemination to the public by the appropriate news media.

The duration of the emergency shall be as follows:

- (1) Any emergency proclaimed in accordance with the provisions of this ordinance shall terminate after forty-eight (48) hours from the issuance thereof, or upon the issuance of a proclamation determining an emergency no longer exists, whichever occurs first; provided, however, upon declaration of a second or further emergencies to exist the emergency powers set forth herein may be exercised during such further emergency period or periods, but never for more than forty-eight (48) hours in one declared emergency period.
- (2) No emergency period shall extend beyond the next regular, special or called meeting of the Board of Trustees unless at such meeting the declaration of emergency is specifically approved by resolution of the Board.

ADMINISTRATION: Emergency Protection

2-9-4 Penalties

Any person who shall willfully fail or refuse to comply with the order of duly authorized law enforcement officers or personnel charged with the responsibility of enforcing the Proclamation of Emergency authorized herein shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than \$300.00 or by imprisonment for a period not to exceed ninety days, or by both such fine and imprisonment.

ARTICLE 10

FIRE DEPARTMENT

2-10-1 Creation; Composition

2-10-1 Creation: Composition

The Board of Trustees shall enter into appropriate contracts or working agreements with the Hotchkiss Fire Protection District #4, a Fire Protection District duly organized under the laws of the State of Colorado and having the corporate limits of the Town of Hotchkiss within its boundaries; which contracts and agreements shall provide for the personnel and facilities necessary to adequately protect the citizens and property located within the corporate limits of the Town of Hotchkiss.

ARTICLE 11

POLICEMEN'S PENSION FUND

- 2-11-1 Creation of Fund
- 2-11-2 Administration

2-11-1 Creation of Fund

There is hereby created a policemen's pension fund of the Town of Hotchkiss, and said fund shall be managed, administered, used and disbursed under the direction of a Board of Trustees of the Policemen's Pension Fund.

2-11-2 Administration

The Board of Trustees of the Policemen's Pension Fund in the Town of Hotchkiss, acting as provided herein, shall have the duties and exercising the powers contained in Section 3, of Article 30, Title 31, Colorado Revised Statutes, 1973, as same may from time to time be amended, shall be composed as by statute provided.

RESCINDED
BY RESOLUTION
NO. 2003-5