

## ORDINANCE NO. 1

Series 2012

### **AN ORDINANCE OF THE TOWN OF LAKE CITY, COLORADO REVISING MEETINGS, RULES OF PRODECURES, ADMINISTRATIVE REGULATIONS AND ORDER OF BUSINESS FOR THE BOARD OF TRUSTEES AND REPEALING ORDINANCE NO. 4, SERIES 1999**

**BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF LAKE CITY, COLORADO THAT ORDINANCE NO. 4, SERIES 1999 IS HEREBY REPEALED IN ITS ENTIRETY AND A NEW CHAPTER III OF THE LAKE CITY MUNICIPAL CODE IS ENACTED TO READ AS FOLLOWS:**

#### **SECTION 1 – MAYOR AND BOARD OF TRUSTEES**

The Mayor and six Trustees shall comprise the Board of Trustees and shall perform duties as specified by State Law and Town Ordinances. The Mayor shall serve a four-year term of office. Three Trustees shall be elected at each biennial regular election for four-year terms of office. The Board of Trustees shall fill any vacancies, which occur in the office of Mayor or Trustee by appointment until the next regular election. Such vacancy shall be filled at the next regular election for the remaining two-year term of office if the term of the vacant office has not expired by such election or for the full four-year term if the term of the vacant office has expired.

#### **SECTION 2 – BOARD MEETINGS**

The Board of Trustees has the authority to determine its own rules of procedure for the conduct of its meetings. The common practice is for a new Board to adopt the rules of procedure of the previous Board, although amendments or changes are permissible and in order.

##### **2.1 REGULAR BOARD OF TRUSTEE MEETINGS**

The Board of Trustees shall meet in regular session on the first and third Wednesdays of each month at 7:00 p.m. When a regular meeting falls on a holiday, 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 48 hours notice to Board members, provided that at least one regular meeting shall be held each month. The Board of Trustees shall designate the place of all regular meetings.

##### **2.2 SPECIAL MEETINGS**

- A. Special meetings shall be called by the Town Clerk at the request of the Mayor or any two (2) members of the Board. There shall be at least twenty-four (24) hours written notice to each member of the Board and Town Manager, served personally, left at such person's usual place of residence, or sent via electronic mail. Said notice shall indicate the business to be performed at such special meeting. If any member shall have moved from the Town of Lake City and shall be a non-resident 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 unless the same has been stated in the notice of such meeting.

### **2.3 EMERGENCY MEETINGS**

Emergency meetings may be called by the Mayor or any two (2) Board 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 Lake City. Notice of such emergency meeting may be given to the Board by telephone or whatever other means is reasonable to meet the circumstances of the emergency. At such emergency meeting, any action within the police power of the Board that is necessary for the immediate protection of the public health, safety, and welfare may be taken; provided however, 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 at which the emergency issue is on the public notice of the meeting. At such subsequent meeting the Board may ratify any emergency action taken. If any emergency action taken is not ratified, then it shall be deemed rescinded.

### **2.4 ADJOURNED SESSIONS**

Any session of the Board may be adjourned or adjourned from day to day, or for more than one day, but no adjournment shall be for a longer period than until the next regular meeting.

### **2.5 EXECUTIVE SESSIONS**

Colorado Revised Statutes state that an affirmative vote by two-thirds of a quorum present is required to call an executive session at either a regular or special meeting. No formal action can occur at an executive session. The motion for executive session shall describe, as specifically as possible, the subject of the executive session so long as such description does not contain any information that would potentially harm the public interest.

Only the following matters may be discussed in an executive session:

- A. Under C.R.S 24-6-402(4)(a): The purchase, acquisition, lease, transfer, or sale of any real or personal property interest; except that the executive session may not be used to conceal the fact that a member of the Board of Trustees has a personal interest in such purchase, acquisition, lease or sale.
- B. Under C.R.S. 24-6-402(4)(b): Conferences with an attorney for the Board of Trustees for the purposes of receiving legal advice on specific legal questions. Mere presence or participation of an attorney at an executive session of the Board of Trustees is not sufficient to satisfy the requirements of this provision.

- C. Under C.R.S. 24-6-402(4)(c): Matters required to be kept confidential by federal or state law or rules and regulations. The Board of Trustees shall announce the specific citation of the statutes or rules that are the basis for such confidentiality before holding the executive session.
- D. Under C.R.S. 24-6-402(4)(d): Specialized details of security arrangements or investigations; including defenses against terrorism, both domestic and foreign, and including where disclosure of the matters discussed might reveal information that could be used for the purpose of committing, or avoiding prosecution for, a violation of the law.
- E. Under C.R.S. 24-6-402(4)(e): Determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators.
- F. Under C.R.S. 24-6-402(4)(f): Personnel matters except if the employee who is the subject of the session has requested an open meeting, or if the personnel matter involves more than one employee, all of the employees have requested an open meeting. This provision does not apply to discussions concerning any member of the Board of Trustees, any elected official, or to discussions of personnel policies that do not require the discussion of matters personal to particular employees.
- G. Under C.R.S. 24-6-402(4)(g): Consideration of any documents protected by the mandatory nondisclosure provisions of the "Colorado Open Records Act".

## **2.6    WORKSHOPS**

Informal workshops are used as a regular procedure to familiarize the Board members with many detailed aspects of the subjects on upcoming agenda items, thus saving valuable time in the Board meeting itself. Generally, citizen comment will not be allowed during such session unless otherwise determined by the members present.

## **2.7    PUBLIC PARTICIPATION IN BOARD MEETINGS**

- A. Board meetings and Workshops are open to the public. At regular Board meetings, provision is made for public comment so interested individuals or spokespersons for various organizations may present their views directly to the Board. The time limits or procedures in this section may be suspended or modified for any agenda item by a majority vote of the quorum present.
- B. Public comment to the Board on other than agenda items is scheduled at the beginning of each formal Board meeting and shall be scheduled for a total period not to exceed 30 minutes.
- C. All individuals shall observe proper decorum and avoid the use of abusive or profane language in the meeting room and when addressing the Board. In the event that abusive or profane language is used or an individual otherwise disrupts the meeting,

such individual may be removed from the meeting room by a law enforcement officer at the request of the Mayor or by any two other members of the Board.

**2.8 POWERS OF THE BOARD AS A LEGISLATIVE BODY**

- A. The Board exercises its legislative power through adopting, amending and repealing ordinances, resolutions and motions. The Board of Trustees is primarily a legislative and policy-making body in Lake City's form of government.
- B. The administrative function of carrying out ordinances, resolutions, and motions is delegated to the Town Manager, unless otherwise assigned by the Trustees.

**2.9 POWERS OF THE BOARD AS A QUASI-JUDICIAL BODY**

In addition to the adoption of legislative acts, the Board of Trustees may be required to make quasi-judicial decisions. Quasi-judicial decisions are normally of a specific nature made by applying a certain set of rules to a particular circumstance after a public hearing on the issue. Some types of quasi-judicial decisions that may be considered by the Board are liquor license approvals, re-zoning requests, and other land use issues. When acting in a quasi-judicial capacity, the Board is serving as a judge, and the applicant and the interested citizens are entitled to have the decision made by an impartial body. Therefore, no Board member should have individual contact with any party regarding an issue that is subject to quasi-judicial decision by the Board outside of the formal decision-making process scheduled to occur at a regular or special meeting of the Board.

**2.10 MAINTENANCE OF OFFICIAL RECORDS**

Minutes shall be kept of all regular and special Board meetings, and meetings of the Board of Adjustments, Planning Commission, and of any other board or commission of the Town which is required by Colorado law to maintain minutes. Upon adoption of the minutes by the board or commission, such minutes shall be the official record of the meeting and shall be available for inspection during normal business hours. In addition, regular, and special and emergency meetings, if possible, of the Board shall be recorded. Executive sessions shall also be recorded as provided by C.R.S. 24-6-402(d.5)(I)(A)

**SECTION 3- THE PRESIDING OFFICER**

**3.1 PRESIDING OFFICER**

The Mayor, or in the Mayor's absence, the Mayor Pro-Tem, shall take the Chair at the hour appointed for the Board to meet, and shall immediately call the meeting to order. The roll will then be called by the Town Clerk who shall enter in the minutes of the meeting the names of the members present.

**3.2 MAYOR PRO-TEM**

The Mayor Pro-Tem shall serve as Mayor during the absence or disability of the Mayor, and in case of vacancy in the office of Mayor, pending the selection of a successor. The

Mayor Pro-Tem shall be appointed by the Mayor and ratified by the Board of Trustees at the first regular meeting following the Town election for Board members or following filling of a vacancy in the office of Mayor. This shall be the first order of business after the new Board members are sworn into office.

**3.3**     **TEMPORARY CHAIR**

In case of the absence of the Mayor and the Mayor Pro-Tem, the Clerk shall call the Board to order and call the roll of members. If a quorum is found to be present, the Board shall proceed to elect, by a majority vote of those present, a chair of the meeting, to act until the Mayor or the Mayor Pro-Tem appears.

**3.4**     **DECORUM AND ORDER**

The presiding officer shall preserve decorum and decide all questions of order, subject to appeal of the Board. All members shall observe proper decorum and avoid the use of abusive or profane language in the meeting room and when addressing the Board. In the event that abusive or profane language is used or an individual otherwise disrupts the meeting or violates these rules, the presiding officer shall, or any member may, call the violator to order, in which case the violator shall be quieted, unless permitted to explain.

**3.5**     **QUORUM**

A quorum shall be a majority of the members of the Board and shall be required for the transaction of business at all board meetings. In the absence of a quorum, a lesser number may adjourn any meeting to a later time or date, and in the absence of all members, the Town Clerk may adjourn any meeting for not longer than one week. For meetings at which less than a quorum is in attendance, at a regular or special meeting, a majority of the members present are authorized to send a law enforcement officer or other person to summon the absent members, as such majority of members may agree. A fewer number of members of the Board of Trustees may adjourn from day to day.

**3.6**     **REMOVAL FROM OFFICE OF AN ELECTED OR APPOINTED OFFICIAL**

At its discretion, the Board of Trustees may remove any elected or appointed Town official in compliance with Colorado law. Removal may occur only upon an affirmative vote of at least four members of the Board and only for good cause shown by preponderance of the evidence presented at a hearing conducted after notice of the alleged grounds for removal has been issued to the affected official. The alleged grounds may be raised in a written complaint by a member of the Board or by any citizen of the Town. However, at or before the time that a hearing is set for a full consideration of the complaint, a majority of any quorum of the Board must first find that there is a reasonable foundation for the complaint. Upon such finding by the Board, but no sooner than ten (10) days after filing of the complaint, the matter shall be placed on the agenda of a regular or special meeting of the Board for full hearing. If, upon completion of such hearing, there is no adequate vote for removal of the affected official, that official shall not be subject to any subsequent removal hearing on the same charge(s). All testimony taken at a removal hearing shall be given under oath. Good cause for removal shall be

determined on the basis of preponderance of the evidence presented and may be found against any official who has:

- A. Been absent on three occasions within any two year period between regular elections of the Town, which absences are unexcused;
- B. Been convicted of a felony or crime of moral turpitude during the current term of office, or within five years of being elected, which conviction was not known to the voters at the time the member was elected to office;
- C. Knowingly violated the conflict of interest provisions of these procedures or Colorado law;
- D. Willfully violated any of the procedures of this Ordinance;
- E. Willfully neglected the official's duty as an elected official;
- F. Acted in malfeasance or misfeasance of office;
- G. Ceased to reside in the Town Limits for more than forty-five (45) days.

**SECTION 4 – VOTING AND RECESSES**

**4.1 VOTING**

<b><u>SITUATION</u></b>	<b><u>VOTES REQUIRED FOR PASSAGE</u></b>
A. To pass any Ordinance	Majority of the quorum present. A roll call vote is required.
B. To pass an Ordinance as an emergency Ordinance or to call a Special Election	¾ of all members. A roll call vote is required.
C. To pass a Resolution	Majority of the quorum present. A roll call vote is required.
D. To appoint officers	Vote of majority of all members of the Board. A roll call vote is required.
E. Motion/Resolutions involving Town funds	Vote of majority of all members of the Board. A roll call vote is required.

**4.2 RECESSES**

- A. If there are no objections, the Mayor may call a recess at any time during a formal Town Board meeting.

B. During a recess:

1. Board members may discuss procedures for considering a particular substantive issue before them;
2. Board members shall not discuss substantive issues before them;
3. Board members shall not take formal votes, make final policy decisions, or take any other formal action;
4. No one shall be excluded from Board discussion involving a sufficient number of members to constitute a quorum.

**4.3** **MAYOR VOTING MEMBER**

The Mayor shall be a voting member of the Board and shall be counted for purposes of a quorum. The Mayor shall not have veto powers.

**4.4** **EVERY MEMBER VOTES**

Every member present shall be required to vote, except in the case of a conflict of interest as described herein or unless excused for good cause by the other Board members present. The vote shall be for or against a pending ordinance, resolution or motion. The failure to vote shall be considered an affirmative vote.

**SECTION 5 – OFFICERS AND EMPLOYEES**

**5.1** **APPOINTMENT OF OFFICERS AND OATH OF OFFICE**

- A. At its first regular meeting following each regular election, the Board shall appoint a Town Manager, Town Clerk, Treasurer, Attorney and Municipal Judge.
- B. A majority vote of all members of the Board in office at the time shall be required to appoint any Town Official. The Town Clerk, Mayor or Mayor Pro-Tem shall administer the oath of office before the Board.
- C. The Board shall fill any vacancy for the unexpired term. The Clerk and the Treasurer and any other officer, if required by the Board, shall, prior to taking office, execute an oath and be bonded in an amount required by the Board at the Town's expense.
- D. All officers shall perform duties as specified by State Law, Town Ordinances or as otherwise assigned by the Board of Trustees.
- E. The Board may appoint such other officers and employees as it deems necessary and shall fix the compensation to be paid all officers and employees of the Town. The Board may either appoint a Town Marshall or contract for police services with the Sheriff or other qualified law enforcement official or agency.

**5.2 OFFICERS AND EMPLOYEES**

The Town Clerk, Town Manager, Town Attorney, Town Treasurer 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.

**5.3 APPOINTMENTS BY THE MAYOR**

The Mayor may appoint individuals to such standing and special committees as he/she determines appropriate from time to time. The Mayor shall submit a written resolution of appointment to be made with the advice and general consent of the Board. Consideration of such appointment may be deferred until the next meeting by a majority vote of the Board.

**5.4 TOWN MANAGER**

The Town Manager shall attend all meetings of the Board, unless excused by the Board. The Town Manager shall keep the Board fully advised as to the conditions and needs of the Town. The Town Manager may make recommendations to the Board and may take part in discussions on all matters concerning the welfare of the Town, but shall have no vote in the meetings of the Board.

**5.5 TOWN TREASURER**

The Town Treasurer shall attend all meetings of the Board of Trustees as required by the Mayor, Board or Town Manager.

**5.6 TOWN CLERK**

The Town Clerk shall be Clerk of the Board and shall keep minutes of the meetings and perform such other and further duties as may be directed by the Mayor, Board, or Town Manager.

**5.7 TOWN ATTORNEY**

The Town Attorney shall attend all meetings of the Board of Trustees as required by the Mayor, Board or Town Manager. Any member of the Board of Trustees, by permission of a majority of a quorum of the Board, 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.

The Town Manager shall have the authority to call upon the Town Attorney as needed for an oral or written opinion to decide any questions of law.



**5.8 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 or Town Manager, shall attend any regular, adjourned, special, emergency or study/work session and confer with the Board 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.

**SECTION 6 – DUTIES AND PRIVILEGES OF MEMBERS**

**6.1 RIGHT OF FLOOR**

When recognized by the Chair, a member's comments shall be confined to the question under debate, avoiding personalities, and refraining from impugning the motive of any other member's argument or vote. All discussion shall occur only upon recognition of the presiding officer.

**6.2 RIGHT OF APPEAL**

Any member may appeal to the Board from a ruling of the presiding officer. If the appeal is seconded, said member making the appeal may briefly state a reason for the same and presiding officer may briefly explain the basis for a said officer's ruling; but there shall be no debate on the appeal and no other member shall participate in the discussion. The presiding officer shall then put the question; "Shall the decision of the chair be sustained?" If a majority of the members present vote "Yes", the ruling of the chair is sustained; otherwise it is overruled.

**6.3 LIMITATION OF DEBATE**

The Chair shall establish the rules, including reasonable time limits, for the debate of any subject.

**6.4 VOTING**

- A. A roll call vote by "yes" and "no" shall be taken upon the passage of all ordinances, the appointment of any officer, and on all motions concerning the expenditure of funds and entered upon the minutes of the Board proceedings. Every ordinance, except emergency ordinances, shall require the affirmative vote of a majority of the quorum of the Board present for passage. Emergency ordinances shall require the affirmative vote of 3/4 of all members of the Board.
- B. Upon each vote taken by the Board, the Chair shall announce the result of the vote. In the case of a tie vote, the issue shall be considered rejected.
- C. Each member present shall vote "yes" or "no" on any ordinance, resolution or motion before the Board unless excused by the unanimous consent of the remaining members present or if the member has a conflict of interest as provided by Colorado law or Town ordinance. In the event of such a conflict, the member shall follow the

procedure set forth in Section 7.8. Any Board member refusing to vote except when not so required by this ordinance may be charged with misconduct in office.

**6.5**     **PERSONAL PRIVILEGE**

The right of a member to address the Board on a question of personal privilege shall be limited to cases in which the member's integrity, character, or motives are assailed, questioned, or impugned.

**6.6**     **DISSENTS AND PROTESTS**

Any Board member shall have the right to express dissent from or protest against any ordinance or resolution of the Board, and have the reason therefore entered upon the record. Such dissent or protest must be filed in writing, couched in respectful language, and presented to the Board not later than the next regular meeting following the date of passage of the objectionable ordinance or resolution.

**6.7**     **EXCUSED FROM ATTENDANCE**

Serving as an effective municipal elected official requires dedication, knowledge, and a substantial commitment of time. The most important commitment of time for board members is the duty to attend meetings. However, when absences do occur, the following provisions will apply.

- A. It shall be the responsibility of each Board member to verbally contact the Town Clerk or Town Manager no later than 4:00 p.m. of the day of the meeting that such member will not be in attendance at a meeting of the Board. In the event a Board member is not in attendance at a meeting, such absence shall be considered excused, unless any Board member objects to the excusing of such absence. In the event of objection, the Board shall determine by majority vote whether the absence is excused or unexcused. In the event a Board member is absent for two consecutive regular meetings, any consecutive absence thereafter shall be considered unexcused unless the Board has previously approved the extended absences.
- B. Board members may accumulate a total of six excused absences within any two year period between elections. Any absence thereafter in the same two year period shall be considered unexcused.
- C. When a member's absence from a meeting is declared unexcused by the Board, at the next succeeding regular meeting attended by the unexcused member, the member may explain the reason for the subject absence and request that the Board reconsider its determination. Such reconsideration may occur upon the concurrence of a majority of the Board present.
- D. If excused, an absent Board member may make arrangements to participate in a workshop, regular or special meeting by telephone. Such absent Board member may participate in the discussion but will not be allowed to vote. This provision does not

apply to executive sessions and quasi-judicial proceedings during which telephonic participation is not allowed.

- E. When a Board member's absence is due to his or her attendance at a Town-related function or training, he or she shall not be considered absent for the purposes of this section.

## **6.8 CONFLICTS OF INTEREST**

- A. In the event that the Mayor or a Board member has a personal or private interest in any matter proposed or pending before the Board of Trustees, he/she shall disclose such interest, in writing or verbally during a Board meeting, as soon as the personal or private interest is known. If the Mayor or a Board member has a personal or private interest in any proposed or pending matter which such person has not disclosed, such interest may be addressed by any other Board member, and the Board of Trustees may determine by a majority of those present that a personal or private interest of the Mayor or a Board member exists. If the Mayor or a Board member has a personal or private interest in any proposed or pending matter, self-disclosed or determined by the Board, such person shall abstain from voting on the matter and shall refrain from attempting to influence the decisions of the other members of the Board in voting on the matter.
- B. The Mayor or Board member having a personal or private interest in any proposed or pending matter may vote notwithstanding paragraph A of this subsection 7.8 only if his/her participation is necessary to obtain a quorum or otherwise enable the Board to act and if he/she complies with voluntary disclosure procedures with the office of the Secretary of State as provided by Colorado Law.
- C. It shall be a conflict of interest when the Mayor or any Board member has or might have a financial interest, direct or indirect, in any proposed or pending matter. This includes an interest in a business that could be placed in a superior competitive position by any action on such proposed or pending matter.
- D. It shall be a conflict of interest and a violation of this ordinance for any member of the Board 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 Town Attorney; unless a majority of the Board determines that such disclosure should be made.

## **6.9 GIFTS**

Members of the Board should not accept gifts if such gifts, from the point of view of a reasonable person, would tend to improperly influence him or her to depart from the faithful and impartial discharge of public duties. This prohibition also applies if a reasonable person in the same position should know under the circumstances that the gift is primarily for the purpose of rewarding that person for official action taken. (There are

exceptions for campaign contributions, meals, lodging, travel expenses or tickets to sporting, recreational or cultural events.)

#### **6.10 EX PARTE COMMUNICATIONS**

Board members shall not participate in public dialogue or discussion of a matter prior to a public hearing on the matter. All applicants must be afforded a fair and impartial hearing by law, so Board members should not give applicants any reason to question their impartiality. If a Board member has an ex parte communication this can provide a valid basis for appeal. This rule encompasses site visits, so it is advisable for Board members to visit sites out of the presence of the applicant or any of its representatives. Board members should also conduct site visits without the presence of other Board members so as not to trigger the requirements of the Open Meetings Law.

A. Guidelines. Abiding by these guidelines will help to assist the Board of Trustees in holding effective, dignified and legally enforceable public hearings without conflicts of interest:

1. At times, the Board of Trustees must act in a “quasi-judicial” capacity with the same formality as a Judge.
2. **Quasi-judicial actions apply** to a specific interest (e.g. zoning change affecting a single piece of property, special or conditional use permit or liquor license application).
3. **Quasi-judicial actions require:** 1) notice be given before the action is taken; 2) a hearing be conducted before an action is taken; and 3) the action taken results from the application of specific criteria to the individual facts presented at the hearing.
4. **Due process** must be provided (e.g. proper notice, adequate right to present evidence and cross-examine witnesses by applicant, and others with an interest in the subject of the hearing should be given an opportunity to be heard).
5. Colorado law has a presumption that a quasi-judicial hearing will be conducted **impartially**. This can be overcome by a showing of actual bias, or a conflict of interest that creates the appearance of impropriety.
6. Particularly in smaller communities, it is common for members of the Board of Trustees to personally know the applicant or opponent and perhaps have a pre-existing relationship with them. By itself, this does not create a bias or conflict of interest sufficient to exclude members from a decision.
7. **Personal or private interests** might require recusal. Example: a Board member: 1) is involved in a zoning matter and represents an applicant, represents himself or herself at the hearing; 2) owns or has an interest in a business that is making the application; 3) has financial dealings with the applicant in a capacity related to the

project; 4) has a financial interest in a business that is a competitor of the applicant's business; or 5) is a creditor of the business that is asking for actions.

8. **Simply being acquainted** with an applicant is not a conflict. The focus is a financial relationship.
9. Board members **would normally not be disqualified** for: 1) living next door to the applicant; 2) knowing the applicant, being friends with the applicant, going to the same church as the applicant, playing golf with the applicant, etc.; 3) being related, but having no financial connections or potential financial gain or loss. However, if the applicant is an immediate family member, Board members should recuse to avoid the perception of a conflict.
10. **Prejudgment:** Board members must exercise caution in their activities and statements outside of public hearings. They could be disqualified for statements made outside of a hearing.
11. **Ex Parte Contacts.** These involve communications between a quasi-judicial board member and a party or member of the public that takes place outside of a noticed public hearing. These contacts deny due process to both applicants and opponents of the application because the other party is not present to hear or rebut.
12. **How to handle ex parte contacts.** 1) Immediately state that it would be improper to talk about the matter outside of a meeting; 2) state that the Town Attorney told me that I had to hear all testimony only in the hearing; 3) urge the person to bring his or her points of view to the hearing; and 4) state that by listening now, he or she might have to step down and not vote on the matter.
13. **Written Materials.** Make sure that if written materials are received outside of a hearing that they are shared with all.
14. **If ex parte contact occurs,** Board members should: 1) inform the Board; 2) disclose the contact at the beginning of the public hearing; 3) describe its content as completely as possible; 4) decide whether to step down or not. If a board member recuses, the recused board member should also leave the room so as to not influence other members of the Board of Trustees.

#### **6.11 EXCUSED DURING MEETING**

No member may leave the Board Chambers while in session without permission from the presiding officer.

#### **6.12 MAKING MOTIONS**

All motions presented by any member shall require a second. A majority vote of the members present, unless a greater number is required otherwise, shall decide all questions.

**SECTION 7 – BOARD PROCEDURE**

**7.1 ORDER OF BUSINESS – REGULAR MEETINGS**

- A. The business of all regular meetings of the Board shall be transacted in the following order. The consent of the majority of the members present shall be required to add an issue to the agenda or to change the order of the agenda.

CALL TO ORDER – Mayor – 7:00 pm

ROLL CALL - Town Clerk

MINUTES (1<sup>st</sup> meeting of the month only)

BILLS PAYABLE

COMMITTEE REPORTS (1<sup>st</sup> meeting of the month only)

EMPLOYEE REPORTS (1<sup>st</sup> meeting of the month only)

CITIZEN COMMUNICATIONS

ADDITION TO THE AGENDA (by majority consent only)

SCHEDULED BUSINESS (1, 2, 3, etc.)

ADJOURNMENT

- B. The deadline for submission of items to be included on regular meeting agendas shall be noon on the Friday immediately preceding the regular meeting.
- C. The Mayor or a majority of the quorum may permit a member to introduce an ordinance, resolution, motion, or agenda item out of the regular order on the printed agenda.
- D. The order of business for special meetings and study/work sessions may differ from that used for regular meetings and will be established prior to the meetings.
- E. No public hearing shall be set for a regular meeting at any time earlier than 7:00 p.m., and the Board shall not proceed to consideration of any public hearing prior to the time set for such public meeting. Petitions and Communications shall not be considered prior to 7:00 p.m.
- F. At 10:00 p.m., if the regular meeting of the Board has not previously been adjourned and the Board votes to adjourn the meeting, all agenda items not previously considered shall be continued to an hour and day set by the Board.

- G. The Town Clerk will have delivered to each Board member, via electronic mail or other means, an agenda showing the order of business and indicating the public hearings to be anticipated as a result of previous action of the Board, Planning or other commissions, or as a result of petitions regularly filed. Also listed will be ordinances, petitions previously presented to the Clerk's office and a list of the reports of special committees, or any other appointed official or department head of the Town.

## **7.2 FILING WITH THE TOWN CLERK/DISTRIBUTION OF COPIES**

- A. Every ordinance, resolution, and document to come before the Board of Trustees for consideration at a regular meeting must be filed with the Town Clerk five days prior to the day on which the Board meets and, for special meetings, 24 hours prior to the day on which the Board meets. The Clerk, at the Board meeting upon its adoption, shall assign a number to each proposed ordinance and resolution filed. It shall be the responsibility of the Town Clerk to have made available to each member of the Board all ordinances, resolutions and documents, submitted no later than noon on the Friday immediately preceding the regular meeting, that will come before the Board for consideration at the meeting.
- B. All public notices and agendas of the Board of Trustees and its appointed boards, commissions and committees shall be posted at least 48 hours in advance at the designated posting place.

## **SECTION 8 – PARLIAMENTARY PROCEDURE**

### **8.1 PROCEDURE OF MOTIONS**

When a question is before the Board, no motion shall be entertained except: a) to fix the hour of adjournment; b) to adjourn; c) to lay on the table; d) for the previous question; e) to postpone to a certain day; f) to refer; g) to amend, and h) to postpone indefinitely. These motions shall have precedence in the order indicated. Any such motion, except a motion to amend and the motion to postpone indefinitely, shall be put to a vote without debate.

### **8.2 MOTIONS TO BE STATED BY CHAIR**

Any member may demand that a motion be put in writing.

### **8.3 WITHDRAWAL OF MOTION**

The mover, with the consent of the Board, may withdraw a motion.

### **8.4 TO ADJOURN – WHEN NOT IN ORDER – NOT DEBATABLE**

A motion to adjourn shall be in order at any time, except as follows: a) when repeated without intervening business or discussion; b) when made as an interruption of a member while speaking; c) when the previous question has been ordered; and d) while a vote is

being taken. A motion to adjourn is debatable only as to the time which the meeting is adjourned.

**8.5**     **MOTION TO LAY ON THE TABLE**

A motion to lay on the table shall preclude all amendments or debate of the subject under consideration. If the motion prevails, the consideration of the subject may be resumed only upon the motion of a member voting with the majority and with the consent of two-thirds of the members present.

**8.6**     **AMENDMENT**

On an amendment to strike and insert, the paragraph to the amended shall first be read as it stands, then the words proposed to be stricken and those to be inserted shall be read, and finally the paragraph as it would stand if so amended shall be read.

**8.7**     **AMEND AN AMENDMENT**

A motion to amend an amendment shall be in order, but one to amend an amendment to an amendment shall not be introduced unless otherwise agreed by the member making the first amendment. An amendment modifying the intention of a motion shall be in order, but an amendment relating to a different matter shall not be in order.

**8.8**     **MOTION TO POSTONE**

All motions to postpone, excepting a motion to postpone indefinitely, may be amended as to time, if a motion to postpone indefinitely is carried, the principal questions shall be declared lost.

**8.9**     **RECONSIDERTION**

After the decision on any question, any member who voted on the prevailing side of the question may move a reconsideration of any action at the same or the succeeding regular meeting, provided, however, that a resolution authorizing or relating to any contract may be reconsidered at any time before the final adoption. After a motion for reconsideration has once been acted on, no other motion for reconsideration shall be made without unanimous consent.

**8.10**    **SPECIAL ORDER**

The consent of a majority of the members present shall be required to add an issue to the agenda or to change the order of the agenda.

**8.11**    **ANONYMOUS COMMUNICATION**

Unsigned communications shall not be introduced to the Board.



## **SECTION 9 – ORDINANCES AND RESOLUTIONS**

### **9.1 INTRODUCTION**

- A. All ordinances, except emergency ordinances, shall be introduced to the Board in printed or written form no later than noon on the Friday immediately preceding the meeting. Emergency ordinances shall be introduced to the Board in the meeting in printed or written form.
- B. All resolutions shall be introduced to the Board in printed or written form no later than noon on the Friday immediately preceding the meeting.

### **9.2 REVIEW**

The Town Attorney shall review all proposed ordinances.

### **9.3 READINGS OF ORDINANCES AND RESOLUTIONS**

Ordinances shall be read in full or by title only where copies are available to the Board. Ordinances will be in effect 30 days following proper publication with the exception of ordinances that are repealed prior to the 30-day limit. All ordinances adopted that contain an emergency clause are effective immediately.

### **9.4 AMENDMENT OF ORDINANCES**

If an ordinance is proposed as an amendment to a previously adopted ordinance, it shall be reported as an amending ordinance. An amending ordinance shall be accompanied by an exhibit showing the part of the original ordinance to be amended, properly identified by page, section or paragraph referenced to the original ordinance, and having a line drawn through the part stricken out and that part added shown in italics or in a different colored ink or underscored. Copies of the exhibit shall be furnished to each member of the Board.

## **SECTION 10 – MISCELLANEOUS**

### **10.1 PERMISSION REQUIRED TO ADDRESS THE BOARD**

- A. Persons shall not be permitted to address the board except upon recognition by the presiding officer.
- B. If anyone, other than a Town official, desires to speak to a member of the Board while the Board is in session, the member, if agreeable to the request and upon approval of the presiding officer, shall rise and retire to the rear of the Board Chambers or elsewhere until the conversation is finished.

**10.2 DELIVERY OF DOCUMENTS TO THE BOARD**

All documents, from whatever source, pertaining to Town business and intended for delivery to members of the Board, must be filed with the Town Clerk or the Town Manager, who shall, in timely order, deliver said documents to all members of the Board.

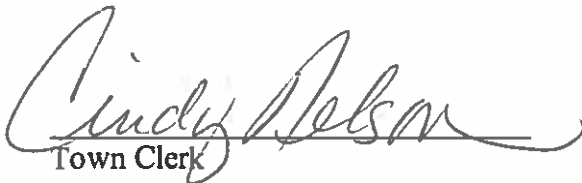
**SECTION 11 – SEVERABILITY**

If any provisions of this Ordinance or the application thereof, to any person or circumstance is held to be invalid, such invalidity shall not affect other provisions and application of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of the Ordinance are declared to be severable.

INTRODUCED, READ AND ADOPTED THIS 7<sup>th</sup> day of March, 2012

  
Mayor

ATTEST:

  
Town Clerk