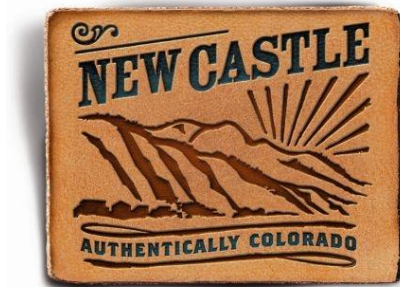


# Candidate Orientation Manual



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## **Town of New Castle**

450 W. Main Street  
PO Box 90  
New Castle, CO 81647

## **Administration**

### **Department**

**Phone:** (970) 984-2311

**Fax:** (970) 984-2716

[www.newcastlecolorado.org](http://www.newcastlecolorado.org)

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## **An Overview of New Castle's Municipal Government A Guide for Town Council Candidates**

### **Your Role and Responsibility**

As a Town Council Member, your job is to represent your constituents and make legislative decisions for the good of the community.

The Town Administrator is the liaison between Town Council and staff activity. The Town Administrator maintains an open-door policy for discussing non-personnel departmental issues with Town Council. Council members are encouraged to call the Town Administrator with any questions regarding agenda items prior to meetings.

"Administration and Departmental Overview" below explains further the structure of the Town's departments regarding specific staff activities.

### **Organizational Structure and Form of Government**

New Castle is a home rule town. This means that we as a community have adopted our own Charter, rather than deferring to statutory state laws. Changes to the Charter must be passed at election. The Charter is included with your candidate packet.

The chosen form of government is Council-Mayor. The Town Council is the legislative body that determines laws and policy for New Castle. The Town Administrator, along with staff, is charged with carrying out the decisions of Town Council and is responsible for making the day-to-day decisions required in the operations of the Town.

There are six Council Members and one Mayor, all representing the Town at-large. Four-year terms are staggered so that at each regular election three Council seats are available.

The Mayor presides at all regular and special meetings of the Council and has the same voting powers as any member of the Council. The Mayor is the ceremonial head of government of the Town. He or she executes legal documents requiring his or her signature as such official.

At the first regular meeting following a general election, the Council appoints one of its members as Mayor Pro Tem, who acts as Mayor during the absence of the Mayor.

New Castle opted out of term limits when it adopted the Home Rule Charter in January 1999. Council Members and Mayor may serve an unlimited number of terms, but must run for election at the end of each four-year term.

## **Town Council Essentials**

### Meetings and work sessions

Regular Council meetings are held on the first and third Tuesdays of each month at 7:00 p.m. Special meetings are called as needed. These official meetings are the only time that Council may make decisions.

Work sessions are held for the purpose of informal discussion and study outside the official meetings. These are scheduled as Council desires.

In accordance with the Town Charter, a Council Member cannot be absent from four consecutive regular meetings of the Council or 25% of the regular meetings of the Council within any 12-month period after being elected; otherwise, the Council Member is deemed to have vacated his or her seat. A majority of the entire Council may vote to excuse one or more absences for unusual and extenuating circumstances.

Council meeting agendas and documents to be reviewed prior to the meeting are distributed on Fridays prior to regular meetings. The deadline for inclusion of an item on the agenda is Thursday at 12:00 p.m. This schedule may vary with holidays. Council Members have mailboxes in the Town Hall, used for delivering information and mail of a general nature. Council Members receive an electronic device for their use during their term to receive town e-mail and for council packet delivery.

Four Council Members are needed to make a quorum and conduct business at a meeting. For most items, a majority vote of those present is needed for passage.

A Councilor should recuse themselves from voting when a conflict of interest exists. If you believe that a conflict exists, it may be appropriate to refrain from participating in discussion, or to even leave the room during discussion. See Appendix II, "Open Records, Open Meetings, and Conflicts of Interest," for guidance.

Council Members have a responsibility to vote either yes or no on motions (unless the Member is recused), abstention is not allowed. In New Castle, abstention is considered a 'yes' vote.

The Mayor and Council Members taking office after the April 2022 election receive compensation of \$1,000 per month and \$500 per month, respectively.

### Public Hearings

A public hearing is for the purpose of obtaining testimony from the public regarding a certain issue or decision. For example, liquor license and zoning issues may require public hearings.

A public hearing may be prefaced by staff comments and/or general statements by the requesting party. Like all Council regular meetings, the hearing is recorded electronically.

This necessitates only one person speaking at a time. After the public hearing has closed, Council may discuss the issue or direct additional questions to staff.

### Ordinances

Ordinances are the local laws that Council enacts, and staff carries out. An ordinance is needed to make budget appropriations, fix compensation, borrow money, levy a tax, establish regulations for which a penalty is imposed, limit the use of private property, or for various other purposes. Ordinances are proposed by Council and/or recommended by staff.

Except for emergency ordinances, ordinances making general codification of existing ordinances, and ordinances adopting standard codes, Council follows this procedure to enact an ordinance:

The ordinance is introduced at any regular or special meeting of the Council.

The ordinance is read in full, or in cases where copies of the ordinance are available to the Council and to those persons in attendance at said Council meeting, the ordinance may be read by title only.

After the first reading of the ordinance, Council approves or rejects the ordinance.

If passed on first reading, the ordinance is published in full on the Town website and posted in at least two public places within the Town.

The ordinance is introduced a second time at a regular or special meeting of the Council held not sooner than 7 days after first publication. The ordinance is read by title and number at the second introduction.

The ordinance may be amended at the second introduction. Any amendments are read in full unless copies of all amendments are available to the Council and to those persons in attendance at the Council meeting.

After the second reading, including any amendments, the ordinance is passed or rejected by a vote of the Council.

After final passage, the ordinance is published by its original title and number on the Town website and posted in at least two public places within the Town. Any amendments in the title or text of the ordinance adopted after the first publication are also published with the second publication. Unless the ordinance provides for a later effective date, it takes effect fourteen days after final publication.

### Resolutions and Policies

A resolution may enact legislation or policy that is not subject to penalties for violation. It may also state Council's opinion or position on an issue. Policies may be adopted to regulate procedures or requirements within varying areas, such as within town departments, and may control the use of town facilities.

### Proclamations

Proclamations are used to designate an appreciation event and are usually requested by a supporting organization.

## Consent Agendas

Consent Agendas are used to expedite routine business. Items on the Consent Agenda do not require discussion by Council. Typical items included on the Consent Agenda are approval of minutes, approval of bills paid by the Town, and liquor license renewals.

Council may request that a certain item be removed from the Consent Agenda and placed under regular agenda items for discussion if desired.

## Basic Parliamentary Procedure

The object of parliamentary rules of order is to facilitate the smooth functioning of meetings. For the most part, Council meetings tend to be informal, with no need to refer to Robert's Rules of Order. However, these are recognized customs in Council meetings: The Mayor is referred to by his or her title, "Mr. /Madam Mayor."

No Council Member should speak until recognized by the Mayor.

The maker of a motion has the right to speak first in debate. No member should speak a second time in debate until all other members have had a chance to speak once.

Speakers should always yield the floor to the Mayor.

These are the steps for presenting a motion:

A Council Member addresses the Mayor: "Mr. Mayor?"

The Mayor recognizes the Member: "Councilor Smith."

The Member proposed a motion: "I move that . . . ."

Another member seconds the motion: "Second" or "I second the motion." This only shows that the member agrees that the motion should be debated, not necessarily that s/he favors it.

The Mayor states the motion and opens debate: "It has been moved and seconded that . . . . Is there any discussion/debate?"

Council debates the motion.

The Mayor calls for a vote on the motion. The Town Charter requires votes by "yes" or "no" (not "yea," "aye," or "nay"). Roll call votes are taken on ordinances; votes on other matters may be by voice vote only. Every Council Member, when present, must vote upon ordinances and resolutions, except when s/he has a conflict of interest.

The Mayor announces the results of the vote.

## Open Meetings/Executive Sessions

The Colorado Open Meetings Law, also known as the "Sunshine Law," provides that any meeting of a quorum of the Council, or 3 or more Council Members, whichever number is less, at which public business is discussed, is a meeting open to the public, and with respect to such a meeting, 24 hours' notice of the meeting must be given, and minutes of the meeting must be kept. Council Members should take care to discuss public business with each other only in Council meetings. An exception to this is a chance meeting or social gathering for a purpose other than discussing public business. See Appendix II for more details.

Another exception to the open meeting requirement is the executive session. Executive Sessions must meet limited legal criteria and be for the purpose of receiving legal advice

regarding a specific negotiation, litigation, personnel issue, or other subject that is protected by law. See the attachment on executive sessions.

Budget

The Town uses a fund budgeting system. Monies collected from specific revenue sources are kept separate from others and used only to pay for certain activities that are related to that source. For example, revenue gathered from utility bills can only be used for expenses related to supplying utility services. In this manner, the Town operates a number of different "companies," each with their own revenues and expenses. The reason for this budgeting system is to assure the public that fees and taxes collected are being used only for the purposes for which they are intended. Each fund has its own set of accounting records detailing its financial condition. Thus, it is possible for one of the Town's "businesses" to be financially healthy while another has a deficit that is funded by reserved monies. One major difference is that while a private company can move money from a healthy fund to one that is not doing as well, the Town is more restricted in making such transfers. Those restrictions work to assure that the public is paying the true cost of whatever services they are receiving and that they are not subsidizing other services.

The Town operates the following funds:

<u>Fund Name</u>	<u>Major Revenues</u>	<u>Major Expenses</u>
General Fund	Sales and use taxes, property taxes, franchise fees, license and permit fees	Administration, Building Inspection, Police, Park Maintenance, Recreation, Street and Public Building Maintenance
Utility Fund	Payment of utility bills and tap fees	Costs associated with providing water, sewer and trash collection services
Conservation Trust Fund	State lottery proceeds	Improvements to new and existing parks
Cemetery Fund	Sale of plots at Town's Highland Cemetery	Maintenance of cemetery

In its budget, the Town uses a cash basis of accounting. Revenues are recognized when they are collected, and expenses are recorded when payment is made. This differs from the accrual basis, in which revenues are recorded when they become receivable, generally before the money is actually received, and expenses are recorded when the liability is incurred, rather than when payment is actually made.

By October 15<sup>th</sup> of each year, the Town Administrator presents Council a draft budget for the following calendar year. Work sessions on the budget are scheduled as needed. Following a public hearing, Council adopts the budget by resolution in early December. Attached is a copy of the 2020 Town budget.

Elections

Regular elections are held in even-numbered years on the first Tuesday following the first Monday in April. Council candidates are voted upon, as well as any measures referred by Council or initiated by citizens. Candidate nomination petitions are available in early

January.

All municipal elections are non-partisan. No candidate for any municipal office may run under a party label of any kind.

A special election may be conducted if needed. If Garfield County is conducting an election at the same time as the Town's special election, the Town and County could conduct a coordinated election.

### Liquor Licensing

Town Council serves as the Local Licensing Authority regarding liquor licensing issues. The Town Clerk's office administers the licenses, with Council having the decision-making authority.

The most common actions requested of Council include annual license renewals, new license applications, and transfers of ownership of existing licenses. Council also has the authority and responsibility to take action and call for hearings in the event of liquor code violations.

A Special Event Permit is a one-day liquor license and may be requested by a non-profit organization that meets certain qualifications.

### Administration and Departmental Overview

Attached is an Organizational Chart for New Castle Town Government.

The **Town Administrator** is appointed by Town Council and is the Chief Administrative Officer of the town staff. This office prepares the budget with fiscal guidance from the Town Treasurer and input from each department director and Town Council.

The **Town Clerk** is appointed by the Town Council. The Clerk is responsible for preparing agendas, packets and minutes for Council and Town Commissions, customer reception at Town Hall, managing Town records, issuing animal, business, contractor and tobacco licenses, billing for utility services, conducting elections, selling cemetery lots, administering the Town web site, and providing support services to other town departments. The Town also provides trash collection and recycling services to residents by contract with a non-governmental organization.

The **Town Treasurer** is appointed by Town Council, conducts all fiscal activity of the Town, including investments, debt, accounting, and payroll, and provides fiscal control and support for implementing the annual budget.

The **Building/Planning Department** conducts plan reviews, issues building permits and certificates of occupancy, and inspects commercial and residential buildings/structures during their installation.

The **Public Works Department** maintains and improves the Town's streets, sidewalks, public buildings, utilities and parks and inspects street and sidewalk infrastructure during



its installation.

The **Water / Wastewater Department** operates the Town's water treatment facilities and sanitary sewer collection system and inspects water and sewer infrastructure during its installation.

The **Police Department** is charged with protecting the safety of the public and enforcement of Town ordinances, as well as state and federal laws.

The **Municipal Court** has a part-time Judge and a part-time Prosecutor, appointed directly by and accountable to Town Council. The Court convenes on the 2<sup>nd</sup> Monday of each month at 8:30 a.m. in the Council Chambers at Town Hall.

The **Recreation Department** operates extensive programs for both children and adults and is also in charge of renting the Community Center to individuals and groups. Administrative offices are located at the Community Center, across the street from Town Hall.

Council retains a part-time **Town Attorney**, a part-time **Town Engineer**, each on a contracted basis.

### **Commissions and Committees**

The attached lists describe the various citizen Commissions and Committees, as well as Council Committees.

1.

# Home Rule Charter

**HOME RULE CHARTER**

for the

**TOWN OF NEW CASTLE, COLORADO**

Adopted January 12, 1999

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CERTIFICATE OF ADOPTION

### **Prefatory Synopsis**

With sincere conviction in the belief that the citizens of the Town of New Castle are deserving of all the rights, responsibilities and privileges of self-government afforded any Colorado municipality, the Home Rule Charter Commission respectfully submits to the Town's electorate this Home Rule Charter which is framed in conformity with Article XX of the Colorado Constitution.

The Charter reflects the Commission's underlying ideology, that elected officials and employees of the Town provide a representative and economical government which is at all times accountable to the citizens. Where appropriate, this document has been written without redundancy regarding the protections offered under the Constitutions of the United States and the State of Colorado, in order to ensure future flexibility in governance and equitable freedoms for all our citizens.

Consistent with the Board-Mayor structure that presently governs the Town, the Charter provides for a Council-Mayor form of government. The elected body includes six council members and a Mayor who are elected to four year terms on a rotating basis to assure continuity in Town government. Municipal elections will be held in April of even numbered years. The current members of the Board of Trustees will serve out their elected terms as members of the Town Council under the new Charter. Through the municipal election process, the people of the Town have the ultimate power governing how long an individual is permitted to serve on the Council.

The Charter includes several new procedures that are meant to maximize the flow of information to the Town's citizens and encourage participation by every member of the community. Some highlights of the new procedures include the requirement of two readings and advanced publication of ordinances before passage by the Council. This Charter also grants the Town new powers, such as the power of eminent domain outside our municipal boundaries.

The intent of the Charter is not to institute dramatic changes in the Town's government. Existing ordinances will stay in effect unless superceded by provisions of the Charter. As the Town's needs and desires change, flexibility in our government will be enhanced by our ability to institute laws, procedures, and boards and commissions through ordinances. Additionally, this design strengthens the voice of our citizens and their ability to become involved in local government by providing for the electorate's rights of referendum, petition and recall.

Although the Charter can be amended if the need arises, it has been written as a document intended to serve the citizens of the Town of New Castle for many years to come. The Charter is designed to balance the power of government among the elected representatives, the judicial system, and the direct voice of the people. Through this balance the Charter provides for a responsible government that will maintain and enhance the quality of life for the community, work for the good of the Town as a whole, and respond to the needs and concerns of the citizens.

We believe this Charter fosters democracy and ensures a lasting municipal government that is truly “of the People, for the People and by the People.”

### **Preamble**

We, the people of New Castle, Colorado, under authority granted by the Constitution of the State of Colorado, do ordain and establish this Charter for the Town government of New Castle.

## **Article I - General Provisions**

### **Section 1.1     Name and Boundaries**

The municipal corporation heretofore existing as the Town of New Castle, which is located in Garfield County, State of Colorado, shall remain and continue as a body politic and corporate and under this Charter be known as the Town of New Castle, with the same boundaries, until changed in a manner authorized by law.

### **Section 1.2     Powers**

The Town shall have all the power of local self-government and home rule and all power possible for a city or town to have under the Constitution and laws of the State of Colorado. The enumeration of particular powers in this Charter is not exclusive of others.

### **Section 1.3     Rights and Liabilities**

By the name of the Town of New Castle, the municipal corporation shall have perpetual succession; shall own, possess and hold all property, real and personal heretofore owned, possessed and held by the said Town of New Castle, including water rights, and shall assume and manage and dispose of all trusts in any way connected therewith; shall succeed to all the rights and liabilities and shall acquire all benefits and shall assume and pay all bonds, obligations and indebtedness of said Town of New Castle; may purchase, receive, hold and enjoy or sell and dispose of real and personal property, including water rights, and may sue, defend, plead and be impleaded in all courts and places and in all matters and proceedings; and may have and use a common seal and alter the same.

### **Section 1.4     Existing Ordinances to Remain in Force**

All ordinances of the Town in force at the time that this Charter becomes effective shall remain in full force and effect, except as they may conflict with the provisions of this Charter, or shall be amended or repealed by ordinance enacted under authority of this Charter.

### **Section 1.5     Form of Government**

The municipal government provided by this Charter shall be known as the Council-Mayor form of government. Pursuant to the Charter provisions and subject only to limitations imposed by the State Constitution and by this Charter, all powers of the Town shall be vested in an elective Mayor and elective Council, hereinafter collectively referred to as the “Council.” The Council shall determine policies, enact local legislation, adopt budgets, and may appoint a Town Administrator and may delegate executive and administrative functions to the Mayor and/or the Town Administrator as it sees fit. The Mayor and/or the Town Administrator, if appointed, shall execute the laws and administer the Town government. All powers of the Town shall be exercised in a manner consistent with the provisions of this Charter. If the manner be not expressly prescribed in the Charter, then they shall be exercised as may be prescribed by ordinance or resolution, or by other applicable law.

**Article II - Elections****Section 2.1**     Colorado Municipal Election Laws Adopted

All Town elections shall be governed by the Colorado Municipal Election Code of 1965, as now existing or hereafter amended or modified, except as otherwise provided in this Charter, or by ordinance.

**Section 2.2**     Time of Elections

All regular elections of the Town shall be held on the first Tuesday following the first Monday of April in each even numbered year. Any special election of the Town shall be called by ordinance enacted at least 30 days in advance of such election. The ordinance calling a special election shall set forth the purpose of such election.

**Section 2.3**     Non-Partisan Elections

All municipal elections shall be non-partisan. No candidate for any municipal office shall run under a party label of any kind.

**Section 2.4**     Elective Officers

The elective officers of the Town shall be six Council Members and one Mayor, who shall be a member of the Council, all of whom shall be nominated and elected from the Town at large unless otherwise provided by ordinance in accordance with this Charter. Nominations shall be by petition as provided in the Colorado Municipal Election Code of 1965 as now existing, or hereafter amended or modified, except that 15 signatures shall be required on each petition. Notwithstanding the provisions of the Colorado Municipal Election Code, a registered elector may sign any number of nominating petitions regardless of the number of separate offices to be filled in any municipal election.

After January 1, 1999, the Council shall have the authority to provide for election of the Council Members other than the Mayor by Districts, provided that the ordinance is enacted more than (six) 6 months prior to the first election date to which it would apply. Said Districts shall be contiguous, compact, and have approximately the same number of registered voters. The Mayor, however, shall always be elected from the Town at large.

**Section 2.5**     Election Precincts

The Town shall consist of one (1) voting precinct, provided that the Town Council may, for the convenience of voters, establish precincts thirty (30) days or more prior to any election. Any precincts so established shall remain for subsequent elections until otherwise provided by ordinance.

**Section 2.6**     Election Procedures

The establishment of regulations on registration, judges, and clerks, and the conducting of elections shall be governed by the Colorado Municipal Election Code as now existing, or hereafter amended or modified, except as otherwise provided in this Charter, or by ordinance.

**Section 2.7**     Recall

Any elected officer of the Town may be recalled at any time after six (6) months in office by the electors entitled to vote for a successor of such incumbent, as provided for in Article XXI of the Colorado Constitution. Consistent with the Constitution and this Charter, the Council may provide by ordinance for further recall procedures.

### Article III - Town Council

#### Section 3.1 Town Council

There shall be a Town Council consisting of six Council Members and one Mayor, who shall act as and be considered as a Council Member. The Council shall be the governing body of the Town and shall have all legislative powers and other powers possessed by the Town not otherwise limited or conferred upon others by this Charter. These powers shall include but not be limited to the power to own and transfer property, the power of taxation, the power to provide for health, safety, welfare and morals, and the power of eminent domain. No enumeration of particular powers shall in any way limit or impair any other powers or any general grant of powers by this Charter, the Constitution, or other law.

#### Section 3.2 Terms of Office

Each Council Member and the Mayor shall be elected for a term of four years. Three Council Members shall be elected at the general election in April of 2000 and every four years thereafter. Three Council Members and the Mayor shall be elected at the general election in April of 2002 and every four years thereafter, subject to the provisions of Section 3.6 of this Article. Notwithstanding the provisions of Section 11, Article XVIII of the Colorado Constitution, no elected official of the Town shall be subject to any limitation on the number of terms of office that such official may serve.

#### Section 3.3 Qualifications for Elected Office

Each Council Member and the Mayor when nominated and elected, and during his or her entire tenure in office, shall be a qualified elector of the Town and shall have resided for at least one year preceding the election in an area that is within the Town as of the time of the election. No Council Member nor the Mayor shall be a paid employee of the Town. The term of any Council Member or the Mayor shall terminate when he or she no longer resides within the Town Limits of the Town of New Castle.

#### Section 3.4 Duties of the Mayor

The Mayor shall preside at all regular and special meetings of the Council and shall be required to vote except as otherwise provided herein. The Mayor shall act as the ceremonial head of government of the Town. He or she shall execute and authenticate legal instruments and documents requiring his or her signature as such official.

#### Section 3.5 Mayor Pro Tem

At the first regular meeting following a general election, the Council shall appoint one of its Members as Mayor Pro Tem, who shall act as Mayor during the absence of the Mayor with all powers herein granted to the Mayor. Such appointment shall be made by a majority of the Council Members present constituting a quorum.

#### Section 3.6 Vacancies

##### (A) Occurrence of a Vacancy

A vacancy shall occur whenever a Council Member dies, becomes incapacitated, or resigns. A vacancy shall also occur whenever a Council Member fails to attend four consecutive regular meetings of the Council or fails to attend at least seventy-five percent (75%) of the regular meetings of the Council within any twelve (12) month period after being elected, provided, however, that a majority of the entire Council may vote to excuse one or more absences for unusual and extenuating circumstances. An excused absence shall not



be counted for the purpose of this provision. For the purpose of this provision only, to "attend" a meeting means to attend a substantial portion of such meeting as determined by a majority of the entire Council.

(B) Procedure to Fill Vacancy

Whenever a vacancy occurs more than ninety (90) days prior to the next general election, the Council may either appoint a replacement or call a special election to replace such person. If the Council fails to appoint a replacement within sixty (60) days following the occurrence of the vacancy, then the Council shall schedule a special election to be held within ninety (90) days after such failure, unless a general election is already scheduled within that time period. If a vacancy occurs within ninety (90) days of the next general election, then the office shall remain vacant, and a replacement shall be elected at such general election.

If three or more vacancies exist on the Council at any given time, then the Council shall immediately schedule a special election to take place within sixty (60) days after the occurrence of the third vacancy, unless a general election is already scheduled within ninety (90) days.

Any person appointed or elected to the Council due to a vacancy shall serve the remainder of the term of office for such position, except that a Mayor appointed or elected due to a vacancy shall serve only until the next general election. If a current Council Member is appointed or elected as Mayor, that Council Member's former seat shall become vacant upon the effective date of the appointment or election, and a replacement shall be appointed or elected in accordance with this Section.

Section 3.7 Council Meetings

(A) Regular Meetings

The Council shall hold regular meetings not less than once per month, at a time and place as established by ordinance.

(B) Special Meetings

Special meetings of the Council shall be called by the Town Clerk on the request of the Mayor or at least three Council Members. At least twenty-four hours prior to such meeting, the Clerk shall post a notice of the meeting in at least two public places within the Town and shall provide reasonable notice to all Council Members of the meeting. Council Members shall have the duty to keep the Clerk informed of their preferred method of receiving notice for this and other provisions of this Charter. A special meeting may be held on shorter notice if a quorum of the Council consents.

(C) Organizational Meeting

The Council shall appoint the Mayor Pro Tem and conduct such other organizational business as it sees fit during the first regular meeting following a general election.

(D) Meetings Open to the Public - Executive Sessions Authorized

All meetings of the Council shall be open to the public. Executive sessions may be conducted during regular or special meetings of the Town Council pursuant to the provisions of the laws of the State of Colorado as may be enacted from time to time. In addition to subjects authorized by State law, any matter covered by the attorney-client privilege may be discussed during executive session. Executive sessions shall not be "meetings" for the purpose of this Section.

(E) Quorum

A majority of the Council Members in office at the time shall be a quorum for the transaction of business at all council meetings.

Section 3.8 Oath of Office

Before entering upon the duties of their respective offices, every person elected or appointed to any office shall take and file with the Town Clerk an oath or affirmation to support the Constitution of the United States, the Constitution of the State of Colorado, and the Charter and ordinances of the Town of New Castle, and to faithfully perform the duties of the office.

Section 3.9 Compensation of Elected Officials

The compensation for the Mayor and other Council Members shall be as established by ordinance from time to time; provided, however, that any change or increase passed during a Council Member's current term of office shall not take effect with respect to that Council Member until a subsequent term, if any.

Section 3.10 Council/Administration Relations

Except for informal inquiry, Council Members shall deal with Town administrative personnel and employees solely through the Mayor and shall not give orders directly to Town employees. The Mayor, whenever feasible, shall deal with Town administrative personnel and employees solely through the Town Administrator.

Section 3.11 Independent Annual Audit and Report

An independent audit shall be made annually of all financial affairs of the Town, and more frequent audits may be made if deemed necessary by the Council. Such audits shall be made by registered or certified public accountants, experienced in municipal accounting, selected by the Council.

Copies of such audits shall be made available for public inspection at the office of the Town Clerk.

#### **Article IV - Town Council Procedures**

Section 4.1 Ordinances, Resolutions, and Motions

All actions of the Council shall be by ordinance, resolution, or motion. In addition to such Council acts that are required by other provisions of this Charter to be by ordinance, every action making an appropriation, creating an indebtedness, authorizing the borrowing of money, levying a tax, establishing any rule or regulation for the violation of which a penalty is imposed, disposing of any municipally-owned real estate, or placing any burden upon or limiting the use of private property, shall be by ordinance; provided, however, that this Section shall not apply to the annual appropriation and budget procedures set forth in Article IX of this Charter, nor shall an ordinance be required to levy an ad valorem tax. Ordinances making appropriations shall be confined to the subject of appropriation.

Section 4.2 Voting

A roll call vote by "yes" or "no" shall be taken upon the passage of all ordinances and entered upon the minutes of the Council proceedings. Except as otherwise provided herein, all ordinances, motions, and resolutions shall require the affirmative vote of the majority of the Council members present and entitled to vote for final passage. Every Council Member, when present, must vote upon ordinances and resolutions, except he or she shall be excused from voting on matters involving the consideration of his or her own official

conduct or when his or her personal or financial interest is involved. If a Council Member who is present, entitled to vote, and not excused from voting nevertheless fails to vote, his or her vote shall be counted as a vote in the affirmative.

#### Section 4.3 Procedure for Ordinances

Except for emergency ordinances, ordinances making general codification of existing ordinances, and ordinances adopting standard codes, the following procedure for enactment of ordinances shall be followed:

(A) The ordinance shall be introduced at any regular or special meeting of the Council by any Council Member.

(B) The ordinance shall be read in full, or in cases where copies of the ordinance are available to the Council and to those persons in attendance at said Council meeting, said ordinance may be read by title only.

(C) After the first reading of the ordinance, the same shall be approved or rejected by a vote of the Council.

(D) If passed upon first introduction, the ordinance shall be published in full in a local newspaper of general circulation and also posted in at least two public places within the Town, except as otherwise provided herein.

(E) The ordinance shall be introduced a second time at a regular or special meeting of the Council held not sooner than seven (7) days after first publication. The ordinance shall be read by title and number at the second introduction.

(F) The ordinance may be amended as to form at the second introduction. Any amendments shall be read in full, unless copies of all amendments are available to the Council and to those persons in attendance at said Council meeting.

(G) After the second reading, including any amendments, the ordinance shall be passed or rejected by a vote of the Council.

(H) After final passage, the ordinance shall be published by its original title and number. Any amendments in the title or text of the ordinance adopted after the first publication shall also be published with the second publication. The publication shall contain a notice regarding the effective date. Unless the ordinance provides for a later effective date, it shall be in force and take effect fourteen days after final publication.

#### Section 4.4 Form of Ordinances

Every ordinance shall be in written or printed form. The enacting clause of all ordinances shall be, "BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF NEW CASTLE, COLORADO." Failure of the enacting clause to comply with this section shall not invalidate the Ordinance.

#### Section 4.5 Disposition of Ordinances

A true copy of every ordinance, as adopted by the Council, shall be numbered and recorded, and adoption and publication shall be authenticated by the signatures of the Mayor and the Town Clerk and by the certificate of the publisher. Copies of the original ordinances and the proofs of publication of same shall be kept and be available for public inspection in the office of the Town Clerk.

**Section 4.6**     Codes Adopted by Reference

Standard codes, promulgated by the Federal Government, the State of Colorado, or any agency of either, or by any municipality within the State of Colorado, or by recognized trade or professional organizations, or amendments or revisions thereof, may be adopted by reference without the requirement for publication in full, but otherwise as provided by Section 4.3 of this Charter, and provided, however, that any penalty clause in said codes shall be set forth in full and published with the adopting ordinance. The publication of the adopting ordinance shall advise that copies of the code to be adopted by reference are available for inspection at the office of the Town Clerk.

**Section 4.7**     Emergency Ordinances

(A)     An ordinance that is immediately necessary for the preservation of public peace, health, safety or welfare may be enacted as an "emergency ordinance" at any regular or special meeting of the Council by the affirmative vote of every Council Member present or by affirmative votes equal to a quorum plus one, whichever is less. Any emergency ordinance shall state expressly that it is an emergency ordinance and shall describe the nature of the emergency. An emergency ordinance shall take effect immediately upon passage and shall be published in full as soon as reasonably possible.

(B)     No ordinance granting any special privilege, levying taxes, or incurring indebtedness shall be passed as an emergency ordinance.

**Section 4.8**     Severability of Ordinances

Unless an ordinance shall expressly provide to the contrary, if any portion of an ordinance or the application thereof to any person or circumstances shall be found to be invalid by a court of competent jurisdiction, such invalidity shall not affect the remaining portions or applications of the ordinance that can be given effect without the invalid portion or application; provided such remaining portions or applications are not determined by the court to be inoperable, and to this end ordinances are declared to be severable.

**Article V - Initiative and Referendum****Section 5.1**     Initiative and Referendum

An ordinance may be submitted by petition, or a referendum on an enacted ordinance may be had by petition, or the Council may, on its own motion, submit an ordinance or any other matter to the electorate as hereafter provided.

**Section 5.2**     Ordinances Excepted from Referendum

Anything to the contrary notwithstanding, ordinances authorizing the issuance of bonds, levying taxes, appropriation ordinances and those ordering improvements to be paid for by special assessments, and those declaring an emergency shall be excepted from the referendum.

**Section 5.3**     Petition Requirements

An initiative or referendum petition shall be signed by qualified electors of the Town equal in number to ten percent (10%) of the number of persons who were registered electors of the Town as of the date of the last general election. All signatures on said petition shall be obtained within twenty-one (21) days before the date of filing the petition with the Clerk. Any such petition shall be addressed to the Council and may be the aggregate of two or more petition papers identical as to content and simultaneously filed by one person. An initiative petition shall set forth in full the ordinance it proposes to initiate, and no petition shall propose to initiate more than one ordinance. A referendum petition shall identify the ordinance or part thereof or code

section it proposes to have approved or repealed. Each signer of a petition shall sign his or her name, the date, and his or her place of residence by street and number, or by other customary designation. To each petition paper, there shall be attached a sworn affidavit by the circulator thereof stating the number of signers thereof, and that each signature thereon is the genuine signature of the person whose name it purports to be, and that it was made in the presence of the affiant. Such petition shall be filed with the Clerk who shall, within fifteen (15) days, canvass the signatures thereon. If the petition does not contain a sufficient number of signatures of qualified electors of the Town, or if any other error or insufficiency be found in the petition, the Clerk shall notify forthwith by registered mail the person filing such petition, and ten days from such notification shall be allowed for filing of supplemental or corrected petition papers. When a petition with sufficient signatures is filed within the time allowed by this section, the Clerk shall present the petition to the Council at its next regular meeting.

#### Section 5.4 Time for Submission of Referendum Petition C Suspension of Ordinance

Any person seeking a referendum on an enacted ordinance shall submit to the Town Clerk a written notice of intent to circulate a referendum petition within fourteen (14) days after final publication of the subject ordinance, and the Town Clerk shall promptly transmit same to the Council. The petitioner shall then file the referendum petition with the Clerk within fourteen (14) days of submission of the notice of intent to circulate. Upon filing of the notice of intent, the ordinance shall be suspended and shall not go into effect unless:

(A) Fourteen (14) days have passed since the filing of the notice of intent, and no referendum petition has been filed with the Town Clerk; or

(B) A petition is filed but is declared to be insufficient by the clerk, and sufficient supplemental or corrected petition papers are not filed in the time and manner provided by Section 5.3; or

(C) The subject ordinance has been approved by the electorate in accordance with the provisions of this Charter.

#### Section 5.5 Procedure on Petitions

Upon presentation to the Council of an initiative or referendum petition by the Clerk, the Council shall, within thirty (30) days, either:

(A) Adopt the ordinance as submitted by an initiative petition; or

(B) Repeal the ordinance, or part thereof, referred by a referendum petition; or

(C) Determine to submit the proposal provided for in the petition to the electors.

If the Council adopts the ordinance, it shall follow the procedures and publication requirements for all other ordinances as provided in Chapter IV. If the Council submits a proposed ordinance to the electorate, the proposed ordinance shall be published in full at least thirty days prior to the election, subject to the exceptions provided in Section 4.6 of this Charter. If approved, the ordinance shall be re-published and shall take effect in the same manner and time as other ordinances passed after second introduction.

#### Section 5.6 Submission of Initiative and Referendum to Electors

Should the Council decide to submit the proposal to the electors, or should they, on their own motion, submit an ordinance or other matter to the electors, it shall be submitted at the next regular or special Town election held in the Town for any other purpose, or in the discretion of the Council at a special election called for that specific purpose. Any petition submitted to the Council less than sixty (60) days prior to the next scheduled election may, at the discretion of the Council, be held over and submitted at the first election

thereafter. In the case of an initiative petition, if no election at which the proposal may be considered is to be held in the Town for any other purpose within one hundred fifty (150) days from the time the petition is submitted to the Council, and it does not enact the ordinance, then the Council shall call a special election within ninety (90) days from such date of presentment for the submission of the proposal. The result of all elections held under the provisions of this section shall be determined by a majority vote of the electors voting thereon.

#### Section 5.7 Miscellaneous Provisions on Initiative and Referendum

An ordinance adopted by the electorate may not be amended or repealed for a period of six (6) months after the date of the election at which it was adopted, and an ordinance repealed by the electorate may not be re-enacted for a period of six months after the date of the election at which it was repealed; provided, however, that any ordinance may be adopted, amended, or repealed at any time by appropriate referendum or initiative procedure in accordance with the foregoing provisions of this Charter, or if submitted to the electorate by the Council on its own motion. If two or more ordinances adopted at the same election shall have conflicting provisions, the provisions in the ordinance receiving the highest number of affirmative votes shall govern.

### **Article VI - Town Administration**

#### Section 6.1 Town Administrator

The Town Administrator, if appointed, shall be the chief administrative officer of the Town. If no Town Administrator is appointed, or if the office becomes either permanently or temporarily vacant, the Mayor shall have all the duties and powers of the Town Administrator.

#### Section 6.2 Appointment and Qualifications of Town Administrator

The Town Council may appoint a Town Administrator if and when it sees fit. Such appointment shall be made on the basis of fitness, competency, training and experience in professional urban administration. The Town Administrator, if appointed, shall serve at the pleasure of the Town Council and may be removed by the Council at any time with or without cause.

#### Section 6.3 Powers and Duties of the Town Administrator

The Town Administrator shall enforce the laws and ordinances of the Town, shall have the duty and authority to hire, suspend, transfer and remove any Town Employee except for those employees directly appointed by the Council, and other powers and duties as provided by ordinance.

#### Section 6.4 Other Appointed Positions: Treasurer and Town Clerk

The Council shall appoint a Town Clerk. The Clerk shall be the custodian of the Town Seal and shall keep records of Council proceedings and record in full all ordinances, motions, and resolutions. The Town Clerk shall have the power to administer oaths and take acknowledgments under the seal of the Town and shall perform such other duties as required by this Charter or the Council.

The Council shall appoint a Town Treasurer, who shall have charge of the financial records of the Town and shall collect, receive and disburse all monies belonging to the Town and shall have all other duties required to administer properly the financial affairs of the Town.

Unless otherwise prohibited by this Charter or by ordinance, the Town Council may appoint any one person to multiple positions.

## **Article VI - Boards and Commissions**

### **Section 7.1     Existing Boards and Commissions**

All existing Boards and Commissions shall continue as established by ordinance, except as otherwise provided by ordinance or this Charter.

### **Section 7.2     General Provisions**

The Town Council may establish Boards and Commissions and provide for their powers and duties, and the Council may consolidate, merge, or abolish any of the said Boards or Commissions. The establishment, consolidation, merger, or abolishment of any Boards or Commissions shall be accomplished only by ordinance, except that the Council may create, merge, or abolish Advisory Commissions by resolution. The ordinance establishing a Board or Commission, or the resolution establishing an Advisory Commission, shall provide for any required qualifications of Board and Commission members, the terms of office for such members, and the method of appointment. Unless otherwise provided by the establishing ordinance or resolution, the Council shall make appointments to fill vacancies for unexpired terms. Unless otherwise provided by this Charter or the establishing ordinance or resolution, each Board and Commission shall choose its own chairperson from its members and adopt and follow its own rules of procedure.

All meetings shall be open to the public. Copies of all records and minutes of all meetings shall be kept and placed in the office of the Town Clerk for public inspection. Reports shall be made to the Council as the Council shall require. Members of Boards and Commission shall not be paid, but they may be reimbursed for their reasonable expenses. Members of Boards and Commissions may be removed by the Town Council only for cause.

## **Article VIII - Town Attorney and Municipal Court**

### **Section 8.1     Town Attorney**

The Council shall appoint a Town Attorney, who shall be the legal representative of the Town and shall advise the Town Council and Town officials in matters relating to their official powers and duties and legal matters affecting the Town of New Castle. The Town Attorney or his or her assistants shall represent the Town in legal proceedings and shall assist with the drafting of ordinances and resolutions and the preparation of other legal documents. The Town Attorney shall be an attorney-at-law licensed and admitted to practice in the State of Colorado. The Council shall establish the compensation to be paid to the Town Attorney, and the Council may remove the Town Attorney at any time with or without cause. The Town Attorney may use associated counsel. The Town Council may also retain the services of special counsel for any matter and may, in its discretion, delegate any duty of the Town Attorney to such special counsel.

### **Section 8.2     Municipal Court**

There shall be a Municipal Court which shall have jurisdiction to hear and try all alleged violations of this Charter and the Town ordinances. The Municipal Court shall have all jurisdiction as is provided under state statutes and rules promulgated by the Colorado Supreme Court. The Municipal Court shall be a qualified Municipal Court of Record and shall keep a verbatim record of all proceedings and evidence at trials by either electronic or stenographic means.

### **Section 8.3     Municipal Judge**

The Council shall appoint a Municipal Judge. The Council may establish by ordinance the position(s) of one or more Assistant Municipal Judges as may be reasonably necessary to insure the prompt and expeditious determination of Municipal Court matters. The Council may also appoint substitute municipal

judges as circumstances may require in case of temporary absence, sickness, disqualification, or other inability of the presiding or assistant municipal judges to act.

The Municipal Judge shall be appointed for a term of two (2) years, and any vacancy shall be filled by appointment by the Council for the remainder of the unexpired term. The Council shall determine the salary for the Municipal Judge, which shall not be increased during the two-year term. The Municipal Judge shall be removable only for cause. A judge may be removed for cause if:

- (A) He or she is found guilty of a felony or a crime of moral turpitude;
- (B) He or she has a disability which interferes with the performance of his or her duties and which is or is likely to become of a permanent character;
- (C) He or she has willfully or persistently failed to perform his or her duties;
- (D) He or she is habitually intemperate or lacking restraint.

### **Article IX - Town Finances**

#### Section 9.1 Fiscal Year

The fiscal year of the Town shall commence on the first day of January or on such date each year as may be fixed by the Council.

#### Section 9.2 Budget

The Town Administrator or such other Town staff as the Council may designate shall be the Budget Officer and shall annually prepare a budget and accompanying message, which shall be submitted to the Council by October 15 of each year. The budget shall provide a complete financial plan for all town funds and activities for the ensuing fiscal year, and, except as required by law or by this Charter, shall be in such form as the Budget Officer deems desirable or the Council may require. In organizing the budget, the Budget Officer shall utilize the most feasible combination of expenditure classification by fund, organization unit, program, purpose or activity and object. It shall begin with a clear statement showing comparative figures for income and expenditures of the preceding fiscal year. The Budget Officer may require spending agencies and departments within the Town to submit estimates of their expenses for the coming fiscal year and any special requests prior to the deadline to submit the budget to the Council.

#### Section 9.3 Capital Program

The Budget Officer shall prepare a long-range capital program and shall submit the same to the Council no later than the time the budget is submitted to the Council.

#### Section 9.4 Budget Hearing

A public hearing on the proposed budget and proposed capital program shall be held before the budget's final adoption at such time and place as the Council may direct. Notice of such public hearing and notice that the proposed budget and capital program are on file for public inspection in the office of the Town Clerk shall, at least seven (7) days prior to the hearing, be published one time and posted in at least two public places within the Town.



#### Section 9.5 Budget Amendment After Public Hearing

After the public hearing, the Council shall give due consideration to the input of the public and any issues raised at the hearing, and it may then proceed to adopt the budget with or without amendment. In amending the budget, it may add or increase programs or amounts and may delete or decrease any programs or amounts, except expenditures required by law or for debt service or for estimated cash deficit.

#### Section 9.6 Budget Adoption

The Council shall adopt the budget by resolution on or before the final day established by law for the certification of the ensuing year's tax levy to the County. If it fails to adopt the budget by this date, the amounts appropriated for the current operation for the current fiscal year shall be deemed adopted for the ensuing fiscal year on a month-to-month basis, with all items in it prorated accordingly, until such time as the Council adopts the budget for the ensuing fiscal year.

#### Section 9.7 Property Tax Levy

Adoption of the budget by the Council shall constitute appropriations of the amounts specified therein as expenditures from the funds indicated and shall constitute a levy of the property tax therein proposed. The Council shall cause the same to be certified to the County Assessor as required by law.

#### Section 9.8 Contingencies

The budget shall include an item for contingencies. Except in those cases where there is no logical account to which an expenditure can be charged, expenditures shall not be charged directly to contingencies; but, instead, the necessary part of the appropriation for contingencies shall be transferred to the logical account, and the expenditure charged to such account. No such transfer, appropriation, or expenditure shall be made except by ordinance or resolution, and then only for expenditures which could not readily be foreseen at the time the budget was adopted.

#### Section 9.9 Amendments after Adoption

(A) *Supplemental Appropriations.* If, during the fiscal year, the Town Administrator certifies that there are available for appropriation revenues in excess of those estimated in the budget, the Council by ordinance may make supplemental appropriations for the year up to the amount of such excess.

(B) *Emergency Appropriations.* To meet a public emergency affecting life, health, property, or the public peace, the Council may make emergency appropriations. Such appropriations shall be by emergency ordinance in accordance with Section 4.7 of this Charter. To the extent that there are no available unappropriated revenues to meet such appropriations, the Council may by emergency ordinance authorize the issuance of emergency notes, which may be renewed from time to time, but the emergency notes and renewals of any fiscal year will be paid no later than the last day of the fiscal year next succeeding that in which the emergency appropriation was made.

(C) *Reduction of Appropriations.* If at any time during the fiscal year, it appears probable to the Town Administrator that the revenues available will be insufficient to meet the amount appropriated, he or she shall report to the Council without delay, indicating the estimated amount of deficit, any remedial action taken by him or her, and his or her recommendation as to any other steps to be taken. The Council shall then take such further action as it deems necessary to prevent or minimize any deficit and for that purpose it may by ordinance reduce one or more appropriations.

(D) *Transfer of Appropriations.* Any time during the fiscal year, the Town Administrator may transfer part or all of any unencumbered appropriation balance among programs within a department, office or

agency and, upon written request of the Town Administrator, the Council may by resolution transfer part or all of any unencumbered appropriation balance from one department, office, agency or object to another.

(E) *Limitation C Effective Date.* No appropriation for debt service may be reduced or transferred, and no appropriation may be reduced below, any amount required by law to be appropriated or by more than the amount of the unencumbered balance thereof. The supplemental and emergency appropriations and reduction or transfer of appropriations authorized by this Section may be made effective immediately upon adoption.

### **Article X - Bonded Indebtedness**

#### **Section 10.1 Forms of Borrowing**

The Town may borrow money and to evidence such borrowing may issue the following securities in accordance with the provisions of this Article X:

- (A) General obligation bonds and other like securities;
- (B) Revenue bonds and other like securities;
- (C) Special assessment bonds and other like securities;
- (D) Certificates of participation and other like securities;
- (E) Short term notes;
- (F) Refunding securities;
- (G) Any other securities not in contravention of this Charter.

#### **Section 10.2 General Obligation Bonds**

Except as otherwise provided in this Article X of this Charter, no bonds or other evidence of indebtedness payable in whole or in part from the proceeds of ad valorem taxes, or to which the full faith and credit of the Town are pledged, shall be issued until the question of their issuance shall, at a special or regular election, be submitted to a vote of the electors of the Town of New Castle and approved by a majority of those voting on the question. However, such securities issued for creating, improving or extending any municipal utility system, including but not limited to water and sewer systems, may be issued without an election and shall not be included in the determination of any debt limitation which may be imposed by law.

#### **Section 10.3 Revenue Bonds**

(A) The Town, by Council action and without an election, may issue securities made payable solely from revenues derived from the operation of the project or capital improvement acquired with the securities' proceeds, or from other projects or improvements, or from the proceeds of any sales tax, use tax, or other excise tax, or solely from any source or sources or any combination thereof other than ad valorem taxes of the Town.

(B) The Council may, by ordinance, establish any one or more of the Town's water, wastewater, or other utilities as an enterprise of the Town. The Council may also, by ordinance, authorize any such Town-owned enterprise, acting by and through the Council, sitting as the board of the enterprise, to issue its own revenue bonds or other obligation (including refunding securities) on behalf of the Town, which revenue bonds or other obligations shall be payable solely from the net revenues (including special assessments) derived

from the operation of the enterprise. Such revenue bonds or other obligations may be additionally secured by mortgages on or security interests in any real or personal property of the Town used in the operation of the enterprise. Such revenue bonds or other obligations shall be issued by ordinance of the board of the enterprise, adopted in the same manner and subject to referendum to the same extent as ordinances of the Council. Nothing in this Section shall invalidate any enterprise existing, or any enterprise bond issued or approved, as of the time of adoption of this Charter.

#### Section 10.4 Special Assessment Bonds

The Town Council shall have the power by ordinance to create local improvement districts and to assess the cost relating to the construction or installation of special or local improvements of every character against benefitted property within designated districts in the Town by:

(A) Order of the Council upon its determination that such improvement is necessary for the preservation of the public peace, safety, health, or welfare; or

(B) On a petition by the owners of more than fifty percent (50%) of the area of the proposed district, provided that such majority shall include not less than fifty percent (50%) of the owners of the land within the territory.

In either event, a public hearing shall be held at which all interested parties may appear and be heard. Right to protest and notice of hearing shall be given as provided by ordinance. Such improvements shall confer special benefits to the real or personal property within said district and general benefits to the Town at large. The Town Council shall have the power by ordinance without an election to prescribe the method of making such improvements, of assessing the cost thereof, and of issuing bonds for the cost of constructing or installing such improvements, including the costs incidental thereto.

Where all outstanding bonds of a special or local improvement district have been paid and any money remains to the credit of the district, it may be transferred to a Special Surplus and Deficiency fund. Whenever there is a deficiency in any improvement district to meet payment of outstanding bonds and interest due thereon, it may be paid out of said fund.

Whenever a special or local improvement district has paid and canceled three-fourths of its bonds issued, and for any reason the remaining assessments are not paid in time to take up the remaining bonds of the district and interest due thereon, and there is not sufficient money in the special surplus and deficiency fund, then the Town may pay the bonds when due and interest due thereon and reimburse itself by collecting the unpaid assessments due the district.

In consideration of general benefits conferred upon the Town at large from the construction and installation of improvements in improvement districts, the Council may levy annual taxes without an election on all taxable property within the Town at a rate to be determined by the Council for the purpose of advancing moneys to maintain current payments of interest and equal annual payments to the principal amount of bonds issued for any improvement district hereafter created. The proceeds of such taxes shall be placed in a special fund and shall be disbursed only for the purposes specified herein, provided that in lieu of such tax levies, the Council may annually transfer to such special fund any available money of the Town.

#### Section 10.5 Certificates of Participation

#### Section 10.6 Short Term Notes

The Town is authorized to borrow money, by the affirmative vote of the Town Council, without a public election in anticipation of the collection of taxes or other revenues and to issue short-term notes to evidence

the amount so borrowed. Such short-term notes shall mature within twelve (12) months from the date of issue.

Section 10.7 Refunding Bonds

Section 10.8 No Additional Limitations

Except as explicitly provided in this Article, there shall be no limitations on the authority of the Town Council to incur indebtedness or to issue securities.

### **Article XI - Taxation**

Section 11.1 Authority to Levy Taxes

The Council may levy and collect taxes without limitation as to amount for municipal purposes, which may include but shall not be limited to general ad valorem property taxes, sales tax, excise tax or income tax. The authority to levy taxes shall be subject only to those limitations imposed by duly adopted ordinance, by this Charter, or by the Constitution of the State of Colorado, as now existing or as may be hereafter adopted or amended.

Section 11.2 Authority to Acquire Property

In addition to any other power it has to acquire property, the Town is hereby authorized to purchase or otherwise acquire property on which there are delinquent taxes and/or special assessments. The Town may sell and dispose of any property acquired under this authority, provided provision for any such sale or disposal is accomplished by ordinance.

### **Article XII - Public Utilities and Franchises**

Section 12.1 General Powers

The Town shall have and exercise with regard to all utilities and franchises all municipal powers including, without limitation, all powers not expressly forbidden by the Constitution or statute. The right of the Town to construct, purchase, or condemn any public utility, work or way is expressly reserved. Except as expressly forbidden by the Constitution or this Charter, all powers concerning the granting, amending, revoking or otherwise dealing in franchises shall be exercised by the Town Council.

Section 12.2 Utility Rates and Service Areas

The Town Council shall by ordinance establish rates for services provided by municipally-owned utilities. The Council may by ordinance extend the municipal utilities beyond town boundaries.

Section 12.3 Granting of Franchises

The Town Council shall have the power to grant a franchise for a period of up to and including five (5) years by ordinance without the need for an election. No franchise shall be granted for a period of greater than five (5) years except upon the affirmative vote of a majority of the qualified electors voting thereon at a general election or at a special election called for that purpose. If a special election is called, or if an ordinance granting a franchise is put to voter approval pursuant to the initiative or referendum process, the proposed franchisee shall pay the expense of such election. No franchise shall be granted under any procedure for longer than twenty (20) years. Any franchise may, however, be renewed in accordance with the same procedures to grant a new franchise.

**Section 12.4**    Assignment of Franchises

Assigning, selling, leasing, or otherwise alienating a franchise shall operate as a forfeiture of all franchise rights by the franchisee, unless consent or express prior authorization is given by the Council by ordinance.

**Section 12.5**    Control of Water Reserved to Town

No franchise, right, or privilege shall be granted affecting the use of water or water rights belonging to the Town, or affecting its water systems, without retaining complete and absolute control in the Town.

**Section 12.6**    Franchise Records

The Council shall cause to be kept in the office of the Town Clerk a franchise record in which shall be transcribed copies of all franchises granted by the Town. The record shall be a complete history of all such franchises and shall include a comprehensive and convenient reference to all actions at law affecting the same, and copies of all annual and inspection reports, and such other information as the Council may require.

**Section 12.7**    Existing Franchises

All franchise ordinances of the Town in effect at the time that this Charter is adopted shall remain in full force and effect according to their provisions and terms until the expiration date provided in such ordinance or until modified by another franchise.

**Article XIII - Transitional Period****Section 13.1**    Purpose of Transitional Provisions

The purpose of this Article is to provide for an orderly transition from the present Town government to the Home Rule government under the provisions of this Charter.

**Section 13.2**    Effective Date of Charter and Transition Period

This Charter shall become effective upon approval of the electors voting at an election pursuant to C.R.S. ' 31-2-207, provided, however, that the provisions regarding adoption of the budget shall become effective so as to control adoption of the budget for the first full fiscal year that begins at least six (6) months after the effective date of the Charter, and for subsequent years. Beginning with the effective date of the Charter, there shall be a period of ninety (90) days which shall be known as the "transition period." During the transition period, the Colorado statutes governing statutory towns shall remain in full force and effect, except where such statutes conflict with the effective provisions of this Charter or duly-adopted ordinances of the Town. During the transition period, the Town Council shall review the existing ordinances of the Town and shall take steps to enact new ordinances or resolutions to implement the provisions of this Charter where necessary.

**Section 13.3**    Prior Town Legislation

All ordinances and resolutions of the Town which are not inconsistent with this Charter and which are in force and effect upon the effective date of this Charter shall continue in full force and effect until repealed or amended. Those provisions of any effective bylaw, ordinance, resolution, rule or regulation which are inconsistent with this Charter are hereby repealed.

**Section 13.4 Present Mayor and Board of Trustees to Continue in Office**

The Board of Trustees and Mayor in office at the time of adoption of this Charter shall become the Members of the Town Council and the Mayor, respectively, and shall carry out the duties and responsibilities of the Town Council and the Mayor as provided herein. The terms of office of members of the Board of Trustees who were previously elected to serve until the general election in 2000 shall continue until that time. The terms of office of members of the Board of Trustees and the Mayor who were previously elected to serve until the general election in 2002 shall continue until that time.

**Section 13.5 Continuation of Officers and Employees**

Except as otherwise provided herein, after the effective date of this Charter, all appointive officers and all employees of the Town shall continue in that Town office or employment which corresponds to the Town office or employment which they held prior to the effective date of this Charter as though they had been appointed or employed in the manner provided in this Charter, except that any officer or employee who holds a position which this Charter provides to be held at the pleasure of the appointing officer or body, shall hold such position only at such pleasure regardless of the term for which originally appointed.

**Section 13.6 Saving Clause**

This Charter shall not affect any suit pending in any Court or any document heretofore executed in connection therewith. Nothing in the Charter shall invalidate any existing contracts between the Town and any person or public agency.

**Article XIV - Miscellaneous Legal Provisions****Section 14.1 Eminent Domain**

The Town shall have the right of eminent domain to acquire property both within and without the boundaries of the Town for any purpose deemed by the Town Council to be in the Town's best interest.

**Section 14.2 Power to Supercede State Statutes**

The Town shall have the power to supercede statutes of the State of Colorado in matters of local concern to the fullest extent possible, subject only to the limitations found in this Charter and the Colorado Constitution.

**Section 14.3 Notice Required on Negligence Action**

No action for the recovery of compensation of personal injury or death or property damage, or any other cause of action against the Town, shall be maintained unless written notice of the time, place, and cause of injury is given to the Town Clerk by the person injured, his agent or attorney, within the time and in the manner provide by the statutes of the State of Colorado.

**Section 14.4 Intergovernmental Agreements**

The Town Council may, by resolution or by ordinance, enter into contracts or agreements with other governmental units or special districts for the use of building, equipment, or facilities, and for furnishing or receiving commodities or services and for other matters in the best interests of the Town.

**Section 14.5 Bequests, Gifts, and Donations**

The Town Council, on behalf of the Town, may receive bequests, gifts, and donations of all kinds of property in fee simple, or in trust, for public, charitable or other purposes, and do all things and acts necessary to carry out the purposes of such gifts, bequests, and donations, with the power to manage, sell, lease, or otherwise dispose of the same in the accordance with the terms of the gift, bequest, or trust.

#### Section 14.6 Penalties for Violations of Charter

In addition to any other remedies provided by law, the Town Council shall have the power to impose non-criminal sanctions upon any person who is determined by the Council to have committed a violation of this Charter. Such sanctions may include (but shall not be limited to) public censure, fines, or, in the case of Town officials or employees, removal from office; provided, however, that no elected official of the Town shall be removed from office except upon the vote of a majority plus one of the entire Town Council in office at the time. Any vacancy created by such removal shall be filled in accordance with Section 3.6 of this Charter. Any person charged with such violation shall have the right to a public hearing before the Council.

#### Section 14.7 Emergency Powers and Line of Succession

In case of riot, insurrection, disaster, or extra-ordinary emergency, the Mayor shall have the power to assume control of the Town government and to take such steps as are reasonably necessary to restore order and normal conditions.

In the case of the death or absence of the Mayor, and pending the appointment or election of a new Mayor, the powers, duties, and responsibilities of the Mayor shall be held first by the Mayor Pro Tem, then by the Members of the Town Council in order of seniority, and then by the Town Administrator.

#### Section 14.8 Article and Section Headings

The headings and titles of Articles, Sections, and Subsections of this Charter are for convenience only and shall have no substantive effect.

#### Section 14.9 Charter Amendments

This Charter may be amended at any time in the manner provided by the Constitution. Nothing herein contained shall be construed as preventing the submission to the people of more than one Charter amendment at any one election. If provisions of two or more proposed amendments adopted or approved at the same election conflict, the amendment receiving the highest affirmative vote shall become effective.

#### Section 14.10 Interpretations

Except as otherwise specifically provided or indicated by the context hereof, all words used in this Charter indicating the present tense shall not be limited to the time of the adoption of this Charter but shall extend to and include the time of the happening of any event or requirement for which provision is made herein. The singular number shall include the plural, the plural shall include the singular, and the masculine gender shall extend to and include the feminine gender and the neuter.

#### Section 14.11 Definitions

As used in this Charter the following words and phrases shall have the following meanings:

*Ad valorem tax.* A general property tax levied annually on real or personal property listed with the assessor of Garfield County, Colorado, not including income tax, sales tax, use tax, excise tax, or specific ownership tax on a motor vehicle or trailer. The generality of this definition shall not be restricted by the listing set forth herein.

*Appropriation.* The authorized amount of money set aside for expenditures during a specified time for a specific purpose.

*Constitution.* The Constitution of the State of Colorado. The "federal" constitution means the Constitution of the United States of America.

*Council or Town Council.* The Town Council of the Town of New Castle, Colorado, including the Mayor. "Council Member" shall also include the Mayor unless the relevant provision expressly excludes the Mayor.

*Franchise.* An irrevocable privilege granted by the Town permitting a specified use of public property for a specified length of time.

*Officer.* Any person elected to office or appointed by the Council, including appointees to boards and commissions.

*Person.* An individual, partnership, corporation, company, body politic, or other legal entity.

*Public Hearing.* A meeting, or a portion of a meeting, of the Council or any Board or Commission during which members of the public are given the opportunity to offer input, information, and opinions to be considered by the Council, Board, or Commission on a specific subject or subjects.

*Public Utility.* Any person, firm, or corporation providing public services such as heat, power or light, communication systems, water, sewer, or scheduled transportation systems, and serving or supplying the public under a franchise granted by the Town. The term can also include an enterprise established by the Town.

*State.* The State of Colorado.

*Town.* Town of New Castle, Colorado, a municipal corporation.

*Written or in writing.* Except in reference to signatures, any communication by printing, writing, typing, engraving, facsimile, or by electronic means (provided that a record is kept of any such communication by computer or other electronic means), or any other similar method.

#### Section 14.12 Lease Agreements

The Council may lease, for such time as the Council shall determine, any real or personal property to or from any person, firm or corporation, public or private, governmental or otherwise. This power shall include the power to enter into lease-purchase agreements.

#### Section 14.13 Saturdays, Sundays, and Holidays

Except where expressly provided to the contrary, whenever a date fixed by this Charter, or by ordinance, for the doing or completion of any act falls on a Saturday, Sunday, or legal holiday, such act shall be done or completed on the next succeeding day that is not a Saturday, Sunday, or legal holiday.

#### Section 14.14 Severability of Charter Provisions

If any provision, section, article or clause of this Charter or the application thereof to any person or circumstance shall be found to be invalid by a court of competent jurisdiction, such invalidity shall not affect any remaining portion or application of the Charter which can be given effect without the invalid portion or



application, provided such remaining portions or applications are not determined by the court to be inoperable, and to this end this Charter is declared to be severable.

Section 14.15 Termination of Officials Appointed by Council

Any employee or official appointed directly by the Council may be removed from office only by the affirmative vote of a majority of the entire Council in office at the time.

Section 14.16 References to Constitutions and Statutes

Unless expressly provided to the contrary in the relevant provision, all references in this Charter to the Constitution, statutes, or laws of the State of Colorado shall mean such Constitutional provisions, statutes, or laws as such may exist at the relevant time, including any amendments adopted subsequent to the effective date of this Charter.


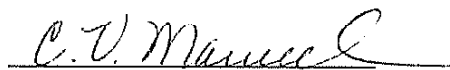
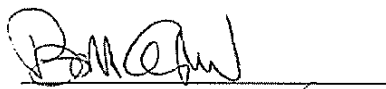
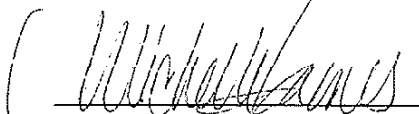
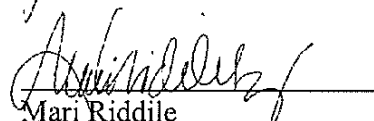
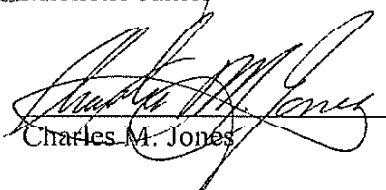
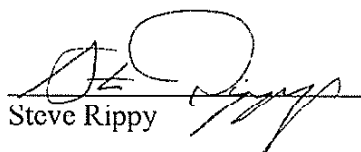
**CERTIFICATE OF ADOPTION**

We, the undersigned, present members of the Town of New Castle Home Rule Charter Commission, duly elected by the people of New Castle, Colorado, at a special election held on June 23, 1998, under authorization of Article XX, Constitution of the State of Colorado, do hereby certify that the foregoing is the Proposed Charter as finally approved and adopted by the members of the Commission on the 15<sup>th</sup> day of October, 1998, for submission to the people of New Castle at a special election to be held on January 12, 1999.

Done in triplicate at New Castle, Colorado, this 15<sup>th</sup> day of October, 1998.

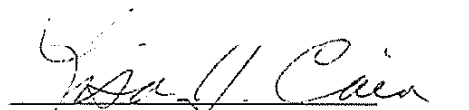


BILL WENTZEL  
Chairman

  
Virginia E. Erickson  
Chris Manuel  
Bill Gibson  
Jeanette Refior  
Michelle James  
Mari Riddile  
Charles M. Jones  
Steve Rippy

I hereby certify that the above and foregoing document is the Charter adopted at a Special Election for the Town of New Castle, Colorado, held January 12, 1999, and duly filed by me with the Secretary of State of the State of Colorado.

ATTEST:

  
Lisa Cain  
Town Clerk of New Castle, Colorado

2.

## Ethics, Liability & Best Practices for Elected Officials

ETHICS, LIABILITY  
& BEST PRACTICES  
FOR ELECTED  
OFFICIALS

# HANDBOOK

SECOND EDITION 2019



**SAFERTOGETHER**



COLORADO  
MUNICIPAL  
LEAGUE

ETHICS, LIABILITY &  
BEST PRACTICES  
**HANDBOOK**  
FOR ELECTED OFFICIALS

**Tami A. Tanoue**

CIRSA Executive Director

**Sam Light**

CIRSA General Counsel

**Robert Widner**

Widner Juran LLP

**Linda Michow**

Michow Cox & McAskin LLP

**Christiana McCormick**

Michow Cox & McAskin LLP

**CIRSA**

3665 Cherry Creek North Drive

Denver, Colorado 80209

800.228.7136

[www.cirsa.org](http://www.cirsa.org)

**CML**

1144 Sherman Street

Denver, Colorado 80203

303.831.6411

[www.cml.org](http://www.cml.org)





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## ABOUT THE AUTHORS

### Tami A. Tanoue

Tami Tanoue has been CIRSA's Executive Director since August, 2018. Her previous positions with CIRSA include General Counsel/Deputy Executive Director and General Counsel/Claims Manager. She was previously in private practice with the firm of Griffiths, Tanoue, Light, Harrington & Dawes, where she served CIRSA as its contract General Counsel for 12 years, and was City or Town Attorney for several Colorado municipalities. Prior to that, she was Staff Attorney for the Colorado Municipal League, where she represented the collective interests of Colorado municipalities. Tami is a regular speaker on local government liability topics and has written several publications on liability issues.

### Sam Light

Sam Light joined CIRSA as General Counsel in 2018 and was previously in private practice with the Denver firm of Light Kelly PC, where he practiced for over twenty years in the areas of municipal and public entity law, and government liability and insurance issues. Sam has served as general and special counsel to home rule and statutory municipalities and other public entities throughout Colorado, and frequently provides training for municipal elected and appointed officials and staff.

### Robert Widner

Robert (Bob) Widner is a founding partner with the law firm of Widner Juran LLP. Bob's practice focuses on the general representation of local governments with a special emphasis in advising and training governmental bodies on best practices to foster ethics, transparency, and meeting efficiency. Bob currently serves as the City Attorney for the City of Centennial. Prior to founding his law firm, Bob was a partner

with the Denver law firm of Gorsuch Kirgis LLP where Bob served as the city, town, or county attorney for a wide variety of communities throughout Colorado.

### Linda Michow

Linda Michow is a founding partner of the law firm of Michow Cox & McAskin LLP in Greenwood Village, Colorado where she maintains a robust local government practice. Ms. Michow is an experienced local government attorney well-versed in annexation, land use, urban renewal and zoning matters as well as in the day-to-day issues facing Colorado local governments including TABOR, elections, open records, and liquor licensing. Ms. Michow enjoys participating in educational seminars and training of the firm's elected and appointed officials and municipal staff and is also a frequent presenter to the broader local government community on current and recurring local government issues.

### Christiana McCormick

Christiana McCormick is an associate attorney at the law firm of Michow Cox & McAskin LLP. Her practice involves representation of local governments and covers a variety of areas, including taxation, land use, urban renewal, and law enforcement matters. Before joining Michow Cox & McAskin, Christiana served as a judicial law clerk to the Honorable Norma A. Sierra in Boulder District Court and completed a legal fellowship at the Denver City Attorney's Office, where she assisted with state and federal civil litigation matters primarily involving the Colorado Governmental Immunity Act and constitutional claims arising under 42 U.S.C. Section 1983.



## PREFACE

If you've stepped up to the challenges of serving as an elected official in your community, congratulations! You're dedicating your energy, wisdom, and experience towards making your city or town the best it can be. But the job of an elected official is not an easy one. Missteps can make you less effective, undermine your credibility, and even lead to liability.

In this newly revised and expanded edition of the popular *Ethics, Liability & Best Practices Handbook for Elected Officials*, we discuss many of the issues of greatest concern to elected officials from the standpoint of maximizing excellence and effectiveness, while minimizing the risk of liability. The contributors have provided decades of service to municipalities, individually and collectively. We've tried to keep the content engaging, on-point, and light on the legalese.

At CIRSA and CML, we pride ourselves on partnering with our member local governments. CIRSA offers a wide range of risk management services, from providing property, liability, and workers' compensation coverage, to managing claims, assisting in managing your risks, providing training to elected officials and staff, and consulting on virtually every liability-related topic. Founded in 1923, CML is a nonprofit, nonpartisan organization providing services and resources to assist municipal officials in managing and serving Colorado cities and towns. CML works to empower Colorado cities and towns through legislative and legal advocacy, training, research and information, and leadership on matters of municipal interest.

We hope you will find this publication to be of value to you as you undertake the challenging and rewarding work of governing your community.

Tami A. Tanoue  
CIRSA Executive Director

Kevin Bommer  
CML Executive Director





## FOREWORD

**By: William E. Bell, MPA, ICMA-CM**

**City Manager for the City of Montrose & former Executive Board President of the Colorado Municipal League (CML) and the Colorado City & County Management Association (CCCMA).**

We have all heard the old saying: “Ethics is doing the right thing when no one is watching.” Well, what about doing the right thing while everyone is watching? How refreshing it might be to sit in a nice quiet office or out on a park bench with the birds chirping in the distance, while pondering our options prior to making a decision that affects hundreds, or even thousands of people for years to come. How reassuring it might be to run all of our ideas by a panel of experts to vet the pros and cons over an extended period prior to making our next decision. Sound good? Of course it does! However, that is simply not reality for a local government official in today’s fast-paced world.

But no matter the pace or pressures, this overarching point of municipal leadership remains the same: **MAINTAINING ETHICAL INTEGRITY—AND DOING THE RIGHT THING—AT ALL TIMES IS A REQUIREMENT** for elected and appointed officials alike. Our communities are microcosms of our society, and with an ever-changing demographic we are facing ever-changing expectations as to what role we should play as local government leaders. We are all facing the unique pressures of being public servants and although it is most definitely a worthwhile and rewarding calling for most of us, it can also be frustrating, unpredictable and complicated at times.

More often than not, elected and appointed officials reach at least one point in their tenure where doubt creeps in, making them wonder about the true value of being in local government. Is it worth it? Can I handle this? Questioning oneself and our actions during times of uncertainty and chaos is normal and does not mean that we are doing anything wrong. In fact, I would argue the opposite.

In working with thousands of constituents, hundreds of employees, and dozens of elected officials during my 16 years of managing communities, it is those individuals who were interested in self-reflection and continuous improvement that I have truly admired for answering the call to public service. Theirs is an example worthy of emulation and one that safeguards public officials from ethical missteps.

We all struggle to find our place when we are new to an organization, and it is a time when we are most susceptible to outside persuasion and manipulation. During times of transition, it is especially important to rely on each other’s experience and expertise and to reach out for support and guidance whenever there is uncertainty. Here in Colorado we are lucky to have several well-versed organizations such as CIRSA and CML at our disposal to offer advice on how to handle ethical dilemmas and complex situations. However, we must be willing to tap these valuable resources prior to getting ourselves into trouble. Asking for help is not a sign of weakness, but is rather an indication of care, thoughtfulness and wisdom.

While there is no single blueprint to success for local government leaders, no recipe to follow to create the perfect outcomes, building strong and healthy relationships is the foundation of both achievement and sound ethical practice. Whether it is the idealistic vision shared between two newly elected officials, or the mutual respect and deference exhibited between a seasoned manager and his or her councilmembers; one thing is certain: the relationships connecting our local government leaders are what lay the foundation for sustainable and productive local governance in today’s society.

I hope you are able to spend some time reviewing the information in this second edition of *Ethics, Liability & Best Practices Handbook for Elected Officials* and taking to heart its content. This material offers a common ground from which all Colorado officials can work to make the communities of this great State even better.





# CHAPTER 1

## THE OATH OF OFFICE: ETHICS, LIABILITY AND BEST PRACTICES

By: Tami A. Tanoue, CIRSA Executive Director &  
Sam Light, CIRSA General Counsel

A typical oath of office might go as follows:

“I solemnly swear or affirm that I will support the Constitution and laws of the United States of America and the State of Colorado, [the Charter,] the ordinances and other laws of the City/Town, and that I will faithfully perform the duties of the office upon which I am about to enter.”

With the passage of time since you took office, does your oath have continuing meaning as an ethical commitment? This chapter examines the oath as a commitment to best practices in carrying out your responsibilities, and as a path to avoiding liability. We'll focus on four key areas: allocation of responsibilities, transparency in meetings, quasi-judicial rules of engagement, and personal conduct.

### Honoring the Allocation of Responsibilities

As in other levels of government, municipal powers and responsibilities are typically allocated among the governing body, judge, staff, and possibly others, according to charter or statutory requirements. Thus, for instance, the governing body is responsible for all legislation, the municipal judge is responsible for determining ordinance violations, and the manager/administrator and staff are responsible for administrative matters.

To the extent the charter or statutory provisions set forth a clear allocation of responsibilities, respecting that allocation is part of an elected official's oath. Inappropriate involvement in administrative matters, then, could be a violation of your oath.

Personnel matters are among those in which inappropriate involvement tends to occur. The governing body typically supervises a limited number of its own direct reports—for example, the chief administrator, judge, attorney, and perhaps a few others. As an individual elected official, if you are asked by an employee who's not one of the governing body's direct reports to become involved in an employment issue, or if you take the initiative to become involved, that could be a red flag in terms of your oath to respect the allocation of responsibilities.

From a best practices standpoint, inappropriate involvement in personnel matters can effectively destroy the chain of command. While most municipal offices are not operated according to a military-style chain of command, some version of a chain of command is critical for effective functioning no matter how large, small, formal, or informal your operations are. Once you allow inappropriate involvement to occur, you have effectively disempowered managers and supervisors throughout the organization, and sent the message that employees are free to disregard the chain of command.

Personnel matters are also a high-risk liability area. The more you're personally involved, the more likely it is that your name may some day appear on the wrong end of a lawsuit, or come up in an executive session where your fellow members are assessing the risks your conduct has created. So, you can see that honoring the allocation of responsibilities by staying out of most personnel matters is a means of avoiding or reducing liability.

## Honoring Transparency in Meetings

In local government, transparency of the governing body in its discussions and decisions is a basic expectation of the citizenry. Citizens take great interest in the goings-on of the governing body, and are quick to notice when their transparency expectations are not met. A perception that governing body members are conducting discussions secretly, that executive sessions are being held for improper purposes, or that decisions are being made in "smoke-filled back rooms," can quickly erode trust and confidence in government.

Transparency in meetings means that governing body meetings are open to the public and held only after proper public notice, that executive sessions are strictly limited to the purposes authorized by law, and that discussions of public issues take place in a meeting setting rather than by email or in hidden locations. Is this part of your oath? Most certainly! The statewide open meetings law applies to all local public bodies, including city councils and boards of trustees. If you're a home rule municipality, there may be charter provisions concerning transparency as well.

Is honoring transparency in governing body meetings a best practice? It is, if you want to maintain the public's confidence and trust! Citizens expect and appreciate your body's commitment to discussing and deciding difficult issues with full transparency. And making a commitment to transparency can also help ensure that your municipality doesn't become Exhibit A in an effort to make draconian changes to the open meetings law. You surely don't want to be held up as a bad example in the legislature. It's happened.

Is honoring transparency a liability-reducing suggestion? At CIRSA, we've seen our members become involved in litigation over their meeting practices. Based on our experience, the answer to that question is yes. There are watchdogs out there scrutinizing you, and they will pounce on you with allegations of violations and a lawsuit if your meetings practices don't pass muster under the law. CIRSA has open meetings/executive session defense cost coverage for member governing bodies, but by honoring the letter and spirit of the open meetings laws, you can avoid costly and potentially embarrassing litigation.

## Honoring the Quasi-Judicial Rules of Engagement

Governing body activities can be pigeonholed broadly into two areas: legislation and quasi-judicial decision-making. The rules of engagement differ depending on which pigeonhole fits. For legislative matters, the rules of engagement are free-wheeling. Think of the state legislature when it's in session, and the lobbying that goes on there. But for quasi-judicial matters, the rules of engagement have a basis in constitutional due process requirements: when you are making a decision that affects individual property rights, the constitution requires a properly noticed and fair hearing before a neutral decision maker—you. Thus, in quasi-judicial matters, you must conduct yourself similarly to the way a judge does in deciding a case.

No doubt your municipal attorney has discussed the quasi-judicial rules of engagement with you. The attorney is trying to protect the integrity of the hearing process, the defensibility of the outcome, and your prerogative to participate as a decision-maker. These rules of engagement include:

- You will follow the applicable legal criteria and apply those criteria to the evidence you hear at the hearing, to arrive at your decision.
- You will refrain from “ex parte” or “outside the hearing” contacts regarding a pending quasi-judicial matter.
- You will not participate in decision-making in a quasi-judicial matter in which you have a conflict of interest.

These rules flow from constitutional due process requirements, so they are most certainly a part of your oath. Following these rules is also a way to avoid or reduce liability. In quasi-judicial matters, the process by which you arrive at a decision is at least as important as the substance of the decision itself. If you've ensured that the process is letter-perfect, then you have eliminated a huge portion of the possible quarrels that could turn into a claim. And it's a best practice, because following the rules of engagement will enhance the reality and the perception that all who come before you with quasi-judicial matters will be heard and treated fairly.

## Honoring Standards of Personal Conduct

The way you conduct yourself in relation to other members of the body, staff, and the community greatly impacts your effectiveness as an elected official. No matter where you are on the political spectrum, you can probably agree that politics today are infected with divisiveness and incivility. Municipal government being non-partisan, its elected officials should, at least in theory, be able to rise above the nastiness of partisan politics!

With respect to the governing body, do all members understand that governance is a team activity? An individual elected official does not have the power to accomplish anything on his or her own. Rather, the allocation of responsibilities to the governing body is to the body as a whole. Only through collaboration and consensus-building can an individual's priority become the priority of the governing body. While the governing body is comprised of individuals and will “deliberate with many voices,” all members must recognize the governing body “acts with one voice.”

Has the governing body been able to “gel” as a team, or are members viewing one another with a sense of distrust? Are you lining up along the same divisions on every issue? Are you unable to disagree without being disagreeable? Perhaps some team building is in order if these things are happening.

With respect to staff, is an incoming council or board viewing staff as the “enemy”? A staff exists to carry out the goals set by the governing body. Sometimes, with the changing of the guard at the governing body level, there’s an assumption that there needs to be a changing of the guard at the staff level, too. But if this staff faithfully carried out the goals of the prior governing body, why wouldn’t you expect that they will be equally able and willing to carry out the goals of the new body?

With respect to the community, are public comment periods turning into “public inquisition” or “public argument” periods? Is “staff bashing” or “elected official bashing” happening at meetings? Perhaps another look at your rules of order, and your approach to meetings, would be appropriate. Certainly the public has every right to appear at meetings and make complaints. It’s a sign of faith in local government that people care enough to complain! But the manner in which those complaints are made, and the manner in which you respond, can mean the difference between a constructive, productive exchange or a nasty, embarrassing, unproductive, or morale-crushing attack.

Is the observance of personal conduct standards part of your oath? At least arguably, yes. After all, the oath implies faithfully performing a role where you must work with others. And you have a fiduciary duty to act in the best interests of your municipality. It doesn’t seem a far stretch to impute to your oath a commitment to respectful conduct towards one another and the best interests of the municipality.

Is it a best practice to observe personal conduct standards? It certainly seems so. Maintaining harmonious and productive working relationships with your fellow elected officials, staff, and the public can only increase your effectiveness. And keep in mind that harmony doesn’t mean you all have to agree all the time. Indeed, healthy discussion, debate, and disagreement are the engine for understanding issues and solving problems. But the idea of disagreeing without being disagreeable is important to keep in mind.

Does the observance of personal conduct standards help with liability reduction? We think so. In CIRSA’s experience, turmoil at the top levels of the municipality means turmoil throughout the organization. After all, you know what rolls downhill. Over and over, we’ve seen that disharmony and dysfunction at the top means claims throughout the organization. These types of claims not only cost dollars to defend, but also can sap the governing body’s energy, destroy staff morale and cause reputational harm, all with long-lasting impacts.

## Conclusion

Honoring your oath of office isn’t just something you do when you raise your right hand at the beginning of your term. You can look at just about any arena in which you operate as an elected official, and ask yourself, “What did I commit to do when I took my oath?” By asking and answering this question, you can stay on the path of best practices, and avoid or reduce personal liability.



## CHAPTER 2

# HEALING DIVISIONS ON THE GOVERNING BODY: CAN'T WE ALL JUST GET ALONG

By: Tami A. Tanoue, CIRSA Executive Director

At CIRSA, we're seeing more and more instances of governing bodies with intractable divisions that cut across virtually all of the body's decision-making. This division is affecting productivity, driving away opportunity, and undermining citizen confidence. It also lends itself to disputes and claims, with corresponding risks of liability. In this chapter, we'll explore the causes and impacts of such divisions, and explore some possible ways to break out of the patterns that cause them.

### Introduction

First, though, let's be clear about the situation we're discussing: Every governing body has disagreements, and there's nothing wrong with that. It would be strange, indeed, if all members agreed on all issues all the time. If that were the case, why would we even need five, seven, or nine members?

Sometimes, disagreements create a residue of misunderstanding or hurt feelings, but that's to be expected, too. Most governing body members are able to leave that residue behind and move on to the next matter at hand.

We're also not talking about the "outlier" issue, where one or some members of the governing body have made it their mission to separate themselves from the rest of the group, with the sole goal of embarrassing the rest and proving that they are the only "ethical," "transparent," or "responsive" (or insert description of your choice) member of the body, at least in their opinion. There are ways to address the "outlier" issue (see Chapter 3).

What we're talking about here is a governing body in a state that we can all agree is severely dysfunctional. We're talking about a body that's intractably divided, and whose every debate, discussion, and decision are characterized by lingering unresolved matters, mutual contempt, and hard feelings that calcify into hardline positions. We're talking about meetings that staff and citizens refer to as the "Thursday night fights" (or insert evening of your choice). We're talking about meetings where members regularly yell or snipe at each other, name-call, storm out, or maybe even resort to threats or fisticuffs.

And even if it's not that dramatic, meetings may still be characterized by tension, frustration, passive-aggressive behavior, an inability to see beyond the players and focus on the merits of any issue, and maybe an angry social media post or two after the meeting.

Whatever the level of dysfunction, destructive consequences can result. Once you "write off" or "demonize" your colleagues ("she's just clueless," "he's completely hopeless," "I can't even look at the guy," "there's no reasoning with her, so why even bother"), there may be no coming back.

## Why Can't We All Get Along? A Look at Some Possible Causes

*"Happy families are all alike; every unhappy family is unhappy in its own way."  
~Tolstoy*

*"Happy councils are all alike; every unhappy council is unhappy in its own way."  
~Tanoue*

There are any number of reasons why the "marriage" of governing body members can go bad. Here are a few:

**Underlying divisions.** Underlying divisions within the community may be reflected on the governing body. Communities can have fracture lines. There may be friction between the "old timer" part of the community and more newly developed areas that are full of "newcomers." The interests of "old timers" and "newcomers" may not always be the same. "Newcomers" may not recognize the history and traditions of the community in the same way that "old timers" do. "Old timers" may discount the concerns raised by "newcomers," or vice versa. These differences may be reflected in the makeup of the governing body.

Members may have been swept into office as a result of a controversial issue that divided the community. Perhaps there was a recall election. Unless the slate was wiped clean, the governing body makeup may reflect the divisions that grew from the underlying issue. It may be difficult to get past that issue.

New or younger members may clash with veteran members. Sentiments that "you young 'uns haven't been around long enough to understand this town" or "you old timers are stuck in your ways" may cause unwarranted rifts. And expressing or acting on such sentiments can contribute to a feeling that each member isn't being accorded an equal voice in discussion and decision-making.

That sense of inequality can also be the result of partisanship, and partisanship doesn't necessarily have to spring from the type of political partisanship that exists at other levels of government. Of course, municipal government is avowedly and proudly non-partisan in the political sense (and by law its elections are non-partisan). But an "in crowd" and an "out crowd" based on other considerations can be a type of partisanship that's just as problematic.

**Personalities.** Voters aren't judging whether the individuals they elect will be compatible with each other, so it's possible that fundamentally incompatible personalities will end up on the body. If you have some "alpha dogs" on the body who are in constant competition, friction might be a predictable result. If others then line up behind their favorite "alpha," division can ensue. If several "alphas" dominate the meetings, resentments may arise.



Sometimes, an elected official's personality and proclivities seem to be just plain incompatible with holding elected office! Politics, at the governing body level, has to be a team sport: decision-making requires collaboration and consensus. One member's "agenda" can become the "agenda" of the body only by successful team play. A "lone wolf" who lacks the capacity or desire to be a team member is not going to be successful on the body. Add a few more "lone wolfs," and frustration and paralysis may result.

Governance is also about leadership. If the voters put someone in office who is afraid to take a stand, is perennially "on the fence," or is strictly a follower, leadership qualities may be lacking. A majority of non-leaders can create a perception of a "rubber stamp" governing body, resulting in extreme frustration for those members who are willing to stick their necks out.

**Preconceived personal agenda.** There are many good reasons why citizens run for public office. However, the workings of municipal government are not always clear until well after you're seated. So the agenda that a candidate ran on may collide with reality, and turn out not to be a workable agenda after all. Under those circumstances, clinging to the preconceived agenda is only going to sow the seeds of discord. If you have several members, each bent on pursuing only his or her own particular agenda, a fractured body can result.

I once spoke with a newly elected councilmember who said his one campaign promise was to ensure that water and sewer rates were lowered. But when he took office, he began to understand the economic realities of operating the town's water and sewer system, and he saw that demanding the lowering of rates was unrealistic and fiscally irresponsible. He said he had some explaining to do to the citizens, but he wasn't going to cling to his agenda given the realities he now understood. That's a smart elected official.

## Impacts

The impacts of severe dysfunction and discord are manifold. They include:

- **Lack of productivity.** The body's agenda may hit a standstill. Or getting through it might be slow and painful. Even if decisions are made, they may not necessarily be the best decisions.
- **Power transfer to tie-breaker.** If you're constantly split down the middle, then you may be transferring all decision-making power to the tie-breaker (often the Mayor). Is that desirable?
- **Financial consequences.** If you've developed a public reputation as a dysfunctional body, then your community may be missing out on economic opportunities. Businesses want a predictable environment. Volatility may be driving them away.
- **Public embarrassment and loss of public confidence.** If you're airing your discord for the camera, your viewership may be up, but public confidence will be down! Residents want to be confident that their elected leaders function at a high level and in their best interests.
- **Driving away the best and brightest.** I've heard people say they were reluctant to run for office because they witnessed the discord and didn't want to be a part

of it. So you may end up repelling, not attracting, potential leaders who could make great contributions to the community. Or you may lose great members to “burnout.” Likewise, if your community’s developed a reputation for governing body dysfunction, you may not be able to attract and keep the “best and brightest” for key staff positions.

## So You Think You May be Part of a Dysfunctional Governing Body?

You may have experienced some jolts of recognition in reviewing the foregoing. If so, condolences and congratulations! The condolences are self-evident, but congratulations are also due, because recognition of a problem is the first step to dealing with it! So now, what do you do? Here are some steps to consider:

- **See if you can gain a consensus that there’s a problem.** Even if you recognize it, if no one else does, you’re not going to get anywhere. If there’s a consensus, then you’re halfway to solving the problem!
- **Start by talking about “values.”** In working with CIRSA members experiencing severe governing body dysfunction, I’ve begun to realize that the “values” discussion is a critical first step. By “values,” I’m talking about the philosophical underpinnings that you want as guides for behavior in your interactions with one another. If you can agree on these values, then additional steps are possible. If you can’t, you’re going to stall out. Such values might include:
  - **Courtesy and civility towards one another, staff, and citizens?**
  - **Non-partisanship?**
  - **Equality of participation?** This would include equal opportunities to be part of the discussion and decision, and equal opportunities to gain, insofar as possible, the same information at the same time as needed for good decision-making.
  - **Acknowledgement of the role of the Mayor or presiding officer in presiding over meetings?** Every meeting needs a presiding officer, and in most communities, that’s the Mayor. The role of the presiding officer must be honored if you want to have orderly, productive, and efficient meetings. And, the presiding officer must embrace that responsibility. If there’s no acknowledgement of this fundamental need, then you won’t get anywhere.
  - **Engagement?** This includes a commitment to be prepared for meetings, to arrive on time, to stay for the whole meeting, to give your undivided attention during the meeting, to participate in decision-making, and to be absent no more than necessary.
  - **Others?**
- **Norms or rules of conduct.** If you can form a consensus around values, you’re close to the point where you can discuss (and, it’s hoped, agree upon) the norms or rules of conduct that you want for the body. The content of your norms or rules won’t be discussed here, because they’ll be specific to your community and the values that serve as the jumping-off point for them. It’s worthwhile to look at

examples from other communities around the state and nation, but it's important to develop your own norms or rules from the ground up with your values as the foundation, so there's buy-in. Why rules OR norms? It's because the level of formality to be accorded really depends on your governing body's needs and desires. If you have members whose attitude is "Rules? We don't need no stinkin' rules," then perhaps a softer approach of agreeing on "norms" of conduct may be a good starting point. On the other hand, you might see reasons to elevate the adoption process by using a resolution or even an ordinance.

## In Despair? You Can Still Help

You may feel your governing body will never come together to recognize the problem, much less move on towards seeking solutions. Should you give up? No! There are still things you can do as an individual. If enough individuals on the body do these things, then perhaps there will be an opening to go further! Suggestions for individuals include:

- **Assume good faith and best intentions on the part of everyone on the body.** Some smart person once said that we judge ourselves by our intentions, and others solely by their actions. This perceptual gap can lead to misunderstandings and unfounded assumptions. Let's give everyone the same benefit of the doubt we give ourselves, by assuming that they, too, are acting on the basis of honorable intentions.
- **Listen more than you talk.** Do your best to see and understand things from the perspective of others. Ask questions before reaching your own conclusions, and repeat back what you think you're hearing from others, so that you know you're on the same page. Listen for points of agreement, and emphasize and build on them.
- **Try to meet others more than halfway.** If everyone only goes so far to try to bridge the gaps, then you may never meet in the middle. Sometimes one person's generosity in going more than halfway is the catalyst for breaking down misunderstandings.
- **Use the postures, tone, and body language of respect and engagement.** Do this even if you're not "feeling it"; "acting as if" can be helpful in bringing a hoped-for harmony closer to reality. Make sure your body language and tone of voice aren't inadvertently communicating something you didn't intend. Keep your voice DOWN, even if others are starting to yell. Avoid the hair-trigger, knee-jerk, angry response.
- **Try some things to break down barriers.** Maybe switch up positions where you sit on the dais. Suggest a pre-meeting dinner; breaking bread together can be a way to get people talking (make sure you have a "no-business" rule in effect). Team-building, especially in a retreat setting, can be productive. An outside facilitator or mediator might be helpful in identifying issues that are hard to see from the "inside."

- **If you're an experienced member, mentor the newbies!** You have valuable experience from which newer members can benefit. Show them the ropes, teach them your own hard-earned lessons, and model the behaviors you want them to emulate. And if you're a new member, seek out mentors!
- **Acknowledge and appreciate** when you see others making the same effort.

## Conclusion: "Until Next Election Do You Part."

A governing body might be characterized as a kind of arranged marriage—a marriage arranged by the citizens. If the conditions for civil and productive discourse are lacking from the start, it's no wonder that such a "marriage" can go bad quickly. But divorce isn't an option! So start looking at ways to improve your relationships, as individuals and as a body. And take to heart the idea that, by "acting as if," your deepest hope for a strong, high-functioning team can come closer to becoming a reality.



## CHAPTER 3

# GOVERNING BODIES AND THE OUTLIER SYNDROME

By: Tami A. Tanoue, CIRSA Executive Director

Those who have been working with municipalities for an extended period have observed a phenomenon that occurs at the governing body level. Let's call this phenomenon **the Outlier Syndrome**.

The Outlier is the “lone wolf” who sits on a city council or board of trustees and steadfastly refuses to act like a member of the team. Even while isolating himself or herself as the only person on the losing side of just about every vote, the Outlier manages to create havoc with the rest of the body. The Outlier may be obstreperous and obstructionist. The Outlier may refuse to recognize and respect the norms that guide the rest of the body's conduct. The Outlier may position himself or herself as the only “ethical” or “transparent” member of the body. The Outlier's every statement and action seems to be aimed at preserving that self-assumed distinction rather than making any concrete achievements. Sometimes, a governing body is unfortunate enough to have more than one Outlier.

Have you ever experienced the Outlier Syndrome in action? We call it a syndrome because of the recognizable features or symptoms that seem to fester whenever an Outlier sits on a governing body. Do you have an Outlier on your governing body? Could you possibly be an Outlier? Should the Outlier Syndrome be viewed as an affliction or malady? And if so, what can be done? We'll explore these questions in more detail below.

### Power, Goals, and the Outlier

To understand the Outlier's impact on a governing body, let's start with the idea that elected officials can only act as part of a body – a collaborative decision-making body. You can search throughout the laws governing statutory municipalities, or just about any home rule charter, and you'll likely find no powers or duties that are to be exercised by a singular elected official (other than the mayor, who may have certain defined responsibilities). This means that, as elected officials, the only way you can get anything accomplished is to have a majority of the governing body on your side.

It's likely that each elected official has an individual list of goals, goals that those who voted for you want you to accomplish. But your goals can be accomplished only if they're part of the goals of the body as a whole. That means your success depends on creating a consensus

of the majority! And where does the Outlier fit in on a collaborative decision-making body? Why, nowhere! Perpetually being on the losing side of a vote means that the Outlier gets nowhere on his or her goals...unless, of course, he or she feels that being an Outlier is its own reward.

## Are You an Outlier?

Perhaps you've met your share of Outliers, who tend to share one or more of these characteristics:

- There is an element of the lone crusader in them. They feel they were elected to shake up the status quo in some way. Maybe they think their predecessors were too cozy with developers, not friendly enough with the business community, too close to the municipality's staff, not close enough to the municipality's staff, etc.
- They view themselves as independent thinkers. They are often highly intelligent, but not "people persons." In kindergarten, their report cards might have reflected a poor score on "plays well with others."
- They take a perverse glee in being the "outsider," relish arguments for argument's sake, and place little value on matters like courtesy and regard for the feelings of others.
- They hate having to endure "soft" discussions such as a council or board retreat, the establishment of a mission or vision statement, the development of consensus around rules of procedure or rules of conduct, a session to discuss goals and priorities, or a CIRSA liability training session.
- They feel they are always right, and everyone else is always wrong. They feel they are always ethical, and everyone else is not. They feel they are looking out for the citizens, and everyone else is not.
- Initially, they may just have been unfamiliar with the ways of local government, and needed to build the skills to work effectively in a new environment. One or more gaffes may have caused them to be pegged as Outliers and treated accordingly, initiating an unhealthy Outlier dynamic.
- There may have been some explosive moments in private or public with the Outlier's colleagues, or indeed, the colleagues may have made some attempt at an "intervention."

These observations may or may not be totally on the mark. But one characteristic of the Outlier cannot be denied: he or she is seldom on the prevailing side of a vote, and is often at loggerheads with the rest of the body.

Do you think you may be an Outlier? If so, you might examine what your goals as an elected official really are. Do you want to have a list of concrete accomplishments at the end of your term? Or will it be accomplishment enough to have been the "loyal opposition"? If the former, then your behavior may be working at cross-purposes with your goals. If the latter, really? Will the people who voted for you be satisfied with that accomplishment? Will you?

# Is the Outlier a Problem for the Rest of the Body? For the Municipality?

Most people who've had to deal with an Outlier would say that yes, the Outlier is a problem! How? Well, here are some ways:

- Anger and frustration build when a council or board has to deal with an Outlier, siphoning away energy that could be spent on more positive endeavors. This is a particular problem if tensions have built to the point that confrontations have begun to occur. No reasonable person wants to attend or view a council meeting and have a hockey game break out! It may be entertaining, but mostly, it's embarrassing to the governing body and to the community.
- Healthy teams seek to build a sense of camaraderie and cohesiveness. That's not entirely possible when there's an Outlier. It's not healthy to build a team around a shared hatred of one of its own members, and most reasonable people would prefer not to have that happen.
- The Outlier's perspective tends to be oppositional. From a liability standpoint, such a perspective is risky. If you're taking positions on an oppositional basis, are you really meeting your fiduciary duty to look out for the best interests of the entity?
- A disharmonious governing body is a dysfunctional governing body. It's been CIRSA's experience that liability claims thrive in an environment of disharmony and dysfunction.
- Your staff members are affected by the Outlier Syndrome, too. From the staff's perspective, seeing dysfunction on the governing body is a little like watching discord between one's own parents. It's unsettling, distressing, and morale-crushing.
- Most importantly, it's a shame for the governing body to lose a potentially valuable contributing member. In a worst case scenario, the Outlier becomes completely disempowered as he or she is ignored and marginalized. But this means that the body isn't running on all cylinders, and is deprived of the valuable perspectives that the Outlier might otherwise bring. Ultimately, the voters, and the community, are the losers.

## Dealing with the Outlier Syndrome

You can't cure an affliction until you recognize it. And you can't recognize what you haven't named and defined. If your municipality is afflicted with Outlier Syndrome, you've taken the first steps towards a cure by naming, defining, and recognizing it! Here are some other steps you might consider.

- Confront the issue forthrightly and compassionately in a neutral environment. A council or board meeting is likely not a neutral environment! Perhaps the matter could be discussed as one item on a retreat agenda. Be prepared with specific examples of how the Outlier has negatively impacted the body.

- Consider addressing the issue in the context of a larger discussion about governing body rules of procedure or rules of conduct. The “norms” that guide members’ interactions with one another may be obvious to some but not all, especially to newer members. Those norms could be part of the discussion, and the process of articulating them can facilitate a consensus to honor them.
- Consider bringing in an outside facilitator to assist you. A governing body is a bit like a marriage that’s been arranged for you by the citizens! There’s nothing wrong with getting some outside help for perspective and to find solutions.

If you think you might have the Outlier label pinned on you, consider these suggestions:

- First, get a reality check. Find out how you’re being perceived by your peers. It may be very different from your own perception of yourself. Ask each of your colleagues to give you a frank assessment.
- Check your motivations. If you have concrete goals you want to accomplish as an elected official, you must accept that success in your position can’t happen without collaboration and consensus building. There is nothing that you can accomplish alone. So set a goal to be on the “prevailing” side...indeed to bring others over to establish a “prevailing” side.
- If you’ve already burned some bridges, understand consensus-building can’t happen without mutual trust, respect, and a sense of cohesion. These will take time to build. Look for a retreat or other opportunities to clear the air and start fresh.
- Use staff as a resource! Your manager or administrator wants nothing more than to assist newly elected officials in learning the ropes, and understanding the best time, place, and approach to raising issues. Don’t get off on the wrong foot with blunders that might peg you as an Outlier.

What if all efforts to deal with the Outlier Syndrome fail? Well, it might be time for the rest of the governing body to cut its losses and move on. Don’t continue to agonize over the Outlier and his or her impact on the body’s functioning. Continue to accord the Outlier the same opportunities to participate in discussion and decision-making as any other member, but don’t allow the Outlier to keep pushing your buttons. Remember, arguments and confrontations require more than one participant. You may need to simply say “thank you” or move on to the next point of discussion. Ultimately, the responsibility for putting an Outlier into office rests with the citizens, so there’s only so much you can do. Try to go about your business without having the Outlier become the dysfunctional center around which the rest of you swirl.

## Conclusion

Governing body members don’t all have to be in lockstep, or think and behave in the same way. On the contrary, diversity of thinking, styles, opinions, experiences, and approaches are healthy and necessary for a collaborative decision-making body. There is truly a collective wisdom that comes forth when many diverse minds work together on common goals. But the Outlier Syndrome is detrimental to a high-functioning governing body, and therefore, to the community. If your governing body is afflicted with the Outlier Syndrome, it’s time to do something about it!





# CHAPTER 4

## LIABILITY PROTECTIONS AND YOU

By: Tami A. Tanoue, CIRSA Executive Director &  
Sam Light, CIRSA General Counsel

Are you acquainted with the protections you have through your entity's membership in the CIRSA property/casualty pool? In this chapter, we provide you with a brief introduction to the two key coverage parts of the liability policy that apply to you as elected officials of CIRSA member entities.<sup>1</sup>

### What Liability Coverages do We Have?

**General Liability and Auto Liability Coverage** applies to claims for bodily injury, property damage, and auto liability, among others. This is the coverage part that pertains to most allegations of “hard” injuries, such as an allegation of physical injury to a person or to tangible property. Thus, for instance, this coverage part would respond for an auto accident while you're driving your entity's vehicle on public entity business. This coverage part also includes law enforcement liability coverage.

**Public Officials Liability Coverage** applies to “wrongful acts” you are alleged to have committed. This coverage part applies to allegations of civil rights violations, improper activities concerning employment practices, and violations of federal and state law. Thus, for instance, this coverage part would respond when someone claims that he or she has suffered employment-related discrimination, harassment, or a violation of constitutional rights.

### Who's Covered?

“Covered Parties” under the policy include, of course, your entity as a member of CIRSA. Any elected or appointed official, trustee, director, officer, employee, volunteer, or judge of a CIRSA member is also considered a covered party. So is each governing body, board, commission, authority, or similar unit operated “by or under the jurisdiction of” a member entity. Thus, elected officials, board and commission members, appointed officials, employees, and even authorized volunteers of your entity are all considered covered parties.

## What Limits of Coverage do We Have?<sup>2</sup>

- For general liability and law enforcement liability, the coverage limit is \$10,000,000 per claim/occurrence.
- For auto liability, the coverage limit is \$5,000,000 million per claim/occurrence.
- For public officials' liability, the coverage limit is \$10,000,000 per claim/occurrence, subject to an annual per-member aggregate of \$10,000,000.

Defense costs are included in these limits. There is also a member-selected deductible that applies to each claim/occurrence. Members have chosen deductibles that vary from \$500 to as much as \$250,000 per claim/occurrence, so you should check with your own CIRSA contact to find out what your entity's deductibles are.

## What Key Exclusions do We Need to be Concerned About?

There are several exclusions of concern, and a few are highlighted here. These exclusions are universal in most liability policies.

**The “willful and wanton” exclusion** is probably the exclusion of greatest concern to elected and other public officials. This exclusion applies to both coverage parts of the liability policy, and states that coverage does not apply to any loss arising out of the actions of any elected or appointed official, trustee, director, officer, employee, volunteer or judge of a member entity when such acts or omissions are deemed to be willful and wanton. And remember, you are a “Covered Party” only while in the performance of your duties for the member entity, and acting within the scope of your authorized duties for the member entity.

As you probably know, the Colorado Governmental Immunity Act's protections are lost when you are determined to have been acting outside the “scope of employment,” that is, outside the course and scope of your authorized duties as an elected official. But such conduct has a double consequence: the loss of your liability coverages through CIRSA. This is the reason that our public officials' liability training places a heavy emphasis on the need to understand your “job description” as an elected official, and the need to stay within the parameters of that “job description.”

Staying within the “scope of employment” is also important to lessening your risks of liability where federal civil rights claims are concerned. You probably know that, under 42 U.S.C. Section 1983, you can be sued for a civil rights violation in your individual or official capacity. An individual capacity suit is one that alleges that you violated someone's constitutional or other federally protected right while acting under the auspices of your public office. (An official capacity suit, on the other hand, is a suit against the entity, rather than you individually.) A finding of individual liability in a Section 1983 suit essentially means that you've violated a clearly established constitutional or statutory right of which a reasonable person should have been aware, and that your conduct was unreasonable. Such conduct can fall within the “outside the scope” exclusion; violating someone's civil rights is likely not within the “job description.” Thus, elected officials need to be especially cautious about conduct that could be actionable as an intentional civil rights violation.

**The sexual harassment exclusion** is another exclusion that has impacts on claims based on an individual official's conduct. This exclusion to the Public Officials Liability coverage part applies to sexual harassment claims. Let's say that a sexual harassment claim is made both against the entity, for failure to deal effectively with sexual harassment in the workplace, and against the harassing employee or volunteer. Under this exclusion, the entity will probably be covered. However, with respect to the individual official, employee, or volunteer, the entity will have the option to direct CIRSA to defend or not defend the individual. Thus, if the entity so directs, the individual will be left out in the cold as to any defense of a sexual harassment claim against him or her! And in any event, even if the entity directs CIRSA to provide a defense, any liability imposed on the individual based upon a finding that harassment occurred would not be covered through CIRSA. **The sexual abuse exclusion** operates in a similar fashion.

**The punitive or exemplary damages exclusion** is also pertinent in the context of an individual official's conduct. Punitive or exemplary damages can be awarded in circumstances where an individual's conduct is willful and wanton in the disregard of someone's rights, or callously indifferent or motivated by evil intent. The purpose of punitive damages is, as the term suggests, to punish a wrongdoer for such egregious conduct. Because the punitive effect would be considerably blunted if an insurer were available to cover a punitive damages award, punitive damages are deemed uninsurable by the appellate courts of many jurisdictions, including Colorado. Consistently with this judicial position, the CIRSA liability policy contains an express exclusion for punitive or exemplary damages.

**The breach of contract exclusion** can be pertinent to the activities of governing bodies. Governing bodies approve a wide variety of contracts, and sometimes are alleged to have dishonored them. It is not the intent of a liability policy to cover the kinds of liability that can arise when someone alleges a breach of contract, so there is an exclusion for the breach of an express or implied contract. This exclusion does not apply when a claim is based upon an allegation by an official or employee of wrongful termination of employment.

**The condemnation/inverse condemnation** exclusion can be relevant to a land use action taken by a governing body. A landowner may claim that all or a portion of his or her property was "taken" by governmental action, or that vested property rights were impaired by governmental action. These types of claims, involving the value of private property, are not covered. As you can imagine, liability policies aren't suited to cover these types of claims, because they would require insurers to try to underwrite the risk of having to pay for the property values of privately owned real estate throughout the state!

**The bonds or taxes exclusion** applies to any liability based upon or arising out of the issuance of bonds, securities, or other financial obligations, or taxes, fees, or assessments, or the collection, retention, or expenditure of funds. Thus, when a claim is made of an improperly levied tax, or retention of funds in violation of the Taxpayer's Bill of Rights, or impropriety in the issuance of bonds or other financial obligations, this exclusion would apply.

## What Else Should You Know About Coverage Issues?

A lawsuit against you may involve one of several responses from CIRSA. We may determine, based on the allegations, that we owe you an unconditional duty of defense (i.e., the assignment of a defense attorney) and indemnity (i.e., covering any judgment or settlement). Or we may determine that none of the allegations invoke any duty of defense or indemnity, and send you a denial letter. Sometimes, though, a suit will contain a mixture of covered claims and uncovered/potentially uncovered claims and, in this case, we will defend you under a “reservation of rights.” A “reservation of rights” letter will be sent telling you of the areas where there may be no coverage, and reserving our right not to indemnify you, and our right to terminate your defense (and potentially seek reimbursement of legal fees paid on your behalf) should circumstances warrant.

One or more CIRSA defense counsel will be assigned in circumstances where we find that there is a duty to defend. In some cases, a single attorney can represent multiple defendants; however, in cases where defenses may be inconsistent between or among the covered parties, or other circumstances for a conflict of interest may exist in representation, we will assign multiple counsel. CIRSA-assigned defense attorneys, although paid by CIRSA, owe their duty of loyalty to you, their client.

We hope that you never have to delve into the details of these coverages in the context of an actual claim against you, but it’s a good idea to be familiar with the broad outlines of those coverages. As always, if you have questions, please contact CIRSA.

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### Footnotes:

1. This is only a summary of certain provisions of the CIRSA liability coverage documents. The language of the applicable coverage document must be reviewed for a complete and accurate understanding of the applicable coverages, and the application of the coverage document to any specific situation will require the advice of your entity’s attorney.
2. Please refer to the Declarations pages of the Liability Coverage form for more specific information on the limits and sublimits for all coverages.



# CHAPTER 5

## OPEN MEETINGS AND EXECUTIVE SESSIONS

By: Tami A. Tanoue, CIRSA Executive Director &  
Sam Light, CIRSA General Counsel

At CIRSA, we've seen a steady stream of claims against our members for alleged violations of the open meetings law in the conduct of meetings and executive sessions. These types of claims are usually excluded from most commercial insurance coverages. However, CIRSA provides some defense cost coverage for claims alleging executive session violations by governing bodies. In this chapter, we'll go over the basics of the open meetings law and summarize CIRSA's coverage for allegations of open meetings violations.

### The Open Meetings Law

Under the Colorado open meetings law, C.R.S. Section 24-6-401 *et seq.* (COML), it is “the policy of this state that *the formation of public policy* is public business and may not be conducted in secret.” Note this statement's focus on the formation of public policy. Thus, the law intends openness in the policymaking process, and councils and boards are well-served by honoring not only the letter of the COML but the spirit of this purpose statement.

The core requirement of this law is that all meetings of a local public body (a term which includes the governing body and other formally constituted bodies of a public entity), at which public business is discussed or at which any formal action may be taken are declared to be public meetings open to the public at all times. “Full and timely notice” must be given of all meetings. The COML deems this requirement to have been met if notice of the meeting is posted at least 24 hours prior to the holding of the meeting; however, your charter or local ordinances may require posting further in advance. The notice shall include specific agenda information where possible. No action taken at a meeting is valid unless it meets the requirements of the open meetings law. A “meeting” under the open meetings law includes “any kind of gathering, convened to discuss public business, in person, by telephone, electronically, or by other means of communication.”

There are a few exceptions to this core requirement of public openness, and a properly convened executive session may be held to discuss matters that fall into those exceptions.

Some of the more commonly arising subjects that are proper matters for an executive session include:

- The purchase, acquisition, lease, transfer, or sale of any real, personal, or other property interest;
- Conferences with an attorney for the local public body for the purposes of receiving legal advice on specific legal questions;
- Certain personnel matters; and
- Determining positions on matters that may be subject to negotiations, developing strategy for negotiations, and instructing negotiators.

The open meetings law should be reviewed in its entirety for all of the applicable legal requirements, and legal advice should be obtained on its meaning. Home rule municipalities may have their own meeting and executive session procedures established pursuant to their home rule powers; this discussion is not intended to cover the variances in local practice in home rule municipalities.

The “courts of record” of the state have jurisdiction to issue injunctions to enforce the purposes of the open meetings law. Any citizen of the state may apply for such an injunction. The open meetings law states that, in any case in which the court finds a violation of the law, the court shall award the citizen prevailing in such action his or her costs and reasonable attorney fees. In addition, a citizen may apply to the court for access to the record of an executive session; if the court determines, after listening to the record, that the local public body engaged in substantial discussion of any matters that were not proper subjects for an executive session, or took formal action while in executive session, then the record may be made accessible to the public.

## Executive Session Coverage Through CIRSA

Defense costs coverage for executive session claims is provided to CIRSA property/casualty members by way of an amendment to the “non-monetary damages, fines or penalties” exclusion in the public officials liability section of the coverage document. This coverage is subject to the following terms:

- It applies only to reasonable attorney’s fees and reasonable and necessary costs included in the defense of an action brought solely under C.R.S. Section 24-6-402(9) of the open meetings law.
- It applies only to such an action brought against the member’s governing body; subordinate boards and commissions holding executive sessions do not have this coverage.
- It does not apply to any plaintiff’s attorney fees or costs that are assessed against the member as a result of losing such an action. Such fees and costs must be borne by the member.
- There is a sublimit for this coverage that is shared with certain other non-monetary defense coverages. The sublimit is \$10,000 any one action, subject to a \$30,000 annual aggregate per member. The member deductible does not apply to this coverage.

- Submitting an executive session claim to CIRSA is optional with the member; the member may choose to defend such a claim itself. If a member wants to avail itself of this coverage, the claim must be submitted to CIRSA, for handling by CIRSA-assigned defense counsel, at the time of commencement of the action.

## A Few Suggestions

The risks of open meetings violations can be greatly reduced by favoring transparency and using caution in cases of uncertainty. After all, the courts interpret the rules and will resolve doubts in favor of openness. Toward that end, elected and appointed officials should be cognizant of when their discussions will trigger open meetings requirements, so that violations can be avoided. To avoid claims of improper notice, a full meeting agenda should be timely posted, and the body and staff alike should avoid adding substantive items to the agenda at the meeting (as claims and distrust can result from such surprises).

Of course, claims of executive session violations could be avoided entirely by never having an executive session! However, this may be an unrealistic goal because, as discussed above, there is a legitimate need for confidentiality in some matters. But consider the following:

- Hold executive sessions to the absolute minimum necessary to protect legitimately confidential matters.
- Confirm with your city or town attorney that the proposed subject of the executive session is authorized under the law. The statutory bases for having an executive session are specific and narrowly construed, and bodies should resist efforts to pound a square peg in a round hole in searching for authority where it does not exist.
- Utilize an executive session “script” to help guide you in the proper procedures for convening an executive session. CIRSA members may obtain a CIRSA sample by contacting [saml@cirsa.org](mailto:saml@cirsa.org).
- When participating in an executive session, be vigilant of yourself and others to make sure that the discussion doesn’t stray from the specific subject that was announced in the motion to go into executive session. Participants in the executive session must commit to “stay on topic” and not stray from the specific subject.
- Make sure you keep an electronic record of each executive session as required by the open meetings law. The only exception to the recording rule is an executive session for an attorney-client conference; these sessions should not be recorded.
- Stay out of the loop on personnel matters when feasible. One of the more common reasons for holding an executive session is the discussion of a personnel matter. However, if the employee who is the subject of the executive session so demands, the discussion must be done in public. Moreover, personnel matters that are not personal to a particular employee are not proper subjects for an executive session (unless some other lawful basis for holding an executive session applies). These and other complexities of the “personnel matters” basis for holding an executive session can be avoided if your personnel policies have been set up in a manner that delegates most personnel matters to your staff.

- If you have to take one of your own governing body members to the “woodshed,” don’t do it in an executive session. Some years ago, the “personnel matters” basis for holding an executive session was amended to state that executive sessions are not permitted for discussions concerning any member of the local public body or appointment of a person to fill a vacancy on the local public body. Thus, the idea that the governing body can convene in executive session to discuss one of its own members as a governing body “personnel matter,” is no longer viable.
- If the confidentiality of a matter is such that it warrants an executive session, then be sure to honor that confidentiality once the executive session is over, until and unless public discussion of the matter becomes legally permissible. Don’t act outside the scope of your legal authority as an individual member of the governing body to waive confidentiality on your own. If the executive session concerns negotiations or other matters where some information will be shared with third parties in follow up to the session, ask “Who are our spokespersons?” and “What information will we share at this time?” and honor the answers arrived at in the session.

## Conclusion

Open meetings missteps are hard to overcome in terms of maintaining your constituents’ trust in you. Further, each and every executive session your entity holds exacts a price in terms of expectations of open government and, if done improperly, can subject your entity to claims. By complying with the strict requirements of the open meetings law, keeping executive sessions to the minimum necessary, and observing all of the formalities for holding meetings and executive sessions, you can keep that price low and public confidence high.





# CHAPTER 6

## ETHICAL CONDUCT IN LOCAL GOVERNMENT

By: Robert Widner, Widner Juran LLP

### Introduction

Citizens have a right to expect ethical behavior from local government officials. In the municipal context, “ethical behavior” generally means the conduct of public business in a manner that will preserve or restore the public’s trust in government. In many instances, local government officials are unaware of the rules and guidelines governing their official behavior. This chapter outlines a basic regulatory framework for ethical behavior for local government officials and advocates on the premise that limited but enforceable local regulation is necessary to protect the public trust. The first part of this chapter focuses upon “*what*” ethical activity should be regulated at the local level. The second part focuses upon “*how*” local ethical standards should be enforced.

### Why Regulate Local Ethics?

Both media stories and national studies of local government decision-making highlight the need for regulation of ethical behavior by local government officials. Unfortunately, ethical violations do occur at all levels of government and may range from the use of a public office to help a friend secure special treatment from the government to corruption, self-dealing, or just plain poor decision-making. Although the vast majority of public officials ably conduct official business without ethical missteps, a single publicized violation can cast a cloud upon the entire government organization and raise suspicion that other public officials are engaged in similar misconduct. Simply put, ethical violations erode public trust.

Colorado state law attempts to describe appropriate standards of conduct for local government officials in Title 18, Article 24 of the Colorado Revised Statutes. The state law fails in many respects to articulate clearly the standards for ethical behavior or to define key statutory phrases, such as what constitutes “personal or private interest.” State law further fails to serve the needs of local government by delegating the enforcement of alleged local ethical violations to the local district attorney’s office. This delegation often proves ineffective as it requires district attorneys to divert their limited resources from the enforcement of criminal conduct to the investigation and enforcement of

state misdemeanor ethical misconduct. Moreover, enforcement of statutory standards of conduct against elected public officials by elected district attorneys can—fairly or unfairly—lead observers to assume that politics, rather than justice, will dictate the outcome.

In addition to state statutory law, in 2006 the Colorado voters enacted Amendment 41, a constitutional citizen initiative. Amendment 41 was codified into Article XXIX of the Colorado Constitution. The purpose of Article XXIX was to establish new statewide rules governing the receipt of gifts and other considerations by government officials. It also allows a state independent ethics commission to hear complaints, issue findings, and assess penalties in connection with ethics issues arising under Article XXIX and under any other state standards of conduct and reporting requirements. The state's independent ethics commission has proven a less than effective means of addressing ethics at the local level due to lengthy hearing timelines and the need for local officials to defend conduct in a state tribunal located in Denver using state, and not locally, created and imposed ethics regulations. Of significant importance to the creation of local ethics regulation, Article XXIX includes an explicit exemption which limits the state's independent ethics commission's jurisdiction: Home rule municipalities that have enacted local ethics codes which address the topics of Article XXIX are not subject to the jurisdiction of the independent ethics commission.

Municipalities may overcome these state statutory and constitutional shortcomings through local regulation and local enforcement of ethical behavior. Effective local regulation of public officials' ethics necessarily involves two distinct elements. The first is a set of clearly written directives identifying what constitutes unacceptable or unethical behavior. The second is a process for enforcing the written directives in a reasonable, fair, and efficient manner.<sup>1</sup>

## What Should be Regulated?

The most common problems with local rules of ethical conduct are vagueness and overbreadth. Sweeping general statements such as “city officials should comport themselves at all times in a professional manner” are too vague to help either the officials or their constituents understand what is and is not acceptable. Likewise, regulations that attempt to set standards for the officials' personal life may seem admirable, but are really beyond the scope of good ethical regulation. Consequently, any set of ethical regulations should focus on the conduct of public officials while performing their public duties and should be specific enough to clearly define what constitutes an ethical violation.

Engaging in criminal conduct while in the course of one's public responsibilities should always be an ethical violation. However, criminal acts committed by public officials outside of their official role and in their private capacity are best left to local law enforcement or, as discussed below, the public's right of recall. It may be true that a public official's criminal activity unrelated to public office can still undermine public trust, but if your ethical code provides that “any felony or misdemeanor criminal activity” committed by a public official constitutes an ethical violation, are you prepared to sanction a board or council member who receives a jaywalking ticket?

A criminal act committed by a public official in his private life will typically only call into question the qualifications of that particular public official to serve the public. To that end,

state law provides a remedy in the right of recall, a process by which the voters can decide whether that individual should continue to serve. Local ethical regulations, however, should avoid putting members of the municipal governing body in the role of overseeing and enforcing the private activities of one of their own.

It is also customary, and a good idea, for local ethics regulations to incorporate as an ethical violation any failure of the public official to adhere to important provisions of the municipal charter or ordinances, such as provisions that prohibit elected officials' interference with the city manager's supervisory role over city employees. In addition, ethics regulations should prohibit:

- the intentional disclosure of confidential governmental information;
- the acceptance of gifts of substantial value;
- the misuse of public resources or public equipment; and
- engaging in contractual relationships for the personal benefit of the public official and/or the official's relatives or any business in which the official has an interest.

In summary, local ethical regulations should prohibit the conduct that will most directly impair the public's trust in the local government organization as a whole. If drafted with appropriate attention to specificity, effective local regulation will put public officials on notice of precisely what constitutes inappropriate behavior related to their public service, and will clearly inform constituents of what is expected of their local representatives. Accompanying the regulations should be well-defined steps for disclosure and recusal in circumstances giving rise to conflicts of interest. Finally, local codes should include terms and phrases designed to avoid vagueness and ambiguity.

## How Should Ethics Codes be Enforced?

Ethics regulations effectively inform officials what conduct is permitted and prohibited in public service. However, without a means to enforce the ethical requirements, the regulations become largely meaningless.

Creating a process to enforce ethical regulations requires careful thought. Ensuring that the regulations are enforced fairly is a paramount concern. Fair enforcement is fostered when regulations clearly articulate the requirements and expectations of every step of the enforcement action. Where a step is optional, such as whether an investigation of the ethics complaint will be performed, the criteria and procedures for determining whether the step will be employed should be clearly identified and followed. The regulations should contemplate the need for issuing subpoenas for documents and compelling witness testimony and attendance.

The typical process will include a complaint, the identification of the hearing body or hearing officer, an initial review, investigation, a hearing, a decision and, if appropriate, a penalty.

## Complaint

The initiation of the process to enforce an ethical standard should require a written complaint or allegation of unethical conduct. The form of the written complaint is

important. The person charged with unethical conduct has a right to know what conduct is alleged to have violated the ethical rules.

At a minimum, the complaint should include a detailed description of the action alleged to have violated the rules and citation to the ethical rules alleged to be violated by such conduct. Requiring the complaining party to verify or certify under penalty of perjury or other sanction that the allegations are truthful may aid in preventing complaints that are merely intended to harass or which might be politically motivated. Once received, the complaint must be must formally delivered or served upon the person alleged to have violated the rules.

## Hearing Body or Officer

A critical decision for any ethical enforcement action is the selection of the appropriate hearing body or officer to hear the allegations, render a decision, and impose a penalty, if appropriate. The enforcement regulations should identify the process for selection, composition, and qualifications of the hearing body or hearing officer. The options are numerous. The hearing body might, for example, be composed of the entire governing body of the local government, a governing body subcommittee, a citizen ethics board, or an independent hearing officer. Moreover, the decision of the hearing body or officer can be considered advisory and made subject to final review and ratification by the governing body.

Each option presents advantages and disadvantages. The elected governing body is a logical selection when judging the conduct of its fellow members or public servants due to its role as representing the citizens who demand ethical action by government. However, selecting the governing body or individual members of the governing body risks injecting elements of political favoritism into the ethics process, and raises complications where other members are necessary witnesses to facts alleged in the complaint. Similarly, while citizen members have a direct interest in ethical governmental action, citizens can oftentimes be politically aligned with elected officials or lack the experience to understand the allegations in the context of public service. Individual hearing officers, while perhaps free of any political motivations, may lack accountability to the citizens.

## Initial Review

A preliminary or initial review of the complaint may be a beneficial step. A complaint may fail to assert any actions by the public servant that constitute an ethical misstep or may assert actions that are unrelated to the servant's public duties. In addition, a complaint may, on its face, be submitted for the sole purpose of harassing the public servant. At a preliminary review, the hearing body or officer can elect to dismiss the complaint, thereby saving the local government time and money in processing spurious or specious allegations. Any decision to dismiss the complaint should be made in writing and provided to the complaining party and the person against whom the allegations were raised.

## Investigation

For some but not all complaints, an investigation might be warranted. If warranted and approved by the hearing body or officer, the investigation should be undertaken by an independent and neutral party. This investigation might involve the interview of witnesses and review of the evidence, and may culminate in a written summary of disputed and undisputed facts relevant to the issues to be decided by the hearing body or officer.

## Hearing

For complaints that warrant prosecution, a hearing should be held to consider the complaint. In some circumstances, the hearing may include a preliminary stage whereby the hearing body or officer reviews the investigative report and, if appropriate, may elect to dismiss the allegations if the investigation established that the evidence does not support a finding of wrongdoing. Conducted in a manner similar to a judicial proceeding, the hearing should permit the presentation of evidence to support the allegations of unethical conduct and an opportunity to provide a defense against the allegations. The local government may employ a prosecutor to present the allegations and evidence. Any decision by the hearing body or officer should be made in writing to ensure an adequate record and formally conclude the proceeding.

## Decision and Penalty

In the event that the hearing body or officer finds a violation of the ethical standards, a penalty may be in order. Obviously, the severity of the penalty can vary depending upon the seriousness of the violation. Penalties may range from a simple letter of admonition or censure, to removal of the public servant from certain duties or responsibilities, to more drastic action including removal from elective office.

It is exceedingly rare for ethical violations to result in a monetary fine. A monetary fine or action to void a contract resulting from unethical conduct is most appropriate where the ethical violation caused probable financial harm to the community. These types of violations are best prosecuted by the district attorney under the public trust provisions of state law.

Importantly, removal from office is a power best reserved for the governing body which holds the power of removal pursuant to the charter (for home rule municipalities) or state statutes (for statutory cities and towns). Moreover, it is important to acknowledge that elected officials remain accountable to the citizens and are subject to recall from office should their constituents feel the ethical standards of their official are lacking. For that reason, removal from office should be considered only in the most egregious cases.

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### Footnote:

1. Many home rule and statutory municipalities in Colorado have adopted local ethics regulations, ranging from comprehensive charter provisions and ordinances to a few local supplements to state law. CIRSA members can obtain examples of local ethics ordinances by contacting [saml@cirsa.org](mailto:saml@cirsa.org).





## CHAPTER 7

# HARASSMENT ISSUES: WHAT ELECTED OFFICIALS NEED TO KNOW

By: Tami A. Tanoue, CIRSA Executive Director

### Introduction

Harassment allegations have been a media fixture for the past few years, as the “me too” movement spreads across the world of entertainment, media, the corporate sector, and even into federal, state, and local government.

In municipal government, many of us feel like seasoned veterans in dealing with harassment issues. At least in the employment arena, we know how to deal with harassment. We have the policies in place, and we take them seriously. We do regular training on the issues. We know how to undertake a fair and credible investigation when allegations surface, and we understand the need to impose appropriate consequences for well-founded allegations.

But now, harassment issues are surfacing at the level of governing bodies and elected officials. Like an unexpected virus variant, this permutation has left some municipalities unprepared to deal with the consequences. The results have included ineffective responses, public embarrassment, and loss of public confidence.

### Why Should You Care About Harassment Issues at Your Level?

You might be thinking that the governing body working environment is not the same as the employee workplace. You’re all co-equals, elected by and accountable only to the voters. The people “hired” you, and the people are the only ones who should be able to “fire” you. You each got into this voluntarily for the love of your municipality, and not as your livelihood, and those who can’t stand the heat should get out of the kitchen. Right?

Well, wrong! Let’s start by looking at your place in the municipal organization. You’re at the very top of the organizational chart and the chain of command. As such, you are a key influencer of the organizational climate. A recent study concludes that the organizational climate is the most potent predictor of harassment in the workplace!<sup>1</sup> You’re setting the tone for how people throughout the organization interact with one another. If the tone you set is disrespectful, inhumane, or dysfunctional, then that behavior will be modeled and replicated throughout the organization! Do you want that?

Another reason you should care: the higher up in the organization a harassment issue surfaces, the more difficult it is to deal with. Because of legal requirements and public expectations for transparency, you must necessarily conduct most of your work in public. If you think that a harassment allegation at your level can be dealt with behind closed doors, you may be disappointed.

Also, the consequence for a well-founded allegation of harassment isn't straightforward when it comes to an elected official. How is an elected official to be "disciplined" by his or her peers? Concepts such as "corrective action up to and including termination" don't necessarily translate well when applied to elected officials.

And assuming you've laid out a process for dealing such allegations, who gets involved in that process? Those in the administrative team who normally provide you with support, advice, and assistance may well say, "sorry, this is above my pay grade," requiring you to go outside your organization, at great expense, for help.

## Policies, Legal Definitions, Civil Liability Laws, and Their Limitations

The definition of "harassment" differs from policy to policy. One common factor, though, is that harassment generally must be "severe or pervasive" in order to constitute a policy violation. The "severe or pervasive" standard is consistent with the U.S. Equal Employment Opportunity Commission's (EEOC) view of offensive conduct that violates Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, or the Americans with Disabilities Act of 1990: the conduct must be severe enough that enduring the offensive conduct "becomes a condition of continued employment"; or must be "severe or pervasive" enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive.<sup>2</sup>

Thus, policies, as well as civil rights laws affording protection from harassment, set a high bar for liability. A common question, then, becomes: "well, if my conduct is short of 'severe or pervasive,' there's no problem, right?" Stated differently, if someone's behaving badly, but the behavior doesn't quite hit the high bar for a policy violation or for civil liability, does that make the conduct acceptable?

Another form of liability is criminal culpability. How often have you heard someone justifying their bad behavior in this way: "Well, I haven't committed any conduct that could be described as criminal." Does that make the conduct OK?

Let's think about this! In any other aspect of your work as a public official, is the standard for acceptable conduct this low? When it comes to ethical or conflict of interest issues, for example, would we be able to get by with a low bar like "well, just don't commit a crime," or "just don't expose yourself or our municipality to civil liability"? No! Municipal officials pride themselves in meeting the highest standards of conduct when it comes to ethical issues or conflicts of interest. So why should we set such a low bar for the way we behave towards one another?

And here's another critical issue. Harassment laws are generally aimed at employment matters: employee-employee issues, supervisor-employee relationships, employer-employee responsibilities, and the like. These laws aren't designed for issues between elected officials, who aren't employees, aren't accountable to an employer, and are beyond



the reach of common workplace remedies like termination, suspension, demotion, etc. Thus, you'll run across investigations of elected officials' conduct that might reach a conclusion along these lines: "The allegation of a hostile work environment based on sexual harassment was unfounded. This conclusion is reached because the Civil Rights Act of 1964 does not apply to elected officials." But, does that make the conduct acceptable? Should exposure to civil liability be the standard by which conduct is gauged?

Most reasonable people would not live their lives by the guideline, "I'm OK as long as I avoid civil or criminal liability." We would want to hold ourselves to a much higher standard! And, as leaders, we certainly wouldn't want to model such a low bar for the rest of the organization. So let's ditch the legal parsing. Let's focus away from the "h" word, harassment. Let's not spend too much time arguing over definitions. What we need to do is to confront and articulate the expectations we should have for ourselves, and for our colleagues, in the environment in which we operate.

## Risk Factors for Harassment

The EEOC has been doing some interesting work around harassment issues in recent years. Risk factors have been identified that, if present, increase the likelihood that there will be harassment issues in the workplace. You can view the complete list on the EEOC's website,<sup>3</sup> but some of the risk factors include:

- Homogeneity – lack of diversity, "currently only one minority among us."
- Workplaces where some employees don't conform to workplace norms – "rough and tumble" or single-sex dominated workplace culture.
- Cultural and language differences – arrival of new personnel with different cultures or nationalities; segregation of personnel with different cultures or nationalities.
- Workplaces with "high value" personnel.
- Workplaces that rely on customer service or client satisfaction.

Could any of these factors apply to your governing body? For example, if diversity in terms of gender, race, ethnicity, age, and other factors is a new phenomenon on your governing body, then one might expect misunderstandings and gaffes to occur. Certainly, elected officials are "high value" personnel within the organization; there's no one higher in the org chart than you! And most municipalities pride themselves on a high degree of customer service and customer satisfaction. These are all things to be proud of—but they are also factors for the presence of harassment issues.

## So, What Can We Do?

If you've read this far, congratulations! You're more than halfway towards dealing with these complex issues in a positive and successful way. The recent work of the EEOC includes a recognition that a "committed and engaged leadership" is one of the most important factors in preventing and addressing harassment.<sup>4</sup> So the fact that you, as an organizational leader, care about this issue is a great thing in itself.

First, take a look at the prevailing culture on the governing body. Are old ways of interacting with one another no longer working well? Or making some members feel like less than equal participants on the governing body? Have you had complaints or concerns raised about the behavior of one or some members? If so, it may be time to discuss the prevailing dynamics openly and honestly to start identifying the concerns.

Once you know what the concerns are, then you can begin discussing how to deal with them. You can identify what types of conduct are not acceptable. You can identify the values that are important to the group. You can work towards commitments about how you will communicate and interact with one another. Those commitments can form the basis for norms or standards of conduct. Not everyone may end up on the same page, but the “peer pressure” brought about by the consensus of a majority is powerful!

If you can get on the same page on norms or standards of conduct, it may be desirable to put them into a written document, perhaps a set of governing body rules of conduct. The rules can articulate the standards explicitly, so that everyone understands what is expected. A process for bringing forward concerns or complaints can be identified, as well as the manner in which such concerns or complaints will be investigated. CIRSA members can obtain an example of such rules by contacting [tami@cirsa.org](mailto:tami@cirsa.org).

And very importantly, the rules can provide consequences for violations of the standards. Those consequences may be limited by your home rule charter (for home rule municipalities) or the state statutes (for statutory cities and towns). But even if the consequences don’t necessarily include a severe consequence like expulsion from the governing body, they are still powerful! Even a “public censure” is a powerful consequence; your wayward colleague, as well as the citizens, will understand that you take your conduct standards seriously and that violations are unacceptable.

## Bystanders and Peers

It’s important to stress that we are all leaders, and we all have a role to play. Each of us is likely a supervisor, role model, or mentor to someone else. We may be part of a peer’s support system, sounding board, or confidant. We may even just be a witness. And that’s where the concept of “bystander” empowerment or intervention—another concept recently embraced by the EEOC<sup>5</sup> — comes in. Perhaps “peer” would be a better term than “bystander,” but the idea is this: that someone who doesn’t directly experience concerning behavior, but who observes it happening, can step in and make a difference.

This doesn’t necessarily mean that you, as a bystander or peer, should intervene superhero-style, to swoop in and “rescue” someone that you think may be in a problematic situation. Indeed, you don’t need to expose yourself to a situation that could escalate. But what you can do is to talk to that person away from the situation: let him or her know that you saw what was happening. Say something like, “Hey, I happened to hear what Kyle said (or did) to you, and I didn’t think it was OK. Were you OK with that?” If the person responds in the affirmative, fine; you can all move on.

But if the person indicates that the behavior to which he or she was subjected was a problem, then think of the impacts of your intervention! First, that person knows that he or she is not alone: you are a witness. Second, you are affirming that the behavior is not

acceptable. And third, you can be of help in identifying resources for further follow-up. Bystander intervention is about empowering yourself to be part of the solution.

If you're comfortable doing so, you can talk to the person engaging in the problem behavior: "That joke wasn't funny." Or, maybe the situation calls for some kind of interruption...maybe standing in proximity will extinguish the behavior. Or, perhaps, drop something on the floor and create a small diversion!

There are other ways in which a bystander or peer can positively affect a problem situation. Training on this topic is available and can provide a powerful peer-to-peer tool for communicating and reinforcing workplace values.<sup>6</sup> Although a formal complaint/follow-up process should always be available, an effective bystander or peer intervention may help resolve issues without the need to escalate them into a formal process.

## Conclusion: It's All About Respect

In the final analysis, this discussion shouldn't be about the "h" word, harassment. It should be about the "r" word, respect. A working environment where everyone's scrutinizing whether the harassment line has or hasn't been crossed in any given interaction is not a good working environment. A working environment where everyone's striving for a sense of mutual respect, trust, collegiality, and inclusion, is an environment where things are going to get done, and done well.

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### Footnotes:

1. National Academies of Sciences, Engineering, and Medicine, 2018: *Sexual Harassment of Women: Climate, Culture, and Consequences in Academic Sciences, Engineering, and Medicine*. Washington, DC: The National Academies Press. <https://doi.org/10.17226/24994>.
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## CHAPTER 8

# ELECTED OFFICIALS' INVOLVEMENT IN PERSONNEL MATTERS

By Tami A. Tanoue, CIRSA Executive Director and  
Sam Light, CIRSA General Counsel

### Introduction

CIRSA doesn't take many member cases all the way through trial. When we do, it's usually because we expect a jury verdict in our member's favor. But one area where we've sometimes been disappointed by a jury has been in the area of employment liability.

CIRSA members' experience with employment claims in the judicial system reflects certain realities. Every juror has probably had to deal with a "bad boss" at some time in his or her working life. It's much harder to find a juror who's had to deal with "bad employees" as a manager or supervisor. So juries are naturally tilted in the employee's favor rather than the employer's.

Another reality is that employment litigation is extremely stressful. Careers and reputations are at stake. The supervisor's and manager's (and sometimes elected official's) every move is subjected to scrutiny, and the documents they've generated are nit-picked by attorneys and blown up into super-sized exhibits. One's fate is entrusted to the decision of a group of complete strangers. Sometimes, that fate is a dire one, indeed. One mayor in New Mexico (which is in the same federal circuit that encompasses Colorado) was handed a verdict in which a jury determined that his retaliatory and discriminatory conduct in an employment matter warranted a punitive damages award of \$2,250,000 against him.<sup>1</sup>

Even when the stakes aren't that high, no one who's ever been through employment litigation relishes the thought of ever going through it again. The suggestions in this chapter are intended to help you, as an elected official, to minimize the chances that you'll be caught up in employment-related litigation and, if you are, to maximize the chances of a better outcome than that faced by the New Mexico mayor.

## Establish a Structure That Allows Delegation of Personnel Functions

In a word, the single most important suggestion is: delegate! The chances that you'll be pulled into an employment claim, much less sued successfully, go way down if you've appropriately delegated the responsibility to hire, train, evaluate, supervise, manage, and discipline all but your key employee or employees. To do this, you need to have an administrative structure in place that will permit delegation, such as a manager or administrator form of government.

If your entity is fortunate enough to have a manager/administrator, the governing body should take full advantage of the organizational structure this position allows. The manager/administrator should be the **only** position (except for city/town attorney, municipal judge, and similar positions) that reports directly to the governing body. All other personnel should be accountable to the organization solely through the manager/administrator. Every organization that has more than a few employees should strive to put such a structure into place.

## Honor the Structure

Once you've achieved a manager/administrator form of government, you must honor it. These types of actions, if allowed, would violate your commitment to that form and waste the resources that you've allocated to it, and encourage dysfunction and disorder:

- Elected officials reaching down below the level of the manager/administrator to influence what goes on with personnel administration below that level.
- Elected officials reaching down below the level of manager/administrator to give orders to employees below that level on how to do their job, particularly if the orders are contrary to the established policies and/or the direction of their supervisors.
- Elected officials permitting an employee below the level of manager/administrator to bypass his/her own supervisor and take personnel issues directly to them.

Thus, for instance, if your entity has committed to a manager/administrator form, there's no call for elected officials, individually or collectively, to demand the hiring or firing of a specific employee below the level of manager/administrator. Such an action raises questions of propriety from several perspectives:

- **Do your personnel enactments reserve any such authority to the elected officials?** If you have a manager/administrator, your charter, ordinances and/or personnel handbook probably don't (and shouldn't) call for you to be involved in decisions involving subordinate employees. If you get involved in such decisions, you may be outside the scope of your authority and could get in trouble (see "Be aware of the scope of your authority" below).
- **What's the reason for doing an "end run" around the manager/administrator?** Do you have a "favorite" candidate for employment, or an employee who's on your "hit list"? Why are you championing or condemning someone rather than trusting your manager/administrator to make the right decision? Do you question his or her judgment or ability to make the right choice? If so, confront that concern;

don't skirt it with an "end run." And, if the governing body does not share your concern about the manager/administrator, don't "end run" your governing body's collective decisions on oversight of its direct reports.

- **Could what you're doing be perceived as retaliatory?** Along with all the other reasons why involvement in personnel matters can be very risky, consider the retaliation claim. Everyone is potentially in the category of persons who are legally protected from acts of retaliation. Retaliation claims are among the most difficult to defend. And, these kinds of claims can lead to massive liability.

But often, it's not the elected official who seeks, in the first instance, to become inappropriately involved in a personnel matter. Rather, there's pressure put on the official from outside. For instance, a department head may have curried disfavor with a segment of the citizenry because of the perceived manner in which a service or program is being carried out. Either way, though, such involvement is the wrong thing to do. Don't be pressured by a member of the public, for instance, to interfere in a personnel issue that's been delegated to the manager/administrator. That citizen's not going to be around to help you if you get into trouble at his or her urging!

Similarly, don't give in when a subordinate employee is trying to use you to get around his or her supervisor, or when an applicant is trying to get a leg up on employment through you. Let the process unfold the way it's meant to unfold. If you have a concern about the way the manager/administrator is handling things, address that concern directly. If you cave in to pressure to involve yourself inappropriately, though, you may be enabling someone who wants to "game the system," or unfairly disempowering a manager or supervisor.

## Be Aware of the Scope of Your Authority, and Stay Within That Scope

From a liability standpoint, one of the worst things you can do is to act outside the scope of your legal authority. An area where authority issues often arise, particularly in smaller communities, is in the "committee," "commissioner" or "liaison" format for personnel administration. In this format, an individual councilmember or trustee is in a supervisory or oversight relationship with respect to a department, department head, or employee. Thus, a town might designate a trustee as "water commissioner," "police commissioner," etc.

What's troubling about this format is that it's often not described anywhere in the community's enactments, nor is the authority of each commissioner set forth in writing. Rather, this format seems to be a relic of oral history and tradition. But the lack of written guidelines means that there are significant personal risks to the commissioner. What if the commissioner takes an adverse job action, such as seeking to terminate an employee? Under what authority is the commissioner acting?

If the commissioner can't prove that the action was within the scope of his or her authority, there may be consequences from a liability and insurance coverage standpoint. The Governmental Immunity Act, for instance, provides protections for public officials only when in the performance of their *authorized duties*. Likewise, liability coverage

protections through CIRSA only apply when a public official is acting *within* the scope and performance of official duties. Finally, even if there is authority on the books, this format in particular can lend itself to uncertainty over who does what—“Is this a decision for the board, commissioner or department head?”

Similar questions arise when an individual elected official chooses to become involved in a personnel matter in a way that isn’t authorized by the entity’s personnel enactments. Where is the authority for such involvement? If you can’t find a firm source of authority, you may be heading for trouble. An individual elected official’s inappropriate action can not only create liability exposure for the official, but put him or her crosswise with the other members of the governing body.

## Respect the Principle That Each Employee Should Have Only One Boss

This seems like an obvious principle that every organization should follow. You don’t want an employee confused by multiple directions from multiple supervisors. You also don’t want an employee playing one supervisor off against another. When elected officials become inappropriately involved in personnel matters, this basic principle is violated, and the result is chaos.

If you allow yourself to become embroiled in a personnel matter involving a subordinate employee, the employee may then feel that the word of his or her supervisor can be disregarded. You may have forever undermined that supervisor’s authority, or allowed the subordinate to do so. Likewise, if you were involved in lobbying for the hiring of a favorite applicant (even if it was for good reasons), that person may always feel that you, not his or her supervisor, are the go-to person on personnel issues.

Similar principles apply with respect to your governing body’s oversight of its manager/administrator and other direct reports. Elected officials should recognize the council/board is not a group of seven or other multiple number of bosses, but one boss. Therefore, members of the body should commit themselves to speaking with one voice to their direct reports and to exercising their oversight role—e.g. performance reviews, goal setting, etc.—as a group. Even when there are differences of opinion as to how to address an issue with the manager/administrator, the body should arrive at its position. If the governing body does not work to speak with one voice to its direct reports, it’s undermining its credibility as a board and its ability to gain accountability at the highest levels in the organization.

This is not to suggest that a militaristic chain of command is required in every workplace. In fact, flexibility in reporting relationships is desirable in some situations. For instance, you wouldn’t want to lock your employee into reporting a harassment claim only to an immediate supervisor, if the immediate supervisor is the one alleged to be engaging in the harassment. But you can maintain the needed flexibility without collapsing into the chaos that your inappropriate involvement in personnel matters will beget.



## Conclusion

There's certainly a place for elected official-level decision-making in personnel matters, but those decisions should be reserved for the high-level issues that involve the entire organization. Examples of such high-level issues could include establishing overall policies for the entity; selection, evaluation, and discipline for the council/board's few "direct reports"; salary and benefits plan for the workforce; and overall goals and priorities for departments. But when these issues begin devolving into the details of hiring, training, evaluating, supervising, managing, or disciplining particular employees below the level of your direct reports, it's time to delegate them to your manager/administrator.

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### Footnote:

1. The award was later reduced to \$1,500,000 but affirmed by the 10th Circuit Court of Appeals. *Hardeman v. City of Albuquerque*, 377 F.3d 1106 (10th Cir. 2004).





## CHAPTER 9

# SOCIAL MEDIA USE BY ELECTED OFFICIALS

By: Tami A. Tanoue, CIRSA Executive Director &  
Sam Light, CIRSA General Counsel

Social media engagement has become a regular part of life. Daily, we check our emails and texts, and then probably go on to check our favorite social media sites, such as Facebook, Instagram, Twitter, and others. Local governments and their constituents are also mutually interested in connecting via social media, whether to conveniently transact business or provide timely information about everything from street closures to street festivals. So it's no wonder that elected officials, too, have integrated social media into their public lives. But if you're an elected official, you should know that, because of the powers and responsibilities conferred on you by virtue of your position, your social media use has some legal dimensions that may not apply to the rest of us. This chapter explores a few of them.

### Open Meetings Law

While Chapter 5 outlines the basics of the Colorado open meetings law (COML), it's worth examining more specifically how its requirements can extend to your social media use. Consider this scenario: You have a Facebook page for yourself under the category of "Politician." You post information about city happenings and resources, and welcome others to post there as well. One day, you post on a controversial topic that the council will be tackling at its next meeting, and two of your fellow councilmembers get wind. All three of you go back and forth posting about your respective views and how you intend to vote on the topic.

Is this a "meeting" within the meaning of the open meetings law? Well, it seems at least arguable that it is! Remember, a "meeting" under the law includes a gathering convened electronically to discuss public business. When there are three or more members of the local public body (or a quorum, whichever is less) participating in such a gathering, that can trigger the notice and "open to the public" requirements of the law. If triggered in this type of social media discussion, how do you comply with the 24-hour "timely" posting requirement in the COML when you're posting on Facebook? How do you meet the "open to the public" requirement? These are questions for which there are not clear answers, but you see the point...discussions of public business by the requisite number of governing

body members can certainly take place in an electronic forum, and then these questions (and others) may come into play.

## Constitutional Concerns

A scenario: You post about the upcoming agenda item on your Facebook page featured in the previous scenario. For some reason, the discussion on the post starts to go completely sideways, with lots of negative comments, including some hateful attacks from the citizen you defeated in the last election, and some uncalled-for memes and photos. You decide the hateful attacks aren't helpful to the discussion—keep it positive, people!—and so you “block” your prior campaign rival from posting and you start deleting some of the particularly disagreeable comments. A few days later you ultimately decide that the better part of valor is to just delete the whole darn post.

Did your act of “blocking” your rival raise free speech concerns? It may well have! Remember, the constitution provides strong protections for free speech and generally prohibits the government from censoring speech that occurs within those venues established for the open exchange of ideas on matters of public concern. These principles have raised the question of whether a public official's Facebook page or Twitter account is a public forum such that commenters cannot be blocked, or their comments removed, based on their content.

While the law in this area is still developing, a few courts have concluded that if a public official has a social media page or feed that essentially “walks and talks” like a governmental forum, then the medium is a public forum subject to the principles regulating free speech. So, for example, where an elected official designates the page as their official page as a member of an elected body, uses the page to communicate with constituents as an elected official about government events, and invites followers to use that page for discussion of any topics relating to the government, the official cannot block persons who post critical content. The takeaway? A social media site can be a great way to communicate with constituents but if that's how you use your accounts, don't block people from posting.

Also in the above scenario, if you've decided to delete the whole darn post: Are the post, and the comments, considered “public records” within the meaning of the Colorado Open Records Act (CORA)? Again, it seems at least arguable that they are! The term “public records” is defined to include “the correspondence of elected officials,” subject to certain exceptions. And public records are open for public inspection and copying. Your municipality has most likely adopted a records retention and destruction schedule that governs how long various documents, including electronic documents, must be maintained prior to destruction.

So, could someone request a copy of a post that was on your Facebook page under CORA? What if you deleted the post? Is there a record retention schedule that applied? Was that schedule violated when you deleted the post? More of those infernal questions for which there isn't a clear answer...but you see the point! If there's a chance that the posts are subject to CORA, then it might be smart to tolerate the replies you get on your post. Alternatively, make sure you have some reasonable and defensible posting rules in place so that everyone knows up front your expectations for your page.

## Quasi-Judicial Rules of Engagement

A further word of caution on social media concerns your duties as a decision-maker in quasi-judicial matters. Consider this scenario: A site-specific land use application is scheduled to be considered by the planning commission on an upcoming agenda, with the commission's recommendation to be referred to the council for final action at a later date. You consider the proposed use to be an extremely controversial one. But you're worried that it's a bit "under the radar," what with summer vacations, holidays, and all. Of course, proper notice has been given by the planning department, but you're still concerned that the proposal may get a favorable recommendation from the commission without any citizen testimony. You decide to post this on your Facebook page: "Citizens, please read this IMPORTANT NOTICE! You need to know that the planning commission is going to be considering a proposal for \_\_\_\_\_ at its upcoming meeting on \_\_\_\_\_ at 7:00 p.m. As a councilmember, I am taking no position on the proposal at this time. But if you care about our community's future, then you will want to attend this very important hearing before the planning commission."

See any problems here? You've certainly stated that you're "taking no position" at this time, right? But it may appear to others, particularly the applicant, that you are opposed to the proposal and are trying to "gin up" opposition to it! Is that congruent with the "neutral decision-maker" role that you will need to take on once this quasi-judicial proposal goes up to the council? Could the applicant take the position that it looks like you made up your mind, without evidence, long before the council hearing, and therefore, you should be recused from participation?

"But, but, all I'm doing is making sure the public knows about this proposal," you protest. Well, do you do that with EVERY proposal that comes before the planning commission, or did you just happen to pick out this one for the Facebook spotlight? The essence of procedural "due process" rights that attach to a quasi-judicial matter is notice and a fair hearing before neutral, impartial decision-makers. With a post like this you can see how, even if your intentions may have been honorable, doubts can be cast on your impartiality and neutrality. Those doubts increase if your involvement goes beyond this scenario—say, for example, that you are also posting or responding to comments about the merits of the application.

When it comes to social media buzz around quasi-judicial matters, remember that due process requires you to be impartial and base your decision upon evidence presented at your public hearing. Remember also that defensible quasi-judicial decisions are about good process. As part of that process you will ultimately hear the case and have the power to make the decision—at the time that it's ripe for your body's decision! Avoid the temptation to leap into the social media fray, as that will protect your ability to serve as a quasi-judge, and protect your governing body's decision.

## Some Suggestions

Social media use by elected officials implicates new and evolving legal issues, and this chapter only touches upon a few of them. The uncertainty is real! But you can avoid uncertainty and stay on solid ground if you follow these suggestions:

- Consider whether you really need to be on social media in your elected official capacity. If only 23 people “like” your page, it may not be worth the hassle. And keep in mind that only a fraction of those 23 people may even be seeing your posts.
- If you feel that the use of social media is a net plus and/or a service to your constituents, be extremely careful about what is posted! Stay away from discussions of items that will be or could be on your governing body’s agenda. There’s a time and place for discussion of those items, and it’s most likely not social media. Stick to public service announcements, photos and posts about things you did (“It was great to meet so many of you when I volunteered at City Cleanup Day last week”), upcoming events like “Town Halls,” re-posts of City newsletters, links to articles that tout your great city, and the like. If you’re careful about what you post, you’re not going to have to confront the uncertainties of COML, CORA, and other laws. If you stick with helpful but non-controversial posts, then there won’t be much of a need to delete posts.
- Be particularly careful to stay away from commenting on a pending quasi-judicial matter. This is where the stakes are highest! In a worst case scenario, an imprudent post could require your recusal from participating in the matter on the basis that you’ve revealed your non-neutrality, buttress someone’s constitutional claim, serve as a basis to attack the body’s decision, or all of the above.
- Check to make sure you created your page under the right category. “Politician” is more accurate than “Governmental Organization.” And don’t use the official city/town logo, to avoid any implication that yours is an “official” city/town page.



## CHAPTER 10

# APPOINTMENT AND REMOVAL OF OFFICIALS IN STATUTORY TOWNS

By: Linda Michow, Partner, and Christiana McCormick, Associate, Michow  
Cox & McAskin LLP, and Tami A. Tanoue, CIRSA Executive Director

## Introduction

Colorado law grants elected officials in statutory towns the power to appoint and remove certain municipal officials, including members of the governing body and officers such as the clerk or treasurer. If you're an elected official in a statutory town, it's important for you to have a working understanding of the rules and potential pitfalls in this area. An improper appointment or removal can not only result in disputes or claims, but also create uncertainty within the organization and a cloud over the governing body. This chapter provides information on appointment and removal of officials in statutory towns, including the filling of vacancies and guidance regarding best practices. In general, statutory cities operate under different statutes, and home rule municipalities operate under charter provisions that are likely different than the statutory requirements outlined in this chapter, and so neither are addressed here.<sup>1</sup>

## Filling Vacancies on the Town Board

A vacancy on the town board can occur under a variety of circumstances, including: resignation; inability to fulfill the duties of office; failure or refusal to take the oath of office; failure to meet residency requirements (including moving out of the ward or municipality); removal from office; a seat left unfilled after an election, or an official passing away during the term of office. Once a vacancy arises, the town board is faced with several considerations.

- **Sixty-day time frame.** First, state law provides that a vacancy on the town board may be filled either by appointment or by election. However, this option only lasts for 60 days. If the town board does not fill the vacancy by appointment or order an election within 60 days, then the board is required to order an election to fill the vacancy.
- **Resolution declaring vacancy.** The board should consider adopting a resolution that declares the vacancy, sets forth the vacancy effective date, and states whether the board chooses to fill the vacancy by appointment or by election. While such a resolution is not required for a statutory town, the board should consider this

approach, as passing a resolution declaring a vacancy provides a written record of when the statutory 60-day clock begins and makes known the intent of the town board regarding its choice on how to fill the position.

- **Special considerations for vacancy in mayor’s office.** Generally, a vacancy in the office of mayor is filled in the same manner as vacancies of other members of the town board. However, if the town board will appoint someone, it may wish to consider qualifications or circumstances unique to the position, including the mayor’s voting rights and role as presiding officer.

## Term of Office for an Appointee Filling a Vacancy

The term of office of a vacated seat filled by appointment or election only runs until the next regular election. This is true even if the original term would not be expiring at such election. There is no authority in state law for a statutory town to extend the term of office of an appointee filling a vacancy. If terms of office are four years, this rule can sometimes create confusion at the next regular election, where some seats are up for a full four-year term while another seat is on the ballot solely for purpose of electing a person to fill a vacant seat for the remainder of the term. Proper parlance can reduce the confusion—candidates running for that vacant seat aren’t running for an office having a new two- or four-year term but for a shortened, two-year term to fill the vacancy.

## Qualifications of an Appointee Filling a Vacancy

Colorado statutes do not separately mandate qualifications for an appointee who is to serve in the event of a vacancy. However, the Colorado Constitution and related statutes require that persons holding any elective office shall be qualified. To be qualified, an appointee must be: at least 18 years old as of the date of the election [or appointment]; a U.S. citizen; a resident of Colorado for at least 22 days prior to the election [or appointment]; a resident of the municipality (and ward, if applicable) for at least 12 consecutive months prior to the date of the election [or appointment]; not serving a sentence in any public prison; and registered to vote.

An appointment is void if the person appointed is not qualified. Therefore, it is important to ensure that a person appointed to fill a vacancy in an elective office has the qualifications set forth in state law, as summarized above.

Although state law does not dictate the process for selecting a qualified person to fill a vacancy, governing bodies should be mindful that appointments to elective positions, to some extent, remove the people’s opportunity to choose their own representative. Therefore, it is prudent to implement a formal process with sufficient advertisement of the vacancy to provide transparency and ample opportunity for participation. Other considerations and pitfalls to avoid include:

- Making an appointment that benefits or appears to benefit any member of the governing body personally (see chapter 6);
- Appointing someone who will create turmoil or dysfunction within the governing body or other areas of municipal government (see chapters 1 - 3); or



- Failing to provide the appointee with proper training once appointed. Like any other person serving in an elective position, an appointee should receive proper training.

## Appointment of Officers in Statutory Towns

State law requires the town board appoint or provide for the election of certain officers, including a clerk, treasurer and town attorney. The applicable statute, C.R.S. Section 31-4-304, states in pertinent part:

The board of trustees shall appoint a clerk, treasurer, and town attorney, or shall provide by ordinance for the election of such officers, and may appoint such other officers, including a town administrator, as it deems necessary for the good government of the corporation.... **[N]o appointment of any officer shall continue beyond thirty days after compliance with section 31-4-401 by the members of the succeeding board of trustees.**

In some cases, the town board fails to act within 30 days to appoint or re-appoint officers of the town. Further, in many cases, these positions are staffed with municipal employees, which can lead to uncertainty in employment when the town board fails to re-appoint an employee to one of these appointed positions. These and other circumstances raise the question: What is the impact of not making appointments within the 30-day period after the new board members are seated? In short, if the 30-day period set forth in this section passes, the term of the officer expires.

*However*, it is important to note that the expiration of the term does not necessarily or automatically oust the individual holding the office from that position and create a vacancy. Rather, absent provisions to the contrary in state law or local ordinance, the public interest requires that public offices should be filled at all times without interruption. The Colorado Constitution adheres to this principle, stating in Article XII, Section 1 that “[e]very person holding any civil office under the state or any municipality therein, shall, unless removed according to law, exercise the duties of such office until his successor is duly qualified....”

Therefore, an individual holding an appointive office in a statutory town remains in that position after his or her term has expired (i.e. holds over) until a successor properly appointed by the town board takes office. Moreover, if the incumbent is an employee, he or she would remain in their appointive position and on the town’s payroll as a holdover.

To avoid confusion and conflict regarding holdovers, when the term of an appointive office expires, the town board should timely act to either re-appoint the incumbent or appoint a new person to the office. The board should also seek advice of legal counsel before deciding to not re-appoint an incumbent appointive officer who is also an employee of the town.

## Removal from Office in Statutory Towns

The following identifies some of the key requirements pertaining to the removal of an elected official in a statutory town pursuant to a proceeding under C.R.S. Section 31-4-307. Many of these requirements are not present in the statute itself; rather, they are found in some old judicial decisions concerning the statute. Removal of an elected official by

the governing body essentially overrides the will of the people who elected the official. For this reason, it is critical that any removal proceedings take place in accordance with the guidance provided by these decisions. The advice of counsel is also critical given the potential for missteps.

While these decisions are more than a century old, they came into play more recently in the recommendation of a United States Magistrate Judge in a case involving a CIRSA member municipality.<sup>2</sup> While the Magistrate Judge's recommendation is unpublished and does not serve as precedent, it was cited with approval by the Colorado Supreme Court.<sup>3</sup> Thus, the Magistrate Judge's recommendation highlights the importance of these older decisions and may offer some good guidance to a statutory town contemplating a removal proceeding.

Given this recent resurrection of old case law, the way in which a town may have applied Section 31-4-307 in past proceedings may not serve as a sound guide to the conduct of such proceedings today. Thus, past practice should not be used as a basis to avoid compliance with the following requirements gleaned from the old but resurrected case law:

- **The basis for removal (unless the elected official has moved out of town) must be “misconduct or malfeasance in office,” as those terms are used in Article XIII, Section 3 of the Colorado Constitution.** These constitutional provisions contemplate official misconduct of such a magnitude that it affects the performance of the officer's duties, and offenses against the town “of a character directly affecting its rights and interests.”<sup>4</sup> Political or personal disagreements, or a stalemate resulting from failure to obtain a requisite number of votes on matters coming before the town board, may not be sufficient grounds to effect a removal.
- **The removal proceeding is quasi-judicial in nature, subject to the safeguards commonly found in judicial proceedings.** This means:
  - There must be a charge or charges against the official sought to be removed. The charges must be specific and stated with substantial certainty.<sup>5</sup> Vague or general charges likely will not meet this requirement.
  - There must be a hearing in support of the charges, and an opportunity to make a defense.<sup>6</sup> The charges must in the first instance be proven by testimony and evidence, with the opportunity given to the officer sought to be removed to rebut such testimony and evidence, and offer his or her own.
  - The hearing must be held under the same limitations, precautions, and sanctions as in other judicial proceedings.<sup>7</sup>

A basic requirement of judicial proceedings is that decision-makers must be neutral and impartial. This is why in most judicial proceedings, investigative, prosecutorial, and adjudicatory functions are separated. However, in removal proceedings, the adjudicatory body (the town board) may also have carried out an investigative function by establishing the charges that are the basis for the proceeding. Involvement in presenting

testimony and evidence would further diminish the separation of these functions, and the lack of separation may compromise the appearance or reality of a neutral and impartial decision-maker.

These requirements highlight one of the most difficult procedural aspects of a removal proceeding: who will present the evidence and testimony? The town board serves as the decision-maker. It would likely be problematic, from a fairness standpoint, if the decision-makers also served as witnesses. One option to address this issue is use of a hearing officer whose decision is made subject to final review and action by the town board. Another option is to limit involvement in non-adjudicatory functions to one (or at most two) members of the governing body who understand their need to then recuse themselves from the board's decision-making.

- **The decision will be subject to judicial review.**<sup>8</sup> This means that under Rule 106(a)(4) of the Colorado Rules of Civil Procedure, a transcript of the proceedings as well as the evidentiary record, will be produced to the district court for review. The standard of review will be whether the governing body's decision was "arbitrary or capricious." Constitutional due process violations may be raised, and considerations of bias may be raised to set aside a decision as well.

Other questions and issues to consider in holding the proposed removal hearing include:

- Have provisions been made for the issuance of subpoenas to compel the attendance of witnesses, the administration of oaths, the right of discovery, and the cross-examination of witnesses?
- Are rules of procedure in place, has a standard of proof been established, and will rules of evidence be followed?
- Does the officer sought to be removed have the right to be represented by counsel? Is the governing body working with the advice of counsel?
- Have adequate time and opportunity been given to the officer sought to be removed to prepare his or her case in answer to the charges? Have provisions been made for the granting of reasonable continuances?
- Has some means of recording the hearing been arranged, preferably by a stenographer who can prepare a verbatim transcript?
- Who will prepare written findings of facts, conclusions of law, and a final decision and order?

## Conclusion

A town board's powers of appointment are effective tools. They can be used to timely fill a board vacancy and appoint key staff who will help drive the town's vision and success. But, if not handled appropriately, appointments can become the source of intractable disputes and potential liability. Thus, board members should work together to understand their options, duties and obligations when it comes to making appointments, and make wise use of their appointment powers.

Likewise, a town board's power of removal is undoubtedly an important one; but, an imprudent or improper removal proceeding can be the source of significant liability. As noted, recently resurrected case law suggests the bar for exercising the removal power is high, for situations where serious misconduct or malfeasance in office can be proven. Further, the removal power should be exercised only with the procedural safeguards summarized above in place, and only with the assistance of legal counsel. Otherwise, the governing body may be taking on an unacceptable risk of liability.

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Footnotes:

1. Officials in statutory cities and home rule municipalities should obtain from their counsel and staff information on the appointment and removal requirements specific to their organization.
2. *Russell v. Buena Vista*, 2011 WL 288453 (D. Colo. 2011).
3. *Churchill v. University of Colorado*, 2012 WL 3900750 (Colo. 2012).
4. *Board of Trustees v. People ex rel. Keith*, 59 P. 72, 74 (Colo.App. 1899).
5. *Board of Alderman v. Darrow*, 22 P. 784, 787 (Colo. 1889).
6. *Darrow*, 22 P. at 787.
7. *Keith*, 59 P. at 75.
8. *Id.*



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## Executive Sessions



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## MEMORANDUM

**TO:** Interested Persons  
**FROM:** Geoff Wilson, General Counsel  
**SUBJECT:** Synopsis of Executive Session Procedures After Enactment of HB 01-1359  
**DATE:** June 14, 2001

HB 01-1359 made several amendments to the Colorado Open Meetings Law that affect executive session procedures. This memo briefly summarizes those changes, which become effective August 8, 2001, and presents them in the context of current executive session requirements. *However, nothing in this memo should be considered a substitute for advice from your own municipal attorney concerning the matters described herein.*

### **I. In the open meeting, before going into executive session**

- (a) Announce what the "topic for discussion" will be in the executive session (current law; 24-6-402(4), C.R.S.).
- (b) Announce the citation to the provision or provisions of 24-6-402(4), C.R.S., (paragraphs (a) - (h)) that authorize the session (NEW: Id.).
- (c) Identify in the announcement the "particular matter to be discussed in as much detail as possible without compromising the purpose for which the executive session is authorized." (NEW: Id.).
- (d) An affirmative vote of two-thirds of the quorum present, following the above described announcements, is required before going into executive session. (current law: Id.)
- (e) If the session is for consideration of a "personnel matter," the law now provides expressly that such matters do not include discussion of members of a local public body, including any elected official, nor the appointment of any person to fill a vacancy on such body, including in an elected position. Discussion of personnel policies that does not require discussion of matters personal to a particular employee is also expressly not a "personnel matter." (NEW: 24-6-402(4)(5)(II), C.R.S.)

### **II. Once the body is in executive session**

- (a) The executive session shall be at a regular or special meeting, and for the "sole purpose" of considering any of the topics for which an executive session is allowed pursuant to 24-6-402(4)(a)-(h), C.R.S. (current law: 24-6-402(4), C.R.S.).
- (b) "No adoption of any proposed policy, position, resolution, rule or regulation," nor any "formal action" may occur in the executive session (current law, Id.; but see exception described in III(a), below).

- (c) Make a “record” of the “actual contents” of the discussion in the executive session, using the “same manner and media” as are used to record minutes of open meetings (i.e., written minutes or an electronic record are acceptable). Regardless of the way in which minutes are recorded in open meetings, however, the law permits “any form of electronic recording” of the executive session to satisfy the statute. (NEW: 24-6-402(2)(d.5)(II)(A), C.R.S.)
- (d) The executive session record must also contain a citation to the provision or provisions of 24-6-402(4), C.R.S., that authorize the executive session. (NEW: Id.)
- (e) If written minutes are made of the executive session, these minutes must include a signed statement by the chair of the executive session that the record “substantially reflects the substance” of the discussions during the executive session (the law states that the requirement that the record reflect the “actual contents” of the discussion does not mean that a verbatim transcript of the discussion is required). Presumably, this statement could be signed after the written minutes are reviewed, amended and approved, which may occur in a subsequent executive session (see below). (NEW: Id.)
- (f) If in the opinion of the public body’s attorney, who is present at the executive session, “all or a portion” of the discussion constitutes attorney-client privileged communications:
  - (i) No record need be kept of this part of the discussion.
  - (ii) If an electronic record is being made, the attorney for the body must state on the record that, as to the unrecorded portions of the executive session, no record was kept because, in his or her opinion, such discussion constituted privileged attorney-client communication.
  - (iii) If written minutes of the executive session are kept, the minutes “shall contain a signed statement” from the attorney attesting that the unrecorded portion of the executive session constituted, in the attorney’s opinion, privileged attorney-client communications. The minutes must also include a signed statement from the chair of the executive session attesting that the discussion in the unrecorded portion of the session was confined to the topic or topics for which the executive session is authorized pursuant to the Open Meetings Law.

(NEW: 24-6-402(2)(d.5)(II)(B), C.R.S.)

### III. After the executive session

- (a) If written minutes were utilized, the law now makes an exception to the prohibition on formal actions in executive sessions, for the narrow purpose of reviewing, amending, and approving executive session minutes (NEW: 24-6-402(4), C.R.S.).
- (b) The public entity must retain the record for at least ninety days following the executive session (NEW: 24-6-402(2)(d.5)(II)(E), C.R.S.), after which it may be destroyed pursuant to the municipality’s records management policy (see 24-80-101-112, C.R.S.).
- (c) The 2001 amendments establish a procedure through which a judge may privately review the executive session record to see whether the body’s discussions strayed substantially off topic or whether the body took prohibited formal actions in its executive session (NEW: 24-72-204(5.5) C.R.S.). However, the executive session record is not available directly to the public for its review and is not subject to discovery in any administrative or judicial proceeding (NEW: 24-6-402(2)(d.5)(II)(D), C.R.S.).



## KEY PROVISIONS OF H.B. 01-1359

Effective Date: August 8, 2001

- An announcement must be made of the executive session topic, including specific citation to the statute authorizing the session, and identification of the particular matter to be discussed in as much detail as possible without compromising the purpose for which the session is authorized. The attached motion form may help in crafting motions.
- The following types of discussions can no longer be conducted in executive session as a "personnel matter": discussions concerning any member of the local public body; the appointment of a person to fill the office of a member of the local public body; or the discussion of "personnel policies" that do not require the discussion of matters personal to particular employees.
- Each executive session must be "recorded in the same manner and media" used to record minutes of open meetings. "Any form of electronic recording" is permitted. It may be best to procure a second tape recorder to use specifically for recording executive sessions (especially if executive sessions are held in a different room), so that the tape of the executive session can be retained separately.
- The record of the executive session must be retained for at least 90 days after the date of the session.
- The record of the executive session must reflect the SPECIFIC LEGAL CITATION authorizing the executive session; the actual contents of the discussion during the session; and include a signed statement from the chair attesting that any written minutes substantially reflect the substance of the discussion during the session. Language for these requirements is attached.
- If the executive session (or a portion of it) constitutes a privileged attorney-client communication in the attorney's opinion, a record is NOT REQUIRED of that communication. Any written minutes must include a signed statement from the attorney attesting that the unrecorded session (or portion) constituted a privileged attorney-client communication in the attorney's opinion, and a signed statement attesting that the unrecorded session (or portion) was confined to the topic authorized for discussion in an executive session. Language for these requirements is attached.
- A person may seek access to the record of the executive session by filing an application in the district court. The court reviews the record of the session and, if it finds that the local public body engaged in substantial discussion of unauthorized matters, or took formal action in the executive session, that portion of the record will be opened for public inspection. Attorney's fee awards to applicants improperly denied access to records under the Open Records Act have been liberalized.

## SAMPLE PROCEDURES FOR EXECUTIVE SESSIONS

(may be included in the local public body's rules of procedure)

- A. Minutes of each executive session shall be kept by tape recording, unless the tape recorder is unavailable or is not operating, in which case written minutes shall be taken and kept by the City/Town Attorney if present or by the Presiding Officer if the City/Town Attorney is not present.
- B. If a different tape recorder will be used than the tape recorder normally used in Council/Board meetings, the tape recorder shall be tested before going into executive session to make sure it is operating. The tape shall be labeled with the name of the body and the date.
- C. If executive session minutes are kept by tape recording, they shall stand approved with no further action. If written minutes are taken, they shall be approved at a future executive session.
- D. Upon completion of the executive session, the label on the tape recording shall be initialed or signed by the Presiding Officer.
- E. The tape recording or written minutes of the executive session shall be maintained by the City/Town Attorney; or, if the City/Town Attorney was the subject of the executive session and did not participate in the executive session, the tape recording or written minutes of the executive session shall be maintained by the Presiding Officer.
- F. The tape recording or written minutes of the executive session shall be maintained for 90 days after the date of the executive session, and shall not be disclosed to any person except as required by law.

## EXECUTIVE SESSION MOTION FORM

(Note: 2/3 quorum present must vote yes; the session may only occur at a regular or special meeting of the body)

### I MOVE TO GO INTO EXECUTIVE SESSION:

(language in bold-face is for inclusion in the motion as applicable; if the stated purpose of the executive session is legal advice, do not combine it with any other purpose):

\_\_\_\_\_ For a conference with the City/Town attorney for the purpose of receiving legal advice on specific legal questions under C.R.S. Section 24-6-402(4)(b);

\_\_\_\_\_ For the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators, under C.R.S. Section 24-6-402(4)(e);

\_\_\_\_\_ To discuss the purchase, acquisition, lease, transfer, or sale of real, personal, or other property interest under C.R.S. Section 24-6-402(4)(a);

\_\_\_\_\_ For discussion of a personnel matter under C.R.S. Section 24-6-402(2)(f) and not involving: any specific employees who have requested discussion of the matter in open session; any member of this body or any elected official; the appointment of any person to fill an office of this body or of an elected official; or personnel policies that do not require the discussion of matters personal to particular employees;

\_\_\_\_\_ For discussion of a matter required to be kept confidential by the following federal or state law, rule, or regulation: \_\_\_\_\_ under C.R.S. Section 24-6-402(4)(c);

\_\_\_\_\_ For discussion of specialized details of security arrangements or investigations under C.R.S. Section 24-6-402(4)(d);

\_\_\_\_\_ For consideration of documents protected by the mandatory nondisclosure provisions of the Open Records Act under C.R.S. Section 24-6-402(4)(g);

\_\_\_\_\_ Other (specify): \_\_\_\_\_

AND THE FOLLOWING ADDITIONAL DETAILS ARE PROVIDED FOR IDENTIFICATION PURPOSES (Presiding Officer may ask Attorney/staff to provide the details): \_\_\_\_\_

ANNOUNCEMENT NO. 1

ANNOUNCEMENT TO BE MADE BY PRESIDING OFFICER AT THE BEGINNING OF THE EXECUTIVE SESSION (MAKE SURE THE TAPE RECORDER IS TURNED ON; DO NOT TURN IT OFF DURING THE EXECUTIVE SESSION UNLESS SO ADVISED BY THE CITY/TOWN ATTORNEY)

It's \_\_\_\_\_, and the time is \_\_\_\_\_. For the record, I am the presiding officer, \_\_\_\_\_. As required by the Open Meetings Law, this executive session is being electronically recorded.

Also present at this executive session are the following persons:

\_\_\_\_\_

This is an executive session for the following purpose:

(repeat the language of the motion, including the statutory citation)

I caution each participant to confine all discussion to the stated purpose of the executive session, and that no formal action may occur in the executive session.

If at any point in the executive session any participant believes that the discussion is going outside the proper scope of the executive session, please interrupt the discussion and make an objection.

ANNOUNCEMENT NO. 2

ANNOUNCEMENT TO BE MADE BY THE PRESIDING OFFICER BEFORE CONCLUDING THE EXECUTIVE SESSION (WHILE THE TAPE RECORDER IS STILL ON)

I hereby attest that this recording reflects the actual contents of the discussion at the executive session and has been made in lieu of any written minutes to satisfy the recording requirements of the Open Meetings Law.

\_\_\_\_\_ I will hand the tape to the City/Town Attorney to retain for a 90-day period.

OR

(if City/Town Attorney was the subject of the session and was not present at the session)

\_\_\_\_\_ I will retain the tape in my possession for a 90-day period.

The time is now \_\_\_\_\_, and we now conclude the executive session and return to the open meeting.

(turn off tape and return to open meeting)

ANNOUNCEMENT NO. 3

ANNOUNCEMENTS TO BE MADE AT THE BEGINNING OF AN EXECUTIVE SESSION FOR LEGAL ADVICE, OR FOR THE DISCUSSION OF LEGAL ADVICE DURING AN EXECUTIVE SESSION WHOSE STATED PURPOSE IS A SUBJECT OTHER THAN LEGAL ADVICE

(make sure Announcement No. 1 has been made first)

By City/Town Attorney:

As City/Town Attorney, it is my opinion that the discussion of the matter announced in the motion to go into executive session constitutes a privileged attorney-client communication. I am therefore recommending that no further record be kept of this executive session.

By Presiding Officer:

The City/Town Attorney has recommended that no further record be kept of this executive session. The time is now \_\_\_\_\_ and I am turning off the tape recorder at this time.

(turn off tape recorder at this time)

(If the attorney-client communication has finished, but the executive session continues, TURN THE TAPE RECORDER BACK ON)

By Presiding Officer:

The time is now \_\_\_\_\_ and I have turned the tape recorder back on because the privileged attorney-client communication is finished.

(AT THE END OF THE EXECUTIVE SESSION, MAKE SURE ANNOUNCEMENT NO. 2 IS MADE BEFORE TURNING OFF THE TAPE RECORDER)

ANNOUNCEMENT NO. 4

STATEMENT TO BE MADE BY THE PRESIDING OFFICER UPON RETURNING TO THE OPEN MEETING

The time is now \_\_\_\_\_, and the executive session has been concluded. The participants in the executive session were:

---

For the record, if any person who participated in the executive session believes that any substantial discussion of any matters not included in the motion to go into the executive session occurred during the executive session, or that any improper action occurred during the executive session in violation of the Open Meetings Law, I would ask that you state your concerns for the record.

Seeing none, the next agenda item is . . .

4.

## 2022 Town Budget



# Town of New Castle 2022 Adopted Budget



December 7, 2021

# 2022 ADOPTED BUDGET

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### TOWN OF NEW CASTLE, COLORADO





# Town Administrator's Budget Message for 2022

December 7, 2021

To the Honorable Mayor Art Riddile, Town Council and New Castle Residents,

With 2021 coming to an end and 2022 soon to begin, Town Council and Town Staff have been working together for the past few months to review our current financial position, and develop well founded projections in order to steer our financial direction for 2022 and beyond.

## **Historical Perspective**

As a Chartered Home Rule Town, which was originally incorporated in 1888, New Castle is governed by a Mayor and six member Town Council members. The Town Council is empowered to annually adopt and administer a budget in order to finance the government services listed below. The budget is organized on the basis of three types of funds. All Town funds are accounted for using the *Modified Accrual Method Basis* of accounting.

**Proprietary** funds, which include the Town's *Utility Fund* (Enterprise Fund). The purpose of this fund is to account for operations that are financed and operated in a manner similar to that of a private business enterprise. The intent of the New Castle *Utility Fund* is that the costs and expenses of providing goods or services to the general public on a continued basis will be financed or recovered primarily through user charges. The *Utility Fund* includes services such as water, sewer, and trash services which are billed directly to the user on a monthly basis.

**Fiduciary** funds, which include the Town's Trust Funds and consist of the *Conservation Trust Fund* and the *Cemetery Trust Fund*, account for assets held by the Town in a trustee capacity. The *Conservation Trust Fund* is funded by lottery proceeds and is designated for parks and recreational uses. The *Cemetery Fund* is funded by the proceeds of Cemetery Plot sales. This fund is used for the maintenance and operation of Highland Cemetery.

**Governmental** funds, which include New Castle's *General Fund*. The purpose of the General Fund is to account for all financial resources which are not accounted for in the Fiduciary and Proprietary Funds. These financial resources service the Town's obligations in areas of Public Safety, Streets, Maintenance, Economic Development, Health and Welfare, Parks and Recreation, Town Maintenance, Building and Planning, Finance, Municipal Court, Town sponsored events, Town Clerk and Recording, and Town Administration.

## **Message**

While the past two years have provided large scale national challenges as well as more specific regional challenges, the Town of New Castle has continued to improve our financial position, our level of services, and our commitment to New Castle residents and business owners. Despite challenges to recruitment, procurement, and the overall rising costs of operations, the Town has done well in 2021 by meeting or

exceeding our budget goals. We anticipate continued growth in both revenues and expenses as we move into 2022, and remain dedicated to continuing a tradition of quality services for our residents.

***In the General Fund***, Town Council has approved raising our unassigned cash reserves from 1.2 million to 1.7 million. This new reserve amount targets approximately five months of expenses and meets the reserve balance recommended by the Colorado Department of Local Affairs (DOLA).

2021 marks the first full year of the collection of Tobacco and Nicotine Tax in New Castle. In 2019 voters approved the taxation of Tobacco and Nicotine Products and directed that the resulting revenues be used toward Community Health, Wellness and Youth Programs. As a result of this ballot directive, the Town anticipates directing approximately \$340,000 to our Recreation Department who will oversee Community Health, Wellness, Youth Programs, and Arts & Enrichment programs in 2022.

While sales tax revenues continued to increase above forecasted rates in 2021, the Town anticipates a slowing of the sales tax growth in 2022. Projected sales tax growth in the 2022 Budget will be held to a conservative figure in anticipation of a leveling of growth related to on-line sales and the slow return to normal shopping patterns following pandemic related changes.

As sales tax revenues are expected to remain healthy, the Town is experiencing declining revenues in the areas of Mineral Lease Distribution, Severance Tax, Police Training Grants and County Road and Bridge Funds.

The 2021 budget allowed for significant spending in street maintenance projects and the resurfacing of several Town streets. The 2022 budget continues this approach and adds additional funding for street repairs, sidewalk repairs, and trail work. The 2022 budget also provides significant funds to be used for targeted capital projects as determined by the Capital Projects Committee.

***In the Utility Fund***, the Town remains committed to properly funding quality services, while also being mindful to grow our reserve funds in anticipation of future capital projects. Despite recent operational cost increases, the approved 2022 budget covers its expenditure estimates and reaches its reserve fund goals while adding only minimal rate increases to residents.

In an extra effort to help supplement income to the Utility Fund, the Town has constructed a Bulk Water Sales Terminal. Operation of this new facility adds the ability to sell bulk water to purchasers from outside of our service area. In its first year of service, this system is targeted to generate \$ 30,000 in revenue for the Utility Fund. A major portion of the funding for this project came from a grant from the Federal Mineral Leasing District (FMLD). Additionally, in an effort to control future cost increases, the Town was successful in acquiring an FMLD grant which will help fund the construction of a Bio-Solids Drying Station. The purpose of this project is to help protect the Town from rising costs associated with the disposal of solid wastes which are generated by our Waste Water Treatment Plant. Town staff anticipates the completion of this project in the fall of 2022. As always, staff trainings and certifications will continue in 2022 as staff continuously works to improve their education level and find the most effective ways to produce a quality product and service to the community. Midterm and longer-term capital planning efforts include upgrades to both the Water Treatment Plant and the Waste Water Treatment Plant as well as improvements to a major downtown sewer line.

Due to the rising cost of fuel, trash and recycling rates are anticipated to increase in the coming year. Through the implementation of a recently renegotiated contract, the Town and our contractor have done well to minimize cost increases to Town residents.

## **Looking Forward**

Current indications are that New Castle will experience significant growth in residential housing over the next several years. Development along Castle Valley Boulevard in Lakota and Castle Valley Ranch are likely to become a reality in the near future as land owners now have active development applications before the Town. Small pockets of commercial development along Castle Valley Boulevard are also anticipated as land parcels that are zoned *Mixed Use* now pique the interest of area developers. The Town will continue its oversight of future development to assure that it meets or exceeds the standards and guidelines that have been developed for these parcels.

2022 promises to be a busy year for Town projects as staff targets the completion of a Bio-Solids Drying Facility, remodel of the Community Center Commercial Kitchen, large paving and sidewalk repair projects, aggressive trail construction projects, upgrades to our Water and Waste Water Treatment Plants, and more.

From an event standpoint, the Town now hosts, supports, and sponsors well over a dozen events of all shapes and sizes which are designed to provide our residents with a wide array of community activities throughout the year. This dedication by Town Council, Town Staff, a wide volunteer base, business owners, and the New Castle Chamber of Commerce, all help to support the livability, charm, and character of New Castle.

## **Conclusion**

New Castle continues to remain fiscally responsible, and committed to providing the services and activities that help our community thrive. While growth and change may be an inevitable part of New Castle's future, our leadership remains strongly committed to respecting the history, values, and characteristics that make New Castle a unique and charming place to call home.

Sincerely,

*David Reynolds*

*Town Administrator New Castle Colorado*



# General Fund



**TOWN OF NEW CASTLE, COLORADO**

**GENERAL FUND**

**Combined Statement of Revenues, Expenses  
and Changes in Fund Balances - Budget and Actual  
Budget Year Ending December 31, 2022**

	<b>2020 Actual</b>	<b>2021 Budget</b>	<b>2021 Year End Estimate</b>	<b>2022 Budget</b>
<b>BEGINNING FUND BALANCE</b>	<b>2,151,851</b>	<b>2,338,417</b>	<b>2,628,805</b>	<b>3,006,341</b>
Restricted - Tabor	185,000	185,000	185,000	185,000
Committed - Burning Mtn Ave.	5,494	5,494	5,494	5,494
Committed - PS Training/Mahan Fund	1,976	1,976	1,976	1,976
Committed - Traffic Impact	326,733	335,995	345,396	368,688
Committed - Ambulance/Trees	8,250	8,250	8,250	8,250
Assigned - Long Term Capital Reserve	0	0	0	200,000
Assigned - Solar Purchase	52,000	52,000	52,000	52,000
Assigned - Vehicle Replacement	10,000	10,000	10,000	0
Assigned - Streets Maintenance	0	0	0	200,000
Assigned - Sidewalk Maintenance	0	0	0	80,000
Assigned - New Castle Trails	0	0	0	30,000
Assigned - Future Capital Projects TBD	0	539,702	0	174,933
<b>Unassigned</b>	<b>1,562,398</b>	<b>1,200,000</b>	<b>2,020,689</b>	<b>1,700,000</b>
 <b>REVENUES</b>				
Other Revenues (Administration)	1,961,584	3,754,206	2,496,654	3,750,941
Building/Planning Department	107,528	113,852	126,116	142,449
Municipal Court	11,423	13,050	9,900	10,500
Parks /Trails Capital	290,971	274,717	303,288	317,459
Parks/Trails Maintenance	138,359	132,358	154,979	156,479
Public Safety Department	18,388	40,300	41,284	14,150
Recreation Department	104,686	127,800	125,563	505,700
Street Maintenance	1,074,838	844,448	1,075,016	1,056,619
<b>Total Revenues</b>	<b>3,707,777</b>	<b>5,300,731</b>	<b>4,332,800</b>	<b>5,954,297</b>
 <b>Expenditures</b>				
Administration Department	448,402	2,237,560	489,207	2,403,550
Building/Planning Department	174,527	223,421	168,510	214,835
Health and Welfare	25,589	39,500	38,500	39,000
Municipal Court	24,054	28,100	26,513	48,152
Parks/Trails Capital	97,754	98,856	101,556	91,556
Parks/Trails Maintenance	367,500	374,715	381,680	388,349
Public Safety Department	938,483	1,122,380	1,286,187	1,365,952
Recreation Department	316,544	411,033	358,397	488,382
Street Maintenance	809,551	664,310	1,066,987	857,701
Town Maintenance	28,419	35,848	37,727	53,913
<b>TOTAL EXPENDITURES</b>	<b>3,230,823</b>	<b>5,235,723</b>	<b>3,955,264</b>	<b>5,951,390</b>
 <b>ENDING FUND BALANCE</b>	<b>2,628,805</b>	<b>2,403,425</b>	<b>3,006,341</b>	<b>3,009,248</b>
	476,954	65,008	377,536	2,907

TOWN OF NEW CASTLE, COLORADO

Continued:

	<b>2020 Actual</b>	<b>2021 Budget</b>	<b>2021 Year End Estimate</b>	<b>2022 Budget</b>
<b>ENDING FUND BALANCE</b>	<b>2,628,805</b>	<b>2,403,425</b>	<b>3,006,341</b>	<b>3,009,248</b>
<b>Assigned Amounts:</b>				
Restricted - TABOR	185,000	185,000	185,000	185,000
Committed Burning Mountain Ave	5,494	5,494	5,494	5,494
Committed - PS Training/Mahan Fund	2,072	2,072	2,072	2,072
Committed - Traffic Impact	335,995	335,995	368,688	390,112
Committed - Ambulance	8,250	8,250	8,250	8,250
Assigned - Long Term Capital Reserve	0	0	0	200,000
Assigned - Solar Purchase	52,000	52,000	52,000	52,000
Assigned - Veh-Equip Replacement	10,000	10,000	0	0
Assigned - Streets Maintenance	0	0	0	200,000
Assigned - Sidewalk Maintenance	0	0	0	80,000
Assigned - New Castle Trails	0	0	0	30,000
Assigned-Future Capital Projects TBD	0	0	0	98,027
<b>Unassigned</b>	<b>2,029,994</b>	<b>1,804,614</b>	<b>2,384,837</b>	<b>1,758,293</b>



**Town of New Castle  
Administration Department  
2022 Adopted Budget**

<b>Account Number</b>	<b>Account Title</b>	<b>2020 Actual</b>	<b>2021 Budget</b>	<b>2021 Year End Estimate</b>	<b>2022 Budget</b>
10-4010-001	General Property Tax	435,848	491,850	491,850	528,656
10-4010-002	Property tax-Contr Obligations	44,352	0	0	0
10-4010-020	Specific Ownership	31,627	27,000	36,344	38,433
10-4010-030	Interest / Penalties	848	400	330	140
10-4010-040	Sales 1 3/4 %	965,739	942,559	1,062,955	1,078,424
10-4010-080	Use Tax	36,307	51,766	68,000	73,461
10-4010-095	Lodging Tax	12,041	12,000	22,073	23,176
10-4010-100	Tobacco Tax	54,441	150,000	400,000	0
10-4010-120	Franchise Tax	128,478	122,000	138,437	142,385
10-4010-140	Occupation Tax	2,234	2,000	2,000	2,000
10-4010-191	Finance Charges	0	0	0	0
10-4010-220	Animal Permits	1,054	1,700	1,350	1,700
10-4010-260	Liquor Licenses	5,855	2,500	1,300	2,500
10-4010-280	Business Licenses	5,000	7,000	6,800	7,000
10-4010-289	Trail Grant Revenue	0	1,185,000	0	1,185,000
10-4010-390	Mineral Lease Distribution	45,919	40,000	147,960	40,000
10-4010-391	Severance Tax	50,898	45,000	2,164	45,000
10-4020-001	AD Charges for Services	0	0	50	0
10-4020-020	Ad Rent Income	0	0	0	0
10-4020-021	SNAP Revenue	0	0	0	0
10-4020-022	Kamm Bldg Rent Income	7,610	8,150	7,500	8,750
10-4020-040	AD Sale of Assets	0	0	0	0
10-4020-051	Burn. Mtn. Festival Rev.	113	0	0	0
10-4020-060	AD Miscellaneous	5,425	0	26,900	0
10-4020-066	Retirement Forfeiture	13,165	0	0	0
10-4020-085	Trail Grant Revenue	29,834	6,917	687	0
10-4020-104	Trails Developement Grant	46,894	625,000	52,934	572,066
10-4020-110	Downtown Revitalization Grant	23,879	0	0	0
10-4020-300	FMLD Grant	0	25,000	25,000	0
10-4020-505	Tap Fee Interest	0	0	0	0
10-4020-540	AD CT Interest	4,047	2,160	670	500
10-4020-570	First Bank Interest	0	0	0	0
10-4020-580	AD C-SAFE Interest	9,976	6,204	1,350	1,750
10-4020-590	2010 Bond Revenue	0	0	0	0
	<b>Total Revenues</b>	<b>1,961,584</b>	<b>3,754,206</b>	<b>2,496,654</b>	<b>3,750,941</b>
10-5040-010	Council Salaries	15,183	16,140	16,140	19,820
10-5040-020	Salaries	140,859	170,600	160,733	277,049
10-5040-023	Overtime Pay	26	150	0	150
10-5040-025	Salary - Temps	0	0	0	0
10-5040-030	Payroll Tax Exp - Social Sec	9,314	11,587	10,494	18,415
10-5040-031	Payroll Tax Exp - Medicare	2,179	2,710	3,454	4,307

**Town of New Castle  
Administration Department  
2022 Adopted Budget**

<b>Account Number</b>	<b>Account Title</b>	<b>2020 Actual</b>	<b>2021 Budget</b>	<b>2021 Year End Estimate</b>	<b>2022 Budget</b>
10-5040-032	Payroll Tax Exp - St Unemplmnt	704	600	(335)	1,485
10-5040-041	CRA Retirement Exp	5,620	6,850	6,429	11,088
10-5040-042	Health Insurance Exp	32,833	51,100	41,070	64,228
10-5040-043	Cafeteria Plan Expense	2,885	300	0	0
10-5040-049	Recruitment Expense	0	0	250	5,000
10-5040-050	Employee Support	1,748	5,000	5,000	5,000
10-5040-051	Employee Wellness Program	338	1,200	700	1,529
10-5040-100	Office Supplies	4,327	4,000	6,500	5,000
10-5040-101	Office Op. Supply & Furniture	1,797	1,000	3,000	1,000
10-5040-102	Postage Expense	717	1,500	1,200	1,500
10-5040-103	Computer Hardware/Software	1,308	3,500	4,500	3,500
10-5040-104	Printing & Copies	1,095	1,200	1,100	1,200
10-5040-106	Credit Card Fees	17	50	0	0
10-5040-107	Computer Services	5,513	5,000	4,874	8,256
10-5040-110	Ordinance Codification	1,253	3,000	3,900	4,000
10-5040-120	Utilities	1,170	2,000	1,439	1,625
10-5040-140	Telephone Expense	4,842	5,000	5,400	5,500
10-5040-145	Internet Svc/Web Page	5,200	5,500	5,500	5,500
10-5040-146	Newsletter Expenses	7,337	8,000	8,500	8,000
10-5040-150	Mileage Expense	31	800	0	0
10-5040-160	Dues, Subscriptions	2,817	3,000	3,500	3,300
10-5040-170	Training & Meetings	2,271	7,500	4,500	12,500
10-5040-175	Meals, Lodging	699	3,000	3,200	8,000
10-5040-180	Publication of Notices	2,989	2,000	1,500	2,000
10-5040-200	Legal Services	15,166	33,000	20,000	25,000
10-5040-210	Technical Support	2,501	2,400	2,400	2,400
10-5040-220	Other Prof Services	1,105	1,200	800	4,200
10-5040-240	Audit Expense	1,700	1,700	1,530	1,700
10-5040-250	Economic Dev./Enhancement	7,874	20,000	8,500	15,000
10-5040-252	Outdoor Rec. Marketing	0	2,000	0	0
10-5040-254	Chamber of Commerce	7,000	7,000	7,593	7,000
10-5040-255	DownTown Group Exp	0	6,000	0	3,000
10-5040-256	AGNC Expense	0	500	500	500
10-5040-257	Branding-Marketing Exp.	0	5,000	5,020	4,000
10-5040-260	Insurance Expense	8,307	9,200	7,500	8,918
10-5040-279	Council Expenses	1,539	5,000	3,000	5,000
10-5040-280	Miscellaneous Expense	1,417	2,500	600	2,500
10-5040-281	Good Neighbor Policy	0	0	0	5,000
10-5040-283	Community Garden Exp.	0	0	0	0
10-5040-284	LoVa Meet in Middle Grant	0	1,185,000	0	1,185,000
10-5040-285	Community Market	610	0	0	0
10-5040-286	Downtown Revitalization	26,267	0	0	0

**Town of New Castle  
Administration Department  
2022 Adopted Budget**

<b>Account Number</b>	<b>Account Title</b>	<b>2020 Actual</b>	<b>2021 Budget</b>	<b>2021 Year End Estimate</b>	<b>2022 Budget</b>
10-5040-287	Trail Development	26,647	0	4,600	3,000
10-5040-288	LoVa Trail West (constr grant)	38,238	572,704	50,000	598,981
10-5040-289	LOVA Operations	0	0	0	2,500
10-5040-290	Special Events	545	0	1,200	0
10-5040-291	Burning Mtn Festival Exp.	62	0	0	0
10-5040-292	FMLD-Town Hall Improvements	0	41,069	34,542	0
10-5040-293	Town Hall Roof Repairs	0	0	17,500	0
10-5040-294	Rides & Reggae	0	0	0	20,000
10-5040-320	Veh Exp-08 Toyota	152	500	100	500
10-5040-321	Veh Exp - Traverse	162	400	200	500
10-5040-340	Gas & Oil	1,122	1,400	1,400	1,400
10-5040-360	County Treasurer Fees	9,666	10,000	10,000	11,000
10-5040-361	Treasurer Fees - Capital Exp	0	100	0	0
10-5040-362	Bank Charges	40	100	0	0
10-5040-400	COVID-19 Expenses	-2,310	0	674	0
10-5040-460	Planning & Zoning	0	0	1,000	0
10-5040-476	SNAP Expense	0	0	0	0
10-5040-480	Engineering & Survey	543	500	2,000	500
10-5040-520	Election Expense	816	4,000	0	10,000
10-5040-600	Loan Interest	1,161	0	0	0
10-5040-610	HPC Expenses	0	2,000	4,000	5,000
10-5040-620	Climate & Environ Commission	0	2,000	2,000	2,000
10-5040-630	2010 Bond Costs	0	0	0	0
10-5040-650	Loan Principal	43,000	0	0	0
<b>Total Expenses</b>		<b>448,402</b>	<b>2,237,560</b>	<b>489,207</b>	<b>2,403,550</b>

**Town of New Castle  
Building & Planning Department  
2022 Adopted Budget**

<b>Account Number</b>	<b>Account Title</b>	<b>2020 Actual</b>	<b>2021 Budget</b>	<b>2021 Year End Estimate</b>	<b>2022 Budget</b>
10-4010-170	Land Use Application Fees	1,980	1,500	700	1,000
10-4010-180	Building Permits	65,354	72,352	110,603	101,349
10-4010-190	Developers Reimbursement	39,544	40,000	14,000	40,000
10-4010-240	Contractor Licenses	50	0	0	0
10-4010-245	Misc. Building Dept Revenue	600	0	0	0
10-4010-300	Sign Permits	0	0	813	100
	<b>Total Revenues</b>	<b>107,528</b>	<b>113,852</b>	<b>126,116</b>	<b>142,449</b>
10-5030-020	Salaries	67,042	115,615	89,860	103,831
10-5030-023	Overtime Pay	15	150	80	0
10-5030-025	Salary-Summer Temps	4,029	0	0	0
10-5030-030	Payroll Tax Exp - Social Sec	4,281	7,200	5,374	6,438
10-5030-031	Payroll Tax Exp - Medicare	1,001	1,700	1,257	1,506
10-5030-032	Payroll Tax Exp - St Unemplmnt	231	350	240	519
10-5030-041	CRA Retirement Exp	2,677	4,650	3,594	4,153
10-5030-042	Health Insurance Exp	12,249	13,511	21,358	23,067
10-5030-050	Employee Support	14	50	50	0
10-5030-051	Employee Wellness Program	146	200	160	311
10-5030-100	Office Supplies	967	1,000	2,800	1,000
10-5030-101	Office Op. Supply & Furniture	327	200	600	500
10-5030-102	Postage Expense	412	500	350	500
10-5030-103	Computer Hardware/Software	22	200	3,200	200
10-5030-104	Printing & Copies	961	500	950	500
10-5030-107	Computer Services	3,686	3,800	3,984	6,820
10-5030-140	Telephone Expense	626	650	650	650
10-5030-160	Dues, Subscriptions	665	1,000	700	500
10-5030-161	Bldg Code Library	0	250	0	250
10-5030-170	Training & Prof Dues	84	1,500	469	1,250
10-5030-175	Meals, Lodging	0	1,500	0	750
10-5030-180	Publication of Notices	0	500	0	0
10-5030-190	Developers Costs	39,545	40,000	14,000	40,000
10-5030-200	Legal Services	9,790	7,700	1,738	5,000
10-5030-210	Technical Support	2,251	2,300	2,600	2,300
10-5030-220	Building Plan Review/Insp/Cons	14,143	10,000	3,000	5,000
10-5030-230	Engineering Consultation	1,750	1,000	3,000	2,000
10-5030-235	Planning Consultation	2,360	1,000	4,000	2,000
10-5030-240	Audit Expense	595	595	255	595
10-5030-260	Insurance Expense	3,988	4,300	3,842	4,694
10-5030-280	Miscellaneous Expense	400	0	0	0
10-5030-320	Vehicle Expense	270	500	400	500
10-5030-480	Engineering & Survey	0	1,000	0	0
	<b>Total Expenses</b>	<b>174,527</b>	<b>223,421</b>	<b>168,510</b>	<b>214,835</b>

**Town of New Castle  
Health & Welfare  
2022 Adopted Budget**

<b>Account Number</b>	<b>Account Title</b>	<b>2020 Actual</b>	<b>2021 Budget</b>	<b>2021 Year End Estimate</b>	<b>2022 Budget</b>
10-5080-500	Outgoing Grants	23,050	20,000	20,000	20,000
10-5080-502	H & W-CMC Seniors Program	2,539	4,500	3,500	4,000
10-5080-504	H & W-River Center	0	15,000	15,000	15,000
<b>Total Expenses</b>		<b>25,589</b>	<b>39,500</b>	<b>38,500</b>	<b>39,000</b>

**Town of New Castle  
Municipal Court  
2022 Adopted Budget**

<b>Account Number</b>	<b>Account Title</b>	<b>2020 Actual</b>	<b>2021 Budget</b>	<b>2021 Year End Estimate</b>	<b>2022 Budget</b>
10-4010-400	Misc. Court Revenue	878	6,500	1,600	5,000
10-4010-420	Traffic Fines	4,782	200	4,000	1,000
10-4010-421	Parking Tickets	300	3,000	500	500
10-4010-440	Other Fines	3,255	1,500	2,500	2,500
10-4010-460	Court Costs	1,441	1,000	700	1,000
10-4010-480	PS Citation Serv Charges	767	850	600	500
<b>Total Revenues</b>		<b>11,423</b>	<b>13,050</b>	<b>9,900</b>	<b>10,500</b>
10-5055-020	Salaries	9,900	13,000	12,000	28,421
10-5055-030	Payroll Tax Exp - Social Sec	0	0	0	1,018
10-5055-031	Payroll Tax Exp - Medicare	0	0	0	238
10-5055-032	Payroll Tax Exp - St Unemplmnt	0	0	0	82
10-5055-041	CRA Retirement Exp	0	0	0	657
10-5055-042	Health Insurance Exp	0	0	0	2,902
10-5055-051	Employee Wellness Program	0	0	0	54
10-5055-100	Office Supplies	177	200	200	200
10-5055-102	Postage Exp.	179	150	200	150
10-5055-105	Office - Misc.	1,046	1,000	1,200	1,200
10-5055-106	Credit Card Fees	0	200	0	0
10-5055-160	Judge Exp (Dues, Taxes)	0	300	0	0
10-5055-175	Meals, Lodging	0	200	0	0
10-5055-220	Attorney Fees - Court	11,915	12,000	12,000	12,000
10-5055-260	Insurance Expense	817	850	813	1,030
10-5055-340	Municipal Court Expense	20	200	100	200
10-5055-420	Training	0	0	0	0
<b>Total Expenses</b>		<b>24,054</b>	<b>28,100</b>	<b>26,513</b>	<b>48,152</b>

**Town of New Castle  
Parks Capital  
2022 Adopted Budget**

<b>Account Number</b>	<b>Account Title</b>	<b>2020 Actual</b>	<b>2021 Budget</b>	<b>2021 Year End Estimate</b>	<b>2022 Budget</b>
10-4040-030	Sales Tax 1/2% (new 2001)	268,369	263,917	291,748	301,959
10-4040-090	Recreational Dev Fee	4,500	9,500	11,500	12,500
10-4040-100	Donations	0	0	40	0
10-4040-111	FMLD Grant	0	0	0	0
10-4040-394	Sale of Parks Assets	18,102	1,300	0	3,000
<b>Total Revenues</b>		<b>290,971</b>	<b>274,717</b>	<b>303,288</b>	<b>317,459</b>
10-5075-421	Veh/Equip - Lease/Purchase	36,199	0	0	0
10-5075-600	Parks Interest Expense	17,965	13,654	16,354	14,308
10-5075-650	VIX Loan Principal	43,590	45,202	45,202	47,248
10-5075-704	Capital - NC Trails	0	40,000	40,000	30,000
<b>Total Expenses</b>		<b>97,754</b>	<b>98,856</b>	<b>101,556</b>	<b>91,556</b>

**Town of New Castle  
Parks Maintenance  
2022 Adopted Budget**

<b>Account Number</b>	<b>Account Title</b>	<b>2020 Actual</b>	<b>2021 Budget</b>	<b>2021 Year End Estimate</b>	<b>2022 Budget</b>
10-4040-020	Sales Tax 1/4 %	134,184	131,958	145,874	150,979
10-4040-040	Park Use Revenue	225	400	9,105	5,500
10-4040-050	Dirty Hog Dash Rev.	(50)	0	0	0
10-4040-080	Donations	4,000	0	0	0
10-4040-120	Miscellaneous	0	0	0	0
	<b>Total Revenues</b>	<b>138,359</b>	<b>132,358</b>	<b>154,979</b>	<b>156,479</b>
10-5075-020	Salaries	167,011	170,000	153,000	178,030
10-5075-022	Call Out Pay	335	0	600	600
10-5075-023	Overtime Pay	587	1,300	1,600	1,300
10-5075-025	Salary-Summer Temps	12,212	27,500	30,000	35,000
10-5075-030	Payroll Tax Exp - Social Sec	10,936	12,500	11,500	13,326
10-5075-031	Payroll Tax Exp - Medicare	2,558	2,900	2,800	3,116
10-5075-032	Payroll Tax Exp - St Unemplmnt	553	600	600	1,075
10-5075-041	CRA Retirement Exp	6,713	6,850	6,300	7,197
10-5075-042	Health Insurance Exp	37,562	46,350	36,000	50,240
10-5075-050	Employee Support	1,347	1,500	1,500	1,500
10-5075-051	Employee Wellness Program	515	600	450	562
10-5075-100	Office Supplies	222	500	400	500
10-5075-101	Office Op. Supply & Furniture	0	300	3,300	0
10-5075-103	Computer Hardware/Software	175	1,000	400	1,000
10-5075-107	Computer Services	3,656	3,800	3,700	6,820
10-5075-120	Utilities	3,091	4,000	4,500	4,500
10-5075-125	Porta-Jon Svc.	0	0	0	0
10-5075-140	Telephone Expense	1,851	2,000	2,300	2,000
10-5075-160	Dues, Subscriptions	0	300	50	300
10-5075-170	Training	0	1,100	500	1,100
10-5075-175	Meals, Lodging	0	400	800	500
10-5075-180	Publication of Notices	703	200	1,100	200
10-5075-200	Legal Services	0	165	150	150
10-5075-210	Technical Support	1,648	1,800	1,800	1,800
10-5075-220	Other Prof Services/Inspection	0	200	100	200
10-5075-230	Other Prof. Svcs. - CIP	0	155	155	155
10-5075-240	Audit Expense	595	595	425	595
10-5075-260	Insurance Expense	7,705	8,300	8,000	9,433
10-5075-280	Miscellaneous Expense	223	0	600	500
10-5075-300	Tools	4,136	4,100	5,500	1,500
10-5075-320	Vehicle Expense	12	100	100	100
10-5075-326	Veh Exp-08 Chevy Colo(P9)	0	0	0	0
10-5075-328	Veh Exp-09 Chevy 3500(P5)	1,911	1,000	600	600
10-5075-329	Veh Exp-00 GMC(P12)	0	0	0	0
10-5075-340	Gas & Oil	7,774	10,000	12,000	10,000



**Town of New Castle  
Parks Maintenance  
2022 Adopted Budget**

<b>Account Number</b>	<b>Account Title</b>	<b>2020 Actual</b>	<b>2021 Budget</b>	<b>2021 Year End Estimate</b>	<b>2022 Budget</b>
10-5075-380	Equipment Maintenance	3,068	4,500	5,000	4,500
10-5075-383	Eq. Maint. Jacobsen Mower	728	1,200	1,200	1,200
10-5075-388	Irrigation Winterization	23	0	0	0
10-5075-389	Irrigation M & O	7,148	9,000	14,000	9,000
10-5075-390	M & O	9,105	11,400	18,500	11,400
10-5075-391	Equipment Rental	561	750	800	1,250
10-5075-392	Fertilizer	2,560	3,000	1,000	4,800
10-5075-393	Weed management	1,236	1,800	1,000	1,800
10-5075-394	Mosquito Control	6,000	6,150	6,150	6,200
10-5075-397	Gardens Expense	1,936	2,500	3,000	2,500
10-5075-399	Trail Signs	0	2,000	2,000	2,000
10-5075-400	Rides & Reggae	50,500	10,000	10,200	0
10-5075-401	Dirty Hog Dash Exp.	0	0	0	0
10-5075-403	Holiday Lights Expense	0	2,000	2,000	2,000
10-5075-480	Engineering & Survey	0	0	500	0
10-5075-481	Safety	1,567	300	1,000	800
10-5075-499	PWF Maintenance	2,729	2,000	4,000	2,000
10-5075-500	Tree Maintenance - Parks	6,308	8,000	20,500	5,000
<b>Total Expenses</b>		<b>367,500</b>	<b>374,715</b>	<b>381,680</b>	<b>388,349</b>

**Town of New Castle  
Public Safety  
2022 Adopted Budget**

<b>Account Number</b>	<b>Account Title</b>	<b>2020 Actual</b>	<b>2021 Budget</b>	<b>2021 Year End Estimate</b>	<b>2022 Budget</b>
10-4010-500	PS Charges for Services	975	850	2,350	2,000
10-4010-510	PS-VIN Inspect.	1,070	800	1,900	2,400
10-4010-520	PS Dog Impound Fees	530	600	720	1,000
10-4010-560	PS Donation to Bike Rodeo	0	250	100	250
10-4010-565	PS Training Reimbursement	9,006	6,000	6,814	5,500
10-4010-580	PS Vehicle Sale	287	4,000	1,240	1,000
10-4010-585	Veh. Impound Fees	2,020	2,000	3,118	2,000
10-4010-636	Mahan Scholarship Fund	70	0	42	0
10-4010-638	FMLD Grant	0	25,000	25,000	0
10-4010-640	PS Bail Bonds	0	0	0	0
10-4010-645	Jail Restitution	0	0	0	0
10-4010-661	PS - Donations	1,000	0	0	0
10-4010-670	PS Miscellaneous Revenue	3,430	800	0	0
	<b>Total Revenues</b>	<b>18,388</b>	<b>40,300</b>	<b>41,284</b>	<b>14,150</b>
10-5050-020	Salaries	566,525	643,000	643,000	788,728
10-5050-022	Call Out Pay	744	1,500	1,100	500
10-5050-023	Overtime Pay	1,277	4,500	7,600	4,000
10-5050-030	Payroll Tax Exp - Social Sec	34,059	40,300	38,800	49,180
10-5050-031	Payroll Tax Exp - Medicare	7,965	9,400	9,100	11,502
10-5050-032	Payroll Tax Exp - St Unemplmnt	1,657	1,950	1,900	3,966
10-5050-041	CRA Retirement Exp	22,739	26,000	26,000	31,729
10-5050-042	Health Insurance Exp	147,692	191,600	185,833	197,282
10-5050-049	Recruitment Expense	0	500	0	5,000
10-5050-050	Employee Assistance Program	1,042	5,200	500	5,200
10-5050-051	Employee Wellness Program	2,248	2,400	1,600	2,560
10-5050-100	Office Supplies	1,573	2,000	2,000	2,000
10-5050-101	Office Op. Supply & Furniture	446	1,500	1,200	2,500
10-5050-102	Postage Expense	351	800	700	800
10-5050-103	Computer Hardware/Software	2,159	3,000	3,000	12,000
10-5050-104	Printing & Copies	2,210	3,500	1,800	3,500
10-5050-106	Credit Card Fees	0	0	0	0
10-5050-140	Telephone Expense	8,468	10,000	10,000	10,000
10-5050-145	Internet Svc/Web Page	1,080	1,080	1,080	1,080
10-5050-150	Mileage Expense	0	0	100	0
10-5050-160	Dues & Subscriptions	7,735	17,000	13,000	19,200
10-5050-175	Meals, Lodging	2,835	8,000	8,000	8,000
10-5050-180	Publication of Notices	0	250	50	250
10-5050-190	Refund	0	150	0	150
10-5050-200	Legal & Professional Svcs.	9,724	6,000	4,000	6,000
10-5050-240	Audit Expense	850	850	850	850
10-5050-260	Insurance Expense	25,261	27,100	26,250	30,119

**Town of New Castle  
Public Safety  
2022 Adopted Budget**

<b>Account Number</b>	<b>Account Title</b>	<b>2020 Actual</b>	<b>2021 Budget</b>	<b>2021 Year End Estimate</b>	<b>2022 Budget</b>
10-5050-280	Miscellaneous Expense	3,168	2,000	3,000	2,000
10-5050-290	Special Events Exp.	50	1,600	1,200	1,600
10-5050-300	Uniform Allowance	4,753	5,000	2,500	5,000
10-5050-301	Officer's Equipment	11,638	12,000	14,000	13,800
10-5050-316	Veh Exp-534-2016 Tahoe	4,254	1,500	2,000	1,500
10-5050-317	Veh Exp-533-2016 Tahoe	1,455	1,500	3,000	1,500
10-5050-320	Veh Exp-255-2010 Charger	312	2,000	1,000	0
10-5050-321	Veh Exp-2009 Chevy Tahoe	2,007	2,500	2,500	0
10-5050-324	Veh Exp-407-2010 Explorer	0	2,000	2,000	2,000
10-5050-325	Veh Exp-671-2018 Tahoe	849	1,500	1,000	1,500
10-5050-327	Veh Exp-2009 Tahoe	3,027	2,500	500	0
10-5050-328	Veh Exp-807-2021 Tahoe	577	0	200	1,500
10-5050-329	Veh Exp-808-2021 Tahoe	916	0	1,200	1,500
10-5050-330	Veh Exp-672-2018 Tahoe	576	2,500	2,100	1,500
10-5050-335	Veh Exp-809-2021 Tahoe	0	1,500	800	1,500
10-5050-338	Veh Exp-820-2017 Tahoe	936	1,500	1,300	1,500
10-5050-339	Veh Exp-821-2017 Tahoe	3,448	1,500	1,500	1,500
10-5050-340	Gas & Oil	17,508	20,000	24,000	20,000
10-5050-360	Abandon Vehicle	3,014	4,000	3,000	4,000
10-5050-380	Equipment Maintenance	2,408	2,800	2,000	2,800
10-5050-384	Tires - New	1,141	2,500	2,500	2,500
10-5050-420	Training & Certification	3,358	5,000	1,800	5,000
10-5050-421	Vehicle Lease/Purchase	0	0	182,000	62,000
10-5050-460	Jail	0	250	0	0
10-5050-500	Bike Rodeo	0	1,000	1,304	1,200
10-5050-540	Community Policing	0	600	650	650
10-5050-560	Capital - Evidence Storage	16,657	20,000	25,000	0
10-5050-580	Capital Equipment	0	0	5,000	11,000
10-5050-600	Animal Control	0	500	1,000	500
10-5050-601	Kennel Expenses	430	1,100	0	500
10-5050-603	Office Cleaning/Supplies	0	0	500	2,500
10-5050-620	Emergency Preparedness	0	750	600	750
10-5050-642	Computer Services	4,031	4,000	4,000	7,356
10-5050-643	Training Library	987	600	300	600
10-5050-644	Hiring Expense	219	1,500	1,020	1,500
10-5050-645	Ammunition Expense	817	4,000	3,000	4,000
10-5050-646	Laboratory Fees	0	2,000	0	2,000
10-5050-647	Printing Expense	0	1,000	750	1,000
10-5050-650	Trident Expense	25	0	0	0
10-5050-651	Evidence Equip. & Supplies	782	600	500	600
10-5050-652	Evid. Collection/Analysis	500	1,500	0	1,500
<b>Total Expenses</b>		<b>938,483</b>	<b>1,122,380</b>	<b>1,286,187</b>	<b>1,365,952</b>

**Town of New Castle  
Recreation Department  
2022 Adopted Budget**

<b>Account Number</b>	<b>Account Title</b>	<b>2020 Actual</b>	<b>2021 Budget</b>	<b>2021 Year End Estimate</b>	<b>2022 Budget</b>
10-4010-101	Tobacco Tax	0	0	0	340,000
10-4010-680	Wrestling	0	0	0	0
10-4010-700	Baseball	694	1,500	5,668	7,000
10-4010-720	Youth Basketball	4,670	2,300	10,800	8,000
10-4010-725	REC Beginning Basketball	645	0	0	0
10-4010-730	Competitive Basketbal	11,625	11,000	5,475	11,000
10-4010-740	Softball	0	3,200	2,040	2,500
10-4010-760	REC Beginning Baseball	240	0	0	0
10-4010-770	Junior Golf	0	1,500	775	1,500
10-4010-771	Adult Golf	0	2,000	150	1,500
10-4010-780	Flag Football	4,240	1,000	1,625	2,000
10-4010-790	Adult Fitness	7,657	4,000	11,000	8,500
10-4010-795	Pickleball	115	500	0	0
10-4010-820	Adult Basketball	3,035	0	0	4,000
10-4010-840	DNU-REC Soccer	0	0	0	0
10-4010-841	Micro Soccer	3,377	8,700	7,910	8,000
10-4010-843	Adult Soccer	0	2,000	3,245	2,000
10-4010-845	Competitive Soccer	36,985	34,000	0	0
10-4010-850	Adult Volleyball	0	500	0	1,000
10-4010-851	Youth Volleyball	3,698	3,500	4,000	5,000
10-4010-859	Arts & Enrichment	11,500	12,000	13,500	15,000
10-4010-860	REC Miscellaneous Program	0	0	0	0
10-4010-870	After-School Programs	4,437	2,000	0	3,500
10-4010-880	Sponsorships	0	0	0	0
10-4010-885	Special Events Donations	0	0	0	1,500
10-4010-887	Scholarships	33	500	0	500
10-4010-900	Grants	2,925	0	0	0
10-4010-901	FMLD Grants	0	0	0	25,000
10-4010-910	Community Center Rentals	8,510	8,000	23,500	20,000
10-4010-940	REC Miscellaneous	0	0	0	0
10-4010-970	Special Events	0	4,300	20	2,000
10-4010-972	Dirty Hog Dash	0	9,500	14,636	15,000
10-4010-974	Burning Mountain Festival	0	13,000	9,924	13,000
10-4010-976	Community Market	0	100	5,225	4,000
10-4010-990	REC Team Sponsorships	0	0	0	0
10-4010-993	5k Races/Walk	50	500	2,270	2,000
10-4010-994	Youth Fitness	250	1,700	3,800	1,200
10-4010-995	Adult Pickleball Tournaments	0	0	0	0
10-4010-996	Adult Volleyball Tournaments	-40	0	0	1,000
10-4010-997	Seniors Programs	40	0	0	0
10-4010-998	E-Sports	0	500	0	0
<b>Total Revenues</b>		<b>104,686</b>	<b>127,800</b>	<b>125,563</b>	<b>505,700</b>

**Town of New Castle  
Recreation Department  
2022 Adopted Budget**

<b>Account Number</b>	<b>Account Title</b>	<b>2020 Actual</b>	<b>2021 Budget</b>	<b>2021 Year End Estimate</b>	<b>2022 Budget</b>
10-5070-020	Salaries	126,739	150,433	134,172	190,511
10-5070-023	Overtime Pay	0	1,000	0	0
10-5070-025	Salary - Temps	36,609	43,000	35,000	20,000
10-5070-030	Payroll Tax Exp - Social Sec	9,307	12,100	10,832	13,052
10-5070-031	Payroll Tax Exp - Medicare	2,177	2,900	2,533	3,052
10-5070-032	Payroll Tax Exp - St Unemplmnt	462	600	514	1,053
10-5070-041	CRA Retirement Exp	5,054	6,100	5,393	7,620
10-5070-042	Health Insurance Exp	42,283	47,350	49,083	68,906
10-5070-050	Employee Support	545	500	300	500
10-5070-051	Employee Wellness Program	630	830	430	724
10-5070-100	Office Supplies	662	1,000	3,000	3,000
10-5070-101	Office Op. Supply & Furniture	381	500	100	500
10-5070-102	Postage Expense	389	500	500	500
10-5070-103	Computer Hardware/Software	430	2,000	0	2,000
10-5070-104	Printing & Copies	970	1,000	1,000	1,000
10-5070-105	Office - Misc.	0	0	0	0
10-5070-106	Credit Card Fees	2,175	3,200	3,000	4,000
10-5070-107	Computer Services	5,925	6,000	6,000	11,369
10-5070-120	Promotion & Advertising	0	500	50	0
10-5070-140	Telephone Expense	2,049	2,500	2,000	2,500
10-5070-145	Internet Svc/Web Page	2,160	2,200	2,200	2,200
10-5070-160	Dues, Subscriptions	370	500	500	500
10-5070-170	Training, Meetings	259	700	195	700
10-5070-175	Meals, Lodging	0	500	0	500
10-5070-180	Publication of Notices	0	100	0	100
10-5070-210	Technical Support	1,648	2,000	2,000	2,000
10-5070-240	Audit Expense	595	595	595	595
10-5070-260	Insurance Expense	9,374	8,500	7,400	7,636
10-5070-280	Miscellaneous Expense	162	0	0	150
10-5070-290	Veh Exp-09 GMC(R8)	0	250	150	250
10-5070-295	Gas & Oil	96	350	550	700
10-5070-300	Wrestling	18	0	0	0
10-5070-320	Youth Basketball	2,585	0	5,000	3,000
10-5070-340	Adult Basketball	276	0	0	1,000
10-5070-360	Beginning Basketball	71	0	0	0
10-5070-375	Competitive Basketball	486	750	400	1,000
10-5070-380	Baseball	266	1,800	3,000	3,500
10-5070-385	Beginning Baseball	266	0	0	0
10-5070-400	Softball	20	1,000	500	2,000
10-5070-421	Flag Football	933	1,000	600	1,000
10-5070-450	Adult Fitness	5,407	3,000	8,500	6,000

**Town of New Castle  
Recreation Department  
2022 Adopted Budget**

<b>Account Number</b>	<b>Account Title</b>	<b>2020 Actual</b>	<b>2021 Budget</b>	<b>2021 Year End Estimate</b>	<b>2022 Budget</b>
10-5070-460	Soccer	0	0	0	0
10-5070-462	Micro Soccer	249	3,000	3,400	3,000
10-5070-464	Adult Soccer	0	400	400	1,000
10-5070-465	Competitive Soccer	29,228	28,325	0	0
10-5070-470	Adult Volleyball	0	250	0	500
10-5070-471	Youth Volleyball	804	1,500	3,500	3,500
10-5070-475	Arts & Enrichment	6,813	6,000	9,000	7,000
10-5070-494	Junior Golf	0	1,125	1,000	1,000
10-5070-495	Adult Golf	0	1,125	200	1,000
10-5070-500	Misc Programs	372	200	100	0
10-5070-505	After School Program	2,489	750	350	1,000
10-5070-520	C.C. - Insurance	0	2,200	0	2,200
10-5070-530	C.C. - Repairs/Maint.	1,703	1,200	700	1,200
10-5070-531	C.C. - Janitorial	1,827	2,200	2,400	8,500
10-5070-535	C.C. - Supplies	1,154	1,000	600	3,500
10-5070-540	C.C. - Utilities	6,096	7,000	9,200	9,314
10-5070-550	C.C - Rental Refund	345	0	0	0
10-5070-610	Special Events	163	6,000	3,000	7,600
10-5070-640	Field Maintenance	36	0	150	650
10-5070-642	Facilities Maintenance	532	0	0	0
10-5070-700	Capital Expenditures	0	0	0	41,000
10-5070-972	Dirty Hog Dash	0	9,500	8,300	8,500
10-5070-974	Burning Mountain Festival	0	22,000	17,000	18,000
10-5070-976	Community Market	0	6,500	4,500	4,500
10-5070-992	5K Races/Walk	20	1,000	2,000	1,000
10-5070-993	Seniors Programs	272	0	0	0
10-5070-994	GOCO Generation Wild Exp	1,472	3,000	4,300	800
10-5070-995	Youth Fitness	590	250	2,800	0
10-5070-996	Pickleball	0	250	0	500
10-5070-997	Adult Volleyball Tournaments	0	0	0	0
10-5070-998	E-Sports Exp.	600	1,000	0	0
<b>Total Expenses</b>		<b>316,544</b>	<b>411,033</b>	<b>358,397</b>	<b>488,382</b>

**Town of New Castle  
Streets Maintenance  
2022 Approved Budget**

<b>Account Number</b>	<b>Account Title</b>	<b>2020 Actual</b>	<b>2021 Budget</b>	<b>2021 Year End Estimate</b>	<b>2022 Budget</b>
10-4010-060	Sales Street 1%	555,906	546,684	598,737	625,486
10-4010-070	County Sales Tax 3/4%	164,290	145,000	206,773	222,461
10-4010-320	M/V Special Assessment	19,301	16,000	20,800	21,206
10-4010-340	County Road & Bridge	0	0	0	0
10-4010-360	Highway Use Tax	125,508	126,297	150,000	140,975
10-4010-370	Traffic Impact Fee	1,795	7,467	13,000	23,291
10-4010-371	Permits-St Maint.	0	0	270	0
10-4010-394	Sale of Assets	4,200	3,000	0	19,000
10-4010-395	Misc. Street Revenue	3,838	0	2,470	4,200
10-4010-396	Misc. Public Works Grants	0	0	57,994	0
10-4010-397	FMLD Grant	200,000	0	24,972	0
<b>Total Revenues</b>		<b>1,074,838</b>	<b>844,448</b>	<b>1,075,016</b>	<b>1,056,619</b>
10-5090-020	Salaries	201,493	223,000	228,099	216,181
10-5090-022	Call Out Pay	2,365	2,500	2,000	2,000
10-5090-023	Overtime Pay	486	1,000	1,393	1,000
10-5090-025	Salary - Temps	12,212	28,400	30,315	35,000
10-5090-030	Payroll Tax Exp - Social Sec	13,028	15,800	15,605	15,759
10-5090-031	Payroll Tax Exp - Medicare	3,047	3,700	3,626	3,686
10-5090-032	Payroll Tax Exp - St Unemplmnt	655	765	730	1,271
10-5090-041	CRA Retirement Exp	8,164	9,100	9,142	8,767
10-5090-042	Health Insurance Exp	43,800	52,300	47,698	54,570
10-5090-050	Employee Support	834	1,000	3,000	1,500
10-5090-051	Employee Wellness Program	538	600	400	585
10-5090-100	Office Supplies	147	300	300	300
10-5090-101	Office Op. Supply & Furniture	0	150	3,150	0
10-5090-102	Postage Expense	364	300	500	300
10-5090-103	Computer Hardware/Software	375	1,000	400	1,000
10-5090-107	Computer Services	4,437	4,200	4,834	8,276
10-5090-120	Utilities	9,041	4,500	5,500	5,715
10-5090-140	Telephone Expense	2,564	2,900	2,700	2,900
10-5090-160	Dues, Subscriptions	710	500	200	500
10-5090-170	Training	0	1,200	400	1,200
10-5090-175	Meals, Lodging	0	900	300	900
10-5090-180	Publication of Notices	5	200	1,200	200
10-5090-200	Legal Services	0	550	550	550
10-5090-210	Technical Support	2,226	2,500	2,300	2,500
10-5090-220	Other Prof Services	0	500	200	500
10-5090-240	Audit Expense	595	595	595	595
10-5090-260	Insurance Expense	9,415	11,000	10,200	11,572
10-5090-280	Miscellaneous Expense	0	0	250	0
10-5090-300	Machinery, Equipment, Tools	5,911	4,000	6,000	1,500

**Town of New Castle  
Streets Maintenance  
2022 Approved Budget**

<b>Account Number</b>	<b>Account Title</b>	<b>2020 Actual</b>	<b>2021 Budget</b>	<b>2021 Year End Estimate</b>	<b>2022 Budget</b>
10-5090-320	Vehicle Expense	449	400	400	400
10-5090-321	Veh Exp-#102 Dodge	39	0	0	0
10-5090-322	Veh Exp-2009 Hook Truck	1,833	1,500	1,000	1,500
10-5090-329	Veh Exp-09 chevy 2500(M6)	74	0	0	0
10-5090-331	Veh Exp-17 Chevy (M-7)	659	250	250	250
10-5090-332	Veh Exp-2017 Chevy (A-2)	11	250	850	250
10-5090-340	Gas & Oil	8,914	8,500	10,000	8,500
10-5090-360	Co. Treas. Fees-Prop. Tax	3,030	2,500	4,300	3,200
10-5090-376	Eq. Maint-Cat MiniEx	203	500	500	500
10-5090-377	Eq. Maint - Snow Plows	3,934	3,500	1,000	3,500
10-5090-378	Eq. Maint. - JD MiniEx	0	0	0	0
10-5090-379	Eq. Maint. Bobcat Skidsteer	590	1,200	1,200	1,700
10-5090-380	Equipment Maintenance	592	1,500	1,500	1,500
10-5090-381	Eq. Maint. Cat Backhoe	181	600	500	0
10-5090-382	Eq. Maint. Street Sweeper	1,551	3,000	500	500
10-5090-383	Eq. Maint. J.D. Tractor	107	300	250	300
10-5090-384	Tires - New	410	1,200	1,200	1,200
10-5090-390	Maintenance/Operations	6,317	9,500	7,200	9,500
10-5090-391	Equipment Rental	469	2,000	1,000	2,000
10-5090-392	Road Base/Cinders/Patching Mtl	14,626	10,500	10,500	10,500
10-5090-394	Crack Seal Exp.	22,746	50,000	50,000	80,000
10-5090-395	Sidewalk Maintenance	0	2,000	2,000	40,000
10-5090-396	St. Signs	536	2,000	3,000	2,000
10-5090-397	Painting - St./Crosswalks	7,969	7,000	12,000	9,000
10-5090-398	Street Chip & Seal	0	50,000	50,000	80,000
10-5090-400	Street Lights	50,349	57,000	65,000	76,924
10-5090-401	Pedestrian Safety	20,208	0	0	0
10-5090-403	EV Charge Station operations	608	650	900	650
10-5090-421	Equip Lease/Purchase	66,701	14,000	156,850	52,000
10-5090-480	Engineering & Survey	233	0	0	0
10-5090-481	Safety	1,470	1,000	1,000	1,000
10-5090-499	PWF Maintenance	3,858	2,000	2,500	2,000
10-5090-500	Tree Maintenance	3,906	8,000	13,000	10,000
10-5090-550	Street Asphalt Overlay	262,706	50,000	160,000	80,000
10-5090-560	Capital Improvements	1,860	0	127,000	0
	<b>Total Expenses</b>	<b>809,551</b>	<b>664,310</b>	<b>1,066,987</b>	<b>857,701</b>



**Town of New Castle  
Town Maintenance  
2022 Approved Budget**

<b>Account Number</b>	<b>Account Title</b>	<b>2020 Actual</b>	<b>2021 Budget</b>	<b>2021 Year End Estimate</b>	<b>2022 Budget</b>
10-5060-020	Salaries	10,203	10,450	10,968	18,625
10-5060-030	Payroll Tax Exp - Social Sec	616	650	664	1,155
10-5060-031	Payroll Tax Exp - Medicare	144	175	156	270
10-5060-032	Payroll Tax Exp - St Unemplmnt	30	35	32	9
10-5060-041	CRA Retirement Exp	408	425	439	745
10-5060-042	Health Insurance Exp	1,845	1,943	1,943	4,148
10-5060-050	Employee Support	0	0	0	0
10-5060-051	Employee Wellness Program	20	20	20	43
10-5060-100	Office Supplies	297	350	2,500	2,000
10-5060-107	Computer Services	34	0	0	0
10-5060-145	Internet svc	2,700	2,700	2,900	2,700
10-5060-260	Insurance Expense	3,938	4,100	4,724	5,818
10-5060-280	Miscellaneous Expense	0	0	50	0
10-5060-600	Town M & O	2,908	4,000	2,000	2,000
10-5060-601	T/H Cleaning & Supplies	521	3,500	5,000	5,400
10-5060-602	M & O - Shop Use	0	0	0	0
10-5060-603	MOC Cleaning & Supplies	260	1,500	200	0
10-5060-604	Rent Expense	0	6,000	6,000	6,000
10-5060-610	Town Apt. Expenses	0	0	0	0
10-5060-611	Museum Expense	0	0	0	5,000
10-5060-720	Capital Improvements/Shop	4,495	0	131	0
<b>Total Expenses</b>		<b>28,419</b>	<b>35,848</b>	<b>37,727</b>	<b>53,913</b>

# Utility Fund



## TOWN OF NEW CASTLE, COLORADO

### UTILITY FUND

#### Combined Statement of Revenues, Expenditures and Changes in Fund Balances - Budget and Actual *Budget Year Ending December 31, 2022*

	2020 Actual	2021 Budget	2021 Year End Estimate	2022 Budget
<b>Beginning - Retained Earnings</b>	<b>\$1,150,104</b>	<b>\$1,263,307</b>	<b>\$1,411,159</b>	<b>\$1,807,950</b>
<b>Water</b>				
Operating Revenues	1,110,652	1,101,169	1,138,021	1,171,497
Operating Expenses	<u>890,316</u>	<u>1,059,425</u>	<u>1,051,729</u>	<u>986,116</u>
<b>Operating Revenues ***</b>	220,336	41,744	86,292	185,381
Capital Revenues	158,650	103,490	154,800	169,000
Capital Expenses	<u>314,911</u>	<u>86,905</u>	<u>94,007</u>	<u>160,404</u>
<b>Capital Revenues ***</b>	(156,261)	16,585	60,793	8,596
<b>Wastewater</b>				
Operating Revenues	1,441,408	1,472,304	1,484,911	1,529,464
Operating Expenses	<u>733,563</u>	<u>867,880</u>	<u>839,529</u>	<u>984,101</u>
<b>Operating Revenues ***</b>	707,845	604,424	645,382	545,363
Capital Revenues	72,844	203,490	172,635	239,165
Capital Expenses	<u>580,643</u>	<u>787,193</u>	<u>579,057</u>	<u>858,527</u>
<b>Capital Revenues ***</b>	(507,799)	(583,703)	(406,422)	(619,362)
<b>Trash Service</b>				
Operating Revenues	516,303	531,904	532,238	576,940
Operating Expenses	<u>519,369</u>	<u>532,993</u>	<u>521,492</u>	<u>573,040</u>
<b>Operating Revenues ***</b>	(3,066)	(1,089)	10,746	3,900
<b>Ending Retained Earnings</b>	<b><u>\$1,411,159</u></b>	<b><u>\$1,341,268</u></b>	<b><u>\$1,807,950</u></b>	<b><u>\$1,931,828</u></b>
<b>***over (under) Expenses</b>				
Net Surplus (Deficit)	261,055	77,961	396,791	123,878

**Town of New Castle  
Water Operating  
2022 Approved Budget**

<b>Account Number</b>	<b>Account Title</b>	<b>2020 Actual</b>	<b>2021 Budget</b>	<b>2021 Year End Estimate</b>	<b>2022 Budget</b>
20-4030-020	Water Revenues	724,725	745,994	749,354	771,835
20-4030-025	Water Svc Chg-Over 12,000 Gal.	219,220	175,000	182,704	188,185
20-4030-050	Water Service Charge	129,645	133,455	133,898	137,915
20-4030-080	Delinquent User Charge	16,170	10,000	16,561	17,058
20-4030-100	Administration Fees	2,118	1,500	2,496	2,571
20-4030-110	Raw Water revenue	10,393	8,000	14,280	14,708
20-4030-120	Bulk Water Revenues	3,587	20,000	31,771	32,725
20-4030-200	Water Meters/Accessory	2,514	4,940	5,995	6,500
20-4030-245	Rent Income	2,280	2,280	962	0
	<b>Total Expenses</b>	<b>1,110,652</b>	<b>1,101,169</b>	<b>1,138,021</b>	<b>1,171,497</b>
20-6040-010	Council Salaries	7,592	8,070	8,070	9,910
20-6040-020	Salaries	400,095	427,000	417,398	351,504
20-6040-022	Call Out Pay	8,322	12,000	9,533	11,000
20-6040-023	Overtime Pay	1,541	3,700	2,326	3,700
20-6040-030	Payroll Tax Exp - Social Sec	25,100	28,000	26,825	23,319
20-6040-031	Payroll Tax Exp - Medicare	5,870	6,600	6,360	5,454
20-6040-032	Payroll Tax Exp - St Unemplmnt	1,391	1,355	1,337	1,881
20-6040-041	CRA Retirement Exp	16,384	17,800	17,597	14,648
20-6040-042	Health Insurance Exp	89,092	99,000	100,701	82,067
20-6040-043	Cafeteria Plan Expense	700	0	0	0
20-6040-049	Recruitment Expense	0	0	0	2,500
20-6040-050	Employee Support	1,415	1,350	1,000	1,350
20-6040-051	Employee Wellness Program	1,123	1,800	1,441	1,441
20-6040-100	Office Supplies	1,123	2,500	1,200	2,500
20-6040-101	Office Op. Supply & Furniture	0	600	300	600
20-6040-102	Postage Expense	1,485	1,600	1,300	1,600
20-6040-103	Computer Hardware/Software	2,363	5,000	600	5,000
20-6040-104	Printing & Copies	1,021	1,000	2,000	1,000
20-6040-105	Office - Misc.	0	0	0	0
20-6040-106	Credit Card Fees	8,390	8,400	10,200	9,000
20-6040-107	Computer Services	8,476	11,000	9,220	15,786
20-6040-110	Utility Billing Expense	3,811	5,000	4,000	5,000
20-6040-120	Town Hall Utilities	1,170	1,500	1,450	1,637
20-6040-140	Telephone Expense	7,781	7,400	7,500	8,200
20-6040-145	Internet Svc/Web Page	0	4,000	0	4,000
20-6040-146	Newsletter Expense	0	1,750	0	1,750
20-6040-160	Dues, Meetings, Subscriptions	2,178	2,400	3,200	2,500
20-6040-170	Training	0	1,000	800	1,000
20-6040-175	Meals, Lodging	494	1,000	500	1,000
20-6040-180	Publication of Notices	504	1,000	200	1,000
20-6040-190	Refund	508	1,500	800	1,600

**Town of New Castle  
Water Operating  
2022 Approved Budget**

<b>Account Number</b>	<b>Account Title</b>	<b>2020 Actual</b>	<b>2021 Budget</b>	<b>2021 Year End Estimate</b>	<b>2022 Budget</b>
20-6040-200	Legal Services	7,364	11,000	7,000	11,000
20-6040-210	Technical Support	5,505	8,500	10,000	8,500
20-6040-220	Other Prof Services	10,532	8,000	8,000	8,000
20-6040-240	Audit Expense	2,125	2,125	2,635	2,125
20-6040-260	Insurance Expense	39,336	42,000	40,000	48,936
20-6040-280	Miscellaneous Expense	0	1,000	500	1,000
20-6040-281	Good Neighbor Policy Exp.	0	1,000	6,000	1,000
20-6040-480	Engineering & Survey	7,227	8,000	14,000	10,000
20-6050-120	Utilities	61,992	68,500	68,500	84,876
20-6050-122	Utilities-Raw Water	22,437	25,000	22,865	25,813
20-6050-200	Chemicals	44,078	45,000	45,000	45,000
20-6050-220	M & O - Plant	24,350	35,000	34,000	28,000
20-6050-230	M & O - Pretrear & Trans	0	0	0	0
20-6050-240	M & O - Distribution	33,430	65,000	67,000	65,000
20-6050-241	M & O Raw Water System	3,108	5,500	2,500	6,300
20-6050-245	M & O-Red Rocks Ditch	4,277	9,000	6,000	8,000
20-6050-250	Source Water Protection	0	500	500	500
20-6050-260	Lab Tests	6,930	7,500	7,800	7,800
20-6050-300	Machinery & Equipment	3,143	2,500	2,500	2,500
20-6050-323	Veh Exp-04 Ford Ranger(W10)	0	250	250	250
20-6050-325	Veh Exp-09 Chevy Colo(w11)	537	250	250	250
20-6050-326	Veh Exp-13 Chevy P.U.(W14)	33	0	1,000	0
20-6050-327	Veh Exp-17 Chevy (W-15)	169	250	250	250
20-6050-328	Veh Exp-17 Chevy (W-16)	0	800	800	250
20-6050-329	Veh Exp-15 Chevy (P-3)	0	250	250	250
20-6050-340	Gas & Oil	3,983	5,500	5,500	5,500
20-6050-380	Equipment Maintenance	386	1,000	500	1,000
20-6050-391	Equipment Rental	0	750	750	750
20-6050-420	Training	300	500	600	500
20-6050-481	Safety	0	500	1,000	500
20-6050-500	Water Meter/Accessories	2,689	6,800	7,500	7,500
20-6050-580	Equipment & Tool-Distribute	1,113	1,000	21,500	2,000
20-6050-581	Lab Equip. & Supplies	3,132	6,000	5,000	4,000
20-6050-590	Equipment & Tool-Plant	0	1,500	600	1,000
20-6050-700	Permits	1,445	1,500	1,500	1,500
20-6050-710	W/H Ditch Fees	170	25	220	220
20-6050-721	Water Lease	500	500	0	500
20-6050-740	Ruedi Water Contract	2,096	23,600	23,600	23,600
<b>Total Expenses</b>		<b>890,316</b>	<b>1,059,425</b>	<b>1,051,729</b>	<b>986,116</b>

**Town of New Castle  
Water Capital  
2022 Approved Budget**

<b>Account Number</b>	<b>Account Title</b>	<b>2020 Actual</b>	<b>2021 Budget</b>	<b>2021 Year End Estimate</b>	<b>2022 Budget</b>
20-4030-270	FMLD Grant	81,000	0	0	0
20-4030-300	Cap Water Tap Fees	52,800	103,490	148,800	150,000
20-4030-340	Water Rights Dedication	4,800	0	6,000	0
20-4030-394	Sale of Assets	20,050	0	0	19,000
<b>Total Revenues</b>		<b>158,650</b>	<b>103,490</b>	<b>154,800</b>	<b>169,000</b>
20-6050-521	Note Principal - CWCB	21,462	22,428	22,428	23,437
20-6050-541	Note Interest - CWCB	21,942	20,977	20,977	19,967
20-6059-110	Capital Replace/Water Plant	0	35,000	42,000	0
20-6059-176	Raw Water System-Capital	187	8,500	8,500	0
20-6059-421	Veh/Equip-Lease/Purchase	80,222	0	0	42,000
20-6059-580	Other Capital-Bulk Water Plant	191,098	0	102	75,000
<b>Total Expenses</b>		<b>314,911</b>	<b>86,905</b>	<b>94,007</b>	<b>160,404</b>

**Town of New Castle  
Wastewater Operating  
2022 Approved Budget**

<b>Account Number</b>	<b>Account Title</b>	<b>2020 Actual</b>	<b>2021 Budget</b>	<b>2021 Year End Estimate</b>	<b>2022 Budget</b>
20-4040-040	Monthly Wastewater Svc. Chg	1,239,309	1,269,360	1,283,321	1,321,820
20-4040-045	Sewer Chg-Over 6,000 Gal.	86,413	84,039	82,228	84,695
20-4040-050	Sewer Svc. Chg.	101,853	104,653	105,175	108,330
20-4040-055	South Svc Chg	13,764	14,177	14,184	14,609
20-4040-540	ColoTrust Int(DOLA)-Wastewater	69	75	3	10
<b>Total Revenues</b>		<b>1,441,408</b>	<b>1,472,304</b>	<b>1,484,911</b>	<b>1,529,464</b>
20-6080-010	Council Salaries	7,592	8,070	8,070	9,910
20-6080-020	Salaries	312,233	331,000	334,738	358,235
20-6080-022	Call Out Pay	11,312	12,000	10,993	12,000
20-6080-023	Overtime Pay	2,180	2,150	1,902	2,150
20-6080-030	Payroll Tax Exp - Social Sec	19,988	22,000	21,321	23,702
20-6080-031	Payroll Tax Exp - Medicare	4,674	5,200	4,985	5,543
20-6080-032	Payroll Tax Exp - St Unemplmnt	1,142	1,100	981	1,911
20-6080-041	CRA Retirement Exp	13,019	13,800	13,904	14,895
20-6080-042	Health Insurance Exp	78,277	84,600	85,181	87,177
20-6080-043	Cafeteria Plan Expense	700	0	0	0
20-6080-049	Recruitment Expense	0	0	0	2,500
20-6080-050	Employee Support	1,385	1,850	1,850	1,850
20-6080-051	Employee Wellness Program	928	1,500	1,000	1,441
20-6080-100	Office Supplies	791	1,200	1,200	1,200
20-6080-101	Office Op. Supply & Furniture	0	600	300	600
20-6080-102	Postage Expense	671	1,000	1,000	1,000
20-6080-103	Computer Hardware/Software	2,680	2,500	1,000	2,500
20-6080-104	Printing & Copies	961	900	900	900
20-6080-105	Office - Misc.	0	0	0	0
20-6080-106	Credit Card Fees	8,358	8,800	10,200	8,800
20-6080-107	Computer Services	8,422	8,500	9,175	15,709
20-6080-110	Utility Billing Expense	3,811	5,000	4,000	5,000
20-6080-120	Town Hall Utilities	1,170	1,500	1,439	1,625
20-6080-125	Porta Jon Svc	6,706	12,000	12,000	12,000
20-6080-140	Telephone Expense	4,255	4,500	4,500	4,500
20-6080-145	Internet Svc/Web Page	540	540	540	540
20-6080-146	Newsletter Expense	0	1,750	0	1,750
20-6080-160	Dues, Meetings, Subscriptions	1,820	1,400	2,000	1,400
20-6080-170	Training	250	3,000	500	3,000
20-6080-175	Meals, Lodging	0	1,000	500	1,000
20-6080-180	Publication of Notices	504	1,300	800	1,300
20-6080-190	Refund	508	1,500	1,500	1,500
20-6080-200	Legal Services	0	2,200	2,200	2,200
20-6080-210	Technical Support	5,505	5,500	8,500	5,500
20-6080-220	Other Prof Services/Inspection	19,961	32,000	12,000	20,000

**Town of New Castle  
Wastewater Operating  
2022 Approved Budget**

<b>Account Number</b>	<b>Account Title</b>	<b>2020 Actual</b>	<b>2021 Budget</b>	<b>2021 Year End Estimate</b>	<b>2022 Budget</b>
20-6080-240	Audit Expense	1,445	1,445	1,700	1,445
20-6080-260	Insurance Expense	28,083	32,000	29,326	35,918
20-6080-280	Miscellaneous Expense	0	1,000	1,000	1,000
20-6080-281	Good Neighbor Policy Exp	350	5,000	3,500	5,000
20-6080-480	Engineering & Survey	3,451	6,000	6,000	81,000
20-6090-120	Utilities	82,431	96,000	96,000	107,777
20-6090-125	South Utilities	1,550	2,000	2,000	2,200
20-6090-200	Chemicals	11,551	16,000	14,000	16,000
20-6090-220	M & O Plant - WWTP	48,905	68,000	68,000	68,000
20-6090-221	Sludge Hauling	5,302	10,000	10,000	10,000
20-6090-225	M&O - Centrifuge	4,645	6,000	4,500	6,000
20-6090-240	M & O - Collections	1,563	5,000	3,500	5,000
20-6090-245	M & O South Collections	7	2,500	2,500	2,500
20-6090-260	Lab Tests	2,227	3,000	3,000	3,000
20-6090-328	Veh Exp-13 Chevy PU(W12)	680	800	800	250
20-6090-329	Veh Exp-17 Chevy (W-15)	0	200	800	200
20-6090-340	Gas & Oil	3,652	6,000	6,000	5,000
20-6090-391	Equipment Rental	0	1,000	1,000	1,000
20-6090-420	Training	1,005	750	1,500	750
20-6090-481	Safety	1,072	1,000	2,500	1,000
20-6090-580	Equip. & Tools - Plant	3,301	4,000	2,500	3,000
20-6090-581	Lab Equip. & Supplies	8,015	15,500	15,500	10,000
20-6090-590	Equipment & Tool - Collection	299	1,500	1,500	1,500
20-6090-700	Permits	1,209	1,500	1,500	1,500
20-6090-740	Sludge Site Application Fee	0	225	225	225
20-6090-760	Sludge Site	2,477	1,500	1,500	1,500
<b>Total Expenses</b>		<b>733,563</b>	<b>867,880</b>	<b>839,529</b>	<b>984,101</b>



**Town of New Castle  
Wastewater Capital  
2022 Approved Budget**

<b>Account Number</b>	<b>Account Title</b>	<b>2020 Actual</b>	<b>2021 Budget</b>	<b>2021 Year End Estimate</b>	<b>2022 Budget</b>
20-4040-320	Cap Sewer Tap Fees	52,800	103,490	142,800	150,000
20-4040-394	Sale of Assets	20,050	0	0	19,000
20-4040-621	Misc. Grant Revenue	-6	100,000	29,835	70,165
<b>Total Revenues</b>		<b>72,844</b>	<b>203,490</b>	<b>172,635</b>	<b>239,165</b>
20-6080-560	Note Princ-CWR&PDA	0	0	0	0
20-6080-561	Note Princ. - 08 WWTP Loan	369,683	345,000	375,119	385,992
20-6080-580	Note Int.-CWR&PDA	0	0	0	0
20-6080-581	Note Int. - 08 WWTP Loan	164,749	157,293	118,938	110,635
20-6095-101	Capital - Collections Other	310	284,900	85,000	199,900
20-6095-110	Capital Replacement-WW Plant	21	0	0	0
20-6095-421	Veh/Equip-Lease/Purchase	33,908	0	0	42,000
20-6095-800	Capital-Equipment	11,972	0	0	120,000
<b>Total Expenses</b>		<b>580,643</b>	<b>787,193</b>	<b>579,057</b>	<b>858,527</b>

**Town of New Castle  
Trash Service  
2022 Approved Budget**

<b>Account Number</b>	<b>Account Title</b>	<b>2020 Actual</b>	<b>2021 Budget</b>	<b>2021 Year End Estimate</b>	<b>2022 Budget</b>
20-4030-060	Trash Revenues	516,303	531,904	532,238	576,940
	<b>Total Revenues</b>	<b>516,303</b>	<b>531,904</b>	<b>532,238</b>	<b>576,940</b>
20-6070-110	Utility Billing Expense	1,079	1,200	1,200	1,200
20-6070-180	Publication of Notices	0	0	500	0
20-6070-200	Legal Services	410	550	200	550
20-6070-500	Trash Service	510,417	522,043	510,592	562,290
20-6070-600	Chgs-Cleanup Weeks	7,463	9,200	9,000	9,000
	<b>Total Expenses</b>	<b>519,369</b>	<b>532,993</b>	<b>521,492</b>	<b>573,040</b>

# Conservation Trust Fund



**TOWN OF NEW CASTLE, COLORADO**

**CONSERVATION TRUST FUND**

**Combined Statement of Revenues, Expenditures  
and Changes in Fund Balances - Budget and Actual  
*Budget Year Ending December 31, 2022***

		2020 Actual	2021 Budget	2021 Year End Estimate	2022 Budget
<b>BEGINNING FUND BALANCE</b>	<b>Acct. #</b>	<b>\$83,098</b>	<b>\$114,344</b>	<b>\$120,795</b>	<b>\$121,073</b>
<b><u>REVENUES</u></b>					
State Lottery	30-4040-040	51,935	45,000	61,238	52,022
Alpine Checking Interest	30-4040-520	60	50	50	50
<b>Total Revenues:</b>		<b>51,995</b>	<b>45,050</b>	<b>61,288</b>	<b>52,072</b>
<b><u>EXPENDITURES</u></b>					
Equipment	30-8040-390	0	61,000	61,010	37,000
Capital Improvements	30-8040-400	9,239	10,000	0	9,500
Parks, Trails Dev	30-8040-617	5,059	0	0	0
<b>Total Expenditures:</b>		<b>14,298</b>	<b>71,000</b>	<b>61,010</b>	<b>46,500</b>
<b>ENDING FUND BALANCE</b>		<b>\$120,795</b>	<b>\$88,394</b>	<b>\$121,073</b>	<b>\$126,645</b>

# Cemetery Perpetual Care Fund



**TOWN OF NEW CASTLE, COLORADO**

**CEMETERY FUND**

**Combined Statement of Revenues, Expenditures  
and Changes in Fund Balances - Budget and Actual  
Budget Year Ending December 31, 2022**

		<b>2020 Actual</b>	<b>2021 Budget</b>	<b>2021 Year End Estimate</b>	<b>2022 Budget</b>
<b>BEGINNING RETAINED EARNINGS</b>		<b>\$53,326</b>	<b>\$42,270</b>	<b>\$58,713</b>	<b>\$66,719</b>
Reserved - Perpetual Care		(10,000)	(10,000)	(10,000)	(10,000)
Unreserved/Undesignated		43,326	32,270	48,713	56,719
<b>REVENUES</b>	<b>Acct. #</b>				
Sale of Plots	40-4060-020	5,500	3,000	10,500	15,000
ColoTrust Interest	40-4060-540	102	100	6	8
<b>Total Revenues:</b>		<b>5,602</b>	<b>3,100</b>	<b>10,506</b>	<b>15,008</b>
<b>EXPENDITURES</b>					
Maintenance & Operations	40-9040-380	215	2,500	2,500	2,500
<b>Total Expenditures:</b>		<b>215</b>	<b>2,500</b>	<b>2,500</b>	<b>2,500</b>
<b>ENDING RETAINED EARNINGS</b>		<b>58,713</b>	<b>42,870</b>	<b>66,719</b>	<b>79,227</b>
Reserved - Perpetual Care		(10,000)	(10,000)	(10,000)	(10,000)
<b>Unreserved/Undesignated</b>		<b>\$48,713</b>	<b>\$32,870</b>	<b>\$56,719</b>	<b>\$69,227</b>

5.

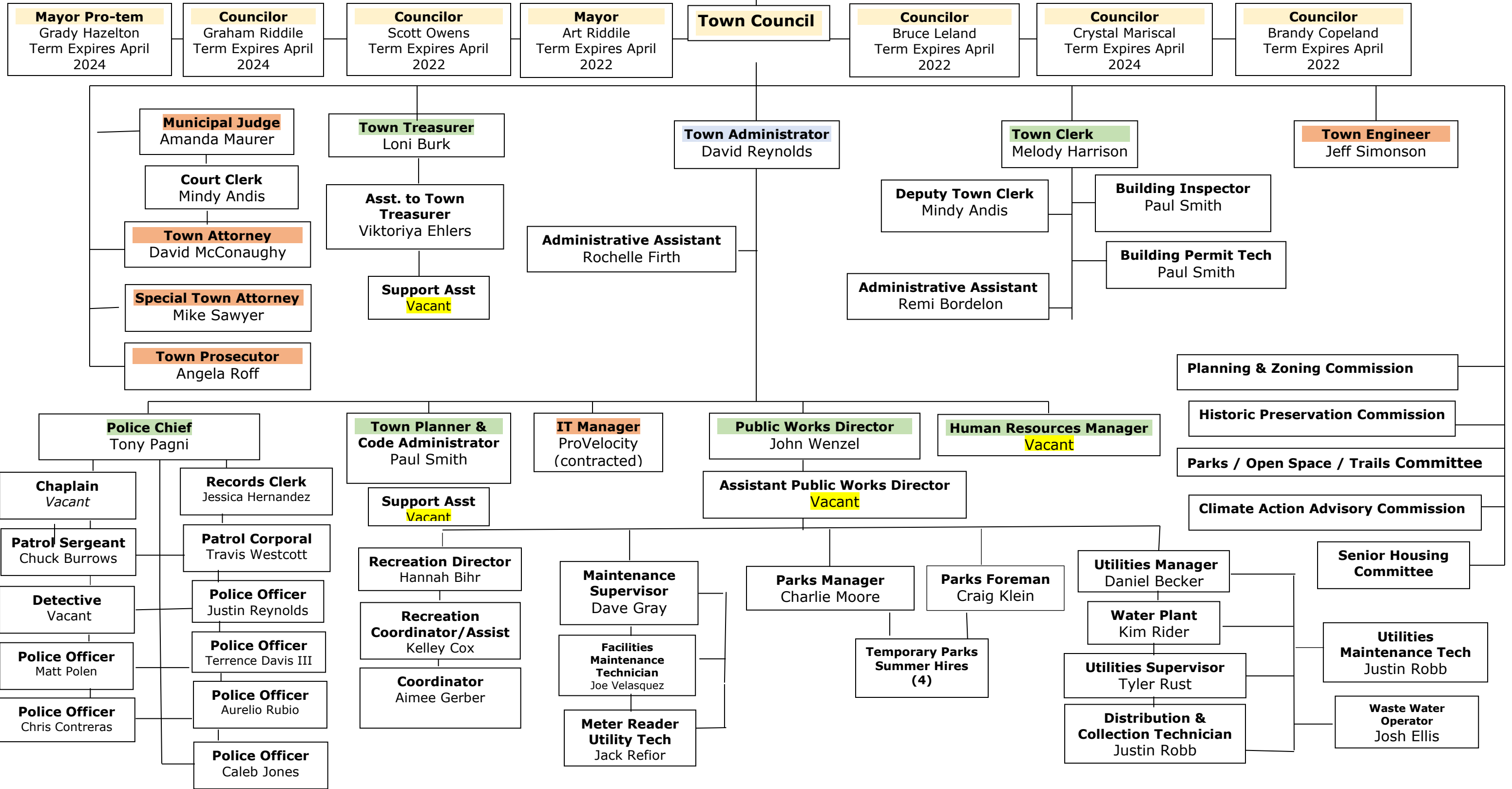
## Town Organizational Chart

**2021 New Castle Town Government  
Organizational Chart**

Updated 04/03/2020

**Town Administrator**  
**Council**  
**Consultant**  
**Department Head**

**Citizens of New Castle**





6.

## Commissions and Committees

## **Citizen Commissions and Committees**

### **Planning & Zoning Commission**

The Planning and Zoning Commission (P&Z) reviews the Town Comprehensive Plan, which guides development of the Town and the surrounding area. It also reviews regulations governing the subdivision of land, reviews regulations for the Town's zoning districts, and reviews various types of land use applications. The Commission reviews, discusses and makes decisions regarding preliminary PUD, preliminary master PUD, minor PUD amendments, final plats, multiple lot line adjustments and adoption of the comprehensive plan. They make recommendations to Council on other land use applications, with Council making the final decisions.

The Commission meets on the 2<sup>nd</sup> and 4<sup>th</sup> Wednesdays of each month, starting at 7:00 p.m., at New Castle Town Hall, located at 450 West Main Street.

### **Historic Preservation Commission**

The Historic Preservation Commission (HPC) reviews proposals to designate properties as historic landmarks, advises property owners on physical and financial aspects of property preservation, advises Town Council on matters related to preserving the historic character of the Town, and performs related duties. The Commission developed the conceptual plan for the Main Street Streetscape project and is currently working on upgrades for the New Castle Museum.

The Commission meets at least 4 times per year, on 3<sup>rd</sup> Mondays, starting at 6:30 p.m., at New Castle Town Hall, located at 450 West Main Street.

### **Climate and Environment Commission**

The Climate and Environment Commission (CEC) develops and provides recommendations to the Town Council on how the Town can meet the goals of the U. S. Mayors Climate Protection Agreement/Climate and Environment Plan for Future Actions.

The Commission meets at least 4 times per year, on 3<sup>rd</sup> Thursdays, starting at 6:30 p.m., at New Castle Town Hall, located at 450 West Main Street.

### **Parks, Open Space, Trails, Recreation Committee**

The Parks, Open Space, Trails, Recreation Committee (POSTR) makes recommendations to Town Council on developing property owned by the Town into community recreation areas, with guidance from the Parks, Open Space, and Trails Master Plan. Funding sources include grants, recreational facilities development fees collected by the Town from developers (the fee is \$500 for each single-family home,

collected when the Town issues the building permit for the home), and a ½ percent sales tax increase approved by New Castle voters in November 2000.

The Committee's regular meetings are on the 1<sup>st</sup> Wednesday each month, starting at 5:00 p.m., at New Castle Town Hall, located at 450 West Main Street.

### **Council Committees**

Town Council has formed the following Committees to study special issues. The Mayor and 3 Council Members serve on each Committee. The Finance Committee meets the first Tuesday of each month, from 6:45 to 7:00 p.m. All other Committees meet as needed.

Cable Television Committee  
Cemetery Committee  
Finance Committee  
Personnel Committee  
Public Safety Committee  
Public Works Committee  
Recreation Committee  
Tree Committee

### **Board of Zoning Adjustment**

The Town of New Castle Board of Zoning Adjustment hears and makes decisions on applications for zoning variances, appeals from zoning enforcement decisions, and all other matters the Council refers to the Board.

At present, the Board consists of 5 Town Council Members, with the other 2 Council Members serving as alternate Board Members. The Board meets as needed during Council meetings on 1<sup>st</sup> and 3<sup>rd</sup> Tuesdays of each month.

### **Local Liquor Licensing Authority**

The Town of New Castle Local Liquor Licensing Authority hears and makes the primary decision on applications for most types of liquor licenses before they are sent to the state for final approval. The Liquor Authority also approves Special Event Liquor Licenses.

The Liquor Authority consists of the 7 Council Members. The Authority meets as needed during Council meetings on the 1<sup>st</sup> and 3<sup>rd</sup> Tuesdays of each month.

7.

## The Language of Local Government

## **The Language of Local Government**

**ACCRUAL BASIS ACCOUNTING:** A method of accounting in which revenues are recorded at the time they are incurred, and expenditures are recorded when goods are received, and services performed.

**ADOPTION:** The act of approving something and acting according to its steps.

**APPROPRIATION:** Money set aside for a specific use by formal action of the Town Council. Appropriations are made for fixed amounts by fund and are granted in the operating budget for a one-year period.

**ASSESSED VALUATION:** An appraisal of real or personal property that serves as the basis for levying property taxes. Property values in New Castle are established by the Garfield County Assessor's Office. A percentage is applied to the appropriate market value in order to arrive at the assessed value. The percentage used depends on the type of property and is set periodically by the state legislature.

**AUDIT:** An examination of the Town's accounting records by an independent firm to determine the accuracy and validity of records and reports and the conformity of procedures with established policies. The Governmental Accounting Standards Board (GASB) sets standards for financial reporting for units of government that are referred to as Generally Accepted Accounting Principles (GAAP).

**BALANCED BUDGET:** A budget in which identified sources of funds are equal to or greater than expenditures.

**BUDGET:** The official written statement of the Town's comprehensive financial program that is adopted annually by the Town Council and consists of proposed expenditures for specified purposes and the proposed means of financing those expenditures.

**BUDGETARY CONTROL:** The standard practices established to monitor departmental compliance with approved budgets. The Town's budgetary control practices include regular review of purchase orders and monthly reports of actual to budgeted expenses.

**BUILDING CODE:** A set of regulations adopted by the town that specify the standards for constructed objects such as buildings and non-building structures.

**CAPITAL ITEM:** Any single item that the Town purchases with a value of \$5,000 or greater and an expected useful life of one year or more.

**CAPITAL OUTLAYS:** Expenditures for the acquisition, construction or improvement of capital projects or for the acquisition of capital items.

**CAPITAL PROJECT:** New infrastructure (buildings, roads, parks, etc.) or replacement of or improvements to existing infrastructure.

**CASH BASIS ACCOUNTING:** A method of accounting in which revenues are recorded when received in cash and expenditures are recorded when paid.

**CODE:** The municipal code, which are the laws of the town. They are organized by Title, Chapter and Section. Title is a broad category under which ordinances on a related subject are compiled. Chapters deal with more specific subjects and are often derived from one ordinance. All chapters on a related subject are grouped in one title. Each section of the code contains substantive ordinance material.

**COMMISSION:** A group of persons authoritatively charged with particular functions: planning and zoning commission.

**COMMITTEE:** A person or group of people who are members of a larger body or organization and are appointed or elected by the body or organization to consider, investigate, or make recommendations concerning a particular subject or to carry out some other duty delegated to it by the body or organization on an ad hoc or permanent basis.

**CHARTER:** The governing document of the Town. A citizen-adopted document that spells out the powers and limitations of the Town government. It may only be amended by a vote of the registered electors of the Town.

**COMPREHENSIVE PLAN:** The document that sets goals and standards to guide the future growth of New Castle.

**DEBT SERVICE:** Payment of principal and interest on an obligation resulting from the issuance of bonds and notes according to a predetermined payment schedule. The timetable for paying off debts.

**DEPARTMENT:** A major administrative section of the Town government. New Castle has 6 departments: Administration, Building, Maintenance, Police, Recreation, and Water/Wastewater.

**DIRECTORY OF FEES AND CHARGES:** A comprehensive list of fees and charges adopted at least annually by the town council that specifies amounts that are charged for products, services, licenses, permits

**ENTERPRISE FUND:** A fund in which the services provided are financed and operated similarly to a private business. An enterprise fund is operated so that the costs (i.e. expenses, including depreciation) of providing goods or services to the public are financed or recovered primarily through user fees or charges. In New Castle, the Utility Fund is an enterprise fund.

**EXPENDITURE:** The actual outlay of funds from the Town treasury. Spending money.

**FISCAL YEAR:** The twelve-month period designated in the Town Charter which establishes the beginning and ending period for recording financial transactions. The fiscal year of the Town of New Castle is from January 1 to December 31.

**FRANCHISE TAX:** A tax charged for the privilege of using public rights-of-way and property within the Town for public or private purposes. The Town charges franchise taxes to natural gas, telephone, cable television, and electric utilities.

**FUND:** An accounting concept used to separate or subdivide the financial activity of a city for legal and managerial purposes. All financial activity of a municipality must be classified in relation to a fund. The Town's budget consists of a general fund, an enterprise fund, and fiduciary funds.

**FUND BALANCE:** The difference between the debits and credits of a particular fund. In other words, how much money, working capital and/or retained earnings are left over in the fund at the end of the time period in question. Does not apply to enterprise funds.

**GENERAL FUND:** The general operating fund of the Town that accounts for all financial resources whose use is not restricted to any specific purpose(s). The General Fund pays for services such as Town Administration, Street Maintenance, Police, Parks and Recreation.

**INFRASTRUCTURE:** The physical assets of the Town, such as streets, water and sewer lines, public buildings, and parks.

**INTERGOVERNMENTAL REVENUES:** Revenue the Town receives from other governments in the form of grants, entitlements, shared revenues or payments in lieu of taxes.

**LINE ITEM BUDGET:** A budget in which expenditures are classified by detailed expense categories.

**LODGING TAX:** a 2.5% tax on the cost of a short-term room rental (less than 30 days). Proceeds go to economic development.

**MILL LEVY:** A percentage that is applied to the assessed value of real property to calculate the property tax. The mill levy in New Castle for 2020 is 6.906 mills, or 0.6906 percent of assessed value (.006906 times assessed value).

**MOTION:** A proposal made to a deliberative assembly: to make a motion to approve.

**MUNICIPALITY:** a city, town, or other district possessing corporate existence and usually its own local government.

**OPERATING BUDGET:** The comprehensive financial plan of the Town that, in its most basic form, consists of a listing of anticipated revenues and proposed expenditures for each function of government for the designated fiscal year. The budget contains appropriations for such expenditures as personnel, supplies, utilities, materials, training and fuel.

**ORDINANCE:** A municipal regulation approved by the Town Council that has the force of law.

**PROCLAMATION:** an official announcement made in public.

**RESERVE:** The portion of a fund balance or retained earnings that is legally restricted to a specific future use or is not available for appropriation or expenditure.

**RESOLUTION:** A formal expression of opinion, will or intent passed by the Town Council.

**REVENUE:** Funds that the government receives as income, such as tax payments, fees from specific services, receipts from other governments, fines, forfeitures, grants and interest income.

**REQUEST FOR PROPOSAL (RFP):** A document that serves as a formal request for entities outside the Town to submit proposals for providing goods or services. The Town may be required by law to give notice to the public if it needs to buy goods or services. The RFP is the standard procedure for meeting this requirement. RFPs must usually be advertised publicly in newspapers or by other means.

**SALES TAX:** A tax imposed on the sale or use of all tangible personal property. The Town's sales tax rate is 3.5%. One percent of the sales tax revenues is reserved for street maintenance, and one-half percent is reserved for recreation, parks, trails, and open space purposes.

**TAX:** Compulsory charges levied by a governmental unit for the purpose of raising revenue. Tax revenues are used to pay for services or improvements provided for the benefit of the general public.

**TELEPHONE UTILITY TAX:** A tax on the occupation and business of maintaining a telephone exchange and connecting lines in the town, and of supplying local exchange telephone service to the inhabitants of the town. The amount of the tax shall be six dollars (\$6.00) per calendar year per telephone account for which the local exchange telephone service is provided within the corporate limits of the town.

**TOBACCO TAX:** On the November 2019 coordinated election ballot, the voters of New Castle approved a tax on cigarettes of .16 cents per cigarette, or \$3.20 per pack of cigarettes, including an annual increase of .05 cents per cigarette, and .10 cents per pack until the tax reaches .20cents per cigarette and \$4.00 per pack



respectively. In addition, the voters approved a tax of 40% on all other tobacco and tobacco delivery products. This tax is self-collected.

**3-MILE PLANNING AREA:** An area around New Castle which has been designated as a growth area, has the potential to be annexed into the Town, and is included in the Comprehensive Plan.

**USE TAX:** A complementary tax to the Town sales tax, imposed on building and construction materials that are purchased outside the Town for use or consumption within the Town. The Town's use tax rate is 2%.

**USER FEES/CHARGES:** The payment of fees or charges for receipt of a service by the user who benefits from using the service, e.g., fees for utility services.

### **Commonly Used Abbreviations and Acronyms**

#### **A**

AARP	American Association of Retired Persons
ACE	Army Corps of Engineers
ACLU	American Civil Liberties Union
ADA	Americans with Disabilities Act
AF	Acre-Foot
AG	Attorney General
AGNC	Associated Governments of Northwest Colorado
APA	American Planning Association
APWA	American Public Works Association

#### **B**

BANANA	Build Absolutely Nothing Anywhere Near Anybody
BLM	Bureau of Land Management
BM1	Burning Mountain PUD, Phase 1
BM2	Burning Mountain PUD, Phase 2
BOCC	Board of County Commissioners
BOZA	Board of Zoning Adjustment

#### **C**

CAFR	Comprehensive Annual Financial Report
CAVE	Citizens Against Virtually Everything
CC&Rs	Covenants, Conditions & Restrictions
CCR	Code of Colorado Regulations
CD	Certificate of Deposit
CEC	Climate and Environment Commission
CDBG	Community Development Block Grant
CDOT	Colorado Department of Transportation
CDPHE	Colorado Department of Public Health and Environment
CFS	Cubic Feet per Second
CGFOA	Colorado Government Finance Officers Association

CIP Capital Improvement Program  
CIRSA Colorado Intergovernmental Risk Sharing Agency  
CLEER Clean Energy Economy for the Region  
CLG Certified Local Government  
CMC Colorado Mountain College; Certified Municipal Clerk  
CMCA Colorado Municipal Clerks Association  
CML Colorado Municipal League  
CO Certificate of Occupancy  
COBRA Consolidated Omnibus Budget Reconciliation Act  
CPA Certified Public Accountant  
CPF Campaign and Political Finance (Amendment 27 to Colorado Constitution)  
  
CPW Colorado Parks & Wildlife (State)  
CRFR Colorado River Fire Rescue  
CRHS Coal Ridge High School  
CRS Colorado Revised Statutes  
CRWCD Colorado River Water Conservation District  
C-SAFE Colorado Surplus Asset Fund Trust  
CTF Conservation Trust Fund  
CUP Conditional Use Permit  
CVB Castle Valley Boulevard  
CVR Castle Valley Ranch

## **D**

DEA Drug Enforcement Administration  
DLG Division of Local Government (State)  
DMV Department of Motor Vehicles (State)  
DOLA Department of Local Affairs (State)  
DOR Department of Revenue (State)  
DORA Department of Regulatory Agencies (State)

## **E**

ECE Elk Creek Elementary  
EEOC Equal Employment Opportunity Commission (Federal)  
EIS Environmental Impact Statement  
EPA Environmental Protection Agency  
EQR Equivalent Residential Unit

## **F**

FAA Federal Aviation Administration  
FAQ Frequently Asked Questions  
FCC Federal Communications Commission  
FCPA Fair Campaign Practices Act  
FDIC Federal Deposit Insurance Corporation  
FEMA Federal Emergency Management Agency  
FHA Federal Housing Agency  
FICA Federal Insurance Contribution Act

FMLD	Federal Mineral Lease District
FLSA	Fair Labor Standards Act
FMHA	Farmers Home Administration
FNMA	Federal National Mortgage Association (FannieMae)
FONSI	Findings of No Significant Impact
FOSI	Findings of Significant Impact
FSLIC	Federal Savings and Loan Insurance Corporation
FUTA	Federal Unemployment Tax Act

## **G**

GAAP	Generally Accepted Accounting Principles
GARCO	Garfield County
GCE	Garfield Clean Energy
GFMLD	Garfield Federal Mineral Lease District
GASB	Governmental Accounting Standards Board
GFOA	Government Finance Officers Association
GNMA	Government National Mortgage Association (GinnieMae)
GOCO	Great Outdoors Colorado

## **H**

HB	House Bill
HIPAA	Health Insurance Portability and Accountability Act
HOA	Homeowners Association
HPC	Historic Preservation Commission
HUD	Department of Housing and Urban Development (Federal)
HUTF	Highway Users Tax Fund

## **I**

I-9	Employment Eligibility Verification Form
IBC	International Building Code
ICMA	International City/County Management Association
IEBC	International Existing Building Code
IFC	International Fire Code
IFGC	International Fuel Gas Code
IGA	Intergovernmental Agreement
IIMC	International Institute of Municipal Clerks
IMC	International Mechanical Code
INS	Immigration and Naturalization Service
IPC	International Plumbing Code
IRA	Individual Retirement Account
IRC	International Residential Code
IRS	Internal Revenue Service

## **J**

JTPA	Job Training Partnership Act
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**K**

KSE Kathryn Senior Elementary School

**L**

LE Liquor Enforcement  
LCR Lakota Canyon Ranch  
LDI Land Discovery, Inc.  
LULU Locally Unacceptable Land Use

**M**

MBE Minority Business Enterprise  
MOU Memorandum of Understanding  
MTC Model Traffic Code  
MUTCD Manual of Uniform Traffic Control Devices

**N**

NAACP National Association for the Advancement of Colored People  
NEC National Electric Code  
NEPA National Environmental Policy Act  
NEIP National Flood Insurance Program  
NIMBY Not in My Back Yard  
NIMEY Not in My Election Year  
NIMFYE Not in My Front Yard Either  
NIMTOO Not in My Term of Office  
NOPE Not on Planet Earth

**O**

OMB Office of Management and Budget (Federal)  
OSHA Occupational Safety and Health Agency

**P**

P&Z Planning and Zoning  
PA Planning Area  
PAC Political Action Committee  
PD Police Department  
PIITBY Put It in Their Back Yard  
PILT Payments in Lieu of Taxes  
PO Purchase Order  
POSTR Parks / Open Space / Trails / Recreation Committee  
PUC Public Utilities Commission  
PUD Planned Unit Development

**R**

R&D Research and Development  
RC&D Resource Conservation and Development  
RFP Request for Proposal  
RFQ Request for Qualifications  
RFTA Roaring Fork Transportation Authority

RG Romero Group  
RSVP Retired Seniors Volunteer Program

**S**

SB Senate Bill  
SBA Small Business Administration (Federal)  
SOS Secretary of State  
SRU Special Review Use Permit  
SSA Social Security Administration  
SSI Supplemental Security Income

**T**

TABOR Taxpayer's Bill of Rights (a/k/a Amendment 1; located at Article X, Section 20 of Colorado Constitution)  
T-Bills Treasury Bills  
TEFRA Tax Equity & Fiscal Responsibility Act  
TONC Town of New Castle

**U**

UBC Uniform Building Code ✓  
UCADB Uniform Code for the Abatement of Dangerous Buildings ✓  
UEC Uniform Electrical Code ✓  
UFC Uniform Fire Code ✓  
UPC Uniform Plumbing Code ✓ (Retired Building Codes)  
USDA U. S. Department of Agriculture  
USFS U. S. Forest Service

**V**

VA Veterans Administration  
VISTA Volunteers in Service to America

**W**

W-2 Earnings Statement  
W-4 Withholding Statement  
W-9 Taxpayer Certification  
WIC Women, Infants, and Children Nutrition Program  
WTP Water Treatment Plant  
WWTP Wastewater Treatment Plant

8.

## Rules Regarding Political Signs and Campaigning



## **Town of New Castle**

450 W. Main Street  
PO Box 90  
New Castle, CO 81647

## **Administration Department**

**Phone:** (970) 984-2311

**Fax:** (970) 984-2716

[www.newcastlecolorado.org](http://www.newcastlecolorado.org)

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### **Rules Regarding Political Signs**

A sign permit is NOT required for a political sign, except as described below.

No political signs are permitted in public rights-of-way. If you wish to post a campaign sign on private property, please get consent from the property owner prior to posting the sign.

Political signs may NOT be placed on vehicles or trailers that are parked or located for the primary purpose of displaying the sign.

Political signs in the form of banners, pennants, festoons or searchlights are NOT allowed, except by Town permit.

Political signs cannot be larger than 8 square feet in residential zones, or 32 square feet in all other zones.

Political signs can be displayed for up to 90 days in a 12-month period (one can request that the Town extend the 90-day period).

No political signs are allowed within 100 feet of Town Hall from March 25, 2022 through April 5, 2022.

For more information, talk with Code Administrator Paul Smith, 984-2311.

### **Campaigning**

Candidates are welcome to campaign and electioneer to solicit votes, however, New Castle's municipal elections are non-partisan and no candidate for any municipal office shall run under a party label of any kind.

Campaigning or electioneering may not take place within 100 feet of the polling place. The polling place will be located in the Town Hall at 450 W Main Street.

Candidates are welcome to accept contributions to their campaign or to spend their personal monies on their campaign. Expending personal funds and/or accepting contributions will require formation of candidate committees and filing the appropriate Fair Campaign Finance Act reports.