

**TOWN OF LOCHBUIE
COUNTIES OF WELD AND ADAMS, COLORADO**

ORDINANCE NO: 2022- 674

**AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF
LOCHBUIE, COLORADO, AMENDING SECTIONS 2-1-30 AND 2-2-10 OF
THE LOCHBUIE MUNICIPAL CODE CONCERNING CANCELLATION
OF ELECTIONS AND VACANCIES ON THE BOARD OF TRUSTEES
AND DECLARING AN EMERGENCY**

WHEREAS, the Town of Lochbuie (the "Town") is a Colorado statutory municipality, governed by its elected Mayor and Board of Trustees; and

WHEREAS, Section 31-4-303, C.R.S., provides that when a vacancy in the office of trustee occurs, the Board may appoint a successor or order an election to fill the vacancy but in either case the successor serves until the next regular election; and

WHEREAS, from time to time, due to the shortened term assigned to successor trustees who filled vacancies, the Town's ability to maintain equal staggering of terms amongst the Board of Trustees' six members is negatively affected, and state law does not address how to redress this issue; and

WHEREAS, the Town Board of Trustees desires to amend the Lochbuie Municipal Code to provide that in the event in any election year there are more than three (3) Trustee positions to be filled, persons receiving the fourth highest number of votes or less shall be elected to two-year terms; and

WHEREAS, the Town Board of Trustees desires to further amend the Lochbuie Municipal Code to provide that an election shall not be cancelled, even if there are not more candidates than offices to be filled at such election, when determining the number of votes each candidate receives is necessary in order to determine the length of office for these persons elected; and

WHEREAS, the Board of Trustees finds that an emergency exists and that the immediate effectiveness of this ordinance is necessary to protect the public health, safety and welfare as set forth herein.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF
THE TOWN OF LOCHBUIE, WELD AND ADAMS COUNTIES, COLORADO, AS
FOLLOWS:**

Section 1. Amendment of Section 2-13-30. Section 2-1-30 of the Lochbuie Municipal Code is amended to read as follows with additions shown in ALL CAPS and deletions shown in ~~strike-through~~:

Sec. 2-1-30. - Cancellation of election.

- (a) If the only matter before the voters is the election of persons to office and if, at the close of business on the deadline before the election as set forth in applicable state statute there are not more candidates than offices to be filled at such election, including candidates filing affidavits of intent as set forth in Section 2-1-20, AND IT IS NOT NECESSARY TO DETERMINE LENGTH OF TERM OF OFFICE IN ACCORDANCE WITH SECTION 2-2-10, the Town Clerk, if instructed by resolution either before or after such date, shall cancel the election and such candidates shall be deemed elected.
- (b) Notice of such cancellation shall be published, if possible, and notice of such cancellation shall be posted at each polling place and in not less than one (1) other public place.

Section 2. Amendment of Section 2-2-10. Section 2-2-10 of the Lochbuie Municipal Code is amended to read as follows with additions shown in ALL CAPS and deletions shown in ~~strike-through~~:

Sec. 2-2-10. - Board of Trustees; election; term of office; authority; qualifications and vacancies.

- (a) Board of Trustees; election and term of office. The corporate authority of the Town is by state law vested in a Board of Trustees consisting of one (1) Mayor and six (6) Trustees. At the regular municipal election to be held in April of 2004, six (6) Trustees shall be elected. The three (3) candidates for Trustee receiving the highest number of votes shall be elected for four-year terms, and the three (3) candidates for Trustee receiving the next highest number of votes shall be elected for two-year terms. At each regular election thereafter, three (3) Trustees shall be elected to serve four-year terms; HOWEVER, IN THE EVENT MORE THAN THREE TRUSTEE OFFICES ARE UP FOR ELECTION AT ANY ELECTION, THE TERMS FOR SUCH ELECTED TRUSTEES SHALL BE AS SET FORTH IN SUBSECTION (D).
- (b) Authority. The Board of Trustees shall constitute the legislative body of the Town, shall have power and authority, except as otherwise provided by statute, to exercise all power conferred upon or possessed by the Town, and shall have the power and authority to adopt such laws, ordinances and resolutions as it shall deem proper in the exercise thereof.
- (c) Qualifications. Each Trustee shall be a resident of the Town and a qualified elector therein. If any Trustee shall move from or become, during the term of his or her office, a nonresident of the Town, he or she shall be deemed thereby to have vacated his office, upon the adoption by the Board of Trustees of a resolution declaring such vacancy to exist.
- (d) Vacancies. In the case of death, resignation, vacation or removal for cause of any of the Trustees during their term of office, the Board of Trustees, by a majority vote of all remaining members thereof, MAY ORDER AN ELECTION TO FILL THE VACANCY OR may select and appoint, from the duly qualified electors of the Town,

a suitable person to fill the vacancy, AND SUCH PERSON ELECTED OR APPOINTED who shall hold the office until the next regular election. IN ORDER TO MAINTAIN STAGGERED TERMS ON THE BOARD OF TRUSTEES, IN THE EVENT THAT IN ANY ELECTION YEAR THERE ARE MORE THAN THREE (3) TRUSTEE POSITIONS TO BE FILLED, THE PERSONS RECEIVING THE THREE HIGHEST NUMBERS OF VOTES SHALL BE ELECTED TO FOUR-YEAR TERMS AND ALL OTHERS SHALL BE ELECTED TO TWO-YEAR TERMS, AND IN THE EVENT OF A TIE IN NUMBER OF VOTES SUCH THAT PERSONS WITH THE THREE HIGHEST NUMBER OF VOTES CANNOT BE DETERMINED, THE TOWN CLERK SHALL HOLD A LOT DRAWING OPEN TO THE PUBLIC TO ASSIGN TERMS TO THE PERSONS WITH THE LOWEST NUMBER OF VOTES.

~~If the term of the person creating the vacancy was to extend beyond the next regular election, the term of the office of the successor elected at that regular election shall be shortened so that the following regular election for the office is held at the time at which it would have been held if no vacancy had occurred.~~

Section 3. Severability. If any provision of this Ordinance, or the application of such provision to any person or circumstance, is for any reason held to be invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable. The Board of Trustees hereby declares that it would have passed this Ordinance and each provision thereof, even though any one of the provisions might be declared unconstitutional or invalid. As used in this Section, the term “provision” means and includes any part, division, subdivision, section, subsection, sentence, clause or phrase; the term “application” means and includes an application of an ordinance or any part thereof, whether considered or construed alone or together with another ordinance or ordinances, or part thereof, of the Town.

Section 4. Safety Clause. The Board of Trustees hereby finds, determines and declares that this Ordinance is promulgated under the general police power of the Town of Lochbuie, that it is promulgated for the health, safety and welfare of the public; and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The Board of Trustees further determines that the Ordinance bears a rational relationship to the proper legislative object sought to be obtained.

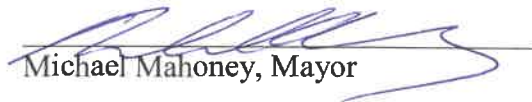
Section 5. Repealer. All ordinances or resolutions, or parts thereof, in conflict with this Ordinance are hereby repealed, provided that such repealer shall not repeal the repealer clauses of such ordinance nor revive any ordinance thereby.

Section 6. Emergency; Effective Date. The Board adopts the findings of the recitals above and legislatively declares that the immediate preservation of the public health and safety requires the immediate effectiveness of this Ordinance. Absent passage of this Ordinance as an Emergency Ordinance, the Town risks confusion at the November 8, 2022 election in determining which candidate running for the position of trustee should serve a four year term and which candidate running for the position of trustee should serve a two year term such that staggered terms

are maintained. This Ordinance shall take effect immediately upon its adoption as provided by C.R.S. § 31-16-105.

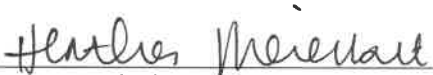
ADOPTED by a vote of $\frac{3}{4}$ of the members of the Board of Trustees with 10 in favor, 0 against and 0 abstaining, AND ORDERED PUBLISHED by title only following public hearing, this 5th day of July, 2022.

TOWN OF LOCHBUIE, COLORADO


Michael Mahoney, Mayor

I hereby certify that the above Ordinance was adopted by the Board of Trustees of the Town of Lochbuie at its meeting of July 5, 2022, and ordered published by title only one time by *The Brighton Blade* newspaper on July 14, 2022.

[SEAL]


Heather Meierkort, Town Clerk

