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TOWN OF ELIZABETH
MEMORANDUM

**TO: MAYOR AND BOARD OF TRUSTEES
PATRICK DAVIDSON, TOWN ADMINISTRATOR**

**FROM: COREY Y. HOFFMANN, TOWN ATTORNEY 
NICHOLAS A. HARTMAN, ESQ.**

DATE: APRIL 15, 2024

**RE: HOLDING AN ELECTION TO APPROVE THE DIVISION OF THE TOWN
INTO WARDS**

This memorandum addresses ballot language for the creation of a ward system in the Town at the November 2024 election, and then discusses how such a system may be implemented if the measure were to succeed.

In a previous memorandum to the Town, we discussed that the Town may divide into constitutionally apportioned wards contemplated by Colorado law applicable to statutory towns. That legal analysis remains unchanged. However, because introducing this measure at the 2024 election necessarily means a ward system approved moving forward after the 2024 municipal election, the implementation would be different if the measure were approved by the voters. Accordingly, this memorandum addresses how to implement ward-specific Trustees beginning in 2026, which addresses implementation while avoiding any shortening of Trustee terms.

Discussion

Ballot Language

As discussed in our previous memorandum, Colorado law contemplates the creation of wards upon incorporation. *See* C.R.S. § 31-2-104(1). Therefore, the creation of wards by any means after incorporation is rather rare, and even more rare to be done by referred ballot measure.

In fixing the ballot title, Colorado law provides that public confusion of the effect of a "yes" or "no" vote should be mitigated whenever practicable. C.R.S. § 31-11-111(3). Therefore, the ballot title should get to the heart of the matter, and could look as simple as this:

"Shall the Town of Elizabeth be divided into three separate wards for the election of the Board of Trustees, excluding the Mayor who shall be elected at large?"

Timing of Ward Formation, Election, and Trustee Qualifications

Trustee terms may not be lengthened or shortened to fit changes to the role, except to realign with the regular election schedule in the event of a vacancy. C.R.S. § 31-4-301(5). If passed at the November 2024 election, the transition to a ward system may be implemented no earlier than the November 2026 election. To adhere to constitutional apportionment requirements, the wards must be relatively equal in population, and all represented by either one or two Trustees upon implementation. This analysis, in general terms, remains unchanged from our previous memorandum that discussed a 2024 ward system implementation.

However, the 2024 election has the benefit of most of the Trustee seats going up for election at the same time. If the Town cannot implement until 2026 or later, issues around Trustee residency may come into issue. The Town's future election schedule, under the proposed ward areas, looks like this:

Ward 1:

Seat A: four-year – election in 2028

Seat B: two-year – election in 2026; next election in 2028

Ward 2:

Seat A: four-year – election in 2028

Seat B: two-year – currently filled through 2026; election in 2028

Ward 3:

Seat A – four-year – election in 2028

Seat B – two-year – election in 2026; next election in 2028

Assuming the ward system ballot question passes at the 2024 election, the Town would have two options for apportionment that do not potentially compel a Trustee to no longer be eligible to serve in the Trustees' ward:

- One, the Town could apportion all 2026 two-year term Trustees (the "B-Seats") to Wards 1-3 and leave all four-year term Trustees still in office (the "A-Seats") at-large. Manitou Springs, Colorado, has a similar system. See Manitou Springs Code of Ordinances Section 2.02.010 (noting that all Councilmembers have staggered four-year terms). These A-Seats could be apportioned at the 2028 election, when the seats go up for election, or simply left at-large if the Town desires a hybrid system.

- Two, the Town could wait until the November 2028 election to implement the ward system. All six Trustee seats, plus the Mayor, are up for election in 2028.

The Mayoral Position

Statutory cities and towns each provide for a mayor in addition to the Board. C.R.S. §§ 31-4-102 (1); 31-4-301 (1). The Mayor must reside in the Town and may be elected town-wide. *Id.* Therefore, the Town's Mayor position merely needs to be updated in Code to reflect the specific town-wide/at-large nature of the role. This role, further, is insulated from the above discussion on timing.

Conclusion

The Town may create a constitutionally apportioned ward system contemplated by Colorado law either by resolution or by referred measure to the electorate. If the Board chooses to go to election and the authority to implement a ward system passes at the November 2024 election, the Town cannot implement it until at least 2026. The Town will further need to decide on how and when it implements the system, considering the needs of the Town and the practical reality of the new system's residency requirements. The mayoral position will not substantially change, and merely needs a small rewrite to conform with references to wards.

As always, please feel free to contact us with any questions.