

TOWN OF MOUNTAIN VILLAGE HOME RULE CHARTER

AMENDED JUNE 28, 2005

PREAMBLE

In accordance with the voter mandate, in the election held on January 17, 1995, the Charter Commission has formulated a Home Rule Charter for the proposed Town of Mountain Village. We believe that a Home Rule Charter allows for the most workable and democratic form of town government, employing the principals of self-government and fair voter representation, which has been the cornerstone of American government for over two hundred years.

Due to the special nature of our resort community, the nine members of the Charter Commission agree that our Charter should provide measures which safeguard our citizens' life-style, protect the beauty of our natural surroundings, and encourage the recreational nature of our town. We have, therefore, designed a Charter with the flexibility to deal with the issues of growth, development and environmental awareness that provides the means for government to be responsive to the needs of its citizens through a representative Town Council.

We, the People of the Town of Mountain Village, Colorado, under the authority of the Constitution of the State of Colorado, do hereby ordain, establish and adopt this Home Rule Charter for the Town of Mountain Village, State of Colorado.

AS ADOPTED BY THE MEMBERS OF THE MOUNTAIN VILLAGE CHARTER COMMISSION:

**Marty Huschke
Ruthann Russell
Doug Tueller
Corey W. Rapp
Julie Cram**

**Darrell Huschke, Chairman
Jim Wells, Vice-Chairman
Diane Rapp, Secretary
David Flatt, Treasurer**

ARTICLE I.

GENERAL PROVISIONS

Section 1.1. THE NAME OF THE TOWN.

The heretofore unincorporated area commonly known as the Mountain Village, located in the County of San Miguel, State of Colorado, is now existing as a municipal corporation known as the Town of Mountain Village, and is hereafter referred to as the "Town".

Section 1.2. THE BOUNDARIES OF THE TOWN.

The boundaries of the Town are as shown on the map designated "Official Town Plat", a copy of which is on file and open to inspection in the office of the Town Clerk.

Section 1.3. LEGAL STRUCTURE OF THE TOWN.

a) Body Politic. By voting their approval of the home rule incorporation, the people of the Town created a body politic, i.e., a social compact or agreement by and between themselves, which, by common law, provides that the Town shall be governed by laws for the common good.

b) Basis for Municipal Powers. The Town shall possess and shall exercise all governmental powers expressly granted to home rule municipalities in Article XX of the Colorado Constitution, as amended, and all such other powers of government reasonably derived by implication therefrom.

c) Framework for Exercising Town Government. All governmental powers of the Town shall be exercised through the framework and in the manner prescribed in this Charter.

Section 1.4. SIGNIFICANT CHARTER PROVISIONS.

a) Form of Government. The municipal government provided for in this Charter is generally referred to as a "Mayor-Council" form of government, even though most mayor-council forms differ from each other in more than one aspect. In this Charter, the Mayor is selected by and from within the Town Council and his or her tenure in office is subject to termination at any time by the Town Council. While in office, however, the Mayor has full and exclusive authority and responsibility to administer and enforce the laws which are enacted by the Town Council.

b) Provision for Non-resident Voting Rights. Certain non-resident property owners have been extended voting rights concerning municipal and local affairs based upon the following reasons:

1) Like many resorts, the nature of the economy and the life-style of the people of the Town are, and will in the future remain, unusual. Furthermore, the fact that many of the Town's present and future residential and commercial property owners maintain their primary residences outside of the Town, making them part-time second-home non-residents, is also unusual. Although these facts are not substantially different from most resort towns, they are very unusual for conventional small as well as large towns.

2) The framers of this Charter took cognizance of the above-mentioned singular state of affairs, most especially the fact that a large number of the property owners of the Town are, and will continue to be, only part-time residents of their Town, by granting to them the right to vote on those issues that are strictly limited in nature to Town matters.

c) Separate and Equal Branches of Government. All municipal powers of government which are possessed by the Town through this Charter are hereby divided into three separate and distinct branches - the **Legislative**, which shall belong to the Town Council, the **Executive**, which shall belong to the Mayor, and the **Judicial**, which shall belong to the presiding Judge of the Municipal Court; and no person or collection of persons charged with the exercise of the governmental powers belonging to one of these branches shall exercise any of the powers belonging to either of the others, except as in this Charter expressly directed or permitted.

ARTICLE II.

CONDUCT OF TOWN ELECTIONS

Section 2.1 RULES FOR TOWN ELECTIONS.

Except as may be otherwise provided in this Charter, or as may be otherwise provided by ordinances of the Town Council enacted subsequent to the effective date of this Charter, all Town elections shall be governed by the Colorado Municipal Election Code of 1965, as amended. For the purpose of participating in coordinated elections, as defined in the Colorado Uniform Election Code of 1992, and Mail Ballot Elections, as defined in the Colorado Mail Ballot Election Act, the Town shall be governed by all applicable provisions of those statutes, as now existing or hereafter amended or modified, notwithstanding any contrary provisions of the Colorado Municipal Election Code of 1965. The Town Council may, at its sole discretion, enact by ordinances a complete or a limited election system for the Town so long as it is not in conflict with any of the provisions of this Charter. If only a limited election system is enacted by ordinance or resolution, those portions so enacted shall be used in conjunction with the provisions of this Charter and with the aforesaid Municipal Election Code, Uniform Election Code, and Mail Ballot Election Act, which together shall constitute the election system of the Town.

a) For Mail Ballot Elections, in order to have a Mail Ballot sent to a voter by mail, he or she must be registered to vote in Town of Mountain Village elections at least twenty-nine (29) days prior to the next election date (see Section 2.4). Mail Ballots are sent to all eligible voters on the Town's Voter Registration List.

Section 2.2. DATES AND TIMES FOR ELECTIONS.

a) Regular Municipal Elections of the Town shall be held on the last Tuesday in June of odd-numbered years.

b) Special Town Elections shall be held in accordance with the provisions of Town ordinances pertaining thereto so long as they provide that dates of all special elections are required to be set by the Town Council at least sixty (60) days in advance of each special election. Ordinances calling for special Town elections shall also set forth the special purpose of each such election.

c) Polling Places for all Town elections shall be open from 7:00 a.m. to 7:00 p.m. during the election day. (See Section 2.5.)

Section 2.3. VOTER QUALIFICATIONS.

a) Legal Residents. A legal resident is any person who maintains his or her principal residence within the Town, to which he or she intends to return whenever absent (criteria for proof of legal residency shall be as set forth in the Uniform Election Code Section 1-2-102).

b) Qualifications of Legal Residents. Legal residents of the Town may become registered electors of the Town and as such shall be qualified to vote for a municipal candidate, and on any municipal issue at any Town election, so long as they:

1) register with the Town Clerk or the San Miguel County Clerk at least twenty-nine (29) days prior to any Town election; and

2) have been legal residents of the Town for at least thirty (30) consecutive days immediately prior to the election; and

3) will have been at least eighteen (18) years of age on the date of the election.

c) Qualifications of Non-resident Property Owners. Owners of real property located within the boundaries of the Town who are not legal residents of the Town may become registered electors of the Town and as such shall be qualified to vote for a municipal candidate, and on any municipal issue at any Town election, so long as they:

1) register with the Town Clerk, or the San Miguel County Clerk if they are residents of San Miguel County, at least twenty-nine (29) days prior to any Town election;

- 2) have been owners of record of real property within the Town for at least thirty (30) consecutive days immediately prior to the date of the election;
- 3) have during that time owned a minimum of fifty percent (50%) of the fee title interest in the subject real property;
- 4) will be at least eighteen (18) years of age at the time of the election; and
- 5) are natural persons.

Any real property will qualify for the purposes described above regardless of whether it is intended for residential or commercial use. The fee ownership in such property shall include, without limitation, ownership interest in any platted parcel of land, or townhome, or condominium unit, as well as ground leasehold real estate interests. Such property interest shall not, however, include ownership of parking spaces, religious or other charitable facilities, hotel units, roads, or common areas intended for non-profit use. In the case of condominium, townhome, and similar common interest ownership regimes, the commonly owned areas shall not be deemed property interests separate from the ownership interests to which they may be appurtenant, and no person owning, or belonging to, any association, partnership or other entity formed for the purposes of managing or owning such common areas shall, because of that fact alone, become a registered elector.

d) Certification of Qualifications for Voter Registration. Each qualified elector of the Town shall, when he or she registers to vote, certify by affidavit that he or she is qualified, under the requirements described herein above.

e) Maintenance of Voter Registration List. The Town Clerk shall maintain the Town's Voter Registration List, including purging of names of voters no longer eligible to vote in the Town, under procedures as set forth by resolution of the Town Council.

f) Only One Vote Per Person. No person shall be entitled to cast more than one vote in any election, regardless of whether or not he or she may be a qualified legal resident and/or own one or more parcels of qualified real property.

Section 2.4. QUALIFICATIONS FOR HOLDING OFFICE.

a) One Hundred Twenty Day Legal Residency Requirement. Only a person who is a registered elector, and who has maintained his or her legal residency within the Town for a period of at least one hundred twenty (120) days immediately preceding the election, may run for Town Councilor.

b) Declaration of Candidacy to Town Clerk. Any person desiring to run for Town Council shall file a written declaration of candidacy, stating his or her name and address, with the Town Clerk at least forty-five (45) days prior to the scheduled election day.

c) Town Councilor May Not Also Be Salaried Employee. No person shall be a salaried employee of the Town during his or her term as either Mayor or Town Councilor.

Section 2.5. VOTING PRECINCTS FOR TOWN ELECTIONS.

The Town shall constitute one (1) voting precinct. The Town Council may, however, establish additional precincts should they be deemed necessary or desirable.

Section 2.6. ELECTIONS SHALL BE NON-PARTISAN.

All municipal elections shall be non-partisan and political parties may not participate in any Town elections. No candidate for Town office shall run as a member or an affiliate of a political party of any kind.

Section 2.7. RECALL OF ELECTED OFFICIALS.

Each elected official of the Town is subject to being recalled, at any time ninety (90) days after he or she has been in office, by majority vote of the registered electors.

a) The date of the recall election shall be set by the Town Council within forty-five (45) days after a qualified petition for recall has been filed with the Town Clerk requesting the recall of an elected official and calling for an election. A petition for recall shall be qualified only if it contains the signatures of at least twenty-five percent (25%) of the Registered Electors who voted during the previous regular municipal election.

ARTICLE III.

THE TOWN COUNCIL

Section 3.1. ELECTION OF TOWN COUNCIL.

a) Town Councilors Elected at Large. The legislative affairs of the Town shall be vested in a Town Council consisting of seven (7) Town Councilors, all of whom shall be elected at large by the registered electors.

b) Voting. In any Town Council election, each Registered Elector shall be entitled to vote for one (1) candidate for each vacant Council seat to be filled.

c) **The Mayor Shall be Elected by Town Council.** The Mayor shall be elected from the duly elected Council by a majority vote at the first regularly scheduled meeting following each Town Council election, and shall serve at the pleasure of the Council for a two (2) year term.

Section 3.2. TERMS OF OFFICE.

a) **Regular Terms of Town Councilors.** The regular term for Town Councilors shall be four (4) years. The term limit for a Town Councilor shall be no longer than two (2) consecutive four (4) year terms. An appointment for a partial term to fill a vacated seat shall not be counted toward the two (2) term limit.

Section 3.3. VACANCIES.

a) **Vacancy in the Office of Mayor, Mayor Pro Tem and Town Councilors.** At such time that the Mayor, Mayor Pro Tem or a Town Councilor is recalled, dies, becomes incapacitated, resigns, refuses to serve, ceases to be a legal resident of the Town, or is convicted of a felony, his or her office shall thereby become vacant.

b) **Filling Vacancy of Office of the Mayor or Mayor Pro Tem.** Within thirty (30) days after the office of the Mayor or Mayor Pro Tem becomes vacant, or at any other time that the Town Council may by resolution determine that the term of the presiding Mayor or Mayor Pro Tem has terminated, the Town Council shall, by majority vote, promptly elect a successor to the office of the Mayor or Mayor Pro Tem. The Mayor or Mayor Pro Tem whose term has thus expired shall serve the remainder of his or her term as a Town Councilor, if qualified.

c) **Filling Vacancy of Office of Town Councilors.** Within forty-five (45) days after vacancies occur in the office of Town Councilor, the remaining members of the Town Council shall, by majority vote, appoint a successor to fill such vacancy, provided no more than three (3) vacancies are to be filled at one time. The appointed Town Councilors shall then serve out the unexpired terms of their predecessors.

If, on the other hand, four (4) or more such vacancies exist simultaneously, and if the next regular municipal election is not scheduled within ninety (90) days of the next scheduled meeting of the Town Council, the Town Council shall, during its next scheduled meeting, call a special election to fill the unexpired terms of the vacated offices. Otherwise, such vacancies shall be filled during such next regular municipal election for either the normal four (4) year term, or for a two (2) year term, in the case of vacancies with two (2) years left on the unexpired terms of the vacated offices.

Section 3.4. COMPENSATION OF TOWN COUNCIL.

- a) **Compensation of the Mayor.** The Mayor shall be compensated for his or her services to the Town in an amount of \$100.00 per month.
- b) **Compensation of Town Councilors.** Town Councilors shall be compensated for their services to the Town in an amount of \$50.00 per month.
- c) **Compensation May be Changed by Ordinance.** The Town Council may, by ordinance, amend or otherwise modify the compensation to the Mayor and Town Councilors as described in this Charter. In the event the compensation set forth in this Charter is from time to time subsequently amended or modified by ordinance, such amendment or modification shall not affect the compensation of any Mayor or Town Councilors then in office during their current term of office.
- d) **Reimbursement for Expenses.** In addition to his or her compensation from the Town for official services rendered, both the Mayor and the Town Councilors shall be reimbursed for all expenses incurred in the performance of their duties.

Section 3.5. OATH OF OFFICE.

Every person who is elected to the office of Town Councilor shall, before undertaking his or her duties, take an oath or affirmation of office that he or she will support the Constitution and the laws of the United States, the State of Colorado, the provisions of this Charter and the ordinances of the Town, and will faithfully perform the duties of his or her office.

Should an elected Town Councilor fail or refuse to take such an oath of office, he or she shall be deemed to have declined the office, and the office shall thereby become vacant.

Section 3.6. TOWN COUNCIL SHALL RETAIN FULL HOME RULE LEGISLATIVE POWERS.

The Town Council shall, through this Charter and the enactment of ordinances, exercise all expressed or implied legislative powers granted to home rule municipalities by Article XX of the Colorado Constitution, as amended, including, but not limited to the following specific powers and duties:

- a) The power and continuing obligation to ascertain and establish those public policies, permanent administrative departments, and community services for the Town which will promote the common good of the Town.
- b) The power and continuing obligation to establish comprehensive and flexible land use standards, including density, zoning, construction, design and enforcement regulations, in order to provide for the present and future needs of the Town.

c) The power and continuing obligation to confirm or, if deemed appropriate, decline the nominations presented to Town Council by the Mayor for the office of the Town Judge, or Alternate Town Judge, whenever such offices become vacant.

d) The power to create and dissolve advisory or fact-finding boards, commissions or committees which are considered necessary or desirable by the Town Council in the course of carrying out its legislative responsibilities of enacting, amending or repealing ordinances.

e) In the course of enacting ordinances which shall promote the common good of the Town, the Town Council shall exercise its legislative power to prescribe reasonable fines, jail sentences, and other sanctions for violations of such ordinances.

ARTICLE IV.

TOWN COUNCIL PROCEDURAL REQUIREMENTS.

Section 4.1. ORGANIZATIONAL MEETING AFTER ELECTION.

a) **Adoption of Rules of Procedure.** At the first regularly scheduled meeting of the Town Council following each Town Council election, the first order of business of the new Town Council shall be consideration of any revisions to the rules of procedure for conducting its business. The procedures adopted shall not conflict with any of the procedural requirements set forth in this Charter.

b) **Election of a Mayor and a Mayor Pro Tem.** At the first regularly scheduled meeting of the Town Council following each Town Council election, each new Town Council shall elect a Mayor and a Mayor Pro Tem from within its own membership.

Section 4.2. PROCEDURE REQUIRED BY CHARTER

a) **Minutes Kept by Town Clerk.** Minutes of all Town Council meetings shall be recorded electronically by the Town Clerk or the Deputy Town Clerk and, after being approved by the Town Council, shall be signed by the Town Clerk or the Deputy Town Clerk.

b) **Method of Voting.** Acts of the Town Council shall require either a "yes," "no," or "abstain" vote by all Town Councilors in attendance. Town Councilors may only abstain from voting when they have previously declared a conflict of interest on that matter. The vote shall be expressed verbally. All acts of the Town Council shall require the affirmative vote of a majority of the Town Councilors present, unless otherwise provided in this Charter.

If a tie occurs, the matter will be continued until the next meeting. The results of each vote shall be made part of the official minutes of the meeting. If a vote is unanimous, the vote shall be recorded as "unanimous." Roll call votes need not be taken unless requested by any one Town Councilor.

c) Standards of Conduct. Town Councilors' participation and vote on any issue to come before the Town Council shall be governed by the Town's Code of Ethics and CRS 24-18-201, et seq.

Section 4.3. REGULAR MEETINGS

The Town Council shall meet regularly, at least once each month. The day and hour of each regular meeting shall be set by the Town Council from time to time and may be revised by any rules of procedure enacted at the first regular meeting of each new Town Council. No regular meeting shall exceed six (6) hours in duration, unless an affirmative vote by at least four (4) Town Councilors provides otherwise.

Section 4.4. SPECIAL MEETINGS

a) Advance Notice. Special meetings of the Town Council may be called by the Mayor, or by any four (4) Town Councilors. A minimum of at least twenty-four (24) hours advance notice must be served on each Town Councilor either through personal delivery, by facsimile transmission, e-mail, or a telephone message left with an adult at his or her usual place of business or residence, and by a written notice posted at least twenty-four (24) hours in advance in at least three (3) public places within the Town, and at the Town Clerk's office.

b) Agenda of Special Meetings. Only subject matters described in the advance notice of a special meeting may be discussed and voted on at the special meeting.

Section 4.5. EMERGENCY MEETINGS.

Emergency meetings may be held without the twenty-four (24) hour advance notice when necessary for the immediate preservation of public property, health, peace, or safety, as determined by the Mayor, the Mayor Pro Tem, or any two (2) Town Councilors. An emergency meeting shall be held only after a diligent and good-faith effort has been made to provide actual notice to all Town Councilors.

Section 4.6. QUORUM; ADJOURNMENT OF MEETINGS.

The presence of four (4) Town Councilors shall constitute a quorum for the transaction of business at all Town Council meetings. In the absence of such a quorum, those attending Councilors or the Town Clerk may adjourn the meeting to a later time or date, or cancel the meeting until rescheduled by the Mayor.

Section 4.7. MEETINGS SHALL BE PUBLIC.

All meetings of the Town Council shall be open to the public. Members of the public shall be given reasonable opportunity to be heard in accordance with such rules and regulations prescribed by the Town Council.

Section 4.8. EXECUTIVE SESSIONS.

Any meeting of the Town Council may be recessed through a motion passed by a majority vote of Town Councilors who are present in order to hold an executive session, which may be closed to the public, for the purpose of discussions for the reasons set forth in CRS 24-6-402 (3) (a), and as set forth in the motion.

ARTICLE V.

PROCEDURE FOR LEGISLATION

Section 5.1. LEGISLATIVE ACTS.

All legislative acts of the Town Council shall be made in the form of ordinances. All proposed ordinances shall be introduced in written or printed form. The enacting clause of all ordinances shall read: "Be it ordained by the Town Council of the Town of Mountain Village." All Ordinances shall be signed by the Mayor or the Mayor Pro Tem.

Section 5.2. PROCEDURE FOR ENACTING TOWN COUNCIL ORDINANCES.

Except for emergency ordinances, the procedure for the enactment of ordinances by the Town Council shall be as follows:

- a) The proposed ordinance shall be introduced at any regular or special meeting by either the Mayor or a Town Councilor.
- b) Upon its introduction, the ordinance shall be read in full, or, when copies of the ordinance are available to the Town Council and to those members of the public in attendance, then the ordinance may be read by title only.
- c) After its first reading, the ordinance shall be approved, amended and approved, or rejected by vote of the Town Council.

d) If an ordinance is approved on its first reading, the Town Council shall set the day, hour, and place at which a public hearing will be held on the ordinance. This information, together with the full text of the ordinance, shall be included in the public notice to be promptly published.

e) If an ordinance is approved on its first reading, it shall be read and voted on for a second time during a meeting of the Town Council after the public hearing has taken place. This required second vote on the ordinance, which may take place at the end of the required public hearing, shall not take place earlier than seven (7) days after the public notice is published on the ordinance.

f) Any ordinance may be amended at any time before it is finally approved by the Town Council. If it is amended in substance, the Ordinance shall be published in full within seven (7) days after its final passage, unless otherwise provided in this Charter.

g) Town Council may repeal any ordinance enacted by Town Council, utilizing the same procedures as set forth in this Section 5.2. for enactment of Town Council ordinances.

Section 5.3. PROCEDURE FOR ENACTING ORDINANCES BY INITIATIVE OF THE PEOPLE.

a) **Motion by a Town Councilor.** The constituents of the Town may request their Town Council to consider the enactment of an ordinance on any subject, except one pertaining to the levy of taxes, by presenting a petition to the Town Clerk. Said petition shall be signed by at least five percent (5%) of the number of registered electors who voted in the last municipal election. The proposed ordinance contained in the petition shall be presented to the Town Council at the next regular meeting, and thereupon be taken into consideration for passage by the Town Council, in accordance with Section 5.2. of this Charter. Should such ordinance fail to pass, it may be again considered for passage by means of the procedure described in Section 5.3. (b).

b) **Petition for Town Election.** In order to actuate a Town election concerning either a proposed ordinance which was originally introduced by initiative to the Town Council but failed to pass, or a proposed ordinance requiring the levy of taxes, the election shall be initiated by a petition for such election which is signed by at least fifteen percent (15%) of the number of registered electors who voted in the last municipal election. Such petition shall be filed with the Town Clerk at least ninety (90) days prior to any regular municipal election (or shall require a special election as described herein below), and shall contain a request that the proposed ordinance be submitted to a vote of the people.

The Town Council shall within forty-five (45) days after receiving a copy of the proposed ordinance, with a certification of procedural compliance signed by the Town Clerk attached to it (as described in Section 5.6.), call for a special election on the proposal, unless a regular

municipal election had already been set within ninety (90) days thereafter. If so, the proposed ordinance shall be voted on in the regular municipal election rather than at a special election. Procedures for initiatives not specifically covered in Section 5.3. of this Charter shall be as set forth in CRS 31-11-101 et. seq. and CRS 31-2-210 et. seq. in the case of a Charter Amendment Initiative, and the Election Rules of the Colorado Secretary of State then in force.

Section 5.4. PROCEDURE FOR REPEALING ORDINANCES BY REFERENDUM.

Repeal of an ordinance by referendum shall be initiated according to the procedures set forth in Sections 5.3. (a) and (b). Any other matter recognized by state law as appropriate for referendum shall be initiated according to procedures set forth in Section 5.3. (a) and (b).

Procedures for referenda not specifically covered in Section 5.3. and 5.4. of this Charter shall be as set forth in CRS 31-11-101 et. seq. and CRS 31-2-210 et. seq. in the case of a Charter Amendment Referendum, and the Election Rules of the Colorado Secretary of State then in force.

Section 5.5. ORDINANCE SUBMITTED TO VOTERS BY TOWN COUNCIL.

The Town Council shall have the power to submit, at a regular municipal election or special Town election, any proposed ordinance to a vote of the registered electors in accordance with the procedures set forth herein.

Section 5.6. TOWN CLERK CERTIFICATION OF PETITION.

Within ten (10) business days after the filing of either an initiative or a referendum petition, the Town Clerk shall ascertain whether the petition complies with the requirements of this Charter. If the Town Clerk determines that the petition meets such requirements, the Town Clerk shall so certify on a separate sheet of paper which shall be attached to the petition and presented at the next scheduled Town Council meeting.

If the petition is found to be insufficient, the Town Clerk shall promptly notify one or more of the persons who signed the petition of that fact in writing. The petition may then be amended within ten (10) business days after such notification from the Town Clerk. After receiving such an amended petition, the Town Clerk must determine its sufficiency within five (5) business days. If sufficient, the petition shall be presented to the Town Council at the next scheduled meeting with the Town Clerk's certificate of compliance attached thereto. If insufficient, the Town Clerk shall return the petition to one or more of the persons who signed it along with a written notification of that fact. Such insufficient amended petition shall not be re-filed with the Town Clerk until a period of one (1) year has passed from the date of such notification.

Section 5.7. PROHIBITION OF AMENDMENT OR RE-ENACTMENT OF AN ORDINANCE.

An ordinance which has been enacted through initiative by a vote of the electorate of the Town may not be amended or repealed by the Town Council for a period of six (6) months after its adoption. An ordinance which has been repealed through referendum by a vote of the electorate of the Town may not be re-enacted by the Town Council for a period of six (6) months after the date of its repeal.

Section 5.8. EMERGENCY ORDINANCES.

Ordinances which are immediately necessary for the preservation of the public peace, health, safety, or welfare may be enacted at a regular or an emergency meeting of the Town Council. The proposed ordinance shall be approved by a majority vote of the members of the Town Council present at the meeting. Neither a second reading nor a public notice and hearing shall be required prior to the time it goes into effect.

- a) All emergency ordinances shall become effective immediately upon passage, unless otherwise provided therein.
- b) The purpose of all emergency ordinances shall be clearly stated at the beginning of the Ordinance.
- c) For informational purposes, a public notice containing the full text of each emergency ordinance shall be published within five (5) days after enactment.
- d) Neither the granting of any special privilege, nor the levying of taxes, nor the fixing of rates to be charged by any public utility owned by the Town, shall ever be the subject or purpose of any emergency ordinance.

Section 5.9. PUBLICATION OF ORDINANCES AND OTHER PUBLIC NOTICES.

Ordinances and other public notices as required in this Charter may be published in a newspaper of general circulation in the Town or posted in at least three (3) public places within the Town and at the office of the Town Clerk.

Section 5.10. CODIFICATION OF ORDINANCES.

The Town Council shall cause each ordinance to be codified from time to time as soon as it can be practically accomplished.

Section 5.11. DISPOSITION OF ORDINANCES.

A true copy of every ordinance shall be numbered, authenticated by the signature of the Mayor or Mayor Pro Tem and the Town Clerk or Deputy Town Clerk, and recorded in the official records of the Town.

ARTICLE VI.

THE EXECUTIVE BRANCH OF GOVERNMENT.

Section 6.1. THE OFFICE OF THE MAYOR SHALL CONSTITUTE THE EXECUTIVE BRANCH.

a) The Powers and Duties of the Office of the Mayor.

1) The office of the Mayor shall constitute the executive branch of the Town government.

2) The Mayor shall be the chief executive officer of the Town government, whose powers and continuing obligations shall, in part, be as follows:

- A) to enforce the laws of the Town;
- B) to prepare a proposed annual budget and submit same to the Town Council for its consideration, and administer the budget adopted by the Town Council;
- C) to submit an annual report and regularly communicate, both verbally and in writing, with the Town Council regarding the state of financial affairs of the Town government. Prepare and submit in writing to the Town Council, a quarterly report concerning the Town's then current financial condition and its future financial needs;
- D) to exercise executive control over the Town government and all of its personnel, and make whatever changes necessary or desirable to improve the operations of Town government;
- E) to administer and enforce all contracts entered into by the Town with private individuals, legal entities, or other governmental entities; report and make recommendations to the Town Council concerning

all legal disputes regarding contract and non-contract claims or liabilities involving the Town, after discussing same with the Town Attorney;

- F) to create, merge and/or dissolve such administrative commissions that will assist the office of the Mayor in carrying out his or her responsibilities to the people of the Town;
- G) to perform such other duties which are prescribed in this Charter, or which may be required by ordinance enacted in accordance with this Charter;
- H) subject to the advice and consent of the Town Council, to recommend for hire, independent contractors, consultants to the Town, and appointments to office, including the following:
 - 1) The Town Attorney
 - 2) The Town Manager
 - 3) The Town Treasurer
 - 4) The Town Clerk
 - 5) The Police Chief
 - 6) The Municipal Judge
 - 7) The Director of Community Development
 - 8) The Director of Operations and Development
- I) All other personnel shall be hired, suspended or dismissed by the Town Manager, with the advice and consent of the Mayor.
- J) Set the agenda for Town Council meetings.

b) The Election and Tenure of the Mayor. At the first regularly scheduled meeting following each Town Council election, the Town Councilors shall elect a Mayor by majority vote. Subject to Section 3.3. (b), the Mayor shall thereafter serve a two (2) year term or until the office of the Mayor has been vacated by a majority vote of Town Council or for reasons listed in Section 3.3. (a). At least four (4) affirmative votes by Town Councilors shall be required in order to create a vacancy of the office of the Mayor.

c) The Mayor Pro Tem. At the first regularly scheduled meeting following each Town Council election, the Town Council shall elect from among its members a Mayor Pro Tem who shall, subject to Section 3.3. (b), serve a two (2) year term, or until the office of the Mayor Pro Tem has been vacated by four (4) affirmative votes of Town Councilors or for reasons listed in Section 3.3. (a). The Mayor Pro Tem shall function as the Mayor of the

Town and have all the powers and duties herein bestowed upon the Mayor during the period that the Mayor is absent or for whatever other reason he or she cannot temporarily function as the Town Mayor.

Section 6.2. RELATIONSHIP BETWEEN MAYOR AND TOWN OFFICERS.

a) Authority of the Mayor. The Mayor shall assert complete authority and assume full responsibility for the fair and reasonable execution of all laws enacted by the Town Council, except as otherwise provided in this Charter.

Neither the Town Council nor any of the Town Councilors shall ever attempt to direct or influence the formation or execution of any administrative policy, the decision of any officer, board, or commission of Town government, or the manner in which the laws of the Town are enforced or otherwise carried out except through direct communication with the Mayor.

b) The Mayor and the Town Attorney. The Town Attorney shall be the legal counselor and representative of the Town. He or she shall be an attorney and counselor at law who is admitted to practice in the State of Colorado. The Town Attorney shall provide legal advice to the Town Council and to the Mayor concerning their powers and duties, and, at the discretion and under the direction of the Mayor, he or she shall be the legal advisor to the various officials and Town employees.

c) The Mayor and Town Manager. The Town Manager shall be the chief administrative officer of the Town. The Town Manager shall work directly under the supervision of and shall report only to the Mayor.

d) The Mayor and the Town Treasurer. Under the direction of the Mayor, the Town Treasurer shall establish and supervise all of the Town's systems of accounting, collect monies and maintain custody over all assets of the Town, and provide such reports on the financial condition of the Town as required by the Mayor.

e) The Mayor and the Town Clerk. Under the direction of the Mayor, the Town Clerk shall keep a record of all the proceedings of the Town Council and shall keep separate records of all ordinances and resolutions passed by the Town Council. The Town Clerk shall also administer oaths, maintain custody of the Town seal and shall take acknowledgments under the seal of the Town. The Town Clerk shall perform such other duties as prescribed by this Charter, by the Town Council, or by the office of the Mayor.

ARTICLE VII.

THE JUDICIAL BRANCH OF GOVERNMENT.

Section 7.1. ESTABLISHING A MUNICIPAL COURT.

There shall be a municipal court which shall constitute the judicial branch of the government of the Town. The municipal court shall be vested with exclusive original jurisdiction over all cases arising under this Charter, under the ordinances duly enacted under this Charter, and as otherwise conferred under the law.

Section 7.2. THE MUNICIPAL JUDGE.

The municipal court shall be presided over, and its functions exercised by, the Municipal Judge.

a) **Licensed Attorney Requirement.** The Municipal Judge shall be an attorney and counselor at law who is licensed to practice within the State of Colorado.

b) **Term and Compensation of Office.** The Municipal Judge shall be appointed by the Town Council for a term of two (2) years and shall receive such compensation as determined by the Town Council.

c) **Vacancy in Office.** Should the office of Municipal Judge become vacant for any reason during an unexpired term of office, the Town Council shall appoint a duly qualified person to fill the vacancy for the remainder of the unexpired term.

d) **Alternate Municipal Judges.** The Town Council may appoint alternate municipal judges. The qualifications of the alternate municipal judges shall be the same as the Municipal Judge. The term and compensation of alternate municipal judges shall be determined by the Town Council. Alternate municipal judges shall assume the bench at the direction of the presiding Municipal Judge at such time as the Municipal Judge may determine that he or she has a conflict or potential conflict of interest, scheduling conflict, or otherwise determine it necessary to recuse himself or herself from presiding.

e) **Removal From Office.** The Municipal Judge may be removed from office prior to the expiration of his or her term only for just cause as determined by the Town Council. Any one of the following shall be considered just cause for the removal of a municipal judge:

1) If he or she is found by a court of law to be guilty of a felony or other crime involving moral turpitude.

2) If he or she is found by the Town Council to have a disability which substantially interferes with the performance of his or her duties.

3) If he or she is found by the Town Council to have willfully and persistently failed to perform his or her duties.

Section 7.3. COURT PROCEDURE.

The Colorado Rules of Civil Procedure shall be applicable to all civil actions pending in the Town's Municipal Court. In all civil actions, the Municipal Court shall be a qualified municipal court of record and shall maintain a verbatim record of all such proceedings. In all criminal and quasi-criminal matters, the Municipal Court shall apply the Colorado Rules of Municipal Court Procedure, and for all such matters, the Municipal Court shall not be a qualified municipal court of record.

Section 7.4. POWERS OF MUNICIPAL JUDGE.

The Municipal Judge shall have all such expressed and implied judicial powers necessary and proper in order to fully interpret and apply the provisions contained in this Charter and the subsequent ordinances which are to be enacted in accordance herewith.

ARTICLE VIII.

FINANCIAL MANAGEMENT.

Section 8.1. THE TOWN BUDGET.

a) **Fiscal Year.** The fiscal year of the Town shall begin on the first day of January and end on the last day of December of each year.

b) Proposed Budgets.

1) **Mayor Shall Propose a Budget.** Approximately three (3) months prior to the beginning of each fiscal year, the Mayor shall prepare and submit to the Town Council a budget for the Town's next fiscal year which shall be prepared in writing. Simultaneously with the submission of such budget, the Mayor shall deliver a budget message to the Town Council.

2) **Content of Mayor's Budget Message.** The Mayor's budget message shall outline his or her proposed financial policies for the Town's next fiscal year, including:

a) the more important features of the budget;

- b) the major recommended fiscal changes from that of the current year and the reasons for such changes;
- c) the proposed total revenues and total expenditures;
- d) the Town's current debt structure and changes thereto;
- e) such additional information deemed necessary by the Mayor or requested by action of the Town Council; and
- f) statement of consistency with long-term (five year) financial plan.

c) **Content of the Budget.** The budget shall contain a complete financial plan for the Town utilizing the most feasible combinations of classifications according to fund name, organizational unit, program, or purpose. Each budget shall begin with a summary of its contents and shall show comparative figures for the actual and estimated incomes and expenditures for the prior, current, and next fiscal years.

d) **Individual Sections Required.** In separate sections, each budget shall contain the following:

1) **Anticipated Revenues.** This section shall include cash surplus (as hereafter defined), miscellaneous revenues, and amounts expected from property taxes; the term "cash surplus" shall mean the amount by which cash is expected to exceed current liabilities at the beginning of the next fiscal year.

2) **Proposed Expenditures.** This section shall show the expected expenditures of all three branches of government, broken down according to each Town office, department, commission, and board, etc., and the method of financing each expenditure.

3) **Proposed Contingencies.** The budget shall include as an item of expenditure such amounts for contingencies which may be reasonably anticipated.

4) **Proposed Capital Expenditures.** All anticipated capital expenditures shall be included, together with the method of financing each capital expenditure.

5) **Proposed Bond and other Debt Expenses.** Expenditures for servicing bonds and other indebtedness of the Town, debt redemption and interest requirements, authorized but unissued debt, and the condition of the sinking funds, if any, must be shown.

6) **Anticipated Utility Operations.** Anticipated net surplus or deficit for the next fiscal year resulting from each utility operation of the Town (showing detailed income and expenditure information), and the proposed method of its disposition, must be shown.

7) **Mayor and Town Council Requirements.** Any additional budget requirements deemed necessary by the Mayor or required by the Town Council shall be included.

e) **Balanced Budget is Required.** The total estimated expenditures shall not exceed the total of estimated revenue and existing fund balances.

Section 8.2. PUBLIC HEARING REQUIRED.

A public hearing on the proposed budget shall be held by the Town Council prior to its final adoption. Notice of the time and place of the hearing and public notice of the fact that such budget is kept on file for public inspection shall be published one time at least seven (7) days prior to the hearing, or posted in three (3) public places and the Town Clerk's office.

Section 8.3. TOWN COUNCIL'S ACTIONS ON BUDGET.

a) **Amendments.** After the public hearing, the Town Council may adopt the budget with or without amendment. In amending the budget, the Town Council may add or increase programs or amounts, or may delete or decrease any programs or amounts, except for those contractual or legal expenditure requirements for debt service or those required to cover the estimated cash deficit.

b) **Budget Adoption.** The Town Council shall adopt the budget by ordinance on or before the final day established for certification to the county tax collector for collection of the next year's tax levy. Should the Town Council fail to adopt the budget by such date, the amounts appropriated for the operation of the Town for the current fiscal year shall be deemed adopted for the next fiscal year on a month-to-month basis, with all items in it prorated accordingly, until such time that the Town Council may properly adopt the budget for the ensuing year.

1) Adoption of the budget shall constitute the appropriation of the budgeted expenditures by fund.

2) Copies of the budget as adopted shall be public records, and shall be made available for public inspection in the Town Hall.

c) **Property Tax Levy.** The mill levy for property taxes shall be set by ordinance on or before the final day established for certification to the county tax collector for collection of the next year's tax levy.

d) Budget Control By Mayor & Town Council.

1) The Mayor shall provide periodic financial reports concerning the status of the budget for review by the Town Council. The reports shall show the relationship between budgeted expenditures and revenues, and the year's actual expenditures and revenues to date.

2) If, based upon the Mayor's reports, it appears during the fiscal year that revenues may be less than anticipated, the Town Council shall reduce appropriations if necessary and amend the budget to avoid expenditures exceeding revenues plus fund balances.

3) During the fiscal year the Town Council may make supplemental appropriations by ordinance or resolution, provided the Mayor's financial reports show that adequate revenues are available from unanticipated revenues, unappropriated fund balances, reserves, emergency reserves, or other sources for such purpose.

4) Based upon the Mayor's reports and recommendations, the Town Council may authorize unappropriated fund balances, unencumbered appropriation balances, or revenues to be transferred from one office, department, or fund to another. The Mayor may transfer part or all of the amount of unencumbered appropriation balances from one program to another so long as the transferred funds remain within an office, department, or fund.

e) Emergency Appropriations. To meet a public emergency affecting life, health, property or the public peace, the Town Council may make emergency appropriations. Such appropriations may be made by an emergency ordinance in accordance with the provisions of this Charter. To the extent that there are no available funds to meet such appropriations, the Town Council may by emergency ordinance authorize the execution and issuance of emergency promissory notes, subject to regulations as set forth in Article X, Section 20 of the Colorado Constitution.

f) Independent Audit. An independent audit shall be made of the Town's financial condition at least annually, and more frequently if deemed necessary by the Town Council. Such audits shall be made by certified or registered public accountants who are experienced in municipal accounting, and who shall be selected by the Town Council. Copies of the finished audit shall become public records and shall be made available for public inspection at the office of the Town Treasurer.

g) Deposits and Investments. The Town may deposit and invest its revenue, until such time as it is required to be expended, in any bank or other financial institution, investment or security authorized by Colorado state statutes for state or local governments.

Section 8.4. TAXATION, COLLECTION, AND SPENDING AUTHORITY.

Tax Authority and Limitations. The Town Council shall have the authority to levy, collect, and spend, for municipal purposes, any and all excise taxes, sales taxes, and ad valorem property taxes, if approved by the registered electors at any regular or applicable special municipal election. The Town Council is hereby authorized to levy and collect special assessments for local improvements as provided in this Charter, or by subsequent ordinance, or by Colorado law.

a) Collection of Taxes

1) Unless otherwise provided by ordinance, the county treasurer shall collect the Town's ad valorem taxes in the same manner and at the same time as general ad valorem taxes are collected. In like manner, the Town Council may provide for the collection of special improvement assessments by the county treasurer.

2) Unless as otherwise provided in this Charter or by subsequent ordinance, all Colorado state statutes pertaining to the assessment of property and the levy and collection of ad valorem taxes, the foreclosure on property for nonpayment of taxes and the redemption of same, is hereby incorporated within this Charter by reference.

b) Authority to Acquire Property in Tax Sales. In addition to all other powers acquired herein by the Town to acquire property, the Town is hereby specifically authorized to purchase, lease or otherwise acquire title to property which is sold because of delinquent taxes or special assessments. The Town may also dispose of any property so acquired in any manner deemed necessary or desirable by the Town Council.

Section 8.5. MUNICIPAL BORROWING.

a) Forms of Borrowing. The Town may borrow money for purposes authorized in this Charter, and issue therefor the following types of securities:

- 1) Short term promissory notes and other like securities.
- 2) General obligation bonds and other like securities.
- 3) Revenue bonds and other like securities.
- 4) Special or local improvement district bonds and other like securities.
- 5) Any other security which is legally recognized as may be approved by the Town Council.

b) Short-term Securities. By ordinance, upon the affirmative vote of four (4) members of the Town Council, the Town Council may authorize the Town to borrow money in anticipation of the collection of taxes or other revenue, without an election, and to issue short-term notes and other like securities to evidence the amount so borrowed. Short-term notes or other like securities may be secured in any manner determined by the Town Council, including a pledge of the full faith and credit and general taxing power of the Town. Any such short-term note shall mature within twelve months of its issuance.

c) General Obligation Securities.

1) Except as provided in Section 8.6. (b) above, no bonds or other evidence of indebtedness which provide for payment, either in whole or in part, from the proceeds of general property taxes, sales taxes, or other municipal taxes, and to which the full faith and

credit of the Town has been pledged, shall be issued unless, (i) the issuance was authorized by an ordinance duly adopted by the Town Council, and (ii) the issuance was approved by vote of a majority of registered electors voting on the question at a regular or applicable special municipal election.

2) The Town Council may, pursuant to an ordinance and duly authorized at a regular or applicable special municipal election, issue general obligation bonds or other general obligation securities of the Town in an aggregate amount not to exceed 25% of the assessed value of property within the Town as shown by the latest certified assessment.

d) Revenue Securities. The Town Council may, pursuant to an ordinance and duly authorized at a regular or applicable special municipal election, issue revenue bonds or like securities made payable solely from revenue derived from the operation of the project or capital improvements 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 from any source or sources except ad valorem taxes of the Town, so long as the full faith and credit of the Town is not pledged for the payment of such securities. Such revenue bonds or like securities shall not be deemed to be subject to any debt limitation.

e) Refunding Securities.

1) The Town Council may, by ordinance and without an election, issue securities for the purpose of refunding outstanding bonds or like securities to accomplish any refunding purpose determined by the Town Council to be advantageous to the Town. Any refunding securities which are revenue securities may be payable in whole or in part from any source of revenue, or any combination of sources of revenues other than general ad valorem property taxes unless the conditions for the issuance of general obligation bonds set forth in this Charter are otherwise satisfied.

2) Refunding securities may be issued in such principal amount and otherwise on such terms as the Town Council may determine to be necessary or appropriate to accomplish the refunding purpose.

f) Sale and Prepayment of Securities. All bonds and like securities issued pursuant to this Charter shall be sold in such manner and pursuant to such terms as determined by the Town Council to be to the best advantage of the Town and may contain provisions for calling the same at designated periods prior to the final due date, with or without payment of a premium.

g) Long-Term Installment Contracts, Rentals and Leaseholds - Town Property.

1) In order to provide necessary land, buildings, equipment and other property for governmental or proprietary purposes, the Town is hereby authorized to enter into long-term,

annually renewable installment purchase, lease-purchase rental or other leasehold agreements. Such agreements may include options to purchase within a period not exceeding the useful life of such property. Each such agreement shall be authorized by ordinance duly enacted by the Town Council.

2) Property owned, held or used by the Town shall be exempt from taxation so long as it is owned, held, or used by the Town for authorized Town functions.

h) Housing Bonds. General obligation bonds or other evidences of indebtedness issued for the purpose of acquiring, constructing or equipping rental housing to be owned by, or on the behalf of any governmental entity, and acquiring land therefore, may be authorized and issued pursuant to Section 8.6.(c).

i) Industrial Development Bonds. Industrial development revenue bonds may be issued as provided by Colorado statutes.

j) Interim Securities. Interim securities may be issued, by ordinance, in anticipation of any securities authorized in Article VIII of this Charter. Such securities may be made payable in whole or in part from the proceeds of the anticipated securities, and in whole or in part from the same sources as the anticipated securities or any other sources consistent with this Charter.

Section 8.6. IMPROVEMENT DISTRICTS.

a) Power to Create Special or Local Improvement Districts.

1) The Town shall have the power to create special or local improvement districts within designated districts of the Town, to contract for, construct or install special or local improvements of every character within the said designated districts, to assess the cost thereof, wholly or in part upon the property benefitted in such district, and to issue special or local government bonds therefor.

2) The Town Council shall, by ordinance, prescribe the method and manner of creating such improvement, of letting contracts therefor, issuing and paying bonds for construction or installation of such improvements, including the costs incidental thereto, for assessing the costs thereof, and for all things in relation to the authority herein created.

3) Except as otherwise provided by this Charter, or subsequently by ordinance, the Colorado state statutes shall govern the creation and organization of special or local improvement districts, the assessment of costs, the issuance of bonds therefor, and all things in relation thereto.

b) Creation of Special or Local Improvement Districts.

The creation of special or local improvement districts may be initiated by:

- 1) the Town Council by enacting an ordinance, or
- 2) Petition signed by the owners of more than fifty percent (50%) of the assessed value of the proposed district, provided that such majority shall include not less than fifty percent (50%) of the land owners in the proposed district.

In either event, a public hearing shall be held at which all interested parties may appear and be heard. The right to protest and notice of the public hearing shall be given as provided by Town Council ordinance. After the public hearing, the Town Council shall decide whether or not the district shall be created. All such improvements shall confer special benefits on the real property within the proposed district and general benefits to the Town-at-large.

c) Improvement District Bonds. The Town Council shall by ordinance prescribe the method and manner of making such improvements, assessing the cost thereof, determining special assessments therefor, and issuing the improvement district bonds to provide for the costs and expenses of constructing or installing such improvements.

d) Bonds Not Subject to Limitations. All bonds created for any special or local improvement district which are payable from special assessments and/or the special funds securing same, shall not be subject to any debt limitation nor affect the Town's debt incurring power; such bonds shall not be held to constitute a prohibited lending of credit or donation, or contravene any constitutional, statutory or Charter limitation.

e) Review of Improvement District Proceedings. No action or proceeding, at law or in equity, to review any acts or proceedings, or to question the validity of, or enjoin the performance of the issue or collection of any bonds, or the levy or collection of any assessments authorized by this Charter, or for any other relief against any acts or proceedings of the Town under this Article, shall be maintained against the Town unless commenced within thirty (30) days after the performance of the act or the effective date of the ordinance complained of, or else be thereafter perpetually barred.

ARTICLE IX.

INTER-GOVERNMENTAL RELATIONS

Section 9.1. REGIONAL SERVICE AUTHORITIES.

In the interest of governmental services provided on a regional or area-wide basis, and in view of the benefits realized by the Town from such services, the Town Council may by

ordinance or resolution provide for municipal funds and services on a regional or area-wide basis by joining such regional service authorities which exist at the time this Charter becomes effective, or any time thereafter created. The Town Council shall also have authority to cause Town participation in such service authorities in any manner it deems desirable.

Section 9.2. COOPERATIVE INTER-GOVERNMENTAL CONTRACTS.

The Town, by the affirmative vote of at least four (4) members of the Town Council, may enter into agreements with other governments or governmental agencies for the joint use of buildings, equipment, or facilities, or for furnishing or receiving commodities or services of public benefit, under such terms and conditions deemed desirable by Town Council.

ARTICLE X.

UTILITIES AND FRANCHISES.

Section 10.1. GENERAL POWERS.

The Town shall have and exercise, with regard to all utilities and franchises, all municipal home rule powers, including without limitation, all powers which may hereafter be provided by the Colorado constitution. The Town shall have the power and authority within and without the Town to construct, condemn, purchase, acquire, lease, operate, and maintain its own utilities, assets, equipment, and everything in relation or in connection therewith; and every utility franchise or permit granted by the Town shall be subject to the reserved right of the Town to acquire such utility by eminent domain. All public utilities shall remain subject to the police power of the Town notwithstanding anything to the contrary in the franchise or permit.

Section 10.2. WATER RIGHTS.

The Town shall have authority to buy, sell, exchange, lease, own, control, and otherwise deal in water rights.

Section 10.3. UTILITY RATES.

The Town Council shall, by ordinance or resolution, establish rates, rules, regulations, and extension policies for services provided by Town-owned utilities, both within and outside of the corporate limits of the Town.

Section 10.4. MANAGEMENT OF MUNICIPAL UTILITIES.

All municipally-owned or operated utilities shall be administered as a regular department of the Town.

Section 10.5. USE OF PUBLIC PLACES BY UTILITIES.

Every public utility, whether it has a franchise or not, shall pay such part of the cost of improvements of streets, alleys, bridges, and other public places as shall arise from its use thereof, and shall protect and save the Town harmless from all damages arising from said use. Every such public utility may be required by the Town to permit joint Town use of its property and appurtenances located in streets, alleys, or other public places of the Town, and use by other utilities, as such joint use may be reasonably practicable.

Section 10.6. GRANTING OF FRANCHISES.

The Town Council shall establish by ordinance or resolution the terms, fees, compensation, conditions, and any other matters related to granting of franchises. Termination of a franchise may occur by vote of the Town Council, or through the use of an initiative or a referendum.

Section 10.7. TRANSIT FACILITIES.

Town Council may require by ordinance or resolution, upon fair apportionment of the costs, any railroad, gondola, or other transportation system to elevate or lower any of its rights-of-way or tracks, towers or cables running over, along or across any public thoroughfare; and to construct and maintain all street crossings, bridges, viaducts and other conveniences in good condition, with proper approaches and safety devices.

Section 10.8. REVOCABLE PERMITS.

The Town Council may grant a permit at any time for the temporary use or occupation of any street, alley, or Town-owned or controlled property, however such permit shall be revocable by the Town Council at its pleasure, regardless of whether or not such right to revoke is expressly reserved in such permit.

Section 10.9. FRANCHISE RECORDS.

The Town shall cause to be kept in the office of the Town Clerk an indexed franchise record in which shall be transcribed copies of all franchises hereafter granted. The index shall give the name of the grantee and any assignees. The record, which shall contain a complete

history of all such franchises, shall include a comprehensive and convenient reference to all actions at law affecting the same, and copies of all annual reports and such matters of information and public interest as the Town Council may from time to time require.

ARTICLE XI.

GENERAL PROVISIONS.

Section 11.1. EMINENT DOMAIN.

The Town shall have the right of eminent domain within or without of its corporate limits.

Section 11.2. RESERVATION OF POWER.

The Town, and its various branches of government, acting through this Charter, as may be amended from time to time, hereby reserves to itself the power to supersede any law of the State of Colorado now or hereafter in force, insofar as the actions of the Town apply to local or municipal affairs, subject only to the restrictions contained in Article XX of the Colorado constitution, and its amendments subsequent hereto.

Section 11.3. LIMITATIONS OF ACTIONS.

No action or proceeding contesting the validity or enforceability of any section or provision contained in this Charter shall be brought unless commenced within forty-five days after the adoption or amendment of this Charter.

Section 11.4. CORRECTION OF GRAMMATICAL AND SYNTACTICAL ERRORS.

The Mayor and/or Town Council are hereby authorized to make corrections as to the form, but not the substance, of this Charter, including the correction of syntactical and grammatical errors, so as to make the language of the Charter conform to its intent.

Section 11.5. THE SALE OF TOWN REAL ESTATE.

The Town, by ordinance resolution of the Town Council, may sell or dispose of municipally-owned buildings or real property in use for public purposes without first obtaining the approval of the majority of its electorate.

Section 11.6. BEQUESTS, GIFTS AND DONATIONS.

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

Section 11.7. SEVERABILITY OF CHARTER PROVISIONS.

If any provision, section, subsection, sub-subsection, sentence, clause, or word of this Charter, or the application thereof to any person or circumstances, shall be found to be invalid by a court, 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 that 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 11.8. CHARTER AMENDMENTS.

The Charter may be amended at any time in the manner provided in Section 31-2-210 C.R.S., as amended.

Section 11.9. INTERPRETATION OF THE CHARTER.

Except as otherwise specifically provided or indicated by the content hereof, all words used in this Charter indicating the present tense shall not be limited to the time of adoption of this Charter, but shall extend to and include the time of the happening of any event or requirement for which the provision was 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 neuter.

ARTICLE XII.

DESIGN REVIEW BOARD

Section 12.1. DESIGN REVIEW BOARD.

a) Design Review Board. The Design Review Board (DRB) shall serve two (2) functions described as follows:

1) The DRB is intended to serve the Town as an architectural review board in a manner similar to that of the DRB which was originally established according to the General Declaration for the Telluride Mountain Village.

2) The DRB is intended to serve the Town as a Planning and Zoning Commission with such powers and duties as conferred on such commissions by CRS 31-23-202 and 31-23-301, except as such powers and duties may otherwise be modified or altered by this Charter or any land use ordinance.

b) DRB Membership.

- 1) The DRB shall consist of seven (7) members, all appointed by the Town Council.
- 2) The term for a member of the DRB shall be two (2) years, with three (3) members appointed in odd numbered years and four (4) members appointed in even numbered years.

ARTICLE XIII.

WETLANDS REGULATIONS

Section 13.1. ADOPTION OF FEDERAL WETLANDS REGULATIONS

a) All federal wetland rules and regulations, as amended, are hereby adopted by reference and made a part of this Charter.