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Charter

for

The Town of Frisco



August 1, 1988

Contents

	Page
Prefatory Synopsis	i
Article I. General Provisions	1
1-1 Name, Boundaries	1
1-2 Purpose of Charter	1
1-3 Form of Government	1
1-4 Powers of the Town	1
Article II. Town Council	1
2-1 Council Membership	1
2-2 Powers of the Council	1
2-3 Qualifications	2
2-4 Term	2
2-5 Compensation	2
2-6 Financial Interest Prohibited	2
2-7 Vacancies	3
2-8 Oath of Office	4
2-9 Mayor	4
2-10 Mayor Pro-tem	5
Article III. Council Procedure	5
3-1 Meetings	5
3-2 Special Meetings and Business at Special Meetings	5
3-3 Quorum	5
3-4 Meetings to be Public	5
3-5 Council Acts	6
3-6 Voting; Voting Prohibited When	6
3-7 Action by Ordinance Required	7
3-8 Form of Ordinance	7
3-9 Procedure	8
3-10 Emergency Ordinances	9
3-11 Codification	9
3-12 Adoption of Codes by Reference	9
3-13 Public Records	10
3-14 Ordinance Review	10
	Page
Article IV. Elections	10

4-1	Colorado Municipal Election Laws Adopted	10
4-2	Regular Elections	10
4-3	Special Elections	10
4-4	Conduct of Elections	10
4-5	Nominating Petitions	11
Article V. Initiative, Referendum, and Recall		11
5-1	Initiative	11
5-2	Referendum	11
5-3	Recall	11
5-4	Council Referendum	12
5-5	Prohibited Action by Council	12
5-6	Withdrawal of Petition	13
Article VI. Legal and Judiciary		13
6-1	Town Attorney	13
6-2	Municipal Court	13
Article VII. Town Administration		14
7-1	Town Manager	14
7-2	Acting Town Manager	14
7-3	Powers and Duties of Manager	15
7-4	Relationship of Council to Administrative Service	16
7-5	Clerk, Treasurer, and Police Chief	16
7-6	Bonding of Employees	16
Article VII. Finance and Budget		16
8-1	Fiscal Year	17
8-2	Proposed Budget and Message	17
8-3	Contents of Proposed Budget	17
8-4	Capital Program	18
8-5	Public Hearing	18
8-6	Council Action on Budget	18
8-7	Contingencies	19
8-8	Amendments after Adoption	19
8-9	Administration-Payments and Obligations Prohibited	19
8-10	Independent Audit	19

	Page
Article IX. Taxation	20
9-1 Limitations on Future General Property Taxes	20
9-2 Limitations on Taxes	20
9-3 Emergency Sales or Use Tax	21
Article X. Municipal Borrowing and Payment Obligations	21
10-1 Forms of Borrowing and Obligations	21
10-2 Short Term Securities and Obligations	21
10-3 General Obligation Securities and Obligations	21
10-4 Emergency Securities	22
10-5 Revenue Securities and Obligations	22
10-6 Interim Securities	22
10-7 Refunding Securities	23
10-8 Limitations	23
10-9 Sale	24
10-10 Other Contracts and Agreements	24
10-11 Limitation of Actions	24
Article XI. Improvement Districts	24
11-1 Power to Create Local Improvement Districts	25
11-2 Procedure	25
11-3 Surplus and Deficiency Fund	25
11-4 Additional Commitment to Pay Improvement District Securities	26
11-5 Improvement District Securities - General Benefit	26
11-6 Limitation of Actions	26
Article XII. Utilities; Franchises and Permits	27
12-1 Acquisition of Utilities	27
12-2 Utility Rates	27
12-3 Granting of Franchises	27
12-4 Existing Franchises	28
12-5 Revocable Permits or Licenses	28
Article XIII. Boards and Commissions	28
13-1 Intent	28
13-2 Creation, Alteration, and Abolition	28
13-3 Planning and Zoning Commission	29
	Page
Article XIV. Miscellaneous Provisions	29

14-1	Interpretation	29
14-2	Emergency Powers	30
14-3	Limitations on Sale or Lease of Town-owned Park Property	30
14-4	Penalties	30
14-5	Severability of Charter Provisions	30
14-6	Master Plan of the Town	30
14-7	Competitive Bidding	30
14-8	Definitions	30
Article XV. Transitional Provisions		31
15-1	Effective Date of Charter	31
15-2	Prior Town Legislation	31
15-3	Continuation of Board	32
15-4	Continuation of Officers and Employees	32
15-5	Continuation of Boards and Commissions	32
15-6	Saving Clause	32

PREFATORY SYNOPSIS

The members of the Home Rule Charter Commission of the Town of Frisco, Colorado, hereby submit to the Board of Trustees and to the voters a proposed Home Rule Charter which has been framed in conformity with Article XX of the Colorado Constitution and the Municipal Home Rule Act of 1971, as amended.

The Commission members have sought to prepare a Charter which provides a structure for the effective and efficient conduct of the Town government, and which also provides for the fullest possible participation in the affairs of the Town by every member of the community.

In keeping with these goals, the Charter vests all legislative powers in a Town Council composed of a Mayor and six Councilmembers elected at large for four-year overlapping terms. To enhance opportunities for service on the Council and to encourage fresh leadership, limitations are placed on the number of consecutive terms that may be served. The Council is required to maintain and update a comprehensive Master Plan of the Town, and to review all ordinances of a general and permanent nature at least once every four (4) years. Financial interest prohibitions and conflict of interest provisions are included.

The form of government provided by the Charter is a "Council-Mayor-Manager" form. Executive and administrative responsibilities are to be exercised by the Town Manager, who is appointed by and serves at the pleasure of the Council.

The Commission members recognize that the Charter is a document of limitation on the home rule powers available to the Town and its citizens, and so have sought to include in the Charter important protections for the citizens. Provisions guaranteeing the citizen rights of initiative, referendum, and recall are included. Other protections include a mandatory public hearing on the proposed budget and on the recommended five-year capital program each year, the publication of ordinances, an annual independent audit, limitations on annual property tax revenue increases, voter approval for increases in sales and use tax rates, and limitations on and disclosure concerning the incurring of debt.

Other matters covered in the Charter include Council procedures, powers, and duties; legal and judiciary; methods of Council action by ordinance, resolution, and motion; elections; finance and budget; taxation; borrowing; improvement districts; utilities; franchises; and transitional provisions.

The Commission believes that this Charter provides a structure for a responsible government for the Town of Frisco, now and in the future, that will maintain and enhance the quality of life of the citizens, continue the growth and progress of the Town, and continue to be responsive to the needs and concerns of the citizens.

ARTICLE I

GENERAL PROVISIONS

Section 1-1. Name, Boundaries. The municipal corporation now existing as the "Town of Frisco" in the County of Summit, State of Colorado, shall remain and continue to be a body politic and corporate under the same name and with the same boundaries until lawfully changed.

Section 1-2. Purpose of Charter. It is the purpose of this Charter to establish a basic governmental structure that will provide for the effective and efficient conduct of the business of the Town. It is intended that the Charter shall provide for the fullest possible participation in the affairs of the Town by every member of the community in the manner provided for herein.

Section 1-3. Form of Government. The municipal government provided by be known as a Council-Mayor-Manager government.

Section 1-4. Powers of the Town. The Town shall have power of local self-government and home rule and all power possible for the Town under the Constitution of the State of Colorado. The Town shall also have all powers granted to cities, towns, and municipalities by the laws of the State of Colorado. The enumeration of specific powers in this Charter shall not be considered as limiting or excluding any other power. All powers shall be exercised in the manner set forth in this Charter or, if not provided for in this Charter, in such manner as shall be provided by ordinance or resolution.

ARTICLE II

TOWN COUNCIL

Section 2-1. Council Membership. The legislative affairs of the Town shall be vested in a Town Council consisting of six (6) Councilmembers and the Mayor, all of whom shall be nominated and elected at large from the Town.

Section 2-2. Powers of the Council. The Council shall

be the governing body of the Town and have all legislative powers and all other powers possessed by the Town and not conferred by this Charter on others.

Section 2-3. Qualifications. (a) Each member of the Council shall be a registered elector at the time of nomination and election, or at the time of appointment to fill a vacancy, and shall have been a resident of the Town or any territory annexed to the Town for at least twelve (12) consecutive months immediately preceding such election or appointment.

(b) No person who has been convicted of embezzlement, bribery, perjury, solicitation of bribery, or subornation of perjury, shall serve as a member of the Council.

(c) No person may serve in any combination of the offices of Mayor or Councilmember for more than fourteen (14) consecutive years nor be elected to any combination of the offices of Mayor or Councilmember for more than three (3) consecutive four (4) year terms. Provided, however, that no person may serve as Mayor for more than fourteen (14) consecutive years nor be elected as Mayor for more than three (3) consecutive four (4) year terms. Further provided that no person may serve as a Councilmember for more than ten (10) consecutive years nor be elected as a Councilmember for more than two (2) consecutive four (4) year terms. No person completing the maximum length of service permitted by this Section shall be appointed or elected as Mayor or Councilmember until at least two (2) consecutive years shall have elapsed since such person's previous service on the Council. **[This subsection amended by a vote of the people held 4-2-96.]**

(d) Subsection (c) of this section shall not prevent any person who is a member of the Council on the effective date of this Charter from completing the term for which the person was elected or appointed.

Section 2-4. Term. Members of the Council shall be elected for four (4) year overlapping terms, with four (4) members elected at one (1) regular election, and three (3) members elected at the subsequent regular election. The members shall take office at the first meeting, regular or special, following their election and shall continue in office until their successors have been elected and have complied with Section 2-S, or a vacancy is earlier established.

Section 2-5. Compensation. The Councilmembers shall receive such compensation, and the Mayor shall receive such additional compensation, as the Council may prescribe by ordinance. The Council shall neither increase nor decrease such compensation during the member's term of office. Members, upon order of the Council, may be paid their actual and necessary expenses incurred in the performance of their duties of office.

Section 2-6. Financial Interest Prohibited. (a) For purposes of this section only, "contract" means any arrangement or agreement pursuant to which any land, material, service, or other thing of value, is to be furnished to the Town for a valuable consideration to be paid by the Town or sold or transferred by the Town.

(b) For purposes of this section only, "financial interest" means ownership of securities of a corporation, or of any beneficial interest in a partnership or firm, with which a contract is made, the aggregate amount of which securities or interest owned by the member and the member's family is ten (10) percent or more of any class of securities of such corporation or ten (10) percent or greater ownership in such partnership or firm.

(c) For purposes of this section only, "family" means the member's parents, siblings, spouse, and children, and the spouse of any of them.

(d) During the term of office, no member of the Council shall be a salaried employee of the Town, nor shall the member have any direct or indirect financial interest in any with the contract Town.

(e) Any contract entered into in violation of the prohibitions of this section shall be void.

(f) The prohibitions of this section shall not apply to any contract determined by the Council to be an incidental transaction of minor value.

(g) The Council shall adopt, by ordinance, procedures for implementing the prohibitions of this section, including procedures for prompt compliance with the prohibitions of this section by newly elected or appointed members of the Council. Such an ordinance shall not conflict with this section, but may contain provisions which are more restrictive than the prohibitions of this section or which extend the prohibitions of this section to other persons or classes of persons.

Section 2-7. Vacancies.

(a) A member of the Council shall continue to hold office until a successor has been elected or appointed and has complied with Section 2-S, or until a vacancy is earlier established. A vacancy shall exist whenever any member is recalled, dies, is judicially declared incompetent, re-signs, ceases to be a resident of the Town, or is convicted of any offense specified in Subsection (b) of Section 2-3.

(b) At a regular meeting held not more than forty-five (45) days after a vacancy occurs in the Council, the remaining members

(1) Appoint a person to fill the vacancy, by affirmative vote of a majority of the remaining members, for the remainder of the term; or

(2) Order a special election to be held as soon as practicable to fill the vacancy for the remainder of the term.

(c) If three (3) or more vacancies occur during a regular meeting or between two (2) consecutive regular meetings, the remaining members shall not fill the vacancies by appointment, but, at the next regular meeting, shall order a special election, in the manner provided in Section 4-3 of this Charter, to be held as soon as practicable to fill the vacancies for the remainder of the terms.

(d) If, at the time the Council orders a special election pursuant to Subsections (b) or (c) of this section, the Council is aware of any other election to be held in the Town by the Town

or any other governmental entity within forty-five (45) days, the Council shall schedule the special election to be held on the same day as such other election if practicable.

(e) If any vacancy in the Council occurs because of the election of a Councilmember to the office of Mayor, the vacancy shall be filled for the remainder of the term by the Councilmember candidate who, at that election, received the highest number of votes following the Councilmember candidates who were elected to office.

Section 2-8. Oath of Office. Before assuming office, every member of the Council 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, and to faithfully perform the duties of the office.

Section 2-9. Mayor. The Mayor shall preside at meetings of the Council and shall exercise such powers and perform such other duties as conferred by this Charter or by ordinances not inconsistent with this Charter. The Mayor shall be considered a member of the Council and shall have the same powers, rights, and duties as a Councilmember, including the right to vote. The Mayor shall be recognized as the head of the Town government for all ceremonial and legal purposes and shall execute and authenticate legal instruments requiring the Mayor's signature. The Mayor, acting on behalf of the Council, shall oversee the efficient administration of Town affairs by the Town Manager.

Section 2-10. Mayor Pro-Tem. At the first meeting, regular or special, following each regular election, the Council, by a majority vote of the entire Council, shall appoint a Councilmember as Mayor Pro-Tem for a two (2) year term. The Mayor Pro-Tem shall have the Mayor's powers and perform the Mayor's duties whenever the Mayor is not available.

ARTICLE III

COUNCIL PROCEDURE

Section 3-1. Meetings. The Council shall meet regularly at least twice each month. The Council shall prescribe by rules of the Council the day and hour of its regular meetings and the procedures governing meetings. The first meeting, regular or special, following each regular

municipal election shall be the organizational meeting. The Council shall cause written minutes of its regular and special meetings to be taken and retained in the records of the Town.

Section 3-2. Special Meetings and Business at Special Meetings.

(a) Special meetings shall be called by the Town Clerk on the written request of the Mayor, the Town Manager, or any two (2) Councilmembers. A special meeting shall be held on at least seventy-two (72) hours written notice to each member of the Council, served personally or left at the member's usual place of residence, except that a special meeting may be held on shorter notice if all members of the Council are present or have waived notice thereof in writing. Notice of a special meeting shall be posted in at least two (2) public places, at least one (1) of which is open to the public during evening hours.

(b) No business shall be transacted at any special meeting of the Council unless it has been stated in the notice of the meeting. Except where a greater number of affirmative votes is specified in the Charter, at least four (4) affirmative votes shall be required for the adoption of any motion, resolution, or ordinance at a special meeting.

Section 3-3. Quorum. A majority of the members of the Council in office at the time shall be a quorum for the transaction of business at all Council meetings.

Section 3-4. Meetings to be Public. (a) All regular and special meetings of the Council shall be open to the public and persons shall have a reasonable opportunity to be heard under such rules as the Council may prescribe. Any meeting may be recessed by the affirmative vote of a majority of the members present and closed to the public for the following purposes only:

(1) To determine a position relative to issues subject to negotiation, to receive reports on negotiation progress and status, to develop strategy, and to instruct negotiators;

(2) To consider the acquisition or disposal of property if, in the judgment of the Council, premature disclosure of information might give any person an unfair competitive or bargaining advantage;

(3) For matters of attorney-client privilege;

(4) For matters required by federal law or non-superseded state law to be kept confidential;

(5) For matters critical to the personal safety of members of the Council and for matters involving the protection and security of Town property;

(6) Personnel matters; and

(7) To consider additional matters which, by state statute or by court decision, can be excluded from the open meeting requirements of those state statutes which would apply to the Town but for the adoption of this Charter.

(b) The general subject matter of any closed session shall be stated in the motion calling for closure. Except to the extent specifically permitted in this section, no formal action, no final policy decision, no rule, regulation, resolution, or ordinance, and no action approving a contract or calling for the payment of money, shall be adopted or approved at any session closed to the public.

Section 3-5. Council Acts. The Council shall act only by ordinance, resolution, or motion. The Council may select the appropriate form for its action, except where a particular form is required by the Charter. A true copy of every ordinance and resolution as adopted shall be numbered and retained in the records of the Town.

Section 3-6. Voting; Voting Prohibited When.

(a) The vote by "Yes" and "No" shall be taken by roll call upon the adoption of each ordinance and resolution, and entered in the minutes of the meeting. Except as otherwise provided in this Charter, the final adoption of any ordinance shall require the affirmative vote of a majority of the entire Council, and resolutions and motions shall require the affirmative vote of a majority of the members present.

(b) No member shall vote on any question concerning the member's own conduct.

(c) No member shall vote on any question on which the member has a conflict of interest, as shall be defined by ordinance, other than the common public interest. On such a question, the member shall disclose the nature of the conflict of interest to the Council prior to abstaining from voting. If the member fails to disclose a conflict of interest, or requests the remaining members to determine whether the member has a conflict of interest, the remaining members shall determine, by motion adopted by the affirmative vote of a majority of the remaining members, whether a conflict of interest exists. Such motion shall state the basis of the determination and shall be conclusive of the question of whether a conflict of interest exists.

(d) Except as provided in Subsections (b) and (c) of this section, each member who is present shall vote when the member's name is called. Any member who refuses to vote, except when required to abstain by Subsections (b) or (c) of this section, shall be deemed derelict in the member's duties, and an affirmative vote shall be cast and recorded in the member's name.

Section 3-7. Action by Ordinance Required. In addition to such acts of the Council as are required by the Charter to be by ordinance, every act making an appropriation, authorizing the borrowing of money, imposing a tax, fixing rates charged by any municipal utility system, establishing any regulation for violation of which a fine or jail sentence penalty may be imposed, or placing any direct burden upon or direct limitation on the use of private property, shall be by ordinance.

Section 3-8. Form of Ordinance.

(a) Every ordinance shall be introduced in written or printed form. The enacting clause of all ordinances shall be: BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF FRISCO, COLORADO. Except as otherwise provided in this Article, all ordinances shall take effect five (5) days after publication following final adoption. Unless otherwise

specifically provided in the ordinance, every ordinance shall be deemed to contain a severability clause whether stated therein or not.

(b) No ordinance shall contain more than one (1) subject except an ordinance repealing one (1) or more other ordinances. However, the failure of an ordinance to contain only one (1) subject shall not affect the validity or enforceability of the ordinance.

Section 3-9. Procedure. Except for emergency ordinances, the following procedure shall be followed in adopting any ordinance:

(a) The ordinance shall be introduced by a member at a regular or special meeting of the Council .

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

(c) After the first reading, the Council shall vote to amend, adopt, or reject the ordinance, or take such other action as it deems appropriate.

(d) If the ordinance is adopted on first reading, it shall be published in full and shall be posted in at least two (2) public places, at least one (1) of which is open to the public during evening hours. The Council shall set a day, hour, and place at which the Council shall hold a public hearing on the ordinance. Notice of said day, hour, and place shall be included in the publication.

(e) The ordinance shall be introduced by a member a second time, at a regular or special meeting of the Council held not earlier than four (4) days after the first publication. The Council shall vote to amend, finally adopt, or reject the ordinance, or take such other action as it deems appropriate. Any such action shall be taken after the public hearing on the ordinance, but may be taken at the same meeting at which the public hearing is held.

(f) Upon final adoption, the ordinance shall be published either in full or by title, as the Council may direct, except that if the ordinance is amended prior to final adoption, any amendment shall be published in full, and except that any penalty clause contained in the ordinance shall be published in full.

(g) The ordinance shall be signed by the Mayor and attested by the Town Clerk, and affidavits of publication shall be retained with the ordinance in the Town's records.

(h) Every ordinance published by title shall contain a notice that copies of the ordinance are available at the office of the Town Clerk.

Section 3-10. Emergency Ordinances.

(a) An emergency ordinance necessary for the immediate preservation of public property/ health, welfare, peace, or safety, or the financial well-being of the Town, shall require at least five (5) affirmative votes. The facts showing the emergency shall be specifically stated in the ordinance. The Council's determination as to the existence of an emergency shall be final and conclusive on the question. No ordinance granting, renewing, or amending any franchise, initially imposing a tax, or fixing rates charged by any municipal utility system, shall be adopted as an emergency ordinance.

(b) An ordinance authorizing a municipal borrowing or a payment obligation in accordance with Article X or Article XI of this Charter, which provides for the imposition of a tax or which makes covenants with respect to the imposition of a tax to secure the repayment of such a borrowing, shall not be deemed an ordinance imposing a tax within the meaning of Subsection (a) of this section.

(c) An emergency ordinance may be introduced and finally adopted at any regular or special meeting, shall require only one (1) reading, and shall not require a public hearing or publication prior to final adoption. An emergency ordinance shall take effect upon final adoption or on such later date as specified in the ordinance. Following final adoption, an emergency ordinance shall be published in full and posted in at least two (2) public places, at least one (1) of which is open to the public during evening hours.

Section 3-11. Codification. The Council shall cause ordinances of a general and permanent nature to be codified. Revisions to the codification may be adopted by reference as provided in Section 3-12.

Section 3-12. Adoption of Codes by Reference. The Council may adopt, by ordinance, any code by reference. The procedure for adoption of a code by reference shall be as provided in the state statutes applicable to the adoption of codes by reference, or such other procedure as the Council may provide by ordinance. Every ordinance adopting a code by reference shall contain a notice that copies of the code are available at the office of the Town Clerk. Any penalty clause in such a code may be adopted only if set forth in full in the adopting ordinance and published as provided in Section 3-9.

Section 3-13. Public Records. Subject to the state statutes concerning public records, public records of the Town shall be open for inspection by any person at reasonable times.

Section 3-14. Ordinance Review.

(a) The Council shall review ordinances of a general and permanent nature adopted on or after the effective date of this Charter at least once every four (4) years after adoption, and at least once every four (4) years thereafter, for possible amendment or repeal.

(b) The Council shall establish a schedule for reviewing all ordinances of a general and permanent nature which were adopted prior to the effective date of this Charter.

(c) The failure to review any ordinance pursuant to this section shall not affect the validity or enforceability of the ordinance.

ARTICLE IV

ELECTIONS

Section 4-1. Colorado Municipal Election Laws Adopted. Town elections shall be governed by the state statutes contained in the Colorado Municipal Election Code, except as otherwise provided in this Charter or by ordinances not inconsistent with this Charter. All regular and special elections shall be nonpartisan.

Section 4-2. Regular Elections. A regular election shall be held in each even-numbered year on the first Tuesday in April.

Section 4-3. Special Elections. A special election shall be called by a resolution adopted at least thirty (30) days prior to the election. The resolution calling a special election shall set forth the purpose of the election.

Section 4-4. Conduct of Elections.

(a) The Town Clerk shall have charge of all activities and duties required pursuant to this Charter relating to the conduct of elections in the Town. In any case where election procedure is in doubt, the Town Clerk shall prescribe the procedure to be followed.

(b) The Town Clerk shall provide for ballots and sample ballots, voting machines or electronic voting equipment, for determination of the winner by lot in the event of a tie vote, for canvass of returns, and for issuance of appropriate certificates.

Section 4-5. Nominating Petitions. Each nominating petition for a candidate for Mayor or Councilmember shall be signed by at least twenty-five (25) registered electors.

ARTICLE V

INITIATIVE, REFERENDUM, AND RECALL

Section 5-1. Initiative.

(a) The initiative power, reserved by Article V, Section 1(9) of the Constitution, is here-by extended to the Town's registered electors as to that Town legislation which is subject to the initiative power reserved in the Constitution. Any initiated measure shall be in the form of an ordinance. The measure shall be initiated pursuant to the state statutes which establish procedures for a municipal initiative, except as otherwise provided in this Charter and in ordinances not inconsistent with this Charter.

(b) An initiative petition shall be signed by registered electors of the Town equal in number to at least fifteen (15) percent of the total number of electors of the Town registered to vote at the last regular election. No signature on an initiative petition shall be valid if signed on a date prior to the date the form of the petition is approved by the Town Clerk or if signed on a date more than ninety (90) days prior to the date the signed petition is filed with the Town Clerk.

Section 5-2. Referendum.

(a) The referendum power, reserved by Article V, Section 1(9) of the Constitution, is here-by extended to the Town's registered electors as to those ordinances which are subject to the referendum power reserved in the Constitution. Such ordinances shall be referred pursuant to the state statutes which establish procedures for a municipal referendum, except as otherwise provided in this Charter and in ordinances not inconsistent with this Charter. The referendum power shall not apply to an emergency ordinance, nor shall it apply to any appropriation adopted by ordinance for the support and maintenance of the Town government.

(b) A referendum petition shall be signed by registered electors of the Town equal in number to at least ten (10) percent of the total number of electors of the Town registered to vote at the last regular election.

Section 5-3. Recall.

(a) Any person holding elective office, including the office of Mayor or Councilmember, may be recalled at any time after six (6) months in office, pursuant to the state statutes which establish procedures for the recall of municipal elective officers, except as otherwise provided in this Charter and in ordinances not inconsistent with this Charter.

(b) A recall petition shall be signed by registered electors of the Town. The signers shall number at least twenty-five (25) percent of the ballots cast at the last preceding election. For the purpose of this section, the "last preceding election" shall be the last preceding election at which the person sought to be recalled was elected to office, unless the person sought to be recalled was appointed to fill a vacancy, in which event it shall be the last preceding election at which the person who created the vacancy was elected to office.

(c) No signature on a recall petition shall be valid if signed on a date more than thirty (30) days prior to the date the signed petition is filed with the Town Clerk.

(d) No recall election shall be held if the office held by the person sought to be recalled will be filled at a regular election scheduled to be held within ninety (90) after the submission of the recall petition.

(e) After one (1) recall petition and election, no further petition shall be filed against the same person during the term for which such person was elected or appointed, unless the signers number at least fifty (50) percent of the ballots cast at the last preceding election.

(f) Except as to requirements contained in this Charter, in the state statutes which are applicable to the recall of municipal elective officers, and in the ordinances of the Town, the form, content, approval, and other petition requirements in the state statutes applicable to municipal initiatives shall apply as nearly as practicable to recall petitions.

Section 5-4. Council Referendum. The Council shall have the power to submit to a vote of the registered electors, without receipt of any petition, any proposed or adopted ordinance or any question.

Section 5-5. Prohibited Action by Council.

(a) No initiated ordinance adopted by the voters may be substantively amended or repealed by the Council during a period of one (1) year after the date of the election on the initiated ordinance, unless the amendment or repeal is approved by a majority of the registered electors voting thereon.

(b) No referred ordinance repealed by the voters may be readopted by the Council during a period of one (1) year after the date of the election on the referred ordinance, unless the readoption is approved by a majority of the registered electors voting thereon.

Section 5-6. Withdrawal of Petition. An initiative referendum, or recall petition may be withdrawn at any time prior to thirty (30) days preceding the day scheduled for a vote by filing with the Town Clerk a written request for withdrawal, signed by all persons who are designated in the petition as representing the signers on matters affecting the petition. Upon the filing of such request, the petition shall have no further force or effect and all proceedings thereon shall be terminated.

ARTICLE VI

LEGAL AND JUDICIARY

Section 6-1. Town Attorney.

(a) The Council shall appoint a Town Attorney to serve at the pleasure of the Council. The appointment or removal of the Town Attorney shall require the affirmative vote of a majority of the entire Council. The Town Attorney shall be at all times while serving as Town Attorney an attorney at law admitted to practice in Colorado.

(b) The Town Attorney shall serve as the general counsel of the Town, shall advise the Council, the Town Manager, and other Town officials in matters relating to their official powers and duties, and shall perform such other duties as may be designated by the Council. The Council shall determine whether the position is full time or part time.

(c) The Council shall establish compensation for the Town Attorney.

(d) The Council may employ such special counsel as may be recommended by the Town Attorney or the Council.

Section 6-2. Municipal Court.

(a) There shall be a municipal court vested with exclusive original jurisdiction over all matters arising under this Charter, the ordinances, and other enactments of the Town.

(b) The municipal court existing on the effective date of this Charter shall continue as the municipal court for the Town until changed as provided by this Charter.

(c) The municipal court shall be a court of record.

(d) The appointment, removal, term of office, and powers and duties of municipal judges, and all other matters relating to municipal judges and the municipal court, shall be as set forth in those state statutes which apply to municipal judges and municipal courts, except as otherwise provided in ordinances not in-consistent with this Charter.

(e) Each municipal judge shall be at the time of appointment and throughout the term of office an attorney at law admitted to practice in Colorado, and shall have at least five (5) years experience in the active practice of law at the time of appointment.

ARTICLE VII

TOWN ADMINISTRATION

Section 7-1. Town Manager.

(a) The Council shall appoint a Town Manager within six (6) months after a vacancy exists. The appointment shall be at the pleasure of the Council and shall be at a salary to be fixed from time to time by the Council. The appointment or removal of the Manager shall require the affirmative vote of a majority of the entire Council.

(b) The Town Manager shall be appointed without regard to any consideration other than fitness, competency, training, and experience in professional urban administration. Within a reasonable time following appointment, the Manager shall reside within the limits of the Town or within a reasonable distance from the limits of the Town as the Council may designate by ordinance.

(c) No member of the Council shall be appointed Town Manager during the term for which the member was elected or appointed nor within one (1) year after the term.

Section 7-2. Acting Town Manager. During the Town Manager's temporary absence or disability, or during any period of vacancy prior to the Council's appointment of a Town Manager pursuant to Section 7-1, the Mayor shall appoint, by letter filed with the Town Clerk, a Town employee to serve as acting Town Manager. If the Mayor fails to make such an appointment, the Council shall make the appointment. The provisions of this Charter applicable to the Town Manager shall apply to the acting Town Manager during the period of the appointment.

Section 7-3. Powers and Duties of Manager. The Town Manager shall be the chief executive and administrative officer of the Town. The Manager shall be responsible to the Council for the proper administration of all affairs of the Town placed in the Manager's charge. Except as otherwise provided by this Charter or by ordinances not inconsistent with this Charter, the Manager shall:

(a) Provide for the enforcement of the ordinances and other enactments of the Town;

(b) Provide for the hiring, suspension, transfer, and removal of Town employees;

(c) Make appointments on the basis of executive and administrative ability, training, and experience;

(d) Cause a proposed budget to be prepared and submitted to the Council annually, and be responsible for the administration of the budget after its adoption;

(e) Cause to be prepared and submitted to the Council, as of the end of each fiscal year, a complete report on finances and administrative activities of the Town for that year and, upon request of the Council, make written or verbal reports at any time concerning the affairs of the Town under the Manager's supervision;

(f) Provide to the Council advice and recommendations concerning the financial condition and future needs of the Town;

(g) Exercise supervision and control over all Town departments, and make recommendations to the Council concerning the establishment, consolidation, or abolition of such departments;

(h) Be responsible for the enforcement of all terms and conditions imposed in favor of the Town in any contract or franchise, and upon knowledge of any violation thereof, report the same to the Council for such action and proceedings as may be necessary to enforce the same;

(i) Attend Council meetings and participate in discussions with the Council in an advisory capacity;

(j) Cause to be established a system of accounting and auditing for the Town which shall reflect, in accordance with generally accepted accounting principles, the financial condition and financial operation of the Town;

(k) Be responsible for obtaining engineering, architectural, maintenance, construction, and other services required by the Town; and

(l) Perform other such duties as prescribed by this Charter or as required by the Council and not inconsistent with this Charter.

Section 7-4. Relationship of Council to Administrative Service. Neither the Council, nor any Councilmember, the Mayor, or any Council committee, shall dictate the appointment of any person to or removal of any person from employment by the Town Manager except as otherwise provided in this Charter, or in any way interfere with the judgment of the Town Manager in the appointment, hiring, suspension, transfer, or removal of employees in the administrative service of the Town. Except for the purpose of inquiry, the Council, each Councilmember, the Mayor, and each Council committee, shall deal with the administrative service solely through the Town Manager and neither the Council, nor any Councilmember, the Mayor, or any Council committee, shall give orders to any employee of the Town. Except for the purpose of inquiry, the Council, each Councilmember, and each Council committee, shall deal with the Town Manager solely through the Mayor.

Section 7-5. Clerk, Treasurer, and Police Chief. The Town Manager shall appoint and may remove, a Town Clerk, Treasurer, and Police Chief.

Section 7-6. Bonding of Employees. All Town officers and employees dealing directly with municipal funds shall post bond or furnish other security in an amount and under such conditions as required by the Council, and at the expense of the Town.

ARTICLE VIII

FINANCE AND BUDGET

Section 8-1. Fiscal Year. Unless otherwise provided by ordinance, 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.

Section 8-2. Proposed Budget and Message. By the Council's first regular meeting in September, or such other time as the Council may provide by ordinance, the Town Manager shall cause to be prepared and submitted to the Council a proposed bud-get and accompanying message. The proposed budget shall provide a financial plan for all Town funds and activities for at least the next fiscal year and, except as required by this Charter, shall be in such form as the Manager deems desirable or the Council may require. The proposed budget shall contain a general summary of its contents and shall include comparative figures for revenues and expenditures for the current fiscal year.

Section 8-3. Contents of Proposed Budget. The proposed budget shall include, in separate sections, at least the following information:

- (a) An estimate of anticipated revenues classified by source;
- (b) An estimate of cash available, if any, as of December 31 of the present fiscal year;
- (c) Proposed expenditures for the operation of the Town, by department, office, and agency, and the methods of financing such expenditures;
- (d) Provisions for contingencies;
- (e) Proposed capital expenditures, by department, office, and agency when practicable, and the proposed methods of financing such expenditures;
- (f) Anticipated net surplus or deficit for each municipal utility system and the proposed method of its disposition;
- (g) Subsidiary budgets showing revenue and expenditure in-formation for each municipal utility system, attached as appendices to the budget;
- (h) An estimate of the amount required to be raised from an ad valorem property tax levy;
- (i) A statement of the outstanding securities and other payment obligations of the Town, showing the debt redemption and interest requirements, the debt authorized and outstanding, and the condition of sinking funds, if any; and
- (j) Such other information as the Council may require.

Section 8-4. Capital Program. (a) At the same time as the time of submission of the proposed budget to the Council, or at such other time as the Council may require by ordinance, the Town Manager shall cause to be prepared and submitted to the Council a recommended five (5) year capital program.

(b) The recommended capital program shall include at least the following information:

- (1) A general summary of its contents;

(2) A list of all capital improvements which are recommended to be undertaken, continued, or completed during the next five (5) fiscal years;

(3) Cost estimates and methods and timing of financing the improvements;

(4) The estimated annual cost of operating and maintaining the improvements; and

(5) Such other information as the Council may require.

(c) The recommended capital program, following adoption, shall serve as a guide for the planning of capital improvements.

Section 8-5. Public Hearing. At such time and place as the Council may direct, at least one (1) public hearing shall be held on the proposed budget and the recommended capital program before adoption. Notice of each public hearing, and notice that the proposed budget is available for public inspection, shall be published at least once and at least seven (7) days prior to the hearing.

Section 8-6. Council Action on Budget. (a) Unless another date is provided by ordinance, the Council shall adopt the budget and the capital improvement program, by resolution, on or before the date provided by law for certification of the ad valorem property tax levy. If the Council fails to adopt the budget by the required date, the amounts appropriated for the current fiscal year, together with any additional amounts necessary for payments of principal and interest on securities and other payment obligations, shall be deemed appropriated for the next 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 next fiscal year.

(b) The total of the proposed expenditures and provisions for contingencies in the adopted budget shall not exceed the total of estimated revenues.

(c) Adoption of the budget shall constitute appropriations of the amounts specified therein as expenditures from the funds indicated, and shall constitute a levy of the ad valorem property tax therein provided. The Council shall cause the ad valorem property tax levy to be certified as provided by law.

Section 8-7. Contingencies. Unless otherwise provided by ordinance, no expenditure shall be made from an appropriation for contingencies unless the amount of the expenditure has first been transferred by resolution to an appropriate account.

Section 8-8. Amendments After Adoption. (a) If at any time during the fiscal year the existence or threat of a deficit appears probable to the Town Manager, the Manager shall report to the Council without delay the estimated amount of the deficit, and any remedial action taken or recommended to be taken. The Council shall then take any further action it deems necessary or appropriate to prevent or minimize the deficit, including the reduction of one or more appropriations, except amounts necessary for payments of principal and interest on securities and other payment obligations.

(b) The Council shall establish, by ordinance, procedures consistent with this Charter for supplemental appropriations, transfers, contingencies, and other matters pertaining to the budget.

Section 8-9. Administration-Payments and Obligations Prohibited. Except for securities issued and payment obligations incurred pursuant to Articles X and XI of this Charter, no payment shall be made or obligation incurred except in accordance with appropriations made pursuant to this Charter and unless the Town Manager first certifies that sufficient funds are or are estimated to be available to meet the payment or obligation when it becomes due and payable. Any authorization of payment or incurring of obligation in violation of the provisions of this Charter shall be voidable at the Council's discretion.

Section 8-10. Independent Audit. The Council shall provide for an independent annual audit of all Town accounts by a certified public accountant selected by the Council, and may provide for more frequent audits as it deems necessary. The accountant selected shall have no direct personal interest in the fiscal affairs of the Town, of any member of the Council, or of any other officer of the Town. Unless another date is provided by ordinance, the audit shall be completed within four (4) months after the close of the fiscal year. Copies of the audit shall be made available for public inspection.

ARTICLE IX

TAXATION

Section 9-1. Limitations on Future General Property Taxes. (a) Those state statutes which place an annual limit on general ad valorem property tax revenue increases, and which would apply to the Town but for the adoption of this Charter, shall continue to apply to the Town; except that general ad valorem property taxes for the payment of securities issued and other payment obligations incurred pursuant to Article X or Article XI of this Charter and payable from ad valorem property taxes, and the interest on such securities and obligations, shall be exempt from the statutory limits, and such securities and obligations shall be payable pursuant to the terms of their issuance. Such statutes shall otherwise govern in all respects the amount of and method of computing the annual limit and the exclusions and exemptions therefrom, but the limit may be exceeded only in the manner permitted in Subsection (b) of this section, notwithstanding any other manner permitted by such statutes.

(b) The annual limit on general ad valorem property tax revenue increases imposed pursuant to Subsection (a) of this section may be exceeded for any expenditure, including any capital expenditure, only if approved by a majority of the registered electors of the Town voting thereon at a regular or special election.

Section 9-2. Limitations on Taxes. (a) No increase or decrease in the Town's sales or use tax rate, or extension of the period for which any temporary rate increase is effective, shall take effect until approved at a regular or special election by a majority of the registered electors voting thereon. The limitation of this section shall not be construed to otherwise limit the authority of the Town Council, without any election, to provide for the administration or applicability of, amend, revise, limit, or take any other action affecting the Town sales or use tax.

(b) Except for taxes provided for in Section 9-1 and in Sub-section (a) of this section, any tax which the Town Council may impose shall be initially imposed and the rate of the tax increased or decreased, only by ordinance which shall be subject to a timely referendum, if one is filed in accordance with the procedures and requirements set forth in this Charter.

Section 9-3. Emergency Sales or Use Tax. Notwithstanding the limitations contained in Section 9-2, the sales or use tax rate, or both, may be increased, without any election, by the affirmative vote of at least five (5) members of the Council, if the Council determines that an emergency exists. The increase shall be in effect for the period of time specified in the ordinance increasing the rate, but not to exceed one hundred eighty (180) days. The ordinance shall include a statement of reasons why the increase is necessary. The Council's determination as to the existence of an emergency shall be final and conclusive on the question.

ARTICLE X

MUNICIPAL BORROWING AND PAYMENT OBLIGATIONS

Section 10-1. Forms of Borrowing and Obligations. The Town may borrow money and issue securities or enter into other obligations to evidence such borrowing, and may otherwise incur payment obligations, consistent with this Charter and in such form and manner as the Council determines to be advantageous to the Town.

Section 10-2. Short-term Securities and Obligations. The Council may, by ordinance and without any election, borrow money, and may without any election otherwise incur payment obligations, in anticipation of the collection of taxes or other revenues. The Council may issue short-term securities or otherwise evidence the amount so borrowed or the payment obligation so incurred. Any such short-term securities or obligations shall mature or become payable within twelve (12) months from the date of issuance.

Section 10-3. General Obligation Securities and Obligations. (a) Except as otherwise provided in this Charter, no securities or other payment obligations, which the Town is obligated to pay in whole or in part from the proceeds of general ad valorem property taxes, shall be issued or otherwise incurred until the question of their issuance has been approved by a majority of the registered electors voting thereon at a regular or special election.

(b) Subsection (a) of this section shall not apply to any securities issued or other payment obligations incurred for the purpose of acquiring, constructing, improving, or extending any municipal utility system, or for the purpose of acquiring water or rights thereto, nor shall it apply to other long-term payment obligations or contracts for municipal utility system properties, services, or operations.

Section 10-4. Emergency Securities. The Council may, by ordinance and without any election, issue emergency securities in the circumstances specified in Section 8-8(a) of this Charter. Such securities may be made payable in whole or in part from the proceeds of general ad valorem property taxes. Such securities may be renewed from time to time as the Council determines

necessary, except that such securities or renewals thereof, unless effected by a borrowing transaction or payment obligation permitted under another provision of this Charter, shall mature and become payable no later than the last day of the fiscal year next succeeding the fiscal year in which such securities or renewals thereof are issued.

Section 10-S Revenue Securities and Obligations. The Council may, by ordinance and without any election, issue securities, and may without any election otherwise incur payment obligations, for any public purpose payable in whole or in part from any source of revenues other than general ad valorem property taxes, or from any combination of sources of revenues other than general ad valorem property taxes.

Section 10-6. Interim Securities. Interim securities not payable from a general ad valorem property tax may be issued, by ordinance, in anticipation of any securities authorized in Article X or XI 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. No election shall be required to issue interim securities unless the Town is obligated to pay such interim securities in whole or in part from the proceeds of general ad valorem property taxes, and unless the interim securities do not meet the exceptions to the election requirement as provided in Sections 10-3(b), 10-4, 10-7, 11-4, 11-5, or any similar provision of this Charter.

Section 10-7. Refunding Securities. (a) The Council may, by ordinance and without any election, issue securities for the purpose of refunding outstanding securities to accomplish any refunding purpose determined by the 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 other than general ad valorem property taxes or any combination of sources of revenues other than general ad valorem property taxes.

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

Section 10-8. Limitations. (a) Except as provided in this Charter, there shall be no limitation on the amount or other terms of securities the Town may issue or on the incurring of other payment obligations by the Town.

(b) The notice of any election to authorize the issuance of proposed general obligation securities pursuant to Section 10-3(a) shall contain at least the following information, together with any other information the Council deems relevant:

(1) The amount of the total valuation for assessment of taxable property within the Town as shown by the most recent available certified assessment;

(2) The total amount of general obligation securities outstanding as of the date of the notice of the election to authorize the issuance of the proposed securities, and the total amount of securities that would be outstanding if all of the proposed securities were issued;

(3) The percentage of the total of the proposed securities in relation to the amount of the total valuation for assessment determined pursuant to Paragraph (1) of this subsection;

(4) Current applicable bond ratings, if available; and (5) A general statement of the purpose of the proposed securities.

(c) No inaccuracy, error, or change in the information provided pursuant to Subsection (b) of this section shall affect the validity of the authorization to issue or the validity of the issuance of any security.

Section 10-9. Sale. All securities issued pursuant to this Charter shall be sold in such manner and pursuant to such terms as determined by the Council to be to the best advantage of the Town.

Section 10-10. Other Contracts and Agreements. The Council may without any election enter into lease-purchase and installment-purchase agreements, construction contracts, contracts for the purchase, installation, or acquisition of any real or personal property for public purposes, and any executory contracts or agreements, and may without any election commit to pay such obligations in whole or in part from the proceeds of general ad valorem property taxes.

Section 10-11. Limitation of Actions. (a) No action of whatsoever nature against any act, proceeding, or election of the Town done or had pursuant to this Article X shall be maintained unless commenced within thirty (30) days after the election or performance of the act or proceeding or effective date of any ordinance or resolution complained of to:

(1) Question the validity or enforceability of or enjoin the performance of any act;

(2) Question the validity or enforceability of or enjoin the issuance or payment of any securities;

(3) Question the validity or enforceability of or enjoin the incurring of any other payment obligation;

(4) Question the validity or enforceability of or enjoin the imposition or collection of any taxes, fees, or charges; or

(5) Obtain any other review of or relief against any act, proceeding, or election of the Town pursuant to this Article X.

(b) Any action not commenced within the time limits provided in Subsection (a) of this section shall be thereafter perpetually barred.

(c) The limitations of this section shall be in addition to any limitations or restrictions provided by ordinance.

ARTICLE XI

IMPROVEMENT DISTRICTS

Section 11-1. Power to Create Local Improvement Districts. The Council shall have the power to create local improvement districts and to assess the cost of the construction, acquisition, or installation of local improvements of every character against property determined by the Council to be benefited within such districts, in the following manner:

(a) By order of the Council, subject to written protest by the owners of property estimated to bear a majority of the assessment burden under the method of apportioning assessments proposed by the Council; or

(b) By approval of a petition of the owners of property estimated to bear a majority of the assessment burden under the method of apportioning assessments proposed by the owners.

Section 11-2. Procedure. The Council may, by ordinances not inconsistent with this Charter, prescribe the method and manner of creating local improvement districts; acquiring, constructing, or installing the improvements; letting contracts therefor; assessing part or all of the cost thereof against the benefited property; providing for the right to protest and the scope and manner thereof; paying for or issuing special assessment securities for the costs and expenses of the organization of the district, the acquisition, construction, or installation of said improvements, and incidental costs and expenses; and all other things in relation to local improvement districts. The following requirements shall apply to the creation of any local improvement district:

(a) The creation of any local improvement district shall be by ordinance; and

(b) Prior to the adoption of any ordinance creating a local improvement district, the Council shall hold at least one (1) public hearing at which all interested parties may appear and be heard. Notice of any such public hearing shall be published at least once. In addition, such notice shall be mailed pursuant to procedures established by ordinance.

Section 11-3. Surplus and Deficiency Fund. When all outstanding securities of a local improvements district have been paid and any monies remain to the credit of the district, the Council may transfer such monies to a special surplus and deficiency fund. The Council may prescribe by ordinance the manner in which the monies deposited in the surplus and deficiency fund may be applied.

Section 11-4. Additional Commitment to Pay Improvement District Securities. The Council may, without any election, covenant in connection with the issuance of improvement district securities that, if at least three-fourths of the improvement district securities issued have been paid, and if for any reason the remaining assessments are not paid in time to pay the remaining securities of the district and the interest due thereon, the Town shall pay said securities and the interest due thereon when due and reimburse itself by collecting the unpaid assessments due the district.

Section 11-5. Improvement District Securities - General Benefit. (a) In consideration of general benefits conferred on the Town at large from the construction, acquisition, or installation of improvements made in connection with a local improvement district, the Council may levy a general ad valorem property tax on all taxable property within the Town, at a rate not to exceed

two (2) mills for any single district in any one year, to be disbursed among the following purposes with such priority as may be determined by the Council:

(1) Paying any assessment levied against the Town, whether or not imposed on Town-owned property, in connection with securities issued for any local improvement district;

(2) Advancing money for the payment of principal, interest, or both, for establishing reserves for, or otherwise securing the payment of, securities issued for any local improvement district in the manner provided for in the authorizing ordinance.

(b) In lieu of the tax levy provided in Subsection (a) of this section, the Council may, in its discretion, apply any available money of the Town for the purposes listed in Subsection (a) of this section, but in no event shall the amount so applied in any one (1) year exceed the amount which would have resulted in such year from a tax levied pursuant to Subsection (a) of this section.

Section 11-6. Limitation of Actions. (a) No action of whatsoever nature against any act, proceeding, or election of the Town done or had pursuant to this Article XI shall be maintained unless commenced within thirty (30) days after the election or performance of the act or proceeding or effective date of any ordinance or resolution complained of to:

(1) Question the validity or enforceability of or enjoin the performance of any act;

(2) Question the validity or enforceability of or enjoin the issuance or payment of any securities;

(3) Question the validity or enforceability of or enjoin the incurring of any other payment obligation;

(4) Question the validity or enforceability of or enjoin the imposition or collection of any taxes, assessments, fees, or charges; or

(5) Obtain any other review of or relief against any act, proceeding, or election of the Town pursuant to this Article XI.

(b) Any action not commenced within the time limits provided in Subsection (a) of this section shall be thereafter perpetually barred.

(c) The limitations of this section shall be in addition to any limitations or restrictions provided by ordinance.

ARTICLE XII

UTILITIES; FRANCHISES AND PERMITS

Section 12-1. Acquisition of Utilities. The Town shall not acquire any municipal utility system by purchase or condemnation, nor construct any municipal utility system, unless the question of such acquisition or construction is first approved by a majority of the registered electors voting thereon

at a regular or special election. The foregoing requirement shall not apply to any improvement, extension, expansion, betterment, repair, re-placement, or modification of any existing municipal utility system.

Section 12-2. Utility Rates. The Council shall by ordinance establish rates for services provided by any municipal utility system.

Section 12-3. Granting of Franchises. (a) No franchisee shall be granted or renewed for a longer period than twenty (20) years.

(b) No franchise shall be granted, renewed, or amended by the Council except by ordinance. Any ordinance granting, renewing, or amending a franchise shall be subject to a timely referendum if one is filed in accordance with the procedures and requirements set forth in this Charter. Notwithstanding the provisions of Section 5-2(b) of this Charter, such a petition shall be signed by registered electors of the Town equal in number to at least five (5) percent of the total number of electors of the Town registered to vote at the last regular election. If such an election is ordered, the grantee of such franchise shall deposit the cost of the election with the Town Clerk in an amount determined by the Town Clerk.

(c) Each franchise granted pursuant to this Charter shall include a provision for a periodic review of the franchise by the Council.

(d) The Council shall establish, by ordinances not inconsistent with this Charter, the terms, fees, compensation, conditions, record-keeping, and other matters relating to franchisees.

Section 12-4. Existing Franchises. All franchise ordinances and agreements of the Town in effect on the effective date of this Charter shall remain in force in accordance with their respective terms and conditions unless modified by another franchise.

Section 12-5. Revocable Permits or Licenses. Any permit or license granted for the temporary use or occupation of any street, alley, other public way, or Town-owned place, shall be revocable by the Town at any time and without cause, whether or not such right to revoke is expressly reserved in the permit or license.

ARTICLE XIII

BOARDS AND COMMISSIONS

Section 13-1. Intent. It is the intent of this Article to ensure the participation of citizens in the governmental process.

Section 13-2. Creation, Alteration, and Abolition. The Council may by ordinance create any Town board or commission and except for boards and commissions specifically provided for in this Charter, may by ordinance alter or abolish any Town board or commission. The Council shall prescribe by ordinance the powers and duties of any Town board or commission, the qualifications of the members thereof, the method of making appointments to, filling vacancies in, and removing

members from, any Town board or commission, and other matters concerning any Town board or commission.

Section 13-3. Planning and Zoning Commission. There is hereby created a Planning and Zoning Commission to assist the Council, in such manner as provided by the Council, in planning the development of the Town. The Council shall prescribe by ordinance the powers and duties of the Planning and Zoning Commission, the qualifications of the members thereof, the method of making appointments to, filling vacancies in, and removing members from, the Planning and Zoning Commission, and other matters concerning the Planning and Zoning Commission.

ARTICLE XIV

MISCELLANEOUS PROVISIONS

Section 14-1. Interpretation. (a) Where any question exists as to the meaning of any portion of this Charter, it shall be interpreted consistently with the Charter's purpose to reserve to the Town and its citizens the broadest possible powers of home rule and self-government available under the Constitution, as limited only by the specific language of this Charter.

(b) Except as otherwise specifically provided in or indicated by the context, 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 word "person" may extend and be applied to bodies politic and corporate and to partnerships as well as individuals.

Section 14-2. Emergency Powers. In case of riot, insurrection, disaster, or other extraordinary emergency, the Mayor, with the assistance of the Town Manager, shall assume the authority to execute any action necessary for the protection of life and property. Such authority may include, but not be limited to, establishing regulations governing conduct and activities related to the cause of the emergency, and if the emergency continues, the Mayor, or in the Mayor's absence, the Town Manager, shall convene the Council to take such action as the Council deems necessary.

Section 14-3. Limitations on Sale or Lease of Town-Owned Park Property. No property used for park purposes and maintained by the Town as a park, in which fee ownership is now or hereafter vested in the Town, shall be sold or leased unless the question of such sale or lease is first approved by a majority of the registered electors voting thereon at a regular or special election. Nothing herein shall limit the Council's power to grant any licenses, permits, or easements with respect to such property.

Section 14-4. Penalties. Any willful violation of this Charter shall be a misdemeanor punishable in the municipal court by a penalty not to exceed the maximum penalty allowed in that court by ordinance. Each such violation shall constitute a separate offense.

Section 14-5. Severability of Charter Provisions. If any part of this Charter or the application thereof to any person or circumstance is found to be invalid, such invalidity shall not affect the

validity of any remaining part of this Charter, and to this end this Charter is declared to be severable.

Section 14-6. Master Plan of the Town. (a) The Council shall maintain a comprehensive master plan for the physical development of the Town. No land development, by any private or governmental entity, which in the judgment of the Council will significantly affect the Town, and no subdivision of land, zoning change, or annexation, shall be approved without considering the effect of such approval on the master plan.

(b) The Council shall review and revise the master plan at least once every three (3) years.

Section 14-7. Competitive Bidding. The Council shall establish, by ordinance, procedures requiring competitive bidding for contracts for the procurement of services, equipment, and supplies. Any such ordinance may provide exclusions from the competitive bidding requirements for contracts below an amount specified in the ordinance, for the types of contracts specified in the ordinance, and for the types of services, equipment, or supplies specified in the ordinance.

Section 14-8. Definitions. As used in this Charter, the following words shall have the following meanings unless the context otherwise indicates:

(a) "Constitution": Constitution of the State of Colorado, as from time to time amended.

(b) "Council" or "Town Council": Town Council of the Town of Frisco, Colorado.

(c) "Councilmember": Each member of the Council except the Mayor.

(d) "Member of the Council" or "Member": The Mayor and each Councilmember.

(e) "Municipal utility system": Any water, sanitary sewer, heat, power, light, communication, or transportation system of the Town, and any other system of the Town now or hereafter commonly classified as a utility system.

(f) "Qualified elector": A person who is qualified to register to vote pursuant to Section 4-1 of this Charter.

(g) "Registered elector": A qualified elector who has registered to vote pursuant to Section 4-1 of this Charter.

(h) "Regular election": An election held pursuant to Section 4-2.

(i) "Special election": An election held pursuant to Section 4-3.

(j) "State statutes": The statutes of the State of Colorado, as from time to time amended.

(k) "Town": Town of Frisco, Colorado.

ARTICLE XV

TRANSITIONAL PROVISIONS

Section 15-1. Effective Date of Charter. This Charter shall become effective immediately upon filing and recording the Charter with the Secretary of State of the State of Colorado following voter approval.

Section 15-2. Prior Town Legislation. All ordinances, resolutions, rules, and regulations of the Town which are not inconsistent with this Charter, and which are in force and effect on the effective date of this Charter, shall continue in full force and effect until repealed or amended. Any provision of any ordinance, resolution, rule or regulation which is inconsistent with this Charter is hereby repealed.

Section 15-3. Continuation of Board. The Board of Trustees of the Town in office on the effective date of this Charter shall become members of the Town Council and shall continue to serve and carry out the functions, powers and duties of their offices, and shall continue to receive the same compensation, until their successors have been elected or appointed and have complied with Section 2-8.

Section 15-4. Continuation of Officers and Employees. Except as otherwise provided in this Charter, each officer and employee of the Town shall continue in the office or employment which was held prior to the effective date of this Charter.

Section 15-5. Continuation of Boards and Commissions. All existing boards and commissions and the members thereof serving on the effective date of this Charter shall continue until changed in the manner provided in this Charter.

Section 15-6. Saving Clause. Neither the adoption of this Charter nor the repeal of any ordinance, resolution, rule, or regulation of the Town in conflict with the Charter shall be construed to destroy any property right, contract right, or right of action of any nature or kind, civil or criminal, vested in or against the Town. The adoption of the charter shall not be construed to affect any such right between the Town and any person.

TOWN OF FRISCO
HOME RULE CHARTER COMMISSION
CERTIFICATE OF FINAL ADOPTION

We, the undersigned, representing the present members of the Town of Frisco Home Rule Charter Commission, duly elected by the citizens of Frisco, at a regular election held on April 5, 1988, to frame a Home Rule Charter for the Town, do hereby certify that the foregoing is the Proposed Charter as finally approved and adopted by the members of the Commission on the 1st day of August, 1988 for submission to the Board of Trustees and to the registered electors of the Town.

Executed in triplicate at Frisco, Colorado, this 1st day of August, 1988.

(Signed)

Richard A. Backlund, Chairman

Charles L. Davis

Giles W. Poulson, Vice Chairman

Elizabeth H. Etie

Florence J. Reiss, Secretary

Duane L. Stromer

Dan A. Bell

Kent B. Willis

Patricia A. Butler

Counsel to the Commission
Tami A. Tanoue