MUNICIPAL CHARTER
for the
CITY OF CRIPPLE CREEK
STATE OF COLORADO

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Prefatory Synopsis

The members of the Home Rule Charter Commission of the City of Cripple Creek, Colorado, hereby submit to the City Council 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 City government, and which also provides for the fullest possible participation in the affairs of the City by every member of the community.

In keeping with these goals, the Charter vests all legislative powers in a City Council composed of a Mayor and four Council members elected from wards 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. Council meeting and voting requirements are prescribed. 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 City 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 City 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, voter approval for increases in municipal taxes, in conformance with the Colorado Constitution, 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; utilities; franchises; and transitional provisions.

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

ARTICLE 1

DEFINITIONS

SECTION 1-1 -- DEFINITIONS

As used in this Charter, the following terms shall have the following meanings, except where the context clearly indicates otherwise:

(a) "Board or commission" or "board and commission" means the boards and commissions established by or pursuant to this Charter.

(b) "City" means the City of Cripple Creek, Colorado.

(c) "Council" or "City Council" means the body constituting the City Council of the City.

(d) "Council member" means each member of the City Council except the Mayor.

(e) "Emergency ordinance" means an ordinance which, in the opinion of the City Council, is necessary for the immediate preservation of the public property, health, welfare, peace, or safety.

(f) "Employee" means each compensated person in the service of the City who is designated as an employee in the personnel rules and regulations of the City.

(g) "Entire Council" means all of the five (5) members of the Council provided for in Section 3- 1(b).

(h) "General statewide election" means the statewide election held on the Tuesday succeeding the first Monday of November in each even-numbered year.

(i) "Mayor" means the Mayor of the City.

(j) "Member of the Council" means the Mayor and each Council member.

(k) "Newspaper" means a newspaper of general circulation in the City which meets the requirements for a legal newspaper as established in the State statutes.

(l) "Publication" or "publish" means:

(1) Publication in a newspaper; or

(2) In the event of an emergency, or when no such newspaper is available, posting.

Anything published by such posting because of an emergency shall subsequently be actually published in a newspaper.

(m) "Registered elector" means an elector who has registered to vote pursuant to the State statutes.

(n) "Regular election" or "regular City election" means a City election held pursuant to Section 6- 2.

(o) "Special election" or "special City election" means a City election held at a time other than a regular election.

(p) "State Constitution" or "Colorado Constitution" means the Constitution of the State of Colorado, as from time to time amended.

(q) "State statutes" means the statutes of the State of Colorado, as from time to time amended.

(r) "United States Constitution" means the Constitution of the United States of America, as from time to time amended.

ARTICLE 2

GENERAL PROVISIONS

SECTION 2-1 -- NAME, BOUNDARIES

The Colorado municipal corporation now existing as the "City of Cripple Creek" shall remain and continue to be a body politic and corporate under the same name and with the same boundaries until lawfully changed.

SECTION 2-2 -- 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 City. It is intended that the Charter shall provide for full participation in the affairs of the City by every member of the community in the manner provided for herein.

SECTION 2-3 -- FORM OF GOVERNMENT

The municipal government provided by this Charter shall be known as a Council-Manager government.

SECTION 2-4 -- POWERS OF THE CITY

(a) The City shall have all the power of local self-government and home rule and all power possible for the City under the State Constitution. All such powers shall be exercised in a manner consistent with the United States Constitution, the State Constitution, and this Charter.

(b) Except as otherwise provided in this Charter, the City shall also have all powers granted to cities, towns, and municipalities by the State statutes.

(c) The enumeration of specific powers in this Charter shall not be considered as limiting or excluding any other power under Article XX of the State Constitution. 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.

SECTION 2-5 -- AMENDMENTS TO THE CHARTER

This Charter may be amended in the manner provided in the State Constitution and the State statutes pertaining to home rule charter amendments, except as otherwise provided in the City Code. Proceedings to amend the Charter may be initiated by the filing of a petition meeting the requirements of the State statutes, or by the adoption of an ordinance by the City Council submitting the proposed amendment to a vote of the registered electors of the City.

SECTION 2-6 -- CHARTER AMENDMENTS ONLY BY MEASURES EXPRESSING A SINGLE SUBJECT

(a) As used in this section, the single subject requirement means that the matters in the measure submitted for voter approval are necessarily or properly connected and are not disconnected or incongruous.

(b) No measure proposing an amendment to this Charter shall be submitted to the registered electors of the city if the measure contains more than one subject.

(c) The City Clerk shall approve for petition circulation measures proposing Charter amendments only when such measures contain a single subject.

ARTICLE 3

CITY COUNCIL

SECTION 3-1 -- CITY COUNCIL

(a) The City Council shall be the governing body of the City and shall have such powers as are possessed by the City and not conferred by this Charter on others. All such powers shall be exercised in the manner prescribed in this Charter or, if not provided for herein, in such manner as shall be provided by ordinance.

(b) The City Council shall consist of four (4) Council members nominated and elected, two (2) from each ward, and a Mayor nominated and elected from the City at large.

SECTION 3-2 -- MAYOR, MAYOR PRO TEM

(a) The Mayor shall be a member of the City Council and shall have the same voting powers as any Council member.

(b) The Mayor shall preside over meetings of the City Council and shall be recognized as the head of the City government for all ceremonial purposes.

(c) By the affirmative vote of a majority of the entire Council, a Council member shall be appointed as Mayor pro tem, annually, to perform the responsibilities of the Mayor when the Mayor is absent or is otherwise unable to perform the responsibilities of the Mayor.

SECTION 3-3 -- MAYOR AND COUNCIL MEMBERS - QUALIFICATIONS

(a) Each Council member shall be a registered elector of the City who has resided in his or her respective ward for a period of at least twelve (12) consecutive months immediately preceding the election; except that, in case the boundaries of the ward are changed pursuant to Section 6-4 or as a result of annexation, residence for the prescribed time period, within territory added to the ward, shall be deemed to meet the residency requirements for the ward to which the territory was added.

(b) The Mayor shall be a registered elector of the City who has resided within the limits of the City for a period of at least twelve (12) consecutive months immediately preceding the election; except that, in the case of annexation, residence within the annexed territory for the prescribed time period shall be deemed to meet the residency requirements of this section.

(c) No person who has been convicted of embezzlement of public funds, bribery, perjury, solicitation of bribery, subornation of perjury, or a willful violation of this Charter, shall be nominated or elected as Mayor or Council member.

(d) Except as provided in this subsection, no person who is an employee of the City, or a City board or commission member, may serve as Mayor or Council member. Any such person who runs for and is elected as Mayor or Council member shall be deemed to have resigned from the position of City employee, or City board or commission member, on the date of taking office under Section 3-5. Nothing in this subsection shall prohibit the Council from appointing the Mayor or a Council member, after taking office, to a City board or commission if the person is eligible to be so appointed pursuant to the ordinance establishing the board or commission.

(e) No person may be a candidate for both Mayor and Council member at the same election or hold both positions simultaneously.

(f) The Mayor and each Council member shall continue to meet the requirements of this section throughout the term of office.

SECTION 3-4 -- TERM LIMITS

Terms of office of the Mayor and Council members are limited to two successive four (4) year terms, as provided in Article XVIII, Section 11 of the Colorado Constitution. A partial term in office resulting from an appointment or election shall not be counted as a term.

SECTION 3-5 -- TERM OF OFFICE; TIME OF TAKING OFFICE; OATH

(a) Each Council member shall be elected for a four (4) year term. Council members' terms shall be staggered within each ward. The Mayor shall be elected for a four (4) year term.

(b) The Mayor and each Council member shall take office at the first regular meeting of the Council in January, following their election, and shall continue in office until their successors have been elected and take office, or a vacancy is earlier established.

(c) Before taking office, the Mayor and each Council member shall make to the City Clerk an oath or affirmation to support the United States Constitution, the State Constitution, and the Charter and ordinances of the City, and to faithfully perform the duties of the office.

SECTION 3-6 -- COMPENSATION

The Mayor and each Council member may receive such compensation as may be prescribed by ordinance. The salary of the Mayor, or of any Council member, shall not be increased or diminished during the term for which the Mayor or Council member has been elected. Subject to the Council's approval, the Mayor and Council members may be reimbursed for the actual and necessary expenses incurred in the performance of the duties of office.

SECTION 3-7 -- VACANCIES

(a) The Mayor's or a Council member's office shall become vacant whenever they are recalled, dies, becomes incapacitated, resigns, refuses to serve, ceases to be a resident of the City, is judicially declared mentally ill, or is convicted of a felony described in Section 3-3(c) of this Charter or has had more than three (3) consecutive unexcused absences from regular meetings of the Council. An absence from a regular meeting shall be considered unexcused only if the Council so determines by motion. The motion shall set forth the reasons for the determination.

(b) A vacancy shall be filled by a majority vote of the Mayor and/or the remaining Council after such vacancy occurs, provided there will not be a regular municipal election within ninety (90) days of such vacancy. To fill a vacancy, the Mayor and/or the remaining Council members may; (i) appoint any qualified person; (ii) conduct an open application process; or (iii) appoint the person who received the next highest vote total in the last municipal election should the vacancy occur within six (6) months of said election. The person appointed shall serve in that office until the next regular election.

(c) If the Council fails to reach a majority vote in the appointment of a new Mayor or Council member, the Council may call a special election to fill the vacancy, provided there will not be a regular municipal election within ninety (90) days of the last vote.

(d) If three or more vacancies shall occur between regular municipal elections, the remaining Council members and Mayor shall call a special municipal election to fill all vacancies if there will not be a regular municipal election within ninety (90) days of the most recent vacancy.

(e) If a Council member's office is vacated during the first two (2) years of a four-year term, the term of

the newly appointed Council member shall expire at the next regular municipal election, and the registered electors shall elect a Council member to complete the final two (2) years of that term.

ARTICLE 4

COUNCIL PROCEDURE

SECTION 4-1 -- MEETINGS

(a) 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, including a process by which particular meetings may be cancelled notwithstanding this Section.

(b) The Council shall cause written minutes of its regular and special meetings to be taken and retained in the records of the City.

SECTION 4-2 -- SPECIAL MEETINGS AND BUSINESS AT SPECIAL MEETINGS

(a) Special meetings shall be called by the City Clerk on the request of the Mayor or any three (3) Council members.

(b) A special meeting shall be held on at least twenty-four (24) hours written notice to each member of the Council.

(c) The Council shall not take action on any item of business at any special meeting of the Council unless it has been stated in the notice of the meeting.

SECTION 4-3 -- QUORUM

A majority of the members of the Council holding office at the time shall be a quorum for the transaction of business at all Council meetings.

SECTION 4-4 -- MEETINGS TO BE PUBLIC; EXECUTIVE SESSIONS

(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 at each meeting under such rules as the Council may prescribe.

(b) Notice of each regular and special meeting shall be posted at least twenty-four (24) hours in advance of the meeting. The notice shall include specific agenda information to the extent available.

(c) 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 except at a regular or special meeting. Subject to these requirements, a meeting may be recessed into an executive session by the affirmative vote of two-thirds (2/3) of the members of the Council present, 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 negotiation 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, to receive legal advice from an attorney representing the City, and for matters required by law to be kept confidential;

(4) For matters critical to the personal safety of the City employees or members of the Council and for matters involving the protection and security of City property;

(5) For personnel matters, except if the employee who is the subject of the session has requested an open meeting, or if the personnel matter involves more than one employee, all of the employees have requested an open meeting. The provisions of this paragraph shall not apply to discussions concerning any member of the local public body, any elected official, or the appointment of a person to fill the office of a member of the local public body or an elected official or to discussions of personnel policies that do not require the discussion of matters personal to particular employees; and

(6) To consider additional matters for which an executive session is permitted under the State statutes concerning the meetings of local public bodies.

(d) The general subject matter of any executive session shall be stated in the motion calling for the session.

(e) Except as authorized by the City Council, as required or permitted by judicial order, or as otherwise required or permitted by law, no participant in any executive session shall reveal any information gained as a result of the session.

SECTION 4-5 -- COUNCIL ACTS

The Council shall act only by ordinance, resolution, or motion. Each action shall be recorded in the minutes of the meeting. The Council may select the appropriate form for its action, except where a particular form is required by the Charter. A true digital or other copy of every ordinance and resolution as adopted shall be numbered and retained in the records of the City.

SECTION 4-6 -- VOTING

(a) Each member's vote on an ordinance or resolution shall be recorded in the minutes.

(b) Except where a greater number is required in this Charter, the final adoption of any ordinance or resolution shall require the affirmative vote of a majority of members of the Council present.

(c) No member of the Council shall vote on any matter concerning the member's own conduct.

(d) No member of the Council shall vote on any matter in which the member has a conflict of interest, as defined in Section 5-1.

(e) Except as provided in Subsections (c) and (d) of this section, each member of the Council who is present shall vote on each matter. Any refusal to vote, except when an abstention is required by Subsections (c) or (d) of this section, shall be recorded as an affirmative vote.

SECTION 4-7 -- ACTION BY ORDINANCE REQUIRED

In addition to such acts of the Council as are required by the State Constitution or this Charter to be by ordinance, every act of the Council making an appropriation, authorizing the borrowing of money, imposing a tax or increasing a tax rate, approving the transfer of fee ownership in real property owned by the City, approving the sale of water rights owned by the City, or establishing any regulation for violation of which a fine, imprisonment, or both may be imposed, shall be by ordinance.

SECTION 4-8 -- FORM OF ORDINANCE

(a) Every ordinance shall be introduced in printed form. The enacting clause of all ordinances shall be: BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CRIPPLE CREEK, COLORADO.

(b) Except as otherwise provided in this Charter, all ordinances shall take effect thirty (30) 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.

SECTION 4-9 -- ORDINANCES - ADOPTION PROCEDURE

(a) The following procedure shall be followed in adopting any ordinance except an emergency ordinance:

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

(2) The ordinance shall be read in full or by title.

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

(4) If the ordinance is adopted on first reading, it shall be published in full.

(5) The ordinance shall be placed on the agenda at a second regular meeting or special meeting of the Council held not earlier than four (4) days after the first publication.

(6) Prior to taking final action on the ordinance, the Council shall permit public comments on the ordinance, then shall vote to amend, finally adopt, or reject the ordinance, or take such other action as it deems appropriate.

(7) Upon final adoption, the ordinance shall be published either in full or by title only, as the Council may direct; however, if the ordinance is amended prior to final adoption and is published by title only, the amendment shall be published in full.

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

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

SECTION 4-10 -- EMERGENCY ORDINANCES

(a) An emergency ordinance shall require the affirmative vote of two-thirds (2/3) of the entire Council. The facts showing the emergency shall be specifically stated in the ordinance.

(b) 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 publication prior to final adoption. An emergency ordinance shall take effect upon final adoption or on such later date as specified in the ordinance and shall expire ninety (90) days after such adoption. Following final adoption, an emergency ordinance shall be published in full.

SECTION 4-11 -- CODIFICATION

The Council shall cause ordinances of a general and permanent nature to be codified. The codification, or any revisions to the codification, may be adopted by reference as provided in Section 4-12.

SECTION 4-12 -- 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 City Clerk. Any penalty clause in such a code may be adopted only if set forth in full in the adopting ordinance.

SECTION 4-13 -- PUBLIC RECORDS

All public records of the City shall be open for inspection by any person in accordance with the State statutes concerning public records.

SECTION 4-14 -- FINES AND PENALTIES FOR ORDINANCE VIOLATIONS

Penalties for the violation of City ordinances shall be established by ordinance. No fine or sentence for such a violation shall exceed the maximums established by the State statutes for municipal ordinance violations.

ARTICLE 5

CODE OF ETHICS

SECTION 5-1 -- CONFLICTS OF INTEREST - GENERAL

(a) A "conflict of interest" for purposes of this Article, means:

(1) any pecuniary, property, or commercial benefit of any person covered by this Article or of any parent, spouse, or child of such person; or

(2) any personal or private interest of any person covered by this Article, in any matter proposed or pending before the Council, board or commission, as applicable. However, a "conflict of interest" does not include any matter involving the common public interest, or any matter in which a similar benefit is conferred upon or is available to all persons or property similarly situated.

(b) No person subject to the requirements of this Article shall fail to comply with the applicable disclosure and non-action requirements of this Article.

SECTION 5-2 -- DISCLOSURE AND NON-ACTION - MATTERS INVOLVING CONFLICT OF INTEREST

(a) If the Mayor, any Council member, or any member of a board or commission has a conflict of interest with regard to any matter before the Council, board, or commission, as applicable, he or she shall follow the disclosure and other requirements of this section.

(b) At or before the time the matter is heard, the member shall disclose the interest to the Council, board, or commission, as applicable. The member shall not vote on or otherwise take any formal action concerning the matter, shall not participate in any executive session concerning the matter, and shall refrain from attempting to influence any other member in voting on the matter.

SECTION 5-3 -- CITY EMPLOYEES; OTHER PROVISIONS CONCERNING CONFLICTS OF INTEREST

(a) No City employee shall take any official action concerning any matter as to which the employee has a conflict of interest.

(b) Neither the Mayor, any Council member, any board or commission member, nor any employee, shall use for personal or private gain, or for any other personal or private purposes, any information which is not available to the public and which is obtained by reason of the person's position with the City, or disclose any such information except as required by law.

(c) The provisions of this Article shall be in addition to any applicable conflict of interest provisions of the State statutes that are at least as restrictive as this Article and shall supersede any such conflict of interest provisions of the State statutes that are less restrictive than this Article.

ARTICLE 6

ELECTIONS

SECTION 6-1 -- COLORADO MUNICIPAL ELECTION LAWS ADOPTED

City elections shall be governed by the State statutes contained in the Colorado Municipal Election Code, except as otherwise provided by this Charter or by ordinance. All regular and special elections shall be nonpartisan.

SECTION 6-2 -- REGULAR ELECTIONS

A regular election shall be held in November of each odd-numbered year on the date established by the State statutes for the regular elections of statutory cities.

SECTION 6-3 -- 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 6-4 -- WARDS

(a) The City shall be divided into two (2) wards, the boundaries of which shall be changed only by a resolution adopted by the affirmative vote of a majority of the entire Council.

(b) The boundaries of the wards established pursuant to this section shall not be changed more often than once in six (6) years, unless change is necessary to conform to constitutional apportionment requirements. Territory added to the City shall become a part of such ward or wards as may be determined by ordinance; but this shall not prevent apportionment to conform to constitutional requirements.

(c) Notwithstanding any other provision of this Charter, no change in ward boundaries shall create a vacancy during the term of any Council member in office at the time of the change.

SECTION 6-5 -- CONDUCT OF ELECTIONS

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

ARTICLE 7

INITIATIVE, REFERENDUM, AND RECALL

SECTION 7-1 -- INITIATIVE

(a) The registered electors of the City may initiate a proposed ordinance, pursuant to the initiative power reserved by Article V, Section 1(9) of the State Constitution, as to any legislative matter which is subject to said initiative power. Any initiated measure shall be in the form of an ordinance. The ordinance shall be initiated pursuant to the State statutes which establish procedures for a municipal initiative, except as otherwise provided in this Charter or the City Code.

(b) An initiative petition shall be signed by registered electors of the City equal in number to at least five (5) percent of the total number of electors of the City registered to vote as of the date upon which the petition is approved as to form by the Clerk.

(c) The City Clerk shall not count as valid any signature on an initiative petition if the date of the signature is prior to the date the form of the petition was approved by the City Clerk.

(d) The City Clerk shall not count as valid any signature on an initiative petition if more than ninety (90) days have elapsed between the date the form of the petition was approved by the City Clerk and the date of the signature.

SECTION 7-2 -- REFERENDUM

(a) The registered electors may require an adopted ordinance to be referred to them at an election, pursuant to the referendum power reserved by Article V, Section 1(9) of the State Constitution, to the extent the ordinance constitutes a legislative matter which is subject to said referendum power. Such an ordinance shall be referred pursuant to the State statutes which establish procedures for a municipal referendum, except as otherwise provided in this Charter or the City Code. The referendum power shall not apply to ordinances addressing budgets, capital programs, appropriations, levies of taxes, special elections, and salaries or terms of employment of City officers or employees are not subject to referendum. The referendum power shall not apply to an emergency ordinance.

(b) A referendum petition shall be signed by registered electors of the City equal in number to at least five (5) percent of the total number of electors of the City registered to vote as of the date upon which the petition is approved as to form by the Clerk.

(c) The City Clerk shall not count as valid any signature on a referendum petition if the date of the signature is prior to the date the form of the petition was approved by the City Clerk.

SECTION 7-3 -- RECALL

(a) The Mayor or any Council member may be recalled from office pursuant to the State statutes which establish procedures for the recall of municipal elective officers, except as otherwise provided in this Charter or the City Code.

(b) A petition to recall a Council member shall be signed by registered electors of the ward from which the Council member was elected, and a petition to recall the Mayor shall be signed by registered electors of the City. The signers shall number at least twenty-five (25) percent of the entire vote cast for all the candidates for that particular office at the last preceding election at which the person sought to be recalled was elected to office.

(c) The City Clerk shall issue a written initial determination that a recall petition is sufficient or not sufficient by the close of business on the fifteenth (15) business day after the petition is filed or, if that day is not a regular business day, on the first regular business day thereafter.

(d) If the office held by the person sought to be recalled would otherwise be filled at a regular City election scheduled to be held within ninety (90) days after submission of the recall petition, the petition shall not be accepted, and no recall election shall be held.

(e) If a regular City election is scheduled to be held within ninety (90) days after submission of the recall petition, even though that election is not the one at which the office held by the person sought to be recalled would otherwise be filled, the recall election shall be held at the same time as that regular City election.

(f) If a general statewide election is scheduled to be held within ninety (90) days after submission of the recall petition, the recall election shall be held at the same time as that statewide election.

(g) 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, unless the signers number at least fifty (50) percent of the entire vote cast for all the candidates for that particular office at the last preceding election at which the person sought to be recalled was elected to office.

SECTION 7-4 -- PROHIBITED ACTION BY COUNCIL

(a) No initiated ordinance adopted by the registered electors of the City may be substantively amended or repealed by the Council during a period of six months after the date of the election on the initiated ordinance. During the succeeding six months, the ordinance may be substantively amended or repealed by the affirmative vote of two-thirds (2/3) of the entire Council. Thereafter, the ordinance may be repealed or amended in the manner of any other ordinance

(b) No ordinance rejected by the registered electors of the City in a referendum election may be substantively readopted by the Council during a period of six months after the date of such election. During the succeeding six months, the ordinance may be substantively amended or repealed by the affirmative vote of two-thirds (2/3) of the entire Council. Thereafter, the ordinance may be repealed or amended in the manner of any other ordinance

SECTION 7-5 -- WITHDRAWAL OF PETITION

An initiative, referendum, or recall petition may be withdrawn at any time prior to the Clerk's initial determination of petition sufficiency, by filing with the City Clerk a written request for withdrawal signed by a majority of the 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.

SECTION 7-6 -- PETITION FORMS TO BE PROVIDED

The City Clerk shall provide forms of initiative, referendum, and recall petitions which conform to the requirements of this Charter and the City Code.

SECTION 7-7 -- SINGLE-SUBJECT REQUIREMENT - INITIATED AND REFERRED MEASURES

(a) As used in this section, the single subject requirement means that the matters in the measure submitted for voter approval are necessarily or properly connected and are not disconnected or incongruous.

(b) No measure proposing an amendment to the ordinances of the City by means of a petition for initiative or referendum shall be submitted to the registered electors of the City if the measure contains more than one subject.

(c) The City Clerk shall approve for petition circulation measures proposing referred ordinances or initiated ordinances only when such measures contain a single subject.

ARTICLE 8

CITY

MANAGER

SECTION 8-1 -- APPOINTMENT, QUALIFICATIONS, EVALUATION AND REMOVAL

(a) The City Council, by the affirmative vote of two-thirds (2/3) of the entire Council, shall appoint a City Manager to serve at the pleasure of the Council.

(b) The Council shall establish the City Manager's compensation.

(c) The City Council shall evaluate the City Manager's performance at least annually.

(d) The removal of the City Manager shall require the affirmative vote of two-thirds (2/3) of the entire Council.

SECTION 8-2 -- ACTING CITY MANAGER

The City Council shall designate a qualified City employee to serve as Acting City Manager during the Manager's absence or disability, or during times when the position is vacant.

SECTION 8-3 -- EXCLUSIVE SERVICE TO CITY

During the period of the appointment, the City Manager shall not be an employee of, or perform any services for compensation from, any person or entity other than the City, unless the Manager has first obtained the approval of the City Council.

SECTION 8-4 -- POWERS AND DUTIES OF THE CITY MANAGER

The City Manager shall be the chief administrative officer of the City. The City Manager shall have the following powers and duties:

(a) Be responsible for the enforcement of the ordinances, resolutions, franchises, contracts, and other enactments of the City.

(b) Hiring and supervising personnel, overseeing all aspects of City functions and activities, and servicing contracts and departments that report to the City Manager;

(c) Cause a proposed budget to be prepared and submitted to the Council annually and be responsible for the administration of the adopted budget.

(d) Cause to be prepared and submitted to the City Council, as of the end of the fiscal year, a complete report on finances and administrative activities of the City for that year and make other reports as requested by the Council concerning the matters of the City in the Manager's charge.

(e) Keep the City Council apprised of the financial condition and future needs of the City.

(f) Except as to the Municipal Court and the office of the City Attorney, exercise supervision and control over all City departments, and make recommendations to the City Council concerning the establishment, consolidation or abolition of such departments.

(g) Attend City Council meetings and participate in discussions with the Council in an advisory capacity.

(h) Be responsible for informing the public on City functions and activities.

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

SECTION 8-5 -- COUNCIL'S RELATIONSHIP TO EMPLOYEES

(a) Neither the Council, the Mayor, nor any Council member shall dictate or interfere with the appointment of, or the duties of, any City employee subordinate to the City Manager or to the City Attorney, or prevent or interfere with the exercise of judgment in the performance of the employee's City responsibilities. The Council, the Mayor, and each Council member shall deal with such employees solely through the Manager or the City Attorney, as applicable, and shall not give orders or reprimands to any such employee.

(b) The City Manager alone shall be responsible to the City Council for the proper administration of all matters placed in the Manager's charge by or pursuant to this Charter.

ARTICLE 9

LEGAL AND JUDICIARY

SECTION 9-1 -- CITY ATTORNEY

(a) The City Council, by the affirmative vote of two-thirds (2/3) of the entire Council, shall appoint a City Attorney to serve at the pleasure of the Council.

(b) The Council shall establish the City Attorney's compensation.

(c) The City Attorney shall be, at all times while serving as City Attorney, an attorney at law admitted to practice in Colorado.

(d) The removal of the City Attorney shall require the affirmative vote of two-thirds (2/3) of the entire Council.

(e) The City Attorney shall serve as the chief legal advisor for the City, shall advise the Council and other City officials in matters relating to their official powers and duties, and shall perform such other duties as may be designated by the Council.

(f) The City Council shall evaluate the City Attorney's performance at least annually.

(g) The Council may employ such special counsel as may be recommended by the City Attorney, the City Manager, or the Council.

SECTION 9-2 -- MUNICIPAL COURT; MUNICIPAL JUDGE

(a) There shall be a Municipal Court vested with jurisdiction over matters arising under the Charter and ordinances of the City. The Municipal Court shall be a court of record.

(b) The City Council shall appoint, by the affirmative vote of two-thirds (2/3) of the entire Council, a presiding municipal judge and such deputy municipal judges as the Council deems necessary.

(c) The Council shall establish the compensation for the presiding municipal judge and each deputy municipal judge. The compensation shall not be dependent upon the outcome of the matters to be decided by the judge.

(d) The presiding municipal judge and each deputy municipal judge shall be, at all times while serving as judge, an attorney at law admitted to practice in Colorado.

(e) The removal of any judge during the term of office shall require the affirmative vote of two- thirds (2/3) of the entire Council. Any such removal shall only be for cause as specified in the statutes applicable to the removal of municipal judges, and for any other conduct which would constitute a violation of the Colorado Code of Judicial Conduct, as from time to time amended, if committed by a judge subject to such Code.

ARTICLE 10

BOARDS AND COMMISSIONS

SECTION 10-1 -- EXISTING BOARDS AND COMMISSIONS

Each board and commission existing at the time this Charter is adopted shall continue, except as otherwise provided by ordinance. The City Council may, by ordinance, establish, consolidate or abolish any board or commission, except that the Planning Commission and the Board of Adjustment and Appeals may not be abolished.

SECTION 10-2 -- BOARDS AND COMMISSIONS - GENERAL

(a) Except as otherwise provided by this Charter or by ordinance, each board and commission shall be advisory in character. The selection, term, and responsibilities concerning each board and commission shall be as established by ordinance. The policies and other matters concerning each board and commission shall be as established by resolution of the Council.

(b) The appointment or removal of any board or commission member who is required by ordinance to be appointed by the City Council shall require the affirmative vote of a majority of the entire Council. A member appointed by the City Council shall serve at the pleasure of the Council.

(c) The members of each board and commission shall serve without compensation but may be paid authorized expenses actually incurred in the performance of the duties of office.

(d) No board or commission shall hold any executive session except in accordance with procedures which shall be consistent with those established in Section 4-4, and only for the purposes specified in Section 4-4.

ARTICLE 11

FINANCE, BUDGET, AND AUDIT SECTION 11-1 -- FISCAL YEAR

The fiscal year shall be the same as the calendar year.

SECTION 11-2 -- ANNUAL BUDGET ESTIMATES

(a) Unless a different date is set by the City Council, each department head shall submit to the City Manager, on or before the first day of August, the department's proposed budget for the next ensuing fiscal year.

(b) Unless a different date is set by the City Council, the City Manager shall submit to the Council, on or before the first Tuesday in October of each year, a proposed budget for the City for the next ensuing fiscal year.

(c) The proposed budget shall provide a complete financial plan for the City in a format acceptable to the City Council. Except as otherwise provided by this Charter, the proposed budget shall be prepared in accordance with the State statutes establishing the local government budget laws and the local government uniform accounting laws.

SECTION 11-3 -- CAPITAL BUDGET ESTIMATES

As a part of the proposed budget or as a separate report attached thereto, the City Manager shall also present a program of proposed capital projects for the ensuing fiscal year and the four (4) fiscal years thereafter. Estimates of the cost of such projects shall be submitted together with suggested methods of financing the same. The City Manager may recommend the omission or deferment of projects.

SECTION 11-4 -- PUBLIC HEARINGS

(a) Within fourteen (14) days after it receives the proposed budget and the proposed capital projects program from the City Manager, the City Council shall set the date and time for at least one (1) public hearing on the same.

(b) Notice of the public hearing shall be published at least once and shall state that copies of the proposed budget and the proposed capital projects program are available for public inspection in the office of the City Clerk.

SECTION 11-5 -- COUNCIL ACTION ON BUDGET

(a) Unless another date is provided by ordinance, the Council shall adopt the budget, by ordinance, on or before the date provided by law for certification of the ad valorem property tax levy.

(b) If the Council fails to adopt the budget by the required date, the amounts budgeted and appropriated for the then-current fiscal year, together with any additional amounts necessary for payments of principal and interest on securities and other payment obligations, shall be deemed the budgeted and appropriated amounts 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 that fiscal year.

(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.

(d) Notwithstanding any other provision of this Charter, an ordinance adopting or amending the budget, making any appropriation, or levying the ad valorem property tax, shall be effective upon final adoption.

SECTION 11-6 -- BUDGET CONTROL

(a) Except as otherwise provided in this Charter or by ordinance, procedures concerning supplemental appropriations, transfers, contingencies, and other matters pertaining to the budget, shall be as set forth in the State statutes concerning the budgets of local governments.

(b) During the fiscal year, no City department or other spending unit shall expend or contract to expend any money, or incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts appropriated by the City Council. Any contract, verbal or written, made in violation of this subsection shall be void, and no moneys of the City shall be paid on such contract; except that the City Council may ratify such a contract if it determines that ratification would be in the best interest of the City, and if it first adopts an ordinance making the necessary appropriation.

(c) Nothing in this section shall prevent the City from entering into a multiple-year contract in the manner provided by law.

(d) The City Council, by resolution, may authorize a maximum amount which the City Manager may transfer from any unused balance of any general fund appropriation or portion thereof from one (1) department or other spending unit to another. Except as otherwise provided in this Charter, the transfer of monies from one (1) fund to another shall only be made by an ordinance amending the budget as adopted.

(e) Monthly or more often if required by the Council, the City Manager shall submit to the Council data showing the relation between the estimated and actual revenues and expenditures to date.

(f) The balance in any budget appropriation at the end of the fiscal year shall become a part of the same fund for the next fiscal year.

(g) Each department head shall advise the City Manager of any financial irregularities in the department.

SECTION 11-7 -- INDEPENDENT AUDIT

The Council shall provide for a financial audit, which shall be performed at least annually by a certified public accountant selected by the Council. The audit shall be performed in accordance with the State statutes establishing the local government audit laws. Copies of the audit shall be made available for public inspection.

ARTICLE 12

MUNICIPAL BORROWING AND TAXATION SECTION 12-1 -- FORMS OF

BORROWING

Subject to any applicable limitations in the Colorado Constitution, the City may borrow money and issue securities or enter into other obligations to evidence such borrowing in any form and in any manner determined by the Council to be advantageous to the City.

SECTION 12-2 -- MUNICIPAL TAXATION

The City Council may adopt, by ordinance, such taxes as are not prohibited for home rule municipalities by the Colorado Constitution, subject to any applicable limitations in said Constitution, including any applicable voter approval requirements.

ARTICLE 13

CITY-OWNED UTILITIES

SECTION 13-1 -- AUTHORITY AND POWERS - UTILITIES

The City shall have and exercise, in any matter pertaining to City-owned utilities, including water and water rights and acquisition thereof, and bonded indebtedness in connection therewith, all the authority and powers provided by the Colorado Constitution and statutes and other applicable laws.

SECTION 13-2 -- UTILITY RATES AND FINANCES

(a) The Council shall from time to time fix, establish, maintain, and provide for the collection of rates, fees, and charges for utility services furnished by the City.

(b) Such rates, fees, and charges shall be sufficient, in the Council's judgment, to provide good service to the customers, pay all bonded indebtedness, pay legally required refunds, cover the cost of operation, maintenance, additions, extensions, betterments, and improvements, provide a reasonable return on the City's investment in utility properties and capital investments, and reimburse the general fund for administrative services and overhead provided and incurred by the City on behalf of each utility, together with a sum which, in the Council's judgment, is equivalent to that which would have been obtained from a franchise fee or utility occupation tax on the utility.

(c) The provisions of this section shall be subject at all times to the performance by the City of all covenants and agreements made by it in connection with the issuance, sale or delivery of any bonds of the City, payable out of the revenues derived from the operation of its utilities, whether such revenue bonds be heretofore or hereafter issued.

SECTION 13-3 -- SEPARATE UTILITY ACCOUNTS

(a) The accounts of each utility owned and operated by the City shall be kept separate and distinct from all other accounts of the City.

(b) Loans from a utility account to another City account shall be allowed with the Council's approval, but shall require the affirmative vote of a majority of the entire Council. All loans will require a term to be specified and the payment of interest thereon. The interest rate shall be adjusted annually to a rate equal to the average return of City investments for the preceding twelve (12) months.

ARTICLE 14

FRANCHISES AND PERMITS

SECTION 14-1 -- NEW FRANCHISES AND RENEWALS

(a) No franchise shall be granted or renewed for a longer period than fifteen (15) years.

(b) Any franchise, and any renewal of or amendment to a franchise, shall be granted by the City Council by ordinance. Any ordinance granting, renewing, or amending a franchise shall be subject to a timely referendum, notwithstanding any emergency declaration in the ordinance, if one is filed in accordance with the procedures and requirements set forth in this Charter. If such an election is ordered, the grantee of such franchise shall deposit the cost of the election with the City Clerk in an amount determined by the City Clerk.

SECTION 14-2 -- REVOCABLE PERMITS OR LICENSES

The City may grant a permit or license at any time for the temporary use or occupation of any street, alley, other public way, or City-owned place. Any such permit or license shall be revocable by the City at any time and without cause, whether or not such right to revoke is expressly reserved in the permit or license.

ARTICLE 15

MISCELLANEOUS PROVISIONS

SECTION 15-1 -- INTERPRETATION

(a) 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.

(b) Except as otherwise specifically provided in or indicated by the context, 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 15-2 -- SEVERABILITY OF CHARTER PROVISION

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 15-3 -- CONVEYANCE OF REAL PROPERTY OWNED AND USED FOR PARK PURPOSES

Fee ownership in any land which is owned or acquired by the City, and which is used by the City for park purposes, shall not be conveyed except upon the approval of the registered electors of the City voting thereon at a regular or special election.

SECTION 15-4 -- BONDING

Before permitting any member of the Council or any City employee to perform any function or duty involving the handling of City funds, the City shall obtain a fidelity bond or insurance coverage in an amount acceptable to the Council.

SECTION 15-5 -- BEQUESTS, GIFTS AND DONATIONS

Except as otherwise provided in this Charter, the Council, on behalf of the City, may receive bequests, gifts, and donations of all kinds of property with power to manage, sell, lease, or otherwise dispose or provide for the disposition of the same.

SECTION 15-6 -- SATURDAYS, SUNDAYS, AND HOLIDAYS

If the last day of any period required to be computed under this Charter is a Saturday, Sunday, or City holiday, the period shall be extended to include the next day which is not a Saturday, Sunday, or City holiday.

SECTION 15-7 -- PENALTY FOR VIOLATION OF CHARTER

Any willful violation of a provision of this Charter shall be deemed a misdemeanor and may be prosecuted in the Municipal Court. Any person convicted of such a violation may be punished by imprisonment for a term not to exceed the maximum term of imprisonment that the Municipal Court is authorized to impose pursuant to Section 4-14, by a fine in an amount not to exceed the maximum fine that the Municipal Court is authorized to impose pursuant to Section 4-14, or by both such fine and imprisonment.

SECTION 15-8 -- COMPETITIVE BIDDING

Purchases of or contracts for supplies, material, equipment, or improvements shall be made under such requirements with respect to competitive bidding as the Council may prescribe by ordinance.

ARTICLE 16

TRANSITIONAL PROVISIONS

SECTION 16-1 -- EFFECTIVE DATE OF CHARTER

This Charter shall become effective immediately upon filing and recording with the Secretary of State of Colorado following approval of the registered electors of the City.

SECTION 16-2 -- PRIOR CITY LEGISLATION

All ordinances, resolutions, rules, and regulations of the City 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 16-3 -- CONTINUATION OF PERSONNEL

The employment of each employee of the City serving on the effective date of this Charter shall continue as if this Charter had not been adopted, except that the job title of the City Administrator shall be changed to City Manager.

SECTION 16-4 -- CONTINUATION OF TERMS OF OFFICE - MAYOR, COUNCIL MEMBERS, AND BOARD AND COMMISSION MEMBERS

Notwithstanding any other provision of this Charter, the terms of office of the Mayor and each Council member, and of the members of each City board and commission, serving prior to the effective date of this Charter, shall continue as if this Charter had not been adopted.

SECTION 16-5 -- SAVING CLAUSE

Neither the adoption of this Charter nor the amendment or repeal of any ordinance, resolution, rule, or regulation, or portion thereof, inconsistent with this 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 City by virtue of any such ordinance, resolution, rule, or regulation, or portion thereof, or any other provision of law theretofore existing or otherwise accruing to the City. All such rights shall vest in and inure to the City or to any persons asserting any such claims against the City as fully and as completely as though this Charter had not been adopted, and as though there had been no amendment or repeal of any ordinance, resolution, rule, regulation, or portion thereof. Such rights shall include but not be limited to:

(a) Any contractual relationships between the City and any employee by virtue of any retirement and pension plans in effect on the effective date of this Charter; and

(b) Any franchise ordinances and agreements of the City in effect on the effective date of this Charter.

---END---