

TOWN OF SILVERTHORNE

HOME RULE CHARTER

1994

Adopted by the Electorate
of the Town of Silverthorne
on April 5, 1994

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

Objectives

The Charter seeks to achieve the following main purposes:

- to reserve to the Town of Silverthorne the greatest autonomy and power of self-government legally permissible under the Constitution and the laws of the State of Colorado;
- to establish a structure for the efficient and orderly conduct of the Town government while also providing for and encouraging the fullest possible citizen participation in the affairs of the Town; and
- to safeguard the well-being of all inhabitants of the Town and set forth the framework for the Town's future growth and development as a quality community.

Town government

To accomplish these objectives, the Charter provides for the council-manager form of government.

The policy-making and legislative powers are vested in the Town Council, consisting of the Mayor and six councilmembers elected at large for four-year overlapping terms. Councilmembers are elected on the basis of the largest number of votes received, while the election of the Mayor requires a majority of all the votes cast for that position. The Council may take action through ordinances, resolutions and motions. The Charter establishes procedures to promote the expeditious and efficient handling of Town matters as well as to encourage citizen participation.

The Town Manager is the chief executive and administrative officer of the Town. The Town Manager is appointed by, and serves at the pleasure of, the Town Council.

Financial controls

The Charter imposes strict financial controls to insure responsible use of public funds, and provides for the conduct of the Town business on a balanced budget basis.

Citizen rights

The protection of citizen rights is a major concern of this Charter. Provisions are established for the recall of elected officers, for control of legislation by the people through initiative and referendum, and for amendment of the Charter by popular vote. Also included are provisions requiring Town Council meetings to be open to the public and procedures for notice and publication of ordinances.

Continuing a well established Silverthorne tradition, citizen participation in the Town government is further promoted through service on commissions and boards. This includes a planning commission which provides recommendations for the orderly development, growth and beautification of the Town and adjacent areas, including the regular review and amendment of a comprehensive plan.

Transitional provisions

For an orderly transition to home rule government, the Charter provides for the continuation in office of all present elected officials, appointed officers and employees, and for the continuation of existing legislation and obligations so long as they do not conflict with the Charter.

The Commission believes that this Charter provides a framework for sound and progressive municipal government which will maintain and enhance the quality of life of the citizens of Silverthorne, promote enlightened growth and development of the Town, and continue to be responsive to the needs and interests of the people.

Home Rule Charter Commission members:

Chuck Bear, Chairman
Silvana del Piccolo
Howard Koontz
Tom Long
Traci McGeehan
Marilyn Repsher
Steve Swanson
Diane Trujillo
John Whelan

PREAMBLE

Municipal home rule is based upon the theory that the citizens of a municipality should have the right to decide how their local problems should be solved. Still, the powers of home rule municipalities are limited by their charters, federal law, the state constitution, court decisions and legislation enacted by the General Assembly. It is the primary goal of this charter document to allow the government of the Town of Silverthorne to operate more efficiently and to be successful in solving problems. It will always be the objective of the government of the Town of Silverthorne to act in the best interests of the Town and its residents.

ARTICLE I General Provisions

Section 1.1 Name and Boundaries

The municipal corporation heretofore existing as the Town of Silverthorne, Summit County, State of Colorado, shall remain and continue a body politic and corporate and under this Charter, known as the Town of Silverthorne, with boundaries the same as presently established, until changed in a manner authorized by law.

Section 1.2 Powers

The Town shall have all the power of local self-government and home rule and all power possible for a municipality to have under the Constitution and laws of the State of Colorado. The enumeration of particular powers under this Charter is not exclusive of others.

Section 1.3 Rights and Liabilities

By the name of the Town of Silverthorne, a municipal corporation, the Town shall have perpetual succession; shall own, possess and hold all property, real and personal, heretofore owned, possessed and held by the Town, and may purchase, lease, receive, sell or dispose of such property; assumes and shall manage and dispose of all trusts in any way connected therewith; shall succeed to all the rights and liabilities of the Town; shall acquire all benefits and assume and shall pay all bonds, obligations and indebtedness of the Town; may sue and defend; may purchase, lease, receive, hold and enjoy, or sell and dispose of real and personal property; may establish municipal utility systems; shall have a common seal and alter the same at pleasure.

Section 1.4 Form of Government

The municipal government provided by this Charter shall be known as council-manager government. Pursuant to the Charter provisions and subject only to limitations imposed by the Constitution and laws of the State of Colorado, all powers shall be vested in an elective Town Council which shall enact local legislation, adopt budgets, determine policies and appoint the Town Manager who shall execute the laws and administer the Town government. All powers of the Town shall be exercised in the manner prescribed by this Charter, or if the manner be not so prescribed, then in such manner as may be prescribed by ordinance, resolution or motion, or as provided by other applicable law.

ARTICLE II Elections

Section 2.1 Colorado Municipal Election Laws Adopted

Town elections shall be governed by the Colorado municipal election laws as now existing or hereafter amended or modified, except as otherwise provided in this Charter, or by ordinance hereafter enacted.

Section 2.2 Registration, Judges, Clerks and Election Commission

The Council may by ordinance establish the method for the registration of electors, the qualifications and compensation of election judges and clerks, and the boundaries of election districts. The Council may by ordinance establish an election commission consisting of the Town Clerk as chair and two additional members to be appointed by the Council, with such powers, duties, terms and qualifications as provided by such ordinance. In lieu of an election commission, the Council may vest any or all of the powers herein granted in the Town Clerk alone.

Section 2.3 Election Day

A regular Town election shall be held on the first Tuesday in April commencing in the year 2010, and in each even numbered year thereafter. (Amended by Ord. No. 2009-14 §1, 11/3/09 election)

Section 2.4 Hours of Voting

Polling places for all Town elections shall be open from 7:00 a.m. to 7:00 p.m. on Election Day.

Section 2.5 Nonpartisan Elections

All special and regular elections shall be nonpartisan. No candidate for any municipal office shall run under any party label, unless permitted by ordinance adopted thirty days or more prior to the election.

Section 2.6 Election Precincts

The Town shall constitute one voting precinct, provided that the Council may by ordinance establish for the convenience of voters additional precincts thirty days or more prior to any election. The precincts so established shall remain for subsequent elections unless cancelled or amended by ordinance. Precincts shall be contiguous and compact wherever possible and shall have approximately the same number of voters.

Editor's Note: Sections 2.7 and 2.8 were repealed in their entirety by Ord. No. 2009-14 §§2, 3, 11/3/09 election.

Section 2.9 Special Election

Any special Town election may be called by resolution of the Council at least thirty days in advance of such election. The resolution calling a special Town election shall set forth the purpose or purposes of such election.

Section 2.10 Recall

Every elective officer may be recalled from office after holding office for at least six months. The procedure to effect the recall of any elective officer shall be as follows:

a. A petition shall be signed in accordance with Article XXI Section 4 of the Colorado Constitution. The petition shall contain a general statement of not more than two hundred words setting forth the specific factual reasons for the recall of the officer sought to be removed. The petition shall be filed with the Town Clerk. The only valid grounds for recall are willful misconduct or failure to perform duties.

b. When such petition is filed, the Town Clerk shall notify the Council and the Council shall by resolution call a recall election to be held within ninety days after the filing of the petition, if such petition is found to meet all the requirements of this Charter and the Colorado Constitution.

c. The ballot upon which the proposed recall is submitted shall be prepared by the Town Clerk and shall summarize and state the grounds set forth in the petition for demanding such recall and there shall also be printed thereon the words, "Shall [name of person against whom the recall petition is filed] be recalled from the office of [title of office]?" Following such question shall be the words "Yes" or "No" and a mechanism for indicating the vote for or against such recall.

d. In the event an officer is recalled by a majority vote of those voting on the question, the office shall be deemed vacant and shall be filled as provided in this Charter for the filling of such vacancies, except that the officer recalled shall not be appointed to fill the vacancy.

e. In the event an officer is not recalled after an election pursuant to this Section, no petition for the recall of the same officer for the same reason or reasons shall be accepted for filing by the Town Clerk for a period of six months from the date of the recall election.

ARTICLE III Town Council

Section 3.1 Elective Officers

The elective officers of the Town shall be a Mayor and six Councilmembers. Councilmembers and the Mayor shall be elected from the Town at large.

Section 3.2 Council Districts

The Council may provide by ordinance adopted at least ninety days prior to any regular Town election for the creation of two or more councilmember districts. Such districts shall be contiguous and compact wherever possible and shall have, as nearly as possible, substantially equal population. At least one councilmember shall be elected from each district by the voters of the entire Town. In the event such districts are created, the Council shall also amend precinct boundaries, if any, to conform to the district boundaries. If at any regular election a district could become unrepresented, then in that event the candidate from that district receiving the larger number of votes shall be elected to represent that district. All other vacancies which may occur at that election shall be filled by the candidates at large receiving the highest number of votes. Should councilmember districts be established pursuant

to this Section, each Councilmember who is elected from a district shall also be a resident and registered elector of that district when nominated and elected or appointed. In the event a Councilmember moves out of the district from which he or she was elected, that office shall be deemed vacant and shall be filled as provided by Section 3.6.

Section 3.3 Qualifications of Elective Officers

Each elective officer when nominated and elected or appointed shall be a registered elector of the Town and shall have resided in the Town for one year immediately preceding such election or appointment.

Section 3.4 Powers of the Council

All powers of the Town not otherwise limited or conferred upon others by this Charter shall be vested in the Town Council. The Council shall have the power to enact and provide for the enforcement of all ordinances necessary to protect life, health, safety, welfare and property; to declare, prevent and summarily abate and remove nuisances; to preserve and enforce good government, general welfare, order and security of the Town and the inhabitants thereof; to enforce ordinances and regulations by ordaining fines, imprisonment, public service or any combination thereof; to provide for the granting of probation and the conditional suspension of sentences by the Municipal Court; and to delegate to staff, officials, boards and commissions within limitations of the Colorado Constitution and this Charter, such functions, powers and authority of the Town as it deems proper and advisable. No enumeration or particular powers granted to the Council shall be construed to impair any general grant of power herein contained or granted by the Colorado Constitution, nor to limit any such grant of power.

Section 3.5 Terms of Office

The Mayor and the six Trustees holding office at the time of adoption of this Charter shall remain in office until their current terms expire and their successors are elected as provided in this Section. Any elective officer of the Town may succeed himself or herself in office.

a. The term of office for Mayor, commencing with the election held in the year 1992, shall be for four years. Thereafter, election for the Mayor shall be held at the regular Town election every fourth year.

b. The three members of the current Board of Trustees elected in 1990 shall serve as Councilmembers until the regular Town election in 1994, at which time their tenure shall expire and their successors shall be elected, each for a four-year term of office. The three members of the current Board of Trustees elected in 1992 shall serve as Councilmembers until the regular Town election in 1996, at which time their terms shall expire and their successors shall be elected, each for a four-year term of office.

c. At the regular Town election in the year 1994 and every two years thereafter, three members of the Town Council of the Town of Silverthorne shall be elected for the following terms of office:

1. Those nominees seeking election for the Town Council who receive the first, second and third largest number of votes each shall be elected for a four-year term of office.

2. It is the intent of this Section that members of the Council serve four-year overlapping terms of office with three Councilmembers elected at each regular Town election.

3. In the event of a tie, there shall be a drawing by lot pursuant to the Colorado Municipal Election Code at the first regular meeting of the Town Council following the election. The winner of said lot drawing shall serve a four-year term. The loser shall be ranked immediately below the winner, for purposes of determining persons elected to the Council under Sections 3.5.c.1 and 3.6.

Section 3.6 Vacancies

a. An elected officer shall continue to hold office until his or her successor is duly qualified. An elective office shall become vacant whenever an elective officer fails or refuses to qualify, dies, resigns, is removed from office, is incapacitated to an extent which prohibits him or her from properly performing his or her duties as an elective officer, is absent continuously from the Town for more than three months without a leave of absence given by a vote of three-fourths of the entire Council in office at the time the vote is taken, is convicted by a court of law of any act constituting misconduct in office or constituting a felony, is judicially declared mentally ill, or moves from the Town of Silverthorne.

b. The existence of a vacancy shall be established by competent evidence thereof placed on record in the Council minutes. The Council shall determine the validity of the evidence and decide when a vacancy exists.

c. Not less than ten days nor more than thirty days after a vacancy in an elective office has been determined to exist by the Council, the remaining Councilmembers shall appoint an eligible person as defined by Sections 3.2 and 3.3, to fill such vacancy to serve until the next regular Town election. Such appointment shall be decided by a majority vote of the members of the Town Council in office at the time the vote is taken. If there will be remaining unexpired time in the term of office for which the appointment was made after the next regular election, then such vacancy for the remaining unexpired time shall be filled by vote of the registered electors at the next regular Town election. At the election, the candidates receiving the first, second and third highest number of votes shall serve terms of four years. The candidate receiving the fourth highest number of votes shall serve a term of two years, to serve the unexpired time in the office for which an appointment was made. Additional unexpired terms caused by additional vacancies, if any, shall be filled by candidates receiving the next highest number of votes.

d. In the event of a vacancy in the office of Mayor, the Council shall fill the vacancy by appointing one of the members of the Council to serve as Mayor until the next Town election. In the event there will be remaining unexpired time in the then current Mayor's term after the next Town election, candidates for the office of Mayor at that election shall run for a four-year term. In such event, the schedule for election of the Mayor by Section 3.5.a shall be superseded by this Section.

Section 3.7 Mayor

The Mayor shall be elected from the Town at large, and must receive a majority of the votes cast for all candidates for that office. In the event no candidate for Mayor receives a majority of the votes cast, a runoff election between the two candidates receiving the two highest number of votes shall be held within ninety days of the Town election. The candidate receiving a majority of votes at the runoff shall be elected Mayor.

The Mayor shall preside at meetings of the Council and shall exercise such powers and perform such other duties as are or may be conferred and imposed by this Charter or by ordinance or other applicable law. The Mayor shall have all the powers, rights and privileges of a Councilmember, excluding therefrom the right to vote. The Mayor shall vote only in the case of a tie. The Mayor shall not be counted as a member of the Council for purposes of achieving a quorum or for calculating the required number of votes to approve any given matter. The Mayor shall have the power to veto any action taken by vote of the Council, within two days of such action. A veto may be overridden by vote of three-fourths of the entire membership of the Council, only at the next regular or special meeting of the Council following the veto. The Mayor shall be recognized as the head of the Town Government for all ceremonial and legal purposes, shall execute and authenticate those legal instruments which require signature by the Mayor, and shall administer (or delegate the administration of) oaths of office. The Mayor (or in his or her absence, the Mayor Pro Tem) shall countersign all checks expending Town funds, except those items identified by ordinance not requiring such signature. In the event of a vacancy in the office of Mayor, the Council shall choose a successor to fill the unexpired term in the manner set forth at Section 3.6 hereof.

Section 3.8 Mayor Pro Tem

A Mayor Pro Tem shall be elected by the Council from its own membership at the first meeting following each regular Town election. The Mayor Pro Tem shall serve until the Council meeting following the next regular Town election, and shall act as Mayor during the absence or disability of the Mayor. In the event of absence or disability of both the Mayor and the Mayor Pro Tem, the Council shall designate another of its members to serve as Acting Mayor during such absence or disability. Any Mayor Pro Tem or Acting Mayor, while serving as such, shall retain all powers granted herein to Councilmembers, including the right to vote on all matters before the Council, but shall not have the power to veto Council actions.

Section 3.9 Conflict of Interest

Neither the Mayor nor any member of the Council shall vote or participate in discussion or deliberation on any question in which he or she has a substantial personal or financial interest, direct or indirect, including an interest held through a spouse or family member, other than the common public interest, or on any question concerning his or her own conduct. In the event the Mayor or any Councilmember has such an interest, he or she shall declare such interest. Whether or not such a declaration is made, the remaining members of the Council shall determine by a majority vote whether said interest does in fact constitute a conflict of interest. When such conflict of interest is established, the Mayor or Councilmember affected shall not participate further in the matter, and the remaining Councilmembers shall take any further action they deem to be in the best interests of the Town. This Section and any ordinance adopted in furtherance thereof shall abrogate and replace any common law doctrine on this subject.

Section 3.10 Oath of Office

Before entering upon the duties of his or her office, the Mayor and every Councilmember shall take, subscribe and file with the Town Clerk an oath or affirmation that he or she will support the Constitution of the United States of America, the Constitution of the State of Colorado, this Charter and the ordinances of the Town and will faithfully perform the duties of the office.

Section 3.11 Compensation of Councilmembers

The Mayor and members of the Council shall receive such compensation as the Council shall by ordinance prescribe; provided, however, no increase or decrease in the compensation of any member shall take effect during his or her then present term of office. No Councilmember shall be a salaried employee of the Town during his or her term of office, nor for one year following completion of his or her term of office. Neither the Mayor nor any Councilmember shall perform personal services for the Town during his or her term of office for which he or she is compensated other than as provided in this Section. The Mayor or Councilmembers may, upon order of the Council, be paid such necessary bona fide expenses incurred in service in behalf of the Town as are authorized by the Council within the constraints of the annual budget and appropriation ordinance.

ARTICLE IV Council Actions

Section 4.1 Form of Action

The Council shall act only by ordinance, resolution or motion. All legislative enactments of a permanent nature shall be by ordinance; all other actions, except as provided in the Charter, may be in the form of resolution or motion. Ordinances, resolutions and motions are not required to be confined to one subject; provided, however, ordinances making appropriations shall be confined to the subject of the appropriation, but may include more than one appropriation.

Section 4.2 Voting

A vote shall be taken upon the passage of all ordinances, resolutions and motions and entered upon the minutes of the Council proceedings. Every ordinance, resolution and motion shall require the affirmative vote of a majority of the members present and constituting a quorum unless otherwise required in this Charter or by ordinance. Except as permitted after the Council has determined a conflict of interest to exist under Section 3.9, abstention shall not be allowed. At the request of any member of the Council, any vote shall be taken simultaneously in a manner prescribed by the Council; provided, however, that the vote of each member shall be publicly announced immediately thereafter.

Section 4.3 Action by Ordinance Required

In addition to such acts of the Council as are required by other provisions of this Charter to be by ordinance, every act creating an indebtedness extending beyond December 31 of the then current year, referring the question of a tax levy to an election and the establishing of any rule or regulation for the violation of which imprisonment may be imposed, shall be by ordinance and approved by a two-thirds vote of the entire membership of the Council.

Section 4.4 Form of Ordinances

The enacting clause of all ordinances shall be: "THE COUNCIL OF THE TOWN OF SILVERTHORNE, COLORADO, ORDAINS:"

Section 4.5 Procedure for Passage of Ordinances

The procedure for passage of an ordinance shall be:

a. **First reading:** Introduction at a regular or special meeting by any member of Council. The ordinance shall be read in full, or in cases in which copies of the ordinance are available to the public at the meeting, the ordinance may be read by title only. The ordinance shall be approved or disapproved with or without amendment by the Council. If disapproved, the ordinance shall not proceed further. In no event shall any ordinance be introduced at a regular or special meeting by any member of the Council unless the Council has had copies of the entire text of the ordinance available to it at least twenty-four hours prior to said meeting.

b. **Publication:** Upon approval at first reading, the title only of the ordinance shall be published at least five days prior to the Council meeting at which it will first be considered on second reading (or shall otherwise be made public in a time and manner established by ordinance).

c. **Second reading:** After approval on first reading, the ordinance shall first be considered on second reading no sooner than five days, and no later than forty-five days, following its adoption on first reading. Ordinances concerning the following matters shall be considered on second reading only after a public hearing, notice of which has been given either separately or as a part of the publication of the title as provided at subsection b above:

1. Adoption of annual budget;
2. Increase of expenditures above budgeted amounts by fund;
3. Zoning, subdivision or planned unit development applications concerning ten or more acres of property; provided, however, that any such matter concerning less than ten acres of property may be rescheduled for a public hearing at the request of Town Staff, or by vote of the Council;
4. As otherwise provided by ordinance.

d. **Final publication:** After final passage, the ordinance shall be published by title only; provided, however, that in the event the ordinance was substantially amended during second reading, notice of that fact, together with a statement that the full text of the ordinance as amended is available in the office of the Town Clerk, shall be published. The Town Clerk shall determine whether the ordinance has been "substantially amended" within the meaning of this Section, and such determination shall be conclusive and final.

e. **Effective date:** An ordinance when finally passed shall take effect and be in force upon adoption at second reading, unless otherwise stated in the ordinance. Emergency ordinances shall take effect immediately upon passage. (Amended by Ord. No. 2001-11, 11/6/01 election)

Section 4.6 Emergency Ordinances

Emergency ordinances for the preservation of public health, welfare, peace, safety or property shall be approved by a majority vote of the Councilmembers present at any meeting at which the said ordinance is introduced. Only one reading shall be required. The facts showing the emergency and need shall be specifically stated in the ordinance itself. No ordinance making, renewing or amending a

grant of any franchise, special privilege or fixing rates charged by any Town-owned utility shall be adopted as an emergency ordinance. An emergency ordinance shall take effect upon passage and for informational purposes shall be posted or published by title only in the manner set forth at Section 14.13. A statement in any such ordinance that the Council deems the passage of said ordinance to be for the immediate preservation for the public peace, health or safety shall be conclusive.

Section 4.7 Enactment of Codes and Amendment Thereof by Reference

Standard codes promulgated by the federal government, the state of Colorado or by any agency of either of them, or by any municipality, or by recognized trade or professional organizations, or amendments or revisions thereof, or any codification of the Town code, may be adopted with or without amendment by reference using the procedure of Section 4.5; provided that publication of the ordinance adopting any said code shall advise that copies and amendments are available for inspection at the office of the Town Clerk, and provided that any penalty clause in any code may be adopted only if set forth in full in the adopting ordinance and published.

Section 4.8 Recording of Ordinances, Public Records

a. All ordinances shall be recorded by the Town Clerk in a book called the "Ordinance Book." It shall be the duty of the Mayor and Town Clerk to authenticate such records by their official signatures thereon, but the failure to so record and authenticate any ordinance shall not invalidate it nor suspend its operation.

b. All public records of the Town shall be open for inspection by any person at reasonable times by appointment in accordance with applicable law.

c. No ordinance, section or subsection thereof shall be amended, superseded or repealed except by an ordinance regularly adopted.

Section 4.9 Severability of Ordinances

Unless an ordinance shall expressly provide to the contrary, if any portion of an ordinance or the application thereof to any person or circumstance shall be found to be invalid by a court of competent jurisdiction, such invalidity shall not affect the remaining portions or applications of the ordinance which can be given effect without the invalid portion or application, provided such remaining portions or applications are not determined by the court to be inoperable, and to this end all ordinances are declared to be severable.

Section 4.10 Resolutions and Motions

The Council may act by resolution or motion with respect to any matter not specifically required to be acted upon by ordinance by this Charter, by any ordinance of the Town, or by applicable law. Resolutions shall be written. Motions may be oral or written. Unless otherwise provided herein, the procedure for adoption of resolutions and motions shall require a majority vote of a quorum of Councilmembers present.

Section 4.11 Council Meetings

a. The Council shall meet regularly at least once each month at a day, hour and place to be fixed by the Council. The Council shall prescribe the rules of procedure governing meetings. All meetings of the Council shall be open to the public, except as provided in Section 4.13. The public, citizens and Town employees shall have a reasonable opportunity to be heard at regular Council meetings. No item affecting an owner of real property may be added to any meeting agenda without a reasonable attempt to contact such owner. Written minutes of each meeting shall be kept by the Clerk and signed by the Mayor.

b. A majority of the members of the Council may by vote request the attendance of its members and other officers of the Town at the next regular or a special meeting of the Council. Any member of the Council or other officer who, when notified of such request for his or her attendance fails to attend such meeting for reasons other than confining illness, the requirements of his or her employment or absence from the Town, or because said Councilmember is attending a meeting as a representative of the Town, shall be deemed guilty of misconduct in office unless excused by the Council.

c. Four members of the Council shall be a quorum for the transaction of business at all Council meetings. In the absence of a quorum a lesser number may adjourn any meeting to a later time or date, and in the absence of all members the Town Clerk may adjourn any meeting for not longer than one week.

Section 4.12 Special Meetings

Special meetings of the Council shall be called by the Town Clerk on the oral request of the Mayor or of any two Councilmembers on at least forty-eight hours oral or written notice to each member of the Council. Written notice of any special meeting shall be posted in two public places at least twenty-four hours prior to the meeting. No business shall be transacted at any special meeting of the Council unless the subject thereof has been stated in the notice of such meeting.

Section 4.13 Emergency Meetings, Study Sessions, Executive Sessions

a. **Emergency meetings:** An emergency meeting may be held if a quorum of the Council consents and all Councilmembers are notified where practical. Such meetings may be called for the purpose of preservation of public health, welfare, peace, safety or property. Maximum practical notice shall be given to the public stating the purpose, time and place of any such meeting. The requirements of Section 4.12 shall not apply to such notice.

b. **Study sessions:** The Council may hold such study sessions as the Mayor or any Councilmember may request. No quorum shall be required at any study session and no legally binding or formal action shall take place at any session.

c. **Executive sessions:** The Council may hold executive sessions only at a regular or special meeting. Upon a vote of two-thirds of the quorum present, the Council may exclude the public and citizens from such sessions, after first stating the subject matter to be discussed. No formal action or decision may be passed, adopted, approved or finally decided in a session which is closed to the public.

ARTICLE V
Boards and Commissions

Section 5.1 General Provisions

Unless otherwise provided by this Charter or by ordinance, all boards and commissions shall be appointed by the Council and shall have such powers and perform such duties as are provided by this Charter or by ordinance. Members of the Planning Commission and the Board of Adjustment must have been registered electors in the Town for one year prior to appointment. In the event any such member moves outside the limits of the Town, his or her position shall become vacant and shall be filled by the Council. The Council shall establish residency requirements, if any, for members of other boards or commissions. Initial appointments by the Council shall specify the term of office of each individual and provide for overlapping tenure, and thereafter all appointments shall be for the full term specified. All members of any board or commission shall be subject to removal by a two-thirds vote of the entire Council. The Council shall make appointments to fill vacancies for any unexpired terms. Each board and commission shall choose its own chair and vice chair, and shall adopt its own rules of procedure for the proper conduct of its business.

All boards and commissions existing on the date of adoption of this Charter shall continue, and their present members shall serve until the expiration of their current terms of office, except as otherwise provided in this Charter or altered hereafter by ordinance.

Section 5.2 Board of Adjustment

a. **Board of Adjustment created:** The Council shall function as the Board of Adjustment, or by ordinance may delegate the function of the Board of Adjustment to a separate body or individual, or may abolish the Board of Adjustment.

b. **Powers:** The Board of Adjustment, however constituted, shall have and exercise only the power to grant a variance from land use, building or construction ordinances of the Town where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property, or exceptional topographic conditions, or other extraordinary and exceptional conditions with respect to such property, not shared in common with other conforming properties, strict application of such ordinances would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the owner of such property.

c. **Limitations; procedure:** The Board of Adjustment, whether constituted as the Council or as an appointed Board, shall not have power to grant variances in the use of property or which would in any way constitute rezoning or reversal or modification of any zoning action or ordinance of the Council. The Council shall specify by ordinance the qualifications of Board members (if appointed by the Council) and the procedure to be followed by the Board in performing its function. (Amended by Ord. No. 2001-11, 11/6/01 election)

Section 5.3 Planning Commission

The Planning Commission shall consist of not less than five nor more than nine regular members as the Council may determine by ordinance from time to time. The members of the Commission in office on the date of adoption of this Charter shall continue in office until the end of their present terms; they shall be eligible for reappointment. The Council shall also provide for alternate members.

Members of the Planning Commission shall be appointed by the Council for overlapping terms of three years. The Council shall fill all vacancies on the Commission.

The Planning Commission shall exercise the functions and powers and perform the duties assigned to it by the ordinances of the Town. It shall prepare and submit to the Council for its approval a comprehensive or master plan for the physical development of the Town and areas adjacent thereto. (Amended by Ord. No. 2001-11, 11/6/01 election)

ARTICLE VI Town Administration

Section 6.1 Town Manager

a. The Town Manager shall be the chief executive and administrative officer of the Town. The Manager shall possess, have and exercise all the executive and administrative powers of the Town. The Council by a majority vote of its entire membership shall attempt, insofar as practical and consistent with good government, to appoint a Town Manager within six months of a vacancy in such position. The Council shall assign a person or persons to act during the vacancy. Such appointment shall be without definite term and shall be at the salary to be fixed from time to time by the Council. The Council may enter into an employment contract with the Town Manager. The Town Manager shall be appointed without regard to any consideration other than fitness, competency, training and experience in professional municipal administration. At the time of appointment, the Manager need not be a resident of the Town or state, but during the Manager's tenure of office, the Manager shall reside within the Town, except at the discretion of the Council.

b. The Council at a regular or special meeting may upon the vote of a majority of the entire membership of the Council, remove the Town Manager from office in accordance with the rights established in the employment contract. The Town Manager shall be responsible to the Council for the proper administration of all affairs of the Town, and to that end, shall have the power and duties and be required to:

1. be responsible for the enforcement of the laws and ordinances of the Town;
2. hire staff, establish pay and benefits for Town employees and provide for all services and supplies pursuant to approved personnel policies; suspend, regularly review, transfer and remove Town employees, except that the Manager's decision to terminate the Finance Director or Police Chief shall require the concurrence of a majority of the entire membership of the Council;
3. make appointments on the basis of executive and administrative ability and of the training and experience of such appointees in the work which they are to perform;
4. cause a proposed budget to be prepared annually and submit same to the Council and be responsible for the administration of the budget after its adoption;
5. prepare and submit to the Council as to the end of the fiscal year a complete report of finances and administrative activities of the Town for the preceding year, and upon request of the Council, make written or verbal reports at any time concerning the affairs of the Town under his or her supervision;

6. keep the Council advised of the financial condition and future needs of the Town and make such recommendations to the Council for adoption as he or she may deem necessary or expedient;
7. exercise supervision and control over all executive and administrative departments;
8. enter into contracts on behalf of the Town pursuant to and in amounts identified in the Town's financial policies;
9. be responsible for the enforcement of all terms and conditions in any contract or public utility franchise, and upon knowledge of any violation thereof, report the same to Council for such action and proceedings as may be necessary to enforce the same;
10. attend Council meetings and participate in discussions with the Council in an advisory capacity;
11. establish 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; and
12. perform such other duties as may be prescribed by this Charter, or by ordinance or by other applicable law, or required of him or her by Council, which are not inconsistent with this Charter.

Section 6.2 Town Clerk

The Town Manager shall appoint a Town Clerk, who shall be custodian of the Town seal and who shall keep a journal of Council proceedings and record in full all ordinances, motions and resolutions. He or she shall have power to administer oaths and take acknowledgments under seal of the Town, and shall perform such other duties as required by this Charter, the Council or the Town Manager, or as the Council may direct through the Town Manager.

Section 6.3 Town Attorney

The Town Manager shall recommend, and the Council shall appoint, a Town Attorney. The Town Attorney shall serve at the pleasure of the Council and may be terminated at any time by a majority vote of the entire membership of the Council. He or she shall be an attorney at law admitted to practice in Colorado. The Town Attorney shall be the legal representative of the Town and shall advise the Council and Town officials in matters relating to their official powers and duties and shall perform such other duties as required by the Charter, by the Town Manager, or as the Council may direct. The Town Attorney's client shall be the Council.

Section 6.4 Organization

The administrative functions of the Town shall be performed by the organization of the Town administration as may hereafter be established by Council resolution or motion.

Section 6.5 Relationship of Council to Town Administration

Except for the purpose of inquiry and information, the Council and its members, the Mayor and all Council committees shall deal with the Town administration and Town employees solely through the Town Manager. Neither the Council, any committee thereof, any Council member, nor the Mayor shall give directions to any employees of the Town other than the Town Manager. Directions to the Town Manager shall take the form of a majority action of the Council.

ARTICLE VII Municipal Court

Section 7.1 Municipal Court Established

a. There shall be a Municipal Court which shall have jurisdiction to hear and determine all cases arising under this Charter or the ordinances of the Town. The powers of and the procedure in the Municipal Court and the manner of enforcement of its orders and judgments shall be as provided for under the statutes of the State of Colorado unless superseded by ordinance presently or hereafter enacted. The Municipal Court shall be a qualified municipal court of record and all proceedings therein and evidence at trial shall be kept by verbatim record by either an electronic or stenographic means.

b. The Council shall provide for the enforcement of its ordinances by fine, imprisonment, public service or any combination thereof.

Section 7.2 Municipal Judge

a. The Municipal Court shall be presided over by a judge who is an attorney at law admitted to practice before the Supreme Court of the State of Colorado. The present Municipal Judge shall continue in office until June 1, 1994. The judge shall be appointed by the Council to serve for a term of two years, unless otherwise provided by ordinance. All judges appointed under this section shall receive a fixed salary or compensation as determined by the Council, not dependent upon the outcome of the cases or matters to be decided. The Council may appoint as many municipal judges as it deems necessary for the proper function of the Court. If, however, the Council shall appoint more than one judge it shall designate who shall be the chief or senior judge.

b. In the event all regularly appointed judges are absent, disqualified, or unable to act in any particular case the Council may call any eligible person, as defined in Section 7.2.a, to act and serve temporarily as a substitute judge.

c. The forms of summons and complaint and all rules, procedures and proceedings in the Municipal Court shall be fixed and determined by the presiding Municipal Judge unless the Council, by ordinance, determines otherwise.

d. The Municipal Judge shall determine the method of summoning jurors and witnesses, of securing the presence of accused persons and shall determine the costs for docket fees, witness fees, transcript costs, appeal costs and other fees and costs. A schedule of such fees and costs shall be provided to the Council biannually for its review and approval.

e. The Municipal Judge may be removed during his or her term of office only for cause. A judge may be removed by a majority vote of the entire membership of the Council for cause if:

1. He or she is found guilty of a felony or any other crime involving moral turpitude; or
2. He or she has willfully or persistently failed to perform his or her duties; or
3. He or she has a disability which interferes with the performance of his or her duties, which disability is or is likely to become of permanent character.

ARTICLE VIII Town Finances

Section 8.1 Fiscal Year

The fiscal year of the Town and all of its agencies, boards, commissions and advisory bodies shall begin on the first day of January and end on the thirty-first of December of each year.

Section 8.2 Annual Budget

A proposed budget for the ensuing fiscal year shall be presented to the Council at least forty-five days prior to the date provided by law for approval by the Council.

Section 8.3 Scope of Annual Budget

The budget shall provide a complete financial plan of all Town funds and departments for the ensuing fiscal year and, except as required by law or this Charter shall be in such form as the Town Manager deems desirable or the Council may require. The budget shall indicate in separate sections:

- a. Anticipated revenues using adequate categories;
- b. Proposed expenditures for current operations during the ensuing fiscal year, detailed by fund and department;
- c. A reasonable provision for contingencies;
- d. Required expenditures for debt service; and
- e. Proposed capital expenditures during the ensuing fiscal year, detailed by fund and department and including proposed maintenance requirements.

The total of proposed expenditures and provision for contingencies shall not exceed the total of estimated revenues and reserves.

Section 8.4 Adoption of Budget and Appropriation

Not later than the date required by law for certification of the mill levy, the Council shall adopt on final reading an ordinance adopting the budget and appropriating monies for the purposes described

therein. Copies of the budget as adopted shall be public records and shall be made available to the public in the office of the Town Clerk. If the Council fails to adopt a budget in any year, the amounts appropriated for the operation of the various departments and areas of the Town during the prior fiscal year shall be deemed adopted for the current fiscal year on a month-to-month basis, with all items prorated accordingly until such time as the Council adopts a budget for the current fiscal year.

Section 8.5 Certification of Tax Levy

As required by law, the Council shall fix the amount of tax levy which shall be assessed, if any, upon each dollar of assessed valuation of all taxable property within the incorporated limits of the Town, and shall cause the same to be certified to the County as required by law. If the Council should fail in any year to make such levy, the rate shall be fixed and levied as provided by law.

Section 8.6 Transfer of Funds

The Council may by policy approve the transfer of appropriated expenditures between departments within a fund.

Section 8.7 Increase or Reduction of Appropriations

The Council may make additional appropriations by ordinance during the fiscal year for unanticipated expenditures required of the Town. Such additional appropriations shall not exceed the amount by which actual and anticipated revenues of the year and prior year cash reserves exceed the expenditures as estimated in the budget, unless the appropriations are necessary to relieve an emergency endangering the public peace, health, safety or property.

If at any time during the fiscal year it appears probable to the Manager that the revenues available will be significantly insufficient to meet the amount appropriated, he or she shall provide a report to the Council without delay indicating the estimated amount of deficit and his or her recommendations as to any steps to be taken. The Council shall then take such further action as it deems necessary to prevent or minimize any deficit and for that purpose it may reduce one or more appropriations.

Section 8.8 Departmental Appropriations Revert

Any annual departmental appropriation, or any portion thereof, remaining unexpended and unencumbered at the close of the fiscal year, shall revert to final balance.

Section 8.9 Independent Audit

An independent audit shall be made of all Town accounts at least once annually and more frequently as deemed necessary by the Council. Such audit shall be made by certified public accountants selected by the Council who shall complete the audit within one hundred twenty days after the close of the fiscal year. Copies of such audit shall be made available for public inspection at the office of the Town Clerk.

ARTICLE IX
Municipal Borrowing

Section 9.1 Forms of Borrowing Permitted

The Town may borrow money and issue the following securities to evidence each borrowing:

a. **Short-term notes:** Short-term notes may be secured in any manner determined by the Council, including by a pledge of the full faith and credit and the general taxing power of the Town. Short-term notes shall mature and become payable within twelve months of their date of issue.

b. **Emergency notes:** Emergency notes may be issued and secured in any manner determined by the Council, including a pledge of the full faith and credit and the general taxing power of the Town. Emergency notes may be renewed from time to time as the needs of the Town require; however, emergency notes and any renewed emergency notes shall mature and be paid no later than the last day of the fiscal year next succeeding the year in which the emergency appropriation was made.

c. **Anticipation warrants:** Anticipation warrants shall be issued in anticipation of and shall assign taxes or revenues which have been levied or imposed by the Town. Taxes which may be assigned to pay anticipation warrants include, but shall not be limited to, *ad valorem* taxes constructively received by the Town and excise taxes. Anticipation warrants shall mature within such period as may be determined by the Council.

d. **General obligation bonds:** No bonds or other evidence of borrowing payable in whole or in part from the proceeds of general property taxes, or to which the full faith and credit of the Town are pledged, shall be issued, except in pursuance of an ordinance, nor until the question of their issuance shall, at a special or regular election be submitted to a vote of the registered electors of the Town, and approved by a majority of those voting thereon; provided, however, that such securities issued for improving or extending any Town utility system, including water and sewer systems, may be so issued without an election.

e. **Revenue bonds:** Pursuant to ordinance, after thirty (30) days' public notice, and without an election, the Town may borrow money, issue bonds, or otherwise extend its credit for purchasing, equipping, and constructing, condemning or otherwise acquiring, extending or improving a utility system or income-producing project, provided that the bonds or other obligations shall be made payable from the net revenues derived from the operation of such system or project, or from the proceeds of any revenue tax other than general *ad valorem* property tax imposed by the Town or the State of Colorado or agency thereof. Any one or more of such systems and projects may be combined, operated and maintained as joint municipal systems or projects in which case such bonds or other obligations shall be made payable out of the net revenue derived from the operation of such joint systems or projects. Revenue bonds issued pursuant to the authority granted herein may be secured by general property taxes or the full faith and credit of the Town, subject to Section 9.2.

f. **Industrial development revenue bonds:** Industrial development revenue bonds may be issued as provided by Colorado Statute.

g. **Special assessment bonds:** Where all outstanding bonds of a local improvement district have been paid and any monies remain to the credit of the district, they shall be transferred to a special surplus and deficiency fund. Whenever there is a deficiency in any local improvement district fund to

meet the payment of outstanding bonds and interest due thereon, the deficiency shall be paid out of said surplus and deficiency fund. Whenever a local improvement district has paid and cancelled three-fourths of its bonds issued, and for any reason the remaining assessments are not paid in time to pay the remaining bonds of the district and the interest due thereon, and there are not sufficient monies in the special surplus and deficiency fund, then the Town may pay said bonds when due and the interest due thereon, and reimburse itself by collecting the unpaid assessments due said district.

In consideration of general benefits conferred on the Town at large from the construction or installation of improvements in local improvement districts, the Council may levy annual taxes on all taxable property within the Town at a rate to be determined by the Council, to be disbursed as determined by the Council for the purpose of paying for such benefits, for the payment of any assessment levied against the Town itself in connection with bonds issued for local improvement districts, or for the purpose of advancing monies to maintain current payments of interest and principal of bonds issued for any local district hereinafter created. The proceeds of such taxes shall be placed in a special fund and shall be disbursed only for the purposes specified herein, provided that in lieu of such tax levies, the Council may annually transfer to such special fund any available monies of the Town, but in no event shall the amount transferred in any one year exceed the amount which would result from a tax levied in such year as herein limited. No assessment by the Town of its own property pursuant to this Section shall be considered or held to create an indebtedness of the Town or to require an election; provided however, if the Council elects to issue limited tax bonds secured by a pledge of the tax levy authorized in this Section for the purpose of providing funds to pay any such assessment or the costs of any improvement conferring general benefits on the Town at large, it shall do so only after the question of the issuance of such limited tax bonds has been approved at an election held in accordance with Article II of this Charter.

h. Refunding bonds: The Council may authorize, by ordinance, without an election, the issuance of refunding bonds or other securities for the purpose of refunding any borrowing of the Town, whether due or not, or which has or may become payable at the option of the Town, or by the consent of the bond holders or by any lawful means, whether such borrowing be now existing or may hereafter be created. The proceeds derived from the issuance of any refunding bonds under the provisions of this section shall either be immediately applied to the payment, or redemption, and retirement of the bonds to be refunded, and the costs and expenses incident thereof, or shall immediately be placed in escrow to be applied to the payment of said bonds upon their presentation therefore, and the costs and expenses incident thereto, as may be provided by the Council. Any funds of the Town legally available therefor may be placed in any escrow account established under the provisions of this section, and may be used for the purposes specified in the escrow agreement, if such procedure is deemed by the Council to be in the best interests of the Town.

i. Lease purchase; installment purchase agreements: The Council may enter into lease purchase and installment purchase agreements as a means of acquiring any real or personal property for public purposes. The Council may pledge the full faith and credit and the general taxing power of the Town to the payment of its obligations under any such agreement and may enter into such covenants regarding the rights of the lessor vendor in the property upon default as the Council may deem necessary or appropriate.

j. Other obligations: The Town may issue or undertake all other obligations authorized to municipalities by the Colorado Constitution and Statutes.

Each type of obligation shall be issued by the Council in the name of the Town pursuant to an ordinance and may be issued without an election except as otherwise provided in this Article. The Council may in its discretion adopt an ordinance not inconsistent with the provisions of this Article specifying the terms, conditions and other details upon which any such type of obligation may be issued. No debt shall be incurred until approved, if and as required pursuant to Article X, Section 20 of the Colorado Constitution.

Section 9.2 Limitations

There shall be no limitation as to the amount of bonds and securities, except in documents providing for the issuance of same, which may be issued by the Town, subject only to the election provisions of this Article. All bonds issued pursuant to the provisions of this Charter shall be sold at public or private sale to the best advantage of the Town at above or below par. Bonds may contain provisions for calling same at designated periods prior to the final due date, with or without the payment of a prior redemption premium. The Town shall not issue bonds which, in combination with existing bonded debt of the Town, is imprudent under then-current bond rating standards.

ARTICLE X Taxation

Section 10.1 Authority to Levy Taxes

The Council may levy and collect taxes without limitation as to amount for municipal purposes which may include but shall not be limited to: general ad valorem property taxes, sales tax, use tax, bed tax, occupation tax, excise tax or income tax. No new tax or tax rate increase shall be effective until approved, if and as required, pursuant to Article X, Section 20 of the Colorado Constitution.

ARTICLE XI Improvement Districts

Section 11.1 Power to Construct Improvements and Create Improvement Districts

a. The Town shall have the power to create improvement districts within the Town and to contract for, construct or install improvements of every character within the Town and within designated districts within the Town. The Town shall have authority to assess the cost of improvements wholly or in part upon property specially benefitted in such district and to issue bonds for the entire cost therefor.

b. The Council shall by ordinance prescribe the procedure for: creation of districts, notice, the method and time for filing protest and disposition thereof, the method and manner of making such improvements, letting contracts therefore, assessing the cost thereof, and issuing and paying bonds for costs and expenses of the organization of said districts and of construction or installation of said improvements.

c. The Council may adopt by ordinance procedures for the conduct of elections, if any, for the creation of districts, issuance of bonds or levy of special assessments.

Section 11.2 Review of Improvement District Proceedings

No action or proceeding, at law or in equity to review any acts or proceedings, or to question the validity or enjoin the performance of any act, or the issuance or collection of any bonds, or the levy or collection of any assessments, authorized by this Article, or for any other relief against any acts or proceedings done or had under this article, whether based upon irregularities or jurisdiction defects, shall be maintained, unless commenced with thirty (30) days after the passage of the resolution or ordinance complained of, or else it shall be thereafter perpetually barred.

ARTICLE XII Franchises and Public Utilities

Section 12.1 Town Powers

a. The Town shall have and exercise with regard to all utilities and franchises all municipal powers, functions and authority now existing and which may be hereafter provided by the Colorado Constitution and State Statutes.

b. The Town shall have power and authority within or without the territorial limits of the Town, to construct, condemn, purchase, acquire and lease public utilities and assets, equipment and everything in relation to or in connection therewith, in whole or in part, for the use of the Town and its inhabitants.

c. Except as otherwise provided by the Colorado Constitution or this Charter, all powers concerning the granting, amending, revoking or otherwise dealing in franchises shall be exercised by the Council.

Section 12.2 Grant of Public Utility Franchises

a. Grants of public utility franchises and all extensions and amendments shall be granted only by ordinance. The granting of franchises by the Town shall be limited only by the provisions of the Colorado Constitution and Statutes which may be applicable to home rule municipalities as now in effect or as hereafter amended and shall be submitted to a vote of the people only if required by the Colorado Constitution or by ordinance.

b. No exclusive franchise shall be granted.

Section 12.3 Water Rights

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

Section 12.4 Utility Rates

The Council shall, by ordinance, establish rates, rules and regulations for services provided by municipally owned utilities. If the Council desires to extend the municipal utilities beyond Town boundaries, it shall do so by ordinance.

Section 12.5 Term; Compensation; Restriction

No franchise, lease or right to use the streets, or the public places or property of the Town shall be granted for a term which exceeds twenty years. Every grant of a franchise shall fix the amount and manner of payment of compensation to be paid by the grantee for the use of the same. Such compensation shall be paid as provided and be subject to mutual periodic renegotiation, and failure to pay shall result in forfeiture of the franchise at the option of Council. The grantee of any franchise shall be and remain subject to any and all lawful taxation upon property and any license, charge or other imposition levied by the Council not levied on account of the use granted by the franchise.

Section 12.6 Review

Each franchise granted under the provisions of this Charter shall include a section specifying a periodic review of said franchise by the Council.

Section 12.7 Assignment

Any assignment or leasing of a franchise shall be considered a forfeiture unless consent is given by the Council by ordinance.

Section 12.8 Common Use of Facilities

The Council shall have the power to require good faith negotiations by any holder of a franchise or other public utility to allow the use of its rights-of-way, poles, wire, cable or other device placed in the public right-of-way and trenches by any franchise holder, or by the Town itself. Agreement by the franchise holder to such use shall not be unreasonably withheld. The Council in its discretion may require payment of a reasonable rental for the use of any rights-of-way, poles, wires, cable or other device placed in the public right-of-way and trenches of any franchise holder. The Town may, under the terms prescribed by the Council, allow any franchise holder to use rights-of-way, poles, wires, cable or other device placed in the public right-of-way and trenches of Town-owned utilities.

Section 12.9 Franchise Records

The Council shall cause to be kept in the office of the Town Clerk and open to the public for view, a franchise record in which shall be transcribed copies of all franchises granted by the Town. The record shall give the name of the grantee and any assignees. The record shall be a complete history of all such franchises and shall include a comprehensive and convenient reference to all actions at law affecting the same, copies of all annual reports and such other information and matters of public interest as Council may from time to time require.

Section 12.10 Existing Franchises

All franchise ordinances of the Town in effect at the time that this Charter is adopted shall remain in full force and effect according to their provisions and terms until the expiration date provided in such ordinance or until modified by another franchise.

Section 12.11 Revocable Permits

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

ARTICLE XIII Initiative and Referendum

Section 13.1 Initiative

The registered electors of the Town shall have the power to propose any ordinance to the Council in accordance with the provisions of this Article, except: ordinances concerning the budget, capital program, salaries of Town employees or officers, or ordinances for the zoning or rezoning of specific real property. In the event the Council fails to adopt any such proposed ordinance (without any change in substance), the ordinance shall be submitted to the registered electors at a Town election for their acceptance or rejection.

Section 13.2 Referendum

The registered electors of the Town shall have the power to require reconsideration by the Council of any ordinance and, if the Council fails to repeal such an ordinance, to approve or reject the same at a Town election, in accordance with the provisions of this Article, provided that such power shall not extend to the following: budget, capital program, salaries of Town employees or officers, or ordinances for the zoning or rezoning of specific real property.

Section 13.3 Petitioners' Committee Affidavit

Any five registered electors of the Town may commence initiative or referendum proceedings by filing with the Town Clerk an affidavit stating:

- a. That they will constitute the Petitioners' Committee and be responsible for circulating the petition and filing it in proper form,
- b. Their names and street addresses and specifying the address to which all notices to the Committee are to be sent. The petition shall set out in full the proposed initiative ordinance or the ordinance sought to be reconsidered.

Promptly after the affidavit of the Petitioners' Committee is filed, the Town Clerk shall issue the appropriate petition blanks to the Petitioners' Committee.

Section 13.4 Petitions

- a. **Number of signatures:** Initiative and referendum petitions must be signed by registered electors of the Town as provided by Article V, Section 1 of the Colorado Constitution.
- b. **Form and content:** All pages of the petition shall be uniform in size and style and shall be assembled as one instrument for filing. Each signature shall be executed in non-erasable ink and shall

be followed by the street address of the person signing. Petitions shall contain or have attached thereto throughout their circulation the full text of the ordinance proposed or sought to be reconsidered.

c. **Affidavit of circulator:** Each page of a petition shall have attached to it when filed an affidavit executed by the circulator thereof stating:

1. That he or she personally circulated the petition, the number of signatures thereon,
2. That all signatures were affixed in his or her presence,
3. That he or she believes them to be the genuine signatures of the persons whose names they purport to be,
4. That all signatures are of persons who are registered electors within the Town of Silverthorne,
5. That each signer had an opportunity before signing to read the full text of the ordinance proposed or sought to be reconsidered.

d. **Time for filing referendum petitions:** Complete referendum petitions must be filed within thirty days after adoption by the Council of the ordinance sought to be reconsidered.

Section 13.5 Procedure After Filing

a. **Certificate of Clerk, amendment:** Within ten days after a petition is filed, the Town Clerk shall complete a certificate, as to its sufficiency, specifying if it is insufficient the particulars wherein it is defective and shall promptly send a copy of the certificate to the Petitioners' Committee by certified mail. A petition certified insufficient for lack of the required number of valid signatures may be amended once if the Petitioners' Committee files a notice of intention to amend it with the Town Clerk within two working days after receiving the copy of the Town Clerk's certificate and files a supplementary petition upon additional forms within ten days after receiving the copy of such certificate. Such supplementary petition shall comply with the requirements of subsections b and c of Section 13.4, and within five days after it is filed the Town Clerk shall complete a certificate as to the sufficiency of the petition as amended and promptly send a copy of such certificate to the Petitioners' Committee by certified mail as in the case of an original petition. If a petition or amended petition is certified insufficient and the Petitioners' Committee does not elect to amend or request Council review under subsection b of this Section within the time required, the Town Clerk shall promptly present his or her certificate to the Council, and such certificate shall then be a final determination as to the sufficiency of the petition.

b. **Council review:** If a petition has been certified insufficient and the Petitioners' Committee does not file notice of intention to amend it or if an amended petition has been certified insufficient, the Committee may, within two working days after receiving the copy of such certificate, file a request that the petition be reviewed by the Council. The Council shall review the petition at its next meeting following the filing of such request and approve or disapprove it, and the Council's determination shall then be a final determination as to the sufficiency of the petition.

c. **Court review; new petition:** A final determination as to the insufficiency of a petition shall be subject to court review. A final determination of insufficiency, even if sustained upon court review, shall not prejudice the filing of a new petition for the same purpose.

Section 13.6 Referendum Petitions

When a valid and sufficient referendum petition is filed with the Town Clerk, the ordinance sought to be reconsidered shall remain in effect until such time as:

- a. The Council shall suspend the ordinance pending an election, or
- b. The ordinance shall be repealed in a referendum election held for that purpose, or
- c. A court order reverses the ordinance.

Section 13.7 Action on Petitions

a. **Action by the Council:** When an initiative or referendum petition has been finally determined sufficient, the Council shall, within thirty days either:

1. Adopt the ordinance as submitted by the initiatory petition, provided that repeal of any referred ordinance may be effected only by a majority vote of the entire Council, or
2. Repeal the ordinance, or part thereof, referred to by referendum petition, or
3. Determine to submit the proposal provided for in the petition to the registered electors of the Town; provided, however, that the Council shall have power to change the detailed language of any proposed initiative ordinance and to affix a title thereto, so long as the general character of the measure will not be substantially altered.

b. **Submission to voters:** The vote of the registered electors on a proposed or referred ordinance shall be held not less than thirty days and not more than ninety days from the date of the final Council action thereon, as described in Section 4.5, unless otherwise required by the Colorado Constitution. If no regular Town election is to be held within the period prescribed in this subsection, the Council shall provide for a special election; otherwise, the vote shall be held at the same time as such regular election, except that the Council may at its discretion provide for a special election at an earlier date within the prescribed period. Copies of the initiated or referred ordinance shall be made available to the public within a reasonable time before the election and also at the polls at the time of the election.

c. **Withdrawal of petition:** No initiative or referendum petition may be withdrawn once it has been deemed sufficient by the Town Clerk.

Section 13.8 Results of Election

a. **Initiative:** If a majority of the registered electors voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification of the election results. If conflicting ordinances are approved at the same election, the one receiving the greater number of affirmative votes shall prevail to the extent of such conflict.

b. **Referendum:** If a majority of registered electors voting on a referred ordinance vote for repeal, it shall be considered repealed upon certification of the election results.

Section 13.9 Amendment or Repeal

An ordinance adopted by the electorate may not be amended or repealed by the Council for a period of six months after the date of the election at which it was adopted. An ordinance repealed by the electorate may not be reenacted by the Council for a period of six months after the date of the election at which it was repealed. Any ordinance may be adopted, amended or repealed at any time by appropriate referendum or initiative procedure in accordance with this Article or if submitted to the electorate by the Council on its own motion. A proposed ordinance which fails at the election held to consider it shall not be refiled as an initiative petition for at least six months after the election held to consider said ordinance.

ARTICLE XIV Miscellaneous Provisions

Section 14.1 Purchase, Sale or Lease of Real Property

The Council by ordinance may purchase, sell, exchange or dispose of any interest in real property, except that any sale of any property actively in use as the Town hall, recreation center, or all or part of any public park shall first be approved by a vote of the registered electors of the Town at a regular or special election. For the purposes of this Section "public park" shall mean real property which has been improved by the addition of permanent built structures and which is in active use by the public for park purposes. By ordinance the Council may lease any real property of the Town to any person, firm or corporation, public or private, for a term of more than five years. The Council may lease any real property of the Town for a term of five years or less by motion adopted by a majority of the entire Council. (Amended by Ord. No. 2001-11, 11/6/01 election)

Section 14.2 Fidelity Bonds

Before any officer or employee of the Town who handles Town funds shall be permitted to enter upon the duties of his or her office or employment, he or she shall obtain and file with the Town Clerk a fidelity bond from a bonding company authorized to do business in the State of Colorado, in an amount to be fixed by the Council. The cost of such bonds shall be borne by the Town. The Council may by motion or resolution waive this requirement in any individual case.

Section 14.3 Right of Eminent Domain

The Town shall have the right of eminent domain for all municipal purposes whatever either within or without the limits of the Town.

Section 14.4 Bequests, Gifts and Donations

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

or trust. The Council may delegate the responsibility for such bequests, gifts, and donations to such persons as the Council may deem advisable.

Section 14.5 Charter Amendments

This Charter may be amended or repealed in the manner provided by Article XX of the Colorado Constitution and by Section 31-2-201 *et seq.*, Colorado Revised Statutes or any successor statute on the same subject.

Section 14.6 Effect of State Statutes

The power to supersede any law of the State of Colorado now or hereafter in force, insofar as it applies to local or municipal affairs, shall be reserved to the Town, acting by ordinance, subject only to restrictions of the Colorado Constitution and subsequent amendments to this Charter and by ordinance. Unless otherwise provided by this Charter or by ordinances adopted by the Council hereunder, the statutes of the State of Colorado shall be in effect.

Section 14.7 Severability

If any provision, article, section, sentence, clause or part of this Charter, or the application thereof to any person or circumstance is adjudged by any court of competent jurisdiction to be unconstitutional or invalid, such adjudication shall not affect, impair or invalidate the Charter as a whole or any part hereof other than the part so adjudged to be invalid, and to this end the provisions of this Charter are declared to be severable.

Section 14.8 Emergency Powers

In case of riot, insurrection or extraordinary emergency, the Mayor and the Manager, acting jointly, 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 situation continues, the Mayor shall convene the Council who may take such action as it deems necessary.

Section 14.9 Continuity of Government

The Council shall have the power to provide for the continuity of government of the Town in the event of natural or enemy caused disaster. Such power shall be employed in a manner which will preserve representative government to the Town and which will provide an orderly line of succession of officers, notwithstanding the provisions of this Charter. Such succession shall commence with the Mayor and the Mayor Pro Tem and shall then revert to the Councilmembers by order of seniority, then through an orderly line of succession of the management department heads.

Section 14.10 Titles and Subheadings

The titles and subheadings herein are for convenience and reference only and shall not be construed to limit, describe or control the scope or intent of any provision hereof.

Section 14.11 Construction of Words

Except as otherwise specifically provided or indicated by the context hereof, 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 shall include the plural, the plural shall include the singular and the masculine gender shall extend to and include the feminine gender and neuter, and "person" may extend to and be applied to bodies politic, corporate partnerships, corporations, associations and individuals.

Section 14.12 Indemnification of Mayor and Council

The Council may by ordinance indemnify any Councilmember, the Mayor, any employee or any appointed official who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding by reason of the fact that he or she is or was an officer or employee of the Town, against expenses (including attorney fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him or her in connection with such action, suit or proceeding if he or she acted in good faith and in a manner he or she reasonably believed to be in the best interest of the Town and had no reasonable cause to believe his or her conduct was unlawful.

Section 14.13 Publication of Ordinances, Notices and Other Documents

When publication of a notice, ordinance or portion thereof, resolution or other document is required or allowed by this Charter, such publication may be satisfied by publication of the same in any newspaper of general circulation in Summit County published weekly or daily, whether or not having a paid circulation. Said publication may appear at any place within said newspaper.

ARTICLE XV Transition Period

Section 15.1 Purpose of Transitional Provisions

The purpose of this Article is to provide for an orderly transition from the present Town government of Silverthorne to a home rule Town government under provisions of this Charter. The provisions of this Article shall constitute a part of this Charter only to the extent necessary to accomplish that purpose.

Section 15.2 Effective Date of Charter

This Charter shall become effective immediately upon voter approval at a regular or special election held for the purpose of considering this Charter.

Section 15.3 Continuation of Present Elected Officials

The present Town Board of Trustees and the Mayor in office at the time of the adoption of this Charter shall become the Council and the Mayor and shall continue to serve and carry out the functions, powers and duties of those offices under this Charter until their successors assume such duties as provided in Section 3.5.

Section 15.4 Continuation of Appointed Officers and Employees

All appointed officers and employees of the Town at the time this Charter is adopted shall continue in that office or employment which corresponds to the Town office or employment which they held prior to the effective date of this Charter, as though they had been appointed or employed in the manner provided in this Charter, except that any officer or employee who holds a position which this Charter provides to be held at the pleasure of Council shall hold such position only at such pleasure regardless of the term for which he or she was originally appointed.

Section 15.5 Continuation of Prior Legislation and Obligations

All bylaws, ordinances, resolutions, contracts, rules and regulations of the Town in force at the time this Charter becomes effective shall continue in force except insofar as they conflict with the provisions of this Charter, or shall be amended or repealed by ordinance enacted under authority of this Charter. This Charter shall not affect any contractual relationships existing on the effective date of this Charter between the Town and any officer or employee by reason of any retirement or pension plans in effect.