

HOME RULE CHARTER

for the

CITY OF BROOMFIELD, COLORADO

May 30, 1974

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HOME RULE CHARTER

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PREFATORY SYNOPSIS

The members of the Charter Commission of the City of Broomfield, Colorado, herewith submit to the voters of the City a proposed Home Rule Charter, which we have framed in conformity with Article XX of the Colorado Constitution and the Municipal Home Rule Act of 1971.

The Charter Commissioners have worked long and hard to achieve a simple and direct form of local government based on sound principles of public administration, and tailored to the present and future needs of the citizens of Broomfield. We believe this Charter provides a sound and yet flexible framework for the governance of our Municipal Government through local self-determination.

Under the proposed Charter, a Council-Manager form of government is established. The Council is established as the policy-making legislative body of the City. It consists of ten Council members elected from five wards within the City and an elected Mayor. These officials are elected for a two-year term of office, thereby insuring maximum accountability to the local electorate.

The Mayor presides at all Council meetings, but votes only in case of tie. In addition, the Mayor possesses the right to veto over any ordinance, which veto may be overridden by an affirmative vote of two-thirds membership of the entire Council at the next regular Council meeting following the veto.

The executive power is vested in a City Manager who is appointed by and serves at the pleasure of the City Council. The Charter also establishes guidelines for the establishment of a Personnel Merit System for all City employees except major department heads.

The annual municipal election is set on the first Tuesday after the first Monday in November of odd-numbered years, with the first election under this Charter to be held on November 4, 1975. The Charter provides that all elections are to be nonpartisan and conducted in accordance with Colorado Municipal Election Law.

The Charter requires a vote of the electorate before any new or additional income tax, sales tax or excise tax is enacted. Under the Charter, the City has flexible funding and borrowing procedures, but has a general debt limit not to exceed 10 percent of the assessed valuation of the taxable property within the City.

Additional matters covered in this Charter for the future framework of Broomfield Municipal Government relate to general Council Procedures, Legislation, Initiative and Referendum Powers of the People, Municipal Administration Guidelines, Legal and Judiciary Appointments, Municipal Boards and Commissions, City Finances and Budget, Municipal Borrowing Procedures, Improvement Districts, Inter-Governmental Relations, Public Utilities and Franchises, General Provisions and Transitional Procedures.

The proposed Charter is very much a compromise of our Commission deliberations. But this document vests the People of the City of Broomfield with every major political power permitted any Home Rule Community under the Constitution of the State of Colorado. We believe this Charter provides a structure for quality government in the City of Broomfield which will endure for many years to come.

HOME RULE CHARTER
FOR
THE CITY OF BROOMFIELD, COLORADO

PREAMBLE

We the people of Broomfield, Colorado, under the authority of the Constitution of the State of Colorado, do ordain, establish and adopt this Home Rule Charter for the City of Broomfield.

As adopted by the Broomfield Charter Commission

A.E. Morr, Jr., Chairman
Duane W. Van Skiver, Vice Chairman
Thomas Tighe III, Secretary

Joe H. Bergheim
Virgil D. Blackburn
Kermit L. Darkey
John P. Elliott, Jr.
Robert Evans
John E. Hollis
Stephen S. Jones
Robert C. Kelly
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Richard A. Lueb
David L. Markham
Thomas P. Milavec
Donald K. Miller
George J. Moyer
Robert L. Niehoff
Norman A. Smith
Henry A. Stovall
Charles A. Waddell

May 30, 1974

CHAPTER I

NAME - BOUNDARIES

Section 1.1 The City and County of Broomfield.

As provided for in Article XX, section 10 of the Constitution of the State of Colorado, on and after November 15, 2001, all territory in the municipal boundaries of the city of Broomfield shall be detached from the counties of Adams, Boulder, Jefferson, and Weld and shall be consolidated into a single county and municipal corporation with the name "The City and County of Broomfield." Any reference in this Charter to "City" or to the "City of Broomfield" shall mean The City and County of Broomfield. (Amendment passed 11/6/01).

CHAPTER II

MUNICIPAL POWERS

Section 2.1 Powers, Rights and Liabilities.

(a) By the name of the city of Broomfield, the municipal corporation shall have perpetual succession, shall own, possess and hold all property, real and personal heretofore owned, possessed and held by the City of Broomfield and does assume and shall manage and dispose of all trusts in any way connected therewith; shall succeed to all the rights and liabilities and shall acquire all benefits and does assume and shall pay all bonds, obligations and indebtedness of said City of Broomfield; may, by the name of the City of Broomfield, sue and defend, plead and be impleaded in all courts and places and in all matters and proceedings; may purchase, receive, hold and enjoy, or sell and dispose of real and personal property; may have and use a common seal and alter the same at pleasure.

(b) The City shall have all the power of local self-government and home rule and all power possible for a city to have under the Constitution of the State of Colorado. The City shall also have all powers that now or hereafter may be granted to municipalities by the laws of the State of Colorado, and the enumeration of particular powers in this Charter is not exclusive of 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 of the Council of the City.

(c) All ordinances of the City of Broomfield in force at the time this Charter goes into effect shall continue in force except insofar as they may conflict with the provision of this Charter or shall be amended or repealed by ordinance enacted under the authority of this Charter.

Section 2.2 Form of Government.

The municipal government provided by this Charter shall be the "Council-Manager" form of government. Pursuant to the provisions of this Charter and subject only to limitations imposed by the State Constitution, all powers of the City shall be vested in an elective Council, with an elective Mayor.

CHAPTER III

ELECTIONS

Section 3.1 Laws Governing Elections.

Special and general municipal elections shall be governed by the Colorado Municipal Election Law as now existing or hereafter amended or modified, except as otherwise provided in this Charter or as Council may prescribe by ordinance. The Council may by ordinance establish the method for the registration of electors; the number, qualifications and compensation for election judges and clerks; and the boundaries of election precincts. The Council may by ordinance establish an election commission with such powers, duties, terms and qualifications as provided by ordinance.

Section 3.2 Municipal Elections.

A general municipal election shall be held on the first Tuesday in November of each odd-numbered year. Any special municipal election may be called by resolution or ordinance of the Council at least sixty (60) days in advance of such election. The resolution or ordinance calling a special municipal election shall set forth the purpose or purposes of such election. Polling places for all municipal elections shall be open from 7:00 A.M. to 7:00 P.M. on election day. (Amendment passed 11/2/04)

Section 3.3 Precincts.

The election precincts of the City shall remain as they existed on the effective date of this Charter until altered by the Council as hereinafter provided. The Council shall by resolution from time to time establish convenient election precincts in accordance with this Charter and statutes.

Section 3.4 Nonpartisan Elections.

All municipal elections shall be nonpartisan. No candidate for any municipal office shall run under a party label of any kind.

Section 3.5 Recall.

Any election official or elected officer of the City may be recalled at any time after 90 days in office by the electors entitled to vote for a successor of such incumbent through the procedure in the manner provided for in Article XXI of the State Constitution. Consistent with the Constitution and this Charter, the Council may provide by ordinance for further recall procedures.

CHAPTER IV

COUNCIL AND MAYOR

Section 4.1 City Council and Mayor.

(a) The City Council shall consist of ten (10) Councilmembers, one (1) of whom shall serve as Mayor Pro-Tem. Two (2) of the Councilmembers shall be elected from each of the five (5) wards; the Mayor Pro-Tem shall be elected from within and by the Council, as hereinafter provided. Hereinafter, the words "entire Council" means those Councilmembers in office at the time a vote is taken.

(b) The Mayor shall be elected at large from the entire City.

Section 4.2 Wards.

(a) The City is hereby divided into five (5) wards whose boundaries shall be the same as presently established. Changes in the boundaries of wards may be made by ordinance adopted by the City Council, which changes shall be made at least 180 days prior to any regular municipal election. Wards shall be contiguous and compact, and shall have approximately the same number of voters.

(b) No change in the boundary of any ward shall operate to exclude any councilmember from office before the expiration of the term for which the incumbent was elected or appointed.

Section 4.3 Terms of Office--Mayor and Councilmembers.

(a) The terms of office of the councilmembers, including the Mayor, hereafter to be elected in accordance with the provisions of this Charter, shall commence on their taking the oath of office at the ensuing organizational meeting of the City Council held after the election in the year elected and shall continue during the term for which they shall have been elected until their successors shall have been elected and duly qualified.

(b) On the first Tuesday after the first Monday in November, in the year 1977, the first regular municipal election shall be held under the provisions of this Charter amendment, at which time a Mayor shall be elected from the City at large for a two (2) year term and shall be elected every two years thereafter; and two (2) councilmembers shall be elected from each of the five (5) wards of the City as follows: the candidate receiving the highest number of votes within each ward shall be elected for a four (4) year term and the candidate receiving the next highest number of votes within said ward shall be elected for two (2) year term. Thereafter, each councilmember shall be elected for a four year term. (Amendment passed 11/2/76).

Section 4.4 Mayor--Powers and Duties.

The Mayor shall preside at meetings of Council and shall exercise such powers and perform such other duties as are or may be conferred and imposed upon him by this Charter or the ordinances of the City. He shall have no power to vote except in cases of tie vote of the members of the Council present and voting. The Mayor shall have the power of veto, as provided in the Charter. The Mayor shall be recognized as the head of the City government for all ceremonial, dignitary and legal purposes, and he shall execute and authenticate legal instruments requiring his signing as such official.

Section 4.5 Mayor Pro-Tem.

The Council shall, at its first meeting following each regular municipal election, and after the newly elected members take office, elect one of its members to serve as Mayor Pro-Tem, for a term expiring at the first Council meeting following each regular election except as hereinafter provided. The Mayor Pro-Tem shall be elected by a majority of the councilmembers present at said meeting and may be removed by a majority of the entire Council.

The Mayor Pro-Tem shall preside at meetings of Council in the absence or disability of the Mayor. He shall have all the powers, rights and privileges of a councilmember. He shall have no tie-breaking vote nor power of veto, but shall have all other powers and duties of the Mayor in his absence or disability.

Section 4.6 Qualifications.

(a) No person shall be eligible to hold office as an elected official, unless, at the time of his nomination and election he be a registered elector as defined by the laws of the State of Colorado, a resident and registered elector of the City as defined by ordinance and a resident of his ward if elected by ward.

(b) Each elected official shall maintain his residency in the City and ward, if elected by ward, throughout his term of office. If an elected official shall move from the City or ward, if elected by ward, during his term of office his seat thereof shall be vacant and such vacancy filled by the City Council as provided by this Charter.

(c) No elected official shall be a salaried employee of the City during his term of office, nor perform personal services for the City for which he is compensated other than as provided in this Charter.

(d) The City Council shall be the judge of election and qualifications of its own members.

Section 4.7 Vacancies.

(a) An elected official shall continue to hold his office until his successor is duly qualified. An elective office shall become vacant whenever any officer is recalled, dies, becomes incapacitated, resigns, refuses to serve, or ceases to be a resident of the city or ward, if elected by ward, or is convicted of a felony.

(b) Within thirty days after a vacancy occurs, the remaining councilmembers shall choose by majority vote a duly qualified person to fill such vacancy. He shall serve the unexpired term until his successor is duly qualified. If four or more vacancies exist simultaneously, the remaining councilmembers shall, at the next regular meeting of the Council, call a special election to fill such vacancies, provided there will not be a general municipal election within ninety days and provided that their successors have not previously been elected.

(c) If a vacancy occurs in the office of Mayor, the Council shall call a special election within 60 days to elect a new mayor, unless said vacancy occurs within 180 days of the general municipal election.

Section 4.8 Compensation.

The members of the Council shall receive such compensation, and the Mayor such additional compensation, as the Council shall prescribe by ordinance; provided, however, that the compensation of any member during his term of office shall not be increased or decreased. The Mayor and Council may, upon order of the Council, be paid their actual and necessary expenses incurred in the performance of their duties of office.

Section 4.9 Powers of Council.

The Council shall constitute the legislative and governing body of the City and shall have all legislative powers and functions of municipal government, except as otherwise provided in the Constitution of the State of Colorado, this Charter or by Statutes applicable to Home Rule Cities, and shall have the power and authority to adopt such laws, ordinances, resolutions and rules as it shall deem proper.

Section 4.10 Oath of Office and Bond.

(a) Every elected officer under this Charter, before entering upon the duties of his office, shall take an oath or affirmation of office, that he will support the Constitution and the laws of the United States and of the State of Colorado, and this Charter and the ordinances of the City and will faithfully perform the duties of his office upon which he is about to enter. The City Clerk shall file each oath, together with any bond required by this Charter, or by the Council.

(b) In case of failure to comply with the provisions of this Section within ten (10) days from the date of his appointment, or within ten (10) days from the date prescribed in this Charter to take office, such officer shall be deemed to have declined the office and such office shall thereupon become vacant unless the Council shall, by motion or resolution, extend the time in which such officer may qualify as above set forth.

CHAPTER V

COUNCIL PROCEDURE

Section 5.1 Regular Meetings.

The Council shall meet regularly at least twice each month at a day and hour to be fixed by the rules of Council. The Council shall determine the rules of procedure governing meetings. The first regular meeting of the Council following the regular municipal election and in the month of said election, shall be the organizational meeting. (Amendment passed 11/2/76).

Section 5.2 Special Meetings.

Special meetings of the Council shall be called by the Clerk on the written request of the Mayor, or by any four (4) members of the Council on at least twenty-four (24) hours written notice to each member of the Council, served personally or left at his usual place of residence or place of business, and written notice posted in at least three (3) public places, but a special meeting may be held on shorter notice if all members of the Council are present or have waived notice thereof in writing.

Section 5.3 Business at Special Meeting.

No business shall be transacted at any special meeting of the Council unless the same has been stated in the notice of such meeting. However, any business which may lawfully come before a regular meeting may be transacted at a special meeting if all the members of the Council present consent thereto and all the members absent file their written consent.

Section 5.4 Quorum: Adjournment of Meeting.

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

Section 5.5 Organization and Rules of Council.

The Council shall determine its own organization, rules and order of business subject to the following provisions:

(a) Minutes of the proceedings of each regular or special meeting shall be kept in the English language by the Clerk and shall be signed by the Presiding Officer and Clerk of the meeting at which the minutes are approved.

(b) A roll call vote upon all ordinances, resolutions and motions shall be taken by "Yes" or "No" vote and entered upon the records, except that where the vote is unanimous it shall only be necessary to state that the vote was unanimous.

(c) No member of the Council shall vote on any question in which he has a financial interest, other than the common public interest, or on any question concerning his own conduct.

Section 5.6 Meetings to be Public.

All regular and special meetings of the Council shall be open to the public and citizens shall have a reasonable opportunity to be heard under such rules and regulations as the Council may prescribe. The Council may hold such study sessions and executive sessions as the Council may determine and may exclude from said meetings the public and citizens, provided however, no formal and legally binding action by the Council for the City shall be taken at any such executive or study session.

CHAPTER VI

LEGISLATION

Section 6.1 Prior City Legislation.

(a) All by-laws, 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 after the effective date of this Charter until repealed or amended.

(b) If any such by-law, ordinance, resolution, rule or regulation provides for the appointment of any officers or any members of any board or commission by the Mayor, such officers or members of any board or commission shall, after the effective date of this Charter, be appointed by the Council, except as otherwise provided in this Charter.

(c) Those provisions of any effective valid by-law, ordinance, resolution, rule or regulation which are inconsistent with this Charter are hereby repealed.

Section 6.2 Council Acts.

Council shall act only by ordinance, resolution or motion. All legislative enactments must be in the form of ordinances; all other actions, except as herein provided, may be in the form of resolutions or motions. All ordinances and resolutions shall be confined to one subject except in case of repealing ordinances, and ordinances making appropriations shall be confined to the subject of appropriations.

Section 6.3 Voting.

A vote by 'Yes' or 'No' shall be taken upon the passage of all ordinances, resolutions and motions and entered upon the records, except that where the vote is unanimous it shall only be necessary to state that the vote was unanimous. Every ordinance shall require the affirmative vote of the majority of the membership of the entire Council for final passage and, pursuant to Section 4.4 the Mayor shall vote on ordinances in case of a tie vote. Resolutions and motions shall require the affirmative vote of a majority of the members present for passage. Every member, when present, must vote upon ordinances, resolutions and motions, except he shall be excused from voting on matters involving the consideration of his own official conduct or when his personal or financial interest is involved. For every member excused from voting, the quorum and total membership of Council shall be reduced by one for the purpose of action on each and every ordinance, resolution and motion. (Amendment passed 11/2/76; Amendment passed 11/2/04).

Section 6.4 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 making an appropriation, creating an indebtedness, authorizing borrowing of money, levying a tax, establishing any rule or regulation for the violation of which a penalty is imposed, or placing any burden upon or limiting the use of private property, shall be by ordinance; provided, however, that this section shall not apply to the adoption of the budget and levying of an ad valorem tax, as provided in this Charter.

Section 6.5 Form of Ordinance--Effective Date.

All ordinances shall be introduced in written or printed form and no ordinance or section thereof shall be amended or repealed except by an ordinance regularly adopted. The enacting clause of all ordinances shall be "Be it ordained by the City Council of The City and County of Broomfield, Colorado." With the exception of emergency ordinances, the effective date of all ordinances shall be seven days after public notice following final passage unless a later date is prescribed in the ordinance, or it is vetoed by the mayor as provided in Section 6.7 of this charter. (Amendment passed 11/6/01).

Section 6.6 Procedure for Passage of Ordinances.

Except for emergency ordinances, ordinances making general codification of existing ordinances, and ordinances adopting standard codes, the following procedure for enactment of ordinances shall be followed:

- (a) The ordinance shall be introduced at any regular or special meeting of the Council by any member thereof.
- (b) The ordinance shall be read in full, or in cases where copies of the ordinance are available to the Council and to those persons in attendance at said Council meetings, said ordinance may be read by title only.
- (c) After the first reading of the ordinance, the same shall be approved or rejected by a vote of the Council.
- (d) If the ordinance is approved on first reading, it shall be published in full unless otherwise provided herein. The Council shall set a day, hour and place at which Council shall hold a public hearing on the ordinance and notice of said day, hour and place shall be included in the first publication.
- (e) The ordinance shall be introduced at Council a second time, at a meeting not earlier than seven days after first publication for final approval, rejection, or other action as may be taken by vote of the Council. This meeting may be the same meeting at which the public hearing on the ordinance is held. The ordinance may be amended before final approval by vote of the Council.

(f) Except as otherwise provided in this Charter, an ordinance, if amended in substance, shall be published in full after final passage, but if not amended in substance, it shall be published either by title or in full as the Council may determine.

(g) Whenever an ordinance shall be published by reference or by title, the publication shall contain a summary of the subject matter of said ordinance and shall contain a notice to the public that copies of the proposed ordinance are available at the office of the City Clerk. The publication of any ordinance by reference or by title as provided herein must set forth in full any penalty clause contained in said ordinance.

Section 6.7 Veto by Mayor.

The Mayor shall have the power to veto any ordinance passed by Council subject to the following:

(a) The Mayor must veto the ordinance passed by Council and must exercise the power of veto with a complete written explanation of the reasons thereof addressed and delivered to each Council member not later than seven (7) days from the date of its final passage.

(b) The Mayor's veto may be overridden only by an affirmative vote of two-thirds ($\frac{2}{3}$) membership of the entire Council at the next regular Council meeting following the veto.

(c) If the Mayor does not exercise the veto power, ordinances shall take effect as provided elsewhere in this Charter.

Section 6.8 Emergency Ordinances.

(a) An ordinance which is declared therein to be an emergency ordinance and which is immediately necessary for the preservation of the public peace, health, safety or welfare may be enacted at the regular or special meeting at which it is introduced by unanimous minus one vote of councilmembers present and without any requirement of publication and without any requirement of a second reading and passage. The purpose of the emergency must be clearly stated in the ordinance. Such emergency ordinances, after passage, shall take effect eight days therefrom, but shall for information purposes, be published as required in this Charter for ordinances after final passage.

(b) No ordinance granting any special privilege, levying taxes, incurring indebtedness, authorizing borrowing money or fixing rates charged by any City-owned utility shall ever be passed as an emergency measure, except as provided by Section 12.10(b), Emergency Appropriations, and Section 14.2, Short-Term Notes.

(c) The Mayor shall not have veto power on an emergency ordinance. (Amendment passed 6/2/76).

Section 6.9 Publication of Ordinances.

Pursuant to requirements for publication of ordinances as provided elsewhere in this Charter, said ordinances shall be published in a newspaper of general circulation in the City.

Section 6.10 Codification.

The Council shall cause the ordinances to be codified and maintained thereafter in current form. Revisions to the codes may be accomplished by reference as provided in this Charter.

Section 6.11 Codes Published by Reference.

Standard codes, promulgated by the Federal Government, the State of Colorado, or by an agency of either of them, or by any municipality within the State of Colorado, or by recognized trade or professional organizations, or amendments or revisions thereof, may be adopted by reference; provided the publication of the ordinance adopting any said code shall advise that copies thereof are available for inspection at the office of the City Clerk, and provided that any penalty clause in said codes may be adopted only if set forth in full and published in the adopting ordinance.

Section 6.12 Disposition of Ordinances.

A true copy of every ordinance, as adopted by Council, shall be numbered and recorded in the official records of the City. Its adoption and publication shall be authenticated by the signature of the Mayor, or Mayor Pro-Tem, and the City Clerk, and by the certificate of publication. A true copy of every ordinance, as adopted by the vote of the electors of the City, shall be separately numbered and recorded commencing with "Peoples' Ordinance No. 1." But the failure to so file and authenticate such ordinance shall not invalidate it or suspend its operation.

CHAPTER VII

INITIATIVE AND REFERENDUM

Section 7.1 Initiative.

(a) Any proposed ordinance, except an ordinance pertaining to the City budget, appropriation of funds, levy of taxes, salaries and tenure of city officials or employees, zoning or rezoning of property and acquisition or disposition of municipal properties, may be submitted to the Council by petition signed by registered electors of the City equal in number to the percentage hereinafter required.

(b) An initiative petition accompanying the proposed ordinance signed by registered electors of the City equal in number to 15 percent of the total voters who cast ballots in the last general municipal election, shall be filed with the City Clerk at least sixty days prior to any general or special municipal election, and shall contain a request that said proposed ordinance be submitted to a vote of the people if not passed by the Council. The Council shall within thirty days after the attachment of the Clerk's certificate of sufficiency to the accompanying petition either (a) pass said ordinance without alteration, or (b) call a special election, unless a general municipal election is fixed within ninety days thereafter, and at such special or general municipal election, said proposed ordinance shall be submitted without alteration to the vote of the registered electors of the City.

(c) An initiated ordinance shall be published in like manner as other proposed ordinances. The ballot upon which such proposed ordinance is submitted shall state briefly the nature and it shall contain the words "FOR THE ORDINANCE" and "AGAINST THE ORDINANCE." If a majority of the registered electors voting thereon shall vote in favor thereof, the same shall thereupon without further publication become an ordinance of the City.

(d) The provisions of this Section shall in no way affect nor preclude the procedures for recall of any elected official or officer as provided in this Charter.

Section 7.2 Referendum.

(a) The referendum shall apply to all ordinances passed by the Council, except ordinances related to or levying municipal taxes, city budget, appropriation of funds, calling a special election, authorizing the issuance of local improvement district bonds payable primarily from special assessments, levying special assessments, emergency ordinances, ordinances to meet contractual obligations of the City, salaries and tenure of City officials or employees, acquisition or disposition of municipal properties.

(b) If, at any time within thirty days after the final passage of an ordinance to which the referendum is applicable, a petition signed by registered electors equal in amount to at least ten percent of the total voters who cast ballots in the last general municipal election be presented to the Council protesting against the going into effect of any ordinance, the same shall thereupon be suspended and the Council shall reconsider such ordinance; and if the same be not entirely repealed shall submit the same to a vote of the registered electors of the City in a manner as provided in respect to the initiative at the next regular municipal election, or at a special election called therefor. If a majority of the registered electors vote in favor of such ordinance, it shall go into effect without further publication.

(c) The Council, on its own motion, shall have the power to submit at a general or special election any proposed ordinance or question to a vote of the people in a manner as in this Charter provided.

(d) If provisions of two or more proposed ordinances adopted or approved at the same election conflict, the ordinance receiving the highest affirmative vote shall become effective.

Section 7.3 Certificate of Clerk. Amendment of Petition.

Within ten days from the filing of any initiative or referendum petition, the City Clerk shall ascertain whether the petition is signed by the requisite number of registered electors, and if sufficient shall attach thereto a certificate of sufficiency showing the result of such examination. If the petition is insufficient, the Clerk shall forthwith in writing notify one or more of the persons designated as filing the same on the petition. The petition may then be amended within ten days from the filing of the certificate. The City Clerk, within five working days after such amendment, shall make the examination of the amended petition and attach thereto a certificate of the result. If still insufficient, the Clerk shall return the petition to one of the persons designated thereon as filing it, without prejudice to the filing of a new petition for the same purposes, but such petition shall not be refiled within one year after return by the Clerk.

Section 7.4 Prohibition of Amendment or Reenactment.

An ordinance adopted by the electorate may not be amended or repealed for a period of six months after the date of the election at which it was adopted, and an ordinance repealed by the electorate may not be re-enacted for a period of six (6) months after the date of the election at which it was repealed provided however, that ordinances may be adopted, amended or repealed at any time by appropriate referendum or initiatory procedure in accordance with the foregoing provisions of this Charter, or if submitted to the electorate by the Council on its own motion.

Section 7.5 Implementation.

The Council may adopt such additional rules and regulations as are deemed necessary to implement this Chapter.

CHAPTER VIII

MUNICIPAL ADMINISTRATION

Section 8.1 City Manager.

The City Manager shall be the chief executive and administrative officer of the City. The Council, by a majority vote, shall appoint a City Manager within a reasonable time whenever a vacancy exists in such position. Such appointment shall be without definite term and shall be at a salary to be fixed by Council. The manager shall be appointed without regard to any consideration other than his fitness, competency, training and experience as a manager. At the time of his appointment, he need not be a resident of the City or state, but during tenure of office he shall reside within the City. No member of the Council shall be appointed manager during the term for which he shall have been elected, nor within one year after the expiration of his term.

Section 8.2 Acting City Manager.

The Council may appoint an acting City Manager during the period of vacancy in the office, or during the absence or disability of the City Manager. Such acting City Manager shall, while he is in such office, have all responsibilities, duties, functions and authority of the City Manager.

Section 8.3 Powers and Duties.

The City Manager shall be responsible to the Council for the proper administration of all affairs of the City placed in his charge, and to that end he shall have the power and duty and be required to: (a) be responsible for the enforcement of the laws and ordinances of the City; (b) hire, suspend, transfer and remove City employees; (c) 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; (d) cause a proposed budget to be prepared annually and submit it to the Council and be responsible for the administration of the budget after its adoption; (e) prepare and submit to the Council as of the end of the fiscal year a complete report on finances and administrative activities of the City for the preceding year, and upon request of the Council make written or verbal report at any time concerning the affairs of the City under his supervision; (f) keep the Council advised of the financial condition and future needs of the City, and make such recommendations to the Council for adoption as he may deem necessary or expedient; (g) exercise supervision and control over all executive and administrative departments except as otherwise herein provided and recommend to the Council any proposal he thinks advisable to establish, consolidate or abolish administrative departments; (h) be responsible for the enforcement of all terms and conditions imposed in favor of the city in any contract or public utility franchise, and upon knowledge of any violation thereof, report the same to the Council for such action and proceedings as may be necessary to enforce the same; (i) attend Council meetings and participate in discussions with the Council in an advisory capacity without right to vote; (j) establish a system of accounting and auditing for the City which shall reflect, in accordance with generally accepted accounting principles, the financial condition and financial operation of the City; (k) provide for engineering, architectural, maintenance and construction services required by the City; and (l) perform such other duties as may be prescribed by this Charter, or by ordinance, or required of him by Council which are not inconsistent with this Charter.

Section 8.4 Removal of City Manager.

The Council at a regular or special meeting may, upon the vote of the majority of the entire Council, remove the City Manager from office. Upon such termination the Council may in its discretion provide termination pay.

Section 8.5 Relationship of Council to Administrative Service.

Neither the Council, its members, the mayor, nor any council committee shall dictate the appointment of any person to office by the city manager except as otherwise provided in this Charter or in any way interfere with the city manager or other city officer to prevent him from exercising his judgment in the appointment or employment of officers and employees in the administrative service. Except for the purpose of inquiry, the council, its members, the mayor and any council committee shall deal with the administrative service solely through the city manager and neither the council, its members, the mayor, nor any council committee thereof shall give orders to any of the subordinates of the city manager.

Section 8.6 City Clerk.

The Manager with the approval of Council shall appoint a City Clerk, who shall be custodian of the City seal and who shall keep a journal of Council proceedings and record in full all ordinances, motions and resolutions. The Clerk shall have power to administer oaths and take acknowledgments under seal of the City, and shall perform such other duties as required by this Charter, the Council, or the Manager. The Manager, with the approval of City Council, can remove the City Clerk in a manner similar to which he or she is appointed.

Section 8.7 Bonding of Employees.

All City officials and employees dealing directly with municipal funds or substantial inventories of materials and supplies shall post bond in an amount and under such conditions as required by Council, and at the expense of the City.

Section 8.8 Administrative Departments.

(a) The administrative functions of the City shall be performed by the departments existing at the time this Charter is adopted and such departments as the Council may hereafter establish by ordinance, upon recommendation of the City Manager. The Council may, by ordinance, upon recommendation of the City Manager, consolidate or merge any departments, whether set forth in this Charter or established by ordinance.

(b) All departments of the City, except as otherwise provided in this Charter, shall be under the supervision and control of the City Manager, and he shall have the right to divide with Council approval such departments into separate divisions and to assign various functions and duties to the different departments and divisions.

CHAPTER IX

PERSONNEL

Section 9.1 Personnel Merit System.

(a) Within one year after the effective date of this Charter that City Council shall create and enact a Personnel Merit System and establish a Personnel Merit Commission composed of three (3) registered electors.

(b) The Personnel Merit System shall include all city employees within the provision including the police and fire department chiefs and exclude from the system shall be the City Manager, department heads excepting the police and fire department heads, elective officers, appointees of Council, appointed members of boards and commissions, persons employed to make or conduct a special inquiry, investigation, examination or installation or audit.

(c) The Personnel Merit Commission shall have jurisdiction and final authority to hear and determine appeals by any aggrieved employee who has been subject to disciplinary action of any kind.

(d) The Personnel Merit Commission shall promulgate its own rules and regulations consistent with implementing ordinances adopted by Council.

CHAPTER X

LEGAL AND JUDICIARY

Section 10.1 City Attorney.

The Council shall appoint a City Attorney to serve at the pleasure of Council. He shall be an attorney-at-law admitted to practice in Colorado. The City Attorney shall be the legal representative of the City and he shall advise the Council and City officials in matters relating to their official powers and duties and perform such other duties as

Council may prescribe by ordinance or resolution. The Council may provide the City Attorney such assistants as Council may deem necessary, and may on its own motion or upon request of the City Attorney employ special counsel. Council shall establish compensation for the City Attorney, his assistants and special counsel.

Section 10.2 Municipal Court.

(a) **Municipal Judge.** There shall be a municipal court vested with exclusive original jurisdiction of all causes arising under the ordinances of the city and as may be conferred by law. The municipal court shall be presided over and its functions exercised by a judge appointed by the Council for a specified term of not less than two years. The Council may reappoint the municipal judge for a subsequent term or terms, except that the initial appointment may be for term of office which expires on the date of the organizational meeting of the Council after the next general election. Any vacancy in the office of municipal judge shall be filled by appointment by the council for the remainder of the unexpired term. The municipal judge shall be an attorney-at-law admitted to practice in the State of Colorado.

(b) **Deputy Judges.** Council may appoint one or more deputy judges as it deems necessary. The deputy municipal judge shall have all the powers of the municipal judge when called on to act by the municipal judge or the Council. In the event that more than one municipal judge is appointed, the Council shall designate a presiding municipal judge, who shall serve in this capacity during the term for which he was appointed. The deputy municipal judges shall be attorneys admitted to practice in the State of Colorado and serve at the pleasure of the Council.

(c) **Compensation.** The municipal judge shall receive a fixed salary or compensation set by the Council which salary or compensation shall not be dependent upon the outcome of the matters to be decided by the municipal judge. The deputy municipal judges may receive such compensation for services rendered as Council may determine.

(d) **Removal.** Any municipal judge may be removed during his term of office only for cause. A judge may be removed for cause if:

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

CHAPTER XI

BOARDS AND COMMISSIONS

Section 11.1 Existing Boards and Commissions.

All existing Boards and Commissions shall continue as established by ordinance, except as otherwise provided by ordinance or this Charter.

Section 11.2 Right to Establish, Amend and Abolish.

(a) In addition to those Boards and Commissions existing at the time of this Charter, Council may create any Boards and Commissions including Advisory and Appeal Boards. Advisory Boards may be created by resolution. All other Boards and Commissions shall be created by ordinance, which shall prescribe the powers and duties delegated by Council. Initial appointments by the Council to any Board or Commission shall specify the term of office of each member in order to achieve overlapping tenure. Council shall also make appointment to fill vacancies for unexpired terms. Each Board and Commission shall elect its own chairman and vice-chairman from among its members. Each Board and Commission shall operate in accordance with its own rules of procedure, except as otherwise directed by Council. Appointees shall be subject to removal for just cause at the pleasure of the City Council by majority vote of the entire Council in office at the time the vote is taken.

(b) The Council may increase, reduce, or change any or all of the powers, duties and procedures of any Boards or Commission existing at the time of this Charter, or created by ordinances or resolutions thereafter.

(c) Any Board or Commission existing at the time of this Charter or created under this provision which is not required by statute or this Charter may be abolished by Council.

(d) No member of the City Council, the Mayor, any city employee, nor any appointed city official shall serve on any permanent Board or Commission heretofore established by Council during his tenure as councilmember, mayor, or city employee or appointed city official.

CHAPTER XII

FINANCE AND BUDGET

Section 12.1 Fiscal Year.

The fiscal year of the City and all of its agencies shall begin on the first day of January and end on the last day of December of each year.

Section 12.2 Proposed Budget and Message.

Prior to the beginning of each fiscal year, the City Manager shall prepare and submit to the Council a recommended budget for the next fiscal year and an accompanying message.

Section 12.3 Budget Message.

The City Manager's message shall explain the budget both in fiscal terms and in terms of the work program. It should contain the proposed financial policies of the City for the next fiscal year, describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures and revenues, together with the reasons for such changes, summarize the City's debt position, give the balance between the total estimated expenditures and total anticipated revenue from all sources, taking into account the estimated surpluses or deficits in the various funds, and include such other material as the Manager deems necessary or which the Council may require.

Section 12.4 Budget Content.

The budget shall provide a complete financial plan of all municipal funds and activities for the next fiscal year and, except as required by law or this Charter, shall be in such form as the City Manager deems desirable or the Council may require. In organizing the budget, the City Manager shall utilize the most feasible combination of expenditure classification by fund, organization unit, program, purpose or activity, and object. It shall begin with a clear general summary of its contents and shall be so arranged as to show comparative figures for actual and estimated income and expenditures of the preceding fiscal year. It shall include the following in separate sections unless otherwise provided by ordinance:

- (a) Anticipated revenues classified as cash surplus, miscellaneous revenues, and amounts to be received from property tax; cash surplus being defined for purposes of this article as the amount by which cash is expected to exceed current liabilities and encumbrances at the beginning of the next fiscal year;
- (b) Proposed expenditures for current operations during the next fiscal year, detail by offices, departments and agencies in terms of their respective work programs, and the method of financing such expenditures;
- (c) A reasonable provision for contingencies;
- (d) A capital depreciation account;
- (e) Required expenditures for debt service, judgments, cash deficient recovery and statutory expenditures;
- (f) Proposed capital expenditures during the next fiscal year, detailed by offices, departments and agencies when practicable, and the proposed method of financing each such capital expenditure;
- (g) Anticipated net surplus or deficit for the next fiscal year for each utility owned or operated by the City and the proposed method of its disposition; subsidiary budgets for each such utility giving detailed income and expenditure information shall be attached as appendices to the budget.
- (h) The bonded and other indebtedness of the City, showing the debt redemption and interest requirements, the debt authorized and unissued, and the condition of sinking funds, if any;
- (i) Such other information as the Council may request.

Section 12.5 Capital Program.

(a) The Manager, with such assistance as the Council may direct, shall prepare and submit to the Council a long-range capital program, simultaneously with his recommended budget.

- (b) The capital program shall include the following, unless otherwise provided by ordinance:
- (1) A clear general summary of its contents;
 - (2) A list of all capital improvements which are proposed to be undertaken during the following fiscal years, with appropriate supporting information as to the necessity for the improvement;
 - (3) Cost estimates, method of financing and recommended schedules for each such improvement;
 - (4) The estimated annual cost of operating and maintaining the facilities to be constructed or acquired;
 - (5) Such other information as the Council may request.

This information may be revised or extended each year with regard to capital improvements still pending or in process of construction or acquisition.

Section 12.6 Public Hearing.

A public hearing on the proposed budget and proposed capital program shall be held before its final adoption at such time and place as the Council may direct. Notice of such public hearing and notice that the proposed budget is on file for public inspection in the municipal building shall be published one time at least seven days prior to the hearing.

Section 12.7 Council Action on Budget.

(a) Amendments. After the public hearing, the Council may adopt the budget with or without amendment. In amending the budget, it may add or increase programs or amounts and may delete or decrease any programs or amounts, except expenditures required by law or for debt service or for estimated cash deficit.

(b) Adoption. The Council shall adopt the budget by resolution on or before the final day established by law for the certification of the next year's tax levy to the county. If it fails to adopt the budget by this date, the amounts appropriated for the operation of the current fiscal year shall be deemed adopted for the next fiscal year on a month-to-month basis, with all items in it pro-rated accordingly, until such time as the Council adopts the budget for the next fiscal year.

(c) Balanced Budget. The total of the proposed expenditures and provisions for contingencies shall not exceed the total of estimated revenue.

(d) Tax Levy. Adoption of the budget by Council shall constitute appropriations of the amounts specified therein as expenditures from the funds indicated and shall constitute a levy of the property tax therein proposed. Council shall cause the same to be certified to the appropriate authorities as required by law.

Section 12.8 Contingencies.

The budget may include an item for contingencies. Except in those cases where there is no logical account to which an expenditure can be charged, expenditures shall not be charged directly to contingencies; but instead, the necessary part of the appropriation for contingencies shall be transferred to the logical account, and the expenditure charged to such account. No such transfer shall be made without the express approval of the Council, and then only for expenditures which could not readily be foreseen at the time the budget was adopted.

Section 12.9 Public Records.

Copies of the budget and capital program as adopted shall be public records and shall be made available to the public in the municipal building.

Section 12.10 Amendments After Adoption.

(a) Supplemental appropriations. If during the fiscal year the Manager certifies that there are available for appropriation revenues in excess of those estimated in the budget, the Council by resolution may make supplemental appropriations for the year up to the amount of such excess.

(b) Emergency Appropriations. To meet a public emergency affecting life, health, property or the public peace, the Council may make emergency appropriations. Such appropriations may be made by emergency ordinance in accordance with provisions of this Charter. To the extent that there are no available unappropriated revenues to meet such appropriations, the Council may by emergency ordinance authorize the issuance of emergency notes, which may be renewed from time to time, but the emergency notes and renewals of any fiscal year

shall be paid not later than the last day of the fiscal year next succeeding that in which the emergency appropriation was made.

(c) Reduction of Appropriations. If at any time during the fiscal year it appears probable to the Manager that the revenues available will be insufficient to meet the amount appropriated, he shall report to the Council without delay, indicating the estimated amount of deficit, any remedial action taken by him and his recommendation as to any other steps to be taken. The Council shall then take action to prevent or minimize any deficit and for that purpose it may by resolution reduce one or more appropriations.

(d) Transfer of Appropriations. Any time during the fiscal year, the Manager may transfer part or all of any unencumbered appropriation balance among programs within a department, office or agency and, upon written request by the Manager, the Council may by resolution transfer part or all of any unencumbered appropriation balance from one department, office, agency, or object to another.

(e) Limitation--Effective Date. No appropriation for debt service may be reduced below any amount required by law to be appropriated or by more than the amount of the unencumbered balance thereof. The supplemental and emergency appropriation and reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption.

Section 12.11 Independent Audit.

An independent audit shall be made of all City accounts at least annually and more frequently if deemed necessary by the Council. Such audit shall be made by certified or registered public accountants, experienced in municipal accounting, selected by the Council. Copies of such audit shall be made available for public inspection at the municipal building.

Section 12.12 Lapse of Appropriation.

Every appropriation, except an appropriation for a Capital Expenditure Fund or Special Fund, shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered. An appropriation for a Capital Expenditure Fund or Special Fund shall continue in effect until the purpose for which it has been made has been accomplished or abandoned or it is transferred as permitted in Section 12.10.

CHAPTER XIII

TAXATION

Section 13.1 Tax Authority and Limitations.

The Council shall have authority to levy and impose taxes for municipal purposes and to provide for their collection, provided that no income tax, sales tax, use tax, or excise tax shall be levied after the approval of this Charter until such tax shall be approved by a majority of the electorate voting at a regular or special election. Council shall also have authority to levy and provide for collection of special assessments for local improvements as provided in this charter or by ordinance.

Section 13.2 Collection of Taxes.

(a) Unless otherwise provided by ordinance, the County Treasurer shall collect City ad valorem taxes in the same manner and at the same time as general ad valorem taxes are collected. In like manner, the Council may provide for collection of special improvement assessments by the said Treasurer.

(b) All laws of this State for the assessment of property and the levy and collection of ad valorem taxes, sale of property for taxes and the redemption of the same, shall apply and have the full force and effect in respect to taxes for the City as to such general ad valorem taxes, except as may be modified pursuant to this Charter.

Section 13.3 Authority to Acquire Property.

In addition to all other power which it has to acquire property, the City is hereby authorized to purchase or otherwise acquire property in which there are delinquent taxes or special assessments. The City may also dispose of any property acquired under this authority in like manner as any other property.

CHAPTER XIV

MUNICIPAL FUNDING

Section 14.1 Forms of Borrowing.

The City may borrow money for any municipal purpose as provided herein and issue the following securities to evidence such indebtedness:

- (a) Short-term notes;
- (b) General obligation bonds and other like securities;
- (c) Revenue bonds and other like securities;
- (d) Special or local improvement bonds and other like securities;
- (e) Any other legally recognized security which the Council may provide.

Section 14.2 Short-Term Notes.

The City, upon the affirmative vote of the majority of the entire Council in office at the time the vote is taken is hereby authorized to borrow money without an election in anticipation of the collection of taxes or other revenues and to issue short-term notes to evidence the amount so borrowed. Any such short-term notes shall mature before the close of the fiscal year in which the money is so borrowed except as is permitted in the provision of this Charter pertaining to Emergency Appropriations.

Section 14.3 General Obligation Bonds.

(a) No bonds or other evidence of indebtedness payable in whole or in part from the proceeds of general property taxes or to which the full faith and credit of the City is pledged, shall be issued, except in pursuance of an ordinance adopted and approved by two-thirds ($\frac{2}{3}$) vote of the entire Council, or until the question of their issuance shall, at a general or special election, be submitted to a vote of the electors and approved by a majority of those voting on the question.

(b) The Council shall determine which of the aforementioned methods of approval of such securities shall be utilized subject to the limitations of subsection 14.3(c) below.

(c) Pursuant to subsection (a) above, the Council may, without voter approval, issue such securities in total amounts not to exceed two percent (2%) of the assessed valuation of the taxable property within the City, as shown by the last preceding assessment for city purposes.

(d) General obligation bonds issued for acquiring water and rights thereto, or acquiring, improving or extending a City water system or sewer system or any combination of such purposes may be so issued without an election and upon a vote of approval by a majority of two-thirds ($\frac{2}{3}$) vote of the entire Council, without the restrictions contained in this section.

(e) The provisions of this Section shall not apply to Short-Term Notes, Revenue Bonds, Refunding Bonds, nor Special or Local Improvement District Bonds, which are provided for elsewhere in this Chapter.

Section 14.4 Revenue Bonds.

The City, pursuant to ordinance, and without an election, may borrow money, issue bonds, or otherwise extend its credit for purchasing, constructing, condemning, otherwise acquiring, extending or improving a water, electric, gas or sewer system, or other public facility or income-producing project or for any other capital improvement; provided that the bonds or other obligations shall be made payable from the net revenues derived from the operation of such system, utility or other such project or capital improvement, and provided, further, that any two or more of such systems, utilities, projects or capital improvements may be combined, operated and maintained as joint municipal systems, utilities, projects or capital improvements, 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, utilities or capital improvements.

Section 14.5 Funding of Revenue Bonds.

In addition to the provisions of Section 14.4 relating to Revenue Bonds, the City shall have the authority to issue revenue bonds payable from the revenue and income of the project, facility, or improvement to be constructed or installed with the proceeds of the bond issue, or payable in whole or in

part from the available proceeds of a City sales and use tax which may be imposed pursuant to this Charter.

Section 14.6 Refunding Bonds.

(a) The Council may authorize, by ordinance, without an election, issuance of refunding bonds or other like securities for the purpose of refunding and providing for the payment of the outstanding bonds or other like securities of the City as the same mature, or in advance of maturity, by means of an escrow or otherwise.

(b) Any refunding bonds or other like securities issued for the purpose of refunding revenue bonds or other revenue securities shall be payable from the revenues of the system, utility, income-producing project or other capital improvement that was acquired, extended or improved with the proceeds of the original bond issue.

Section 14.7 Limitation on Indebtedness.

The aggregate amount of bonds or other evidences of indebtedness of the City shall not exceed ten percent (10%) of the assessed valuation of the taxable property within the City as shown by the last preceding assessment for City purposes; provided however, in determining the amount of indebtedness, there shall not be included within the computation:

(a) Bonds or other evidences of indebtedness, outstanding or authorized to be issued for the acquisition, extension or improvement of a municipal water-works system, or municipal storm sewer, sanitary sewer, combined storm and sanitary sewers, or sewage disposal systems;

(b) Short-term note;

(c) Special or local improvement securities;

(d) Securities payable from the revenues of an income-producing system, utility, project, or other capital improvement or from City sales or use taxes.

(e) Long-term installment contracts other than real property acquisitions, rentals and leaseholds pursuant to Section 14.9.

Section 14.8 Bonds: Interest, Sale, Prepayment.

(a) The terms and maximum interest rate of general obligation or revenue bonds or other like securities shall be fixed by the authorizing ordinance and such securities shall be sold to the best advantage of the City.

(b) Any refunding bond may be exchanged dollar for dollar for a bond refunded.

(c) All bonds may contain provisions for calling the same at designated periods prior to the final due date, with or without the payment of a prior redemption premium.

Section 14.9 Long-Term Installment Contracts, Rentals and Leaseholds--City Property.

(a) In order to provide necessary land, buildings, equipment, and other property for governmental or proprietary purposes, the City is hereby authorized to enter into long-term installment purchase contracts and rental or leasehold agreements. Such agreements may include an option or options to purchase and acquire title to such property within a period not exceeding the useful life of such property. Each such agreement and the terms thereof shall be concluded by an ordinance duly enacted by the Council.

(b) The Council is authorized and empowered to provide for the said payments by a tax levy imposed upon property included within the boundaries of the City, or by rates, tolls or service charges imposed for the use of such property or any part thereof by others, or by any other available municipal revenue, or by any one or more of the above sources.

(c) The obligation created hereunder shall not constitute an indebtedness of the City within the meaning of the legal limitations on contracting of indebtedness by cities.

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

CHAPTER XV

IMPROVEMENT DISTRICTS

Section 15.1 Power to Create Special or Local Improvement Districts.

(a) The City shall have the power to create Special or Local Improvement Districts within designated districts in the City, to contract for, construct or install special or local improvements of every character within the said designated districts, to assess the cost thereof, wholly or in part upon the property benefited in such district, and to issue special or local improvement bonds therefor.

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

(c) Except as otherwise provided by Charter or by ordinance, the Statutes of the State of Colorado shall govern the creation and organization of Special or Local Improvement Districts, the assessment of costs, the issuance of bonds therefor and all things in relation thereto.

Section 15.2 Creation of Special or Local Improvement Districts.

Special or Local Improvement Districts created pursuant to this Chapter may be so created by:

(a) Ordinance; or

(b) On a petition by the owners of more than fifty percent (50%) of the area of the proposed district, provided that such majority shall include not less than fifty percent (50%) of the land owners in the proposed district, subject in either event to protest by the owners of the frontage area to be assessed.

Right to protest and notice of public hearing shall be given as provided by Council by ordinance. All protests shall be considered but if the public welfare warrants, Council shall have final decision. Such improvements shall confer special benefits on the real property within the said districts and general benefits to the City-at-large. The Council shall by ordinance prescribe the method and manner of making such improvements, of assessing the cost thereof, and issuing and paying bonds for costs and expenses of constructing or installing such improvements.

Section 15.3 Improvement District Bonds; Levy for General Benefit to Special Fund; Pledge of Credit.

(a) In consideration of general benefits conferred on the City at large from the construction or installation of improvements in Special or Local Improvement Districts, the City Council may contract by ordinance prior to the issuance of any bonds of any Special or Local Improvement District, that the payment of such bonds, both as the principal, interest and costs appertaining thereto become due, is additionally secured by a Special Fund herein created, and pursuant hereto may levy annual taxes on all taxable property within the City at a rate not exceeding two (2) mills in any one (1) year, to be disbursed as determined by the Council, for the purpose of paying for such improvements, pursuant to Section 15.5, for the payment of any assessment levied against the City itself in connection with said bonds issued for Special or Local Improvement Districts, for the purpose of advancing money to maintain current payments of interest and equal annual payments of the principal amount of said bonds or for any prior redemption premium appertaining to such bonds.

(b) The proceeds of such taxes shall be placed in a Special Fund and shall be disbursed only for the purposes specified in this Section, provided, however, that in lieu of such tax levies, the Council may annually transfer to such Special Fund any available money of the City, 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.

(1) As long as any bonds issued for Special or Local Improvements Districts hereafter organized, remain outstanding, the tax levy or equivalent transfer of money to the Special Fund created for the payment of said bonds shall not be diminished in any succeeding year until all of said bonds and the interest thereon shall be paid in full, unless other available funds are on hand therefor, or such bonds and interest are paid by the City as provided in Section 15.5 of this Chapter.

(c) After the bonds have been retired in full, any monies remaining in such Special Funds shall be transferred as provided in Section 15.4.

(d) Bonds of any Special or Local Improvement District payable from special assessments, which payment may be additionally secured as provided in this Section, shall not be subject to any debt limitation nor affect the City's debt incurring power, nor shall such bonds be required to be authorized at any election; and such bonds shall

not be held to constitute a prohibited lending of credit or donation, not [nor] to contravene any constitutional, statutory or Charter limitation or restriction.

Section 15.4 Surplus and Deficiency Fund--Payment of Bonds by City.

(a) Where all outstanding Bonds of a Special or Local Improvement District have been paid and money remains to the credit of the district or in a Special Fund created pursuant to Section 15.3 for the said bond issue, it may be transferred, in whole or in part, by ordinance, to a Surplus and Deficiency Fund, and whenever there is a deficiency in any Special or Local Improvement District Fund to meet the payment of outstanding bonds and interest due thereon, the deficiency shall be paid out of the said fund; or in the alternative, Council, may by ordinance transfer all or part of any unencumbered balance from a Special or Local Improvement District Fund or a Special Fund created pursuant to Section 15.3 for the said bond issues to any other City fund.

(b) Whenever a Special or Local Improvement District has paid and cancelled three-fourths ($\frac{3}{4}$) of its bonds issued and for any reason the remaining assessments are not paid in time to redeem the final bonds of the district, the City shall pay the bonds when due and reimburse itself by collecting the unpaid assessments due the district.

Section 15.5 Review of Improvement District Proceedings.

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

CHAPTER XVI

INTERGOVERNMENTAL RELATIONS

Section 16.1 Regional Service Authorities.

In the interest of governmental services provided on a regional or area-wide basis and the benefits realized by the City of Broomfield from said services, the Council may by ordinance provide grant of municipal funds services on a regional or area-wide basis, existing at the time this Charter becomes effective or thereafter created. The Council shall also have the authority to allow City participation in said service authorities in any manner it deems desirable.

Section 16.2 Cooperative Intergovernmental Contracts.

The City Council by two-thirds ($\frac{2}{3}$) vote of the entire Council may enter into contracts or agreements with other governmental units of every kind and character for the joint use of buildings, equipment, or facilities, or for furnishing or receiving commodities or services of public benefit under such terms and conditions as shall be approved by Council.

CHAPTER XVII

UTILITIES AND FRANCHISES

Section 17.1 General Powers.

The City shall have and exercise with regard to all utilities and franchises, all municipal powers, including without limitation, all powers now existing and which may be hereafter provided by the Constitution and statutes. The right of the City to construct, lease, purchase, acquire, condemn or operate any public utility, work or way, is expressly reserved. Except as otherwise provided by Constitution, or this Charter, all powers concerning the granting, amending, revoking, or otherwise dealing in franchises, shall be exercised by the Council.

Section 17.2 Water Rights.

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

Section 17.3 Utility Rates.

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

Section 17.4 Management of Municipal Utilities.

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

Section 17.5 Use of Public Places by Utilities.

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

Section 17.6 Granting of Franchises.

(a) No franchise shall be granted except upon approval by a majority of the electors voting thereon.

(b) The Council shall establish by ordinance the terms, fees, compensation, conditions, and any other matters related to the granting of franchises.

Section 17.7 Present Franchises.

All franchise ordinances and agreements of the City in effect at the time this Charter is effective shall remain in full force and effect in accordance with their respective terms and conditions unless modified by another franchise.

Section 17.8 Transit Facilities.

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

Section 17.9 Revocable Permits.

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

Section 17.10 Franchise Records.

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

CHAPTER XVIII

GENERAL PROVISIONS

Section 18.1 Eminent Domain.

The City shall have the right of eminent domain within or without its corporate limits as provided by the State Constitution and the statutes.

Section 18.2 Reservation of Power.

The power to supersede any law of this state now or hereafter in force, insofar as it applies to local or municipal affairs shall be reserved to the City, acting by ordinance, subject only to restrictions of Article XX of the state Constitution.

Section 18.3 Restrictions on Sale of Municipally Owned Real Property and Changes in Use of Open Space Property.

(a) The City shall not sell or dispose of municipally owned buildings or real property in use for public purposes without first obtaining the approval of a majority of the electors voting thereon. Any real property acquired by the City as open space is deemed to be in use for a public purpose.

(b) Land dedicated as open space or acquired using open space sales and use tax revenues.

(1) No land dedicated as open space or acquired using open space sales and use tax revenues shall incur a change in use from an open space use to a non-open space use until approval of such change by the city council. Such approval shall be given only after such change has first been considered by the open space and trails advisory committee at a public hearing held with notice provided to property owners within 500 feet of the property proposed for a change in use, notice by posting a sign on the property proposed for a change in use at least ten days in advance of the hearing, and published at least ten days in advance in a newspaper of general circulation in Broomfield, giving the location of the land in question and the intended change in use. Such hearing by the open space and trails advisory committee shall be held not more than 60 days after the change in use has been proposed. In the event that the open space and trails advisory committee no longer exists, then the city council meeting at which the change in use is considered shall comply with these same notice requirements. Regardless of whether the proposed change in use occurs through ordinance, no change in use approved by the city council shall occur until 90 days following the date of city council approval of such change. Within said 90-day period, a petition meeting the requirements of Section 7.2, except that 90 days shall be allowed for the submission of the petition, may be submitted to the city clerk requesting that the proposed change in use be reconsidered by Council. If such petition is submitted, the proposed change in use shall be suspended and Council shall reconsider the proposed change in use. Unless Council, upon reconsideration, disapproves said change of use in its entirety, no change in use shall become effective unless approved by a majority of the registered electors voting thereon at an election to be held in accordance with the provisions of Section 7.2.

(2) Any change in use of land that has been dedicated as open space or has been acquired using open space sales and use tax revenues shall require payment of just compensation to the Open Space Fund. Nothing contained herein shall be construed to alter the mandates of the ballot question passed by the electors on November 6, 2001 requiring that 80% of the .25% sales and use tax collected be spent on the acquisition, protection, improvement and long term maintenance of open space, natural areas, wildlife habitat and trails.

(3)(A) For purposes of this section, "Open space" means parcels intentionally protected from development and set aside for unstructured recreation and the appreciation of natural surroundings. They may contain trailheads and trails, fishing facilities, wildlife viewing areas, and other facilities that support uses compatible with site resources and conditions.

(B) For purposes of this section, a "change in use" shall not include the following exceptions for public roads and rights of way, utility lines or transmission devices, changes to allow for the extraction of minerals, or changes involving less than one acre of land. If such exceptions, excluding extraction of minerals, utilize land dedicated as open space or purchased by the open space sales and use tax fund, just compensation shall be made to the open space sales and use tax fund. To the extent permitted by law, these exceptions shall be determined by city council in a public proceeding.

(c) Open space land acquired by other means than by dedication or purchase with monies from the open space sales and use tax fund. No open space land acquired by other means than dedication or purchase with monies from the open space sales and use tax fund shall incur a change of use until approval of such change by the city council. Such approval shall be given only after such change has first been considered by the open space and trails advisory committee at a public hearing held with notice provided to property owners within 500 feet of the property proposed for a change in use, notice by posting a sign on the property proposed for a change in use at least ten days in advance of the hearing, and published at least ten days in advance in a newspaper of general circulation in Broomfield, giving the location of the land in question and the intended change in use. Such hearing by the open space and trails advisory committee shall be held not more than 60 days after the change in use has been proposed. In the event that the open space and trails advisory committee no longer exists, then the city council meeting at which the change in use is considered shall comply with these same notice requirements. Upon approval by the city council, the proposed change of use shall become final. (Amendment passed 11/7/06).

Section 18.4 Bequests, Gifts, and Donations.

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

Section 18.5 Severability of Charter Provisions.

If any provision, section, article or clause of this Charter or the application thereof to any person or circumstances shall be found to be invalid by a court, such invalidity shall not affect any remaining portion or

application of the Charter which can be given effect without the invalid portion or application, provided such remaining portions or applications are not determined by the court to be inoperable, and to this end this Charter is declared to be severable.

Section 18.6 Charter Amendments.

This Charter may be amended at any time in the manner provided by statute. Nothing herein contained shall be construed as preventing the submission to the people of more than one Charter amendment at any one election. If provisions of two or more proposed amendments adopted or approved at the same election conflict, the amendment receiving the highest affirmative vote shall become effective.

Section 18.7 Interpretations.

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 number shall include the plural, the plural shall include the singular and the masculine gender shall extend to and include the feminine gender and neuter, and the word "person" may extend and be applied to bodies politic and corporate and to partnerships as well as to individuals.

Section 18.8 Definitions.

As used in this Charter, the following words and phrases shall have the following meaning:

- (a) Appropriation. The authorized amount of monies set aside for expenditure during a specified time for a specific purpose.
- (b) City. City of Broomfield, Colorado, a municipal corporation.
- (c) Council. The City Council of the City of Broomfield.
- (d) Manager. The City Manager of the City of Broomfield appointed pursuant to this Charter.
- (e) Franchise. An irrevocable privilege granted by the City permitting a specified use of public property for a specified length of time.
- (f) Employee. A person employed by the City of Broomfield.
- (g) General Municipal Election. A municipal election held every two years at which candidates for elective offices of the City are voted upon in accordance with this Charter.
- (h) Public Utility. Any person, firm or corporation operating heat, power or light systems, communication systems, water, sewer or scheduled transportation systems, and serving or supplying the public under a franchise granted by the City.
- (i) Officer and/or Official. Any person elected to office or appointed by Council, including appointees to boards and commissions.
- (j) Constitution. The Constitution of the State of Colorado.
- (k) Statutes. The applicable laws of the State of Colorado as they now exist or as they may be amended, changed, repealed or otherwise modified by legislative procedure.
- (l) Elector. A resident of the City registered to vote under the Constitution and statutes of the State of Colorado.

Section 18.9 Chapter and Section Headings.

The chapter, section and subsection headings are inserted for convenience and reference only and shall not be construed to limit, describe or control the scope or intent of any provisions therein.

CHAPTER XIX

TRANSITIONAL PROVISIONS

Section 19.1 Status of Transitional Provisions.

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

Section 19.2 Effective Date of Charter.

This Charter shall become effective immediately upon voter approval, except those provisions relating to the election of Council shall become effective at the first general election scheduled under this Charter to be held on November 4, 1975.

Section 19.3 Present Elected Officials to Continue in Office.

The present City Council and Mayor in office at the time of the adoption of this Charter shall continue to serve and carry out the functions, powers and duties of their offices until their successors assume the duties of their offices.

The present City Clerk and City Treasurer in office at the time of the adoption of this Charter shall continue to serve and carry out functions, powers and duties of their offices until the general municipal elections under this Charter.

Section 19.4 Continuation of Appointed Officers and Employees.

Except as otherwise provided herein, after the effective date of this Charter, all appointive officers and all employees of the City shall continue in that City office or employment which corresponds to the City 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, and they shall in all respects be subject to the provisions of this Charter.

Section 19.5 Saving Clause.

This Charter shall not affect any suit pending in any court or any document heretofore executed in connection therewith. Nothing in this Charter shall invalidate any existing agreements or contracts between the City of Broomfield and individuals, corporations or public agencies.

CERTIFICATE OF FINAL ADOPTION

We, the undersigned, present members of the Broomfield Charter Convention, duly elected by the people of Broomfield, Colorado, at a special election held on February 12, 1974, or duly appointed according to law, under authorization of Article XX Constitution of the State of Colorado, to frame a Home Rule Charter for the City of Broomfield, do hereby certify that the foregoing is the proposed Charter as finally approved and adopted by the members of the Convention on the 30th day of May, 1974, for submission to the people of Broomfield at a special election to be held on November 5, 1974.

Executed in triplicate at Broomfield, Colorado, this 30th day of May, 1974.

A.E. MORR, JR.

Chairman

Thomas Tighe III
Secretary

Duane W. Van Skiver
Vice Chairman

Joe H. Bergheim

Richard A. Lueb

Virgil D. Blackburn

David L. Markham

Kermit L. Darkey

Thomas P. Milavec

John P. Elliott, Jr.

Donald K. Miller

Robert Evans

George J. Moyer

John E. Hollis

Robert L. Niehoff

Stephen S. Jones

Norman A. Smith

Robert C. Kelly

Henry A. Stovall

David L. Locke

Charles A. Waddell

State of Colorado)
County of Boulder) ss

Subscribed and sworn to before me this 30th and 31st day of May, 1974.

My commission expires: August 30, 1977.

Witness my hand and official seal.

(SEAL)

(s) Leslie J. Shurtz
Notary Public

I hereby certify that the above and foregoing document is the Charter adopted at the Special Election for the City of Broomfield, Colorado, held Tuesday, November 5, 1974, and duly filed by me with the Secretary of State of the State of Colorado.

(SEAL)

Attest: (s) Lucy Brown,
City Clerk

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