

HOME RULE CHARTER

OF

THE TOWN OF

CRESTED BUTTE, COLORADO

1974

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Certificate of Final Adoption

PREAMBLE

WE, the people of Crested Butte, Colorado, under the authority of the Constitution of the State of Colorado, do ordain, establish and adopt this home rule charter for the Town of Crested Butte.

AS FINALLY APPROVED BY THE CRESTED BUTTE CHARTER COMMISSION.

PREFATORY SYNOPSIS

The Charter Commission of the Town of Crested Butte, Colorado, herewith submit to the voters of the Town the Home Rule Charter which we have framed in conformity with Article XX of the Colorado Constitution.

The Commission has worked diligently to achieve a simple and direct form of local government based on sound principles of public administration and tailored to the needs of the citizens of Crested Butte, Colorado.

Under this Charter, a Council-Manager form of government is established. The Council is composed of seven members which includes the mayor. Members of the Council are elected for four year staggered terms and the mayor for a two year tenure. Both the mayor and the councilmen are elected at large. The mayor also presides at Council meetings and possesses full voting power of a Council member.

The Council is the policy-determining body of the municipal government with full legislative powers. The executive power is vested in the Town Manager who is appointed by and serves at the pleasure of the Council.

The first election under this Charter shall be held on January 21, 1975. Thereafter, biennial general municipal elections shall be held on the first Tuesday after the first Monday in November of odd numbered years. The Charter provides that all elections are to be non-partisan and establishes an election commission to insure that fair elections are conducted in accordance with the Colorado Municipal Election Law.

Other matters covered in the Charter include general Council procedures, initiative and referendum powers of the people, Town administration, legal and judicial appointments, municipal boards and commissions, Town finances, municipal borrowing procedures, public utilities, taxation, improvement districts, miscellaneous legal provisions and transition procedures.

The Charter vests the citizens of Crested Butte with every political power permitted to any home rule community under the Constitution of the State of Colorado. We believe this Charter will provide Crested Butte with efficient and responsive government for many years to come.

ARTICLE 1

GENERAL PROVISIONS

Section 1.1. Name and Boundaries.

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

Section 1.2. Rights and Liabilities.

By the name of the Town of Crested Butte, the municipal corporation shall have perpetual succession; shall own, possess and hold all property, real and personal heretofore owned, possessed and held by said Town of Crested Butte, and shall assume and 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 shall assume and pay all bonds, obligations and indebtedness of said Town of Crested Butte; by the name of the Town of Crested Butte, may sue and defend, plead and be impleaded, in all courts and places, and in all matters and proceedings; may have and use a common seal and alter the same at pleasure.

Section 1.3. Forms of Government.

The municipal government provided by this Charter shall be known as the "Council-Manager Government". Pursuant to its provisions and subject only to limitations imposed by the State Constitution and by this Charter, all powers of the Town shall be vested in an elective Mayor and Council, hereafter referred to as the "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.

Section 1.4. Powers.

The Town shall have all the powers granted to municipal corporations and to Towns by the constitution and general laws of this state together with all the implied powers necessary to carry into execution all the powers granted. The Town may acquire property within and without its corporate limits for any purpose deemed by the Council to be in the Town's best interest, by purchase, gift, lease or condemnation, and may sell, lease, mortgage, hold, manage, and control such property as the Council may determine; and, except as prohibited by the Constitution of this state or restricted by this Charter, the Town shall and may exercise all municipal powers, functions, rights and privileges of every nature whatsoever. The enumeration of particular powers by this Charter shall not be deemed to be exclusive, and in addition to the powers enumerated herein or implied hereby, or appropriate to the exercise of such powers, it is intended that the Town shall have and may exercise all powers which under the state Constitution, it would be competent for this Charter specifically to enumerate.

ARTICLE 2

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 by this Charter, or by ordinance hereafter enacted.

Section 2.2. Municipal Elections.

General municipal elections shall be held on the first Tuesday in November in odd-numbered years. Any special municipal election may be called by resolution or ordinance of the Council at least thirty (30) 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 at least from 7:00 A.M. to 7:00 P.M. on election day. (Rev. Ord 12, 2004, 11/2/04)

Section 2.3. Election Precincts.

The Town shall constitute one voting precinct, provided that the Council may for the convenience of voters, establish additional precincts thirty (30) days or more prior to any election, by ordinance. The precincts so established by ordinance shall remain for subsequent elections until otherwise provided by ordinance. The Council shall determine the maximum number of electors for each precinct, and each precinct shall be as substantially equal in the number of electors as practicable.

Section 2.4. Election Commission.

An Election Commission is hereby created, consisting of the Town Clerk and two (2) qualified and registered electors of the Town, who during their term of office shall not be Town officers or employees or candidates or nominees for elective Town office. The elector-members shall be appointed by the Council thirty (30) days prior to each regular Town election for a term of one (1) year, and shall serve without compensation. The Town Clerk shall be chairman. The Election Commission shall have charge of all activities and duties required by it by statute and this Charter relating to the conduct of elections in the Town. In any case where election procedure is in doubt, the Election Commission shall prescribe the procedure to be followed.

The Commission shall provide procedures to establish proof of residency qualification where residency is in question. Upon a showing of good cause, the Commission may require proof of residency by any person registered to vote or attempting to register to vote in the Town, in which case, said person shall not be qualified to vote in any municipal election until the commission is satisfied that reasonable proof of residency has been presented.

The Election Commission shall provide for ballots and sample ballots or voting machines, for determination of the winner in the event of a tie vote, for canvass of returns and for issuance of appropriate certificates.

Section 2.5. Recall.

Any elected officer of the Town may be recalled at any time after six months 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 Constitution. Consistent with the Constitution and this Charter, the Council may provide by ordinance for further recall procedures.

Section 2.6. Nonpartisan Elections.

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

Section 2.7. Voluntary Campaign Spending Limits.

(a) Applicability. This Section 2.7 applies to all authorized elections within the town for Mayor and members of the Town Council.

(b) Definitions. For purposes of this section, unless the context otherwise requires:

(1) *Candidate* means any person who seeks election to the office of Mayor or Town Council in a municipal election. A person is a candidate for election if he or she has publicly announced an intention to seek election to the office of Mayor or Town Council, has filed nominating petitions for such office, and is otherwise qualified to seek election to such public office.

(2) *Contribution* means a gift, loan, pledge or advance of money or a guarantee of a loan made to or for any candidate or political committee for the purpose of influencing the election or defeat of any candidate, or the recall of a Mayor or Town Council member. *Contribution* also includes a gift of money to or for any incumbent in public office from any other person, the purpose of which is to compensate him or her for their public service or to help defray expenses incident thereto but which are not covered by official compensation; the payment of any money by any person, other than from contributions by a political committee working on a candidate's behalf, for political services rendered to the candidate or political committee; any payment made to third parties at the request of or with the prior knowledge of a candidate, political committee, or agent of either; and any payment made after an election to meet any deficit or debt incurred during the course of the campaign. *Contribution* does not include services provided without compensation by individuals volunteering their time on behalf of a candidate or political committee.

(3) *Contribution in kind* means a gift or loan of any item of real or personal property, other than money, including without limitation the provision of advertising services made to or for any candidate or political committee for the purpose of influencing the nomination, retention, election or defeat of any candidate. Personal services are a contribution in kind by the person paying compensation therefor; volunteer services are not included. In determining the value to be placed on contributions in kind, a reasonable estimate of fair market value shall be used.

(4) *Election* means a municipal election at which candidates for the office of Mayor or Town Council are to be voted upon, or the recall of the Mayor or a Town Council member is voted upon.

(5) *Political committee* means any two or more persons who are elected, appointed or chosen, or who have associated themselves for the purpose of accepting contributions or contributions in kind or making expenditures to support or oppose a candidate at any election.

(c) **Spending Limit.** Every candidate is requested to voluntarily comply with the following: No candidate or candidate's political committee will accept or spend a combined total of contributions and contributions in kind from any source whatsoever in excess of \$200.00, plus 3% per annum, commencing in 1998, during any election campaign for Mayor or Town Council.

(d) **Notification of Compliance.** Every candidate, at the time of filing his or her nomination petition pursuant to C.R.S. 31-10-302, as amended, shall notify the Town Clerk, on a form prepared by her or him, whether or not the candidate will comply with the voluntary spending limit.

(e) **Return of Excess Contributions and Contributions In Kind.**

(1) For purposes of this subsection, a candidate or political committee "receives" contributions on the date upon which the candidate or committee knew or reasonably should know that a contribution or contribution in kind has been received.

(2) If a candidate voluntarily complies with the above spending limit and receives contributions or contributions in kind which exceed the aggregate limit of \$200.00, plus 3% per annum, commencing in 1998, such candidate shall make a good faith attempt to return the excess amount to the contributor by personally returning the excess amount, or by placing it in the U.S. mail with a complete address and sufficient postage. The good faith attempt to return an excess contribution shall take place no later than seven days following the receipt of such excess contribution.

(f) **Filing Date.** For every candidate who voluntarily complies with the above spending limit, the report required by C.R.S. 1-45-108(1), as amended, to be filed eleven days before any election shall include information about the total amount of contributions and contributions in kind accepted or spent by the candidate.

(g) **Duties of Town Clerk.** After receipt of the final petition of nomination by a candidate, as required by C.R.S. 31-10-302, as amended, the Town Clerk shall cause the names of all candidates and whether or not they have chosen to voluntarily comply with the above spending limit to be published in the Town's newspaper of record within twenty days thereafter. The Town Clerk or her or his designee shall make the election reports filed with the Town Clerk available for public inspection and copying under staff supervision, commencing as soon as practicable but not later than the end of the next business day following the day during which a report is received. The amount of contributions and contributions in kind accepted or spent by each candidate and political committee shall be published in the Town's newspaper of record on the publishing date following receipt by the Town Clerk of the report which is filed eleven days before the election.

(h) **No Codified Penalty.** There shall be no codified penalty to enforce the provisions of this Section. The citizens of Crested Butte shall judge violations of this Voluntary Campaign Spending Limit Ordinance in the court of public opinion. (Added Ord. 17, 1997, 11/4/97)

Section 2.8. Run-Off Elections.

In the event a run-off election is necessitated for the office of mayor, said election shall be conducted by the Town of Crested Butte and held on the third Tuesday in December following the municipal election. The run-off election shall be held in the same manner as the municipal election, except:

(a) Certification of candidates and publication of election notice shall be on or before the tenth (10th) day before the run-off election.

(b) The two (2) persons with the highest number of votes for mayor in the municipal election shall appear on the ballot for mayor.

(c) The names of candidates shall be arranged in the same order as they appeared in the municipal election.

(d) The run-off election shall be considered, along with the municipal election, as a single election, for the purposes of the applicability of the Voluntary Campaign Spending Limits set forth in section 2.7 of the charter.

(e) In the event a run-off election is necessitated for the office of mayor, the Town Council shall elect an interim mayor from among the seated members of the Town Council, to serve as mayor until such time as a new mayor is sworn in to office. (Added Ord. 13, 2001, 11/6/01; Rev. Ord. 11, 2004, 11/2/04)

ARTICLE 3

COUNCIL

Section 3.1. The Council.

The Town shall be governed by a council of seven (7), comprised of six (6) councilmen and a mayor. All councilmen and the mayor shall be nominated and elected at large from the entire Town.

Section 3.2. Terms of Office.

(a) The terms of office for councilmen shall be four (4) years as hereinafter provided: In the special municipal election to be held on January 21, 1975, the three candidates receiving the highest numbers of votes shall hold office until November, 1977 and the three candidates receiving the fourth, fifth and sixth highest number of votes shall hold office until November, 1975. In the biennial general municipal elections to be held in November, 1975 and thereafter, the three candidates receiving the highest number of votes shall be elected for four-year terms.

(b) Newly elected members of the Council shall assume office at the first regular meeting of the Council following their election.

Section 3.3. Mayor.

In the election to be held on November 4, 2003, and biennially thereafter, the mayor shall be elected at large from the entire town for a term of two (2) years. The candidate receiving a majority of the votes cast for office shall be elected mayor. In the event that no candidate shall have received a majority of votes cast for office, then a run-off election conducted by the Town of Crested Butte shall be held in accordance with Section 2.8.

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 upon him by this Charter or the ordinances of the Town. He shall have all of the powers, rights, privileges and obligations of a Council member, including, but not limited to, the right to vote on all matters. He shall be recognized as the head of the Town government for all ceremonial and legal purposes and he shall execute and authenticate legal instruments requiring his signature as such official. (Rev. Ord 13, 2001, 11/6/01)

Section 3.4. Powers of Council.

The Council shall be the legislative and governing body of the Town and shall exercise, except as otherwise provided in this Charter, all powers conferred upon or possessed by the Town and shall adopt such laws, ordinances and resolutions as it shall deem proper.

Section 3.5. Qualifications.

Each councilman and the mayor when nominated and elected shall be an elector of the Town, a citizen of the United States and shall have resided in the Town for one (1) year immediately preceding such election. No councilman nor the mayor shall be a salaried employee of the Town during his term of office or perform personal services for the Town for which he is compensated other than as provided in Section 3.6. The Council shall be the judge of the election and qualifications of its own members.

Section 3.6. 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 councilmen may, upon order of the Council, be paid their actual and necessary expenses incurred in the performance of their duties of office.

Section 3.7. Mayor Pro-Tem.

The mayor pro-tem shall be elected by Council from its own membership at the organizational meeting following each general municipal election. The mayor pro-tem shall serve until the next organizational meeting, unless sooner removed by a majority vote of the entire Council. In the absence or disability of the Mayor, the mayor pro-tem shall perform all duties and have all powers of the mayor. In the event of a vacancy in the office of mayor pro-tem, the Council shall choose his successor.

Section 3.8. Vacancies.

An elected officer 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, or ceases to be a resident of the Town or is convicted of a felony. Within thirty (30) days after a vacancy occurs, the remaining councilmen shall choose by majority vote a duly qualified person to fill such vacancy on an interim basis until the next municipal election. If the next election is a general election, the candidate receiving the fourth highest number of votes shall complete the term. If the next election is a special election, the candidate receiving the highest number of votes shall complete the term. If three (3) or more vacancies exist simultaneously the remaining councilmen 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 (90) days.

Section 3.9. Oath of Office.

Before entering upon the duties of his office, every councilman, the mayor and other Town officers shall take, subscribe before, and file with the Town Clerk, an oath or affirmation that he will support the Constitution of the United States, the Constitution of the State of Colorado, this Charter and the ordinances of the Town and will faithfully perform the duties of the office.

ARTICLE 4

COUNCIL PROCEDURE

Section 4.1. Regular Meetings.

The Council shall meet regularly at least twice each month at a day and hour to be fixed by the Council. The Council shall determine the rules of procedure governing meetings. The first regular meeting following each general municipal election shall be the organizational meeting of the Council.

Section 4.2. Special Meetings.

Special meetings shall be called by the Town Clerk on the written request of the Town Manager, Mayor or any two members of the Council, after at least twenty-four (24) hours written notice to each member of the Council, served personally or left at his usual place of residence. A special meeting, however, may be held on shorter notice if all members of Council are present or have waived notice thereof in writing.

Section 4.3. Emergency Meetings.

Emergency meetings may be held without twenty-four (24) hours notice when necessary for the immediate preservation of public property, health, peace or safety. An emergency meeting shall be held only if a diligent, good faith effort has been made to give actual notice to each member of the Council and at least five (5) members of the Council are present and have waived notice thereof, in writing. All actions at emergency meeting shall require the affirmative vote of five (5) members of the Council. (Rev. Ord. 18, 1997, 11/4/97)

Section 4.4. Business at Special and Emergency Meetings.

No business shall be transacted at any special or emergency meeting of the Council unless it has been stated in the notice of such meeting.

Section 4.5. Quorum Adjournment of Meeting.

Four (4) members of the Council shall be a quorum for the transaction of business at all regular and special Council meetings, but 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 (1) week. Five (5) members of the Council shall be a quorum for the transaction of business at all emergency meetings.

Section 4.6. Meetings to be Public.

All regular, special and emergency meetings of the Council shall be open to the public, which shall have a reasonable opportunity to be heard under such rules and regulations as the Council may prescribe.

Section 4.7. Council Acts.

The Council shall take official action only at a public meeting by ordinance, resolution or motion. All legislative enactments shall be in the form of ordinances; all other actions, except as herein provided, may be in the form of resolutions or motions. A true copy of every resolution adopted shall be numbered and recorded in the official records of the Town.

Section 4.8. Voting.

The passage of every ordinance, resolution and motion shall be determined by a roll-call "yes" or "no" vote, the result of which shall be entered upon the minutes of the Council proceedings. Except as otherwise provided herein, every ordinance, resolution or motion shall require the affirmative vote of four (4) members of the Council for final passage. No member of the Council shall vote on any question in which he has a substantial personal or financial interest, other than the common public interest, or on any question concerning his own conduct, in which case the member shall disclose his interest to the Council. In the event that two or more members of the Council are disqualified from voting due to substantial personal or financial interest, an ordinance, resolution or motion shall require the affirmative vote of three (3) members of the Council for final passage. On all other questions each member who is present shall vote when his name is called. Any member refusing to vote except when not so required by this paragraph shall be guilty of misconduct in office.

The Council hereby finds that in reading Sections 2-2-5 and 2-2-8 of the Town Code together, a Council Member who is present but is otherwise disqualified from voting is present for purposes of establishing a quorum and for purposes of determining the number of Council Members necessary for passage of any initiative. (Ord. 17, 1984)

Section 4.9. 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 the 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 budget adoption in Section 9.8. Ordinances making appropriations shall be confined to the subject of appropriation.

Section 4.10. Form of Ordinance.

Every ordinance shall be introduced in written or printed form. The enacting clause of all ordinances shall be: BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CRESTED BUTTE, COLORADO. Except as otherwise provided in this Article, all ordinances shall take effect five (5) days after final passage and publication pursuant to Section 4.11 unless the ordinance shall specify a later effective date.

Section 4.11. Procedure.

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) At any regular or special meeting of the Council, the proposed ordinance shall be introduced in writing by any member thereof and read in full or, if copies thereof are available to the Council and public, it may be read by title only.

(b) After the first reading of the proposed ordinance, the Council shall, upon the affirmative vote of two (2) members of the Council, schedule a public hearing to be held not earlier than seven (7) days after the first reading, for the consideration of the proposed ordinance and cause notice of the public hearing to be published. The notice of hearing shall be published at least two (2) days prior to the public hearing and shall contain the date, time and location of the public hearing and a brief description of the subject-matter of the proposed ordinance.

(c) At the public hearing, the proposed ordinance shall be read in full, or, if copies thereof are available to the Council and public, it may be read by title only. The proposed ordinance may be amended before final approval by vote of the Council.

(d) After adoption of an ordinance, copies of the ordinance shall be posted in three (3) public places within Town and a public notice shall be published containing a brief description of the ordinance, its effective date and a statement that copies are available for inspection at the Town Hall.

Section 4.12. Emergency Ordinances.

(a) Emergency ordinances for the preservation of public property, health, peace or safety shall be approved only by the vote of at least five (5) members of the Council. The facts showing such urgency and need shall be specifically stated in the measure itself. No ordinance making a grant of any special privilege, levying taxes, or fixing rates charged by any town-owned utility shall ever be passed as an emergency measure. Neither a first reading nor a prior public hearing as provided in Section 4.11 shall be required. An emergency ordinance shall take effect immediately upon final passage and shall be published in full as soon thereafter as possible and no later than ten (10) days after passage.

(b) Upon the adoption of an emergency ordinance, the Council shall schedule a public hearing to be held within twenty (20) days for the purpose of ratifying the emergency ordinance and shall cause public notice of such hearing to be published in accordance with the procedure set forth in Section 4.11(b). At such public hearing, which shall be conducted in accordance with the procedure set forth in Section 4.11(c), the Council shall ratify the emergency ordinance, either in whole or in part and with or without amendments. Upon ratification, notice thereof shall be published in accordance with Section 4.11(d). Any emergency ordinance which is not ratified by the affirmative vote of five (5) members of the Council as herein provided, shall be deemed repealed as of the date of the hearing at which ratification was attempted. (Rev. Ord. 18, 1997, 11/4/97)

Section 4.13. Codification.

The Council shall cause the ordinances of the Town to be codified within three (3) years and thereafter maintained in current form. Revisions to the codes may be accomplished by reference as provided in Section 4.14.

Section 4.14. Codes.

Standard codes, promulgated by the Federal Government, the State of Colorado, or by any agency of either of them, or by any political subdivision within the State of Colorado, or by recognized trade or professional organizations, or amendments or revisions thereof, may be adopted by reference; provided, however, that the public notice of the adoption of any such code shall advise that copies are available for inspection at the Town Hall and provided, further, that any penalty clause in any code may be adopted only if set forth in full in the adopting ordinance.

Section 4.15. Disposition of Ordinances.

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

Section 4.16. Public Records.

All records of the Town shall be open for inspection by any person at reasonable times, except as provided in Article 72 of Title 24, Colorado Revised Statutes, as amended, concerning personnel, police investigation, criminal justice and other records. The record custodians may take such reasonable actions as are necessary to prevent the unnecessary interference with the regular discharge of the duties of the custodians or their respective offices. (Rev. Ord. 18, 1997, 11/4/97)

ARTICLE 5

INITIATIVE AND REFERENDUM

Section 5.1. General Authority.

(a) Initiative. The electors of the Town shall have power to propose any ordinance to the Council, in accordance with the provisions of this Article of the Charter. In the event the Council fails to adopt a proposed ordinance without any substantive change, the proposed ordinance shall be submitted to the

electors at a Town election for their acceptance or rejection in accordance with the provisions of this Article.

(b) Referendum. The electors of the Town shall have power to require reconsideration by the Council of any ordinance and, if the Council fails to repeal an ordinance so reconsidered, to approve or reject it at a Town election, in accordance with the provisions of this Article; provided, however, that such power shall not extend to ordinances pertaining to taxes, budget or salaries or to emergency ordinances which have been ratified by the affirmative vote of at least five (5) members of the Council. (Rev. Ord. 18, 1997, 11/4/97)

Section 5.2. Commencement of Proceedings; Petitioners' Committee; Affidavit.

(a) Any five (5) electors may commence initiative or referendum proceedings by filing with the Town Clerk an affidavit stating they will constitute the petitioners' committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses and specifying the address to which all notices to the committee are to be sent, and setting out in full the proposed initiative ordinance or citing the ordinance sought to be reconsidered.

(b) Promptly after the affidavit of the petitioners' committee is filed, the Clerk shall issue the appropriate petition blanks to the petitioners' committee.

(c) All affidavits concerning referendum petitions must be filed within thirty (30) days after the effective date of the ordinance sought to be reconsidered. (Rev. Ord. 18, 1997, 11/4/97)

Section 5.3. Petitions.

(a) Number of Signatures. Initiative petitions must be signed by electors of the Town equal in number to at least fifteen (15) per cent of the total number of electors registered to vote at the last general municipal election. Referendum petitions must be signed by electors of the Town equal in number to at least ten (10) per cent of the total number of electors registered to vote at the last general municipal election.

(b) Form and Content. All pages of a petition shall be uniform in size and style and shall be assembled as one instrument for filing. Each signature shall be executed in ink or indelible pencil 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 a sworn affidavit executed by the circulator thereof stating that he personally circulated the petition, the number of signatures thereon, that all signatures were affixed in his presence, that he believes them to be the genuine signatures of the persons whose names they purport to be and that each signer had an opportunity before signing to read the full text of the ordinance proposed or sought to be reconsidered.

(d) Limitation on Frequency of Referendum Elections. No ordinance shall be subject to a referendum election more often than once a year.

Section 5.4. Procedure after Filing.

(a) Certificate of Clerk. Amendment. Within ten (10) days after the 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 registered 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 Clerk within five (5) days after receiving the copy of his certificate and files a supplementary petition upon additional forms within ten (10) days after receiving the copy of such certificate. Such supplementary petition shall comply with the requirements of sub-paragraphs (b) and (c) of Section 5.3, and within five (5) days after it is filed the 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 registered mail as in the case of an original petition. If a petition or amended petition is certified sufficient, or 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 Clerk shall promptly present his certificate to the Council, and the 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 a notice of intention to amend it or if an amended petition has been certified insufficient, the committee may, within five (5) days after receiving the copy of such certificate, file a request that it be reviewed by the Council. The Council shall review the certificate 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 sufficiency 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 5.5. Referendum Petitions. Suspension of Effect of Ordinance.

When a referendum petition is filed with the Town Clerk, the ordinance sought to be reconsidered shall be suspended from taking effect. Such suspension shall terminate when:

1. There is a final determination of insufficiency of the petition; or
2. The petitioners' committee withdraws the petition; or
3. The ordinance is repealed by the Council or vote of the Town electors at a referendum election; or
4. Seven (7) days have elapsed after the Town electors have approved the ordinance at a referendum election.

Section 5.6. Action on Petitions.

(a) Action by Council. When an initiative or referendum petition has been finally determined sufficient, the Council shall promptly consider the proposed initiated ordinance or reconsider the referred

ordinance by voting its repeal in the manner provided in Article 4; provided, however, that the Council shall have power to change the detailed language of any proposed initiated ordinance so long as there is no substantive change.

(b) **Submission to Voters.** The vote of the Town electors on a proposed or referred ordinance shall be held not less than thirty (30) days and not later than ninety (90) days from the date of the final Council vote thereon. If no regular Town election is to be held within the period prescribed in this sub-paragraph, 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 in its discretion provide for a special election at an earlier date within the prescribed period. Copies of the proposed 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 Petitions.** An initiative or referendum petition may be withdrawn at any time prior to the fifteenth (15th) day preceding the day scheduled for a vote of the Town by filing with the Town Clerk a request for withdrawal signed by at least three (3) members of the petitioners' committee. Upon the filing of such request the petition shall have no further force or effect and all proceedings pertaining thereto shall be terminated.

Section 5.7. Submission by Council.

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.

Section 5.8. Results of Election.

(a) **Initiative.** If a majority of the electors voting on a proposed initiated 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 greatest number of affirmative votes shall prevail to the extent of such conflict.

(b) **Referendum.** If a majority of the electors voting on a referred ordinance vote against it, it shall be considered repealed upon certification of the election results.

(c) An ordinance adopted by the electorate may not be amended or repealed for a period of six (6) 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 any ordinance may be adopted, amended or repealed at any time by appropriate referendum or initiatory procedure in accordance with the foregoing provisions of this Article, or if submitted to the electorate by the Council on its own motion.

ARTICLE 6

ADMINISTRATION

Section 6.1. Manager.

The Town Manager shall be the chief administrative officer of the Town. The Council, by a majority vote of its entire membership, shall appoint a Town Manager within a reasonable time whenever a

vacancy exists in such position. Such appointment shall be at the pleasure of the Council 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 Town or state, but during tenure of office he shall reside within the Town except at the discretion of the Council. No member of the Council shall be appointed manager during the term for which he shall have been elected.

Section 6.2. Acting Manager.

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

Section 6.3. Powers and Duties.

The manager shall be responsible to the Council for the proper administration of all affairs of the Town placed in his charge, and to that end he shall have the power and duty and be required to: (a) enforce the laws and ordinances of the Town; (b) hire, suspend, transfer and remove Town employees on the basis of ability, training and experience of such employees in the work which they are to perform; (c) prepare a proposed budget annually and submit it to the Council and be responsible for the administration of the budget after its adoption by the Council; (d) within a reasonable time after the end of each fiscal year, prepare and submit to the Council a complete annual report of finance and administration activities of the Town for such fiscal year and upon request of the Council make written or verbal reports at any time concerning the affairs of the Town under his supervision; (e) 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 may deem necessary or expedient; (f) exercise supervision and control over all executive and administrative departments, and recommend to the Council any proposal he thinks advisable to establish, consolidate or abolish departments; (g) be responsible for the enforcement of all terms and conditions imposed in favor of the Town 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; (h) attend Council meetings and participate in discussions with the Council in an advisory capacity; (i) 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; (j) provide for engineering, architectural, maintenance and construction services required by the Town; (k) serve in an ex-officio capacity on all present and future boards, committees and commissions of the Town; 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 6.4. Removal of Manager.

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

Section 6.5. Relationship of Council to Town Manager.

Neither the Council, its members, the mayor, nor any Council committee shall dictate the appointment of any person to office by the Town Manager, except as otherwise provided in this Charter, or in any way

interfere with the Town Manager or other Town officer, or prevent the manager from exercising his judgment in the appointment or employment of officers and employees. Except for the purpose of inquiry, the Council, its members, the mayor, and any Council committee shall deal with Town employees solely through the Town Manager and neither the Council, its members, the mayor, nor any Council committee shall give orders to any of the subordinates of the Town Manager.

Section 6.6. Town Clerk.

The manager, subject to the approval of the Council, 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. The Town Clerk shall have power to administer oaths and take acknowledgements under seal of the Town and shall perform such other duties as required by this Charter, the Council, or the manager.

Section 6.7. Director of Finance.

There shall be a director of finance who shall be appointed by and serve at the pleasure of the Town Manager. The Town Manager may also appoint a deputy or deputies to serve under the supervision of the director of finance.

Section 6.8. Duties and Powers of Director of Finance.

The director of finance shall also be the Town Treasurer. He shall keep and supervise all accounts; receive, and have custody of all monies of the Town, collect special Town taxes, sewer, water, sanitation, and other fees and charges; issue licenses and collect fees therefore; make and keep public records of the Town not specifically entrusted to any other department by this Charter or by ordinance; and perform such other duties pertaining to the department of finance as required by this Charter, the Council or the manager.

Section 6.9. Administrative Departments.

The administrative functions of the Town shall be performed by the departments existing at the time this Charter is adopted and such other departments as may be hereafter established by ordinance. Upon recommendation of the Town Manager, the Council may, by ordinance, consolidate or merge any of the said departments, whether set forth in this Charter or created by ordinance.

Section 6.10. Bonding of Employees.

All Town officials and employees dealing directly with municipal funds shall post bond in an amount and under such conditions as required by Council.

ARTICLE 7

LEGAL AND JUDICIARY

Section 7.1. Town Attorney.

The Council shall appoint a Town attorney to serve at the pleasure of Council. He shall be an attorney-at-law admitted to practice in Colorado. The Town Attorney shall be the legal representative of the Town and he shall advise the Council and Town officials in matters relating to their official powers and duties and perform such other duties as the Council may prescribe. The Council may provide the Town Attorney such assistants as Council may deem necessary, and may on its own motion or upon request of the Town Attorney in special cases employ special counsel to serve under the direction of the Town Attorney. The Council shall establish compensation for the Town Attorney, his assistants and special counsel.

Section 7.2. Judiciary.

(a) Municipal Judge. There shall be a municipal court vested with exclusive original jurisdiction of all causes arising under the ordinance of the Town 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 (2) years. The Council may re-appoint the municipal judge for a subsequent term or terms, except that the initial appointment may be for a 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.

(b) Deputy Judges. The Council may appoint one or more deputy judges as it deems necessary to serve at the pleasure of the Council. The deputy municipal judge shall all have the powers of the municipal judge when called upon 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.

(c) Court of Record. The municipal judge and all deputy municipal judges shall be attorneys admitted to practice law in the State of Colorado. The clerk of the court shall keep a verbatim record of the proceedings and evidence at all trials held in the municipal court by either electronic recording device or stenographic means. This subparagraph 7.2(c) may be amended by ordinance by any Council to hold office under this Charter.

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

(e) 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. (Rev. Ord 10, 1997)

ARTICLE 8

BOARDS AND COMMISSIONS

Section 8.1. Existing Boards and Commissions.

(a) Existing Boards. All existing boards and commissions shall continue as established by ordinance, except as otherwise provided by ordinance or this Charter.

(b) Creation of Board of Zoning and Architectural Review. The Board of Adjustment and the Historic Preservation and Architectural Control Board of the Town of Crested Butte, Colorado shall, within sixty (60) days after the inauguration of the first Council to hold office under this Charter, be consolidated into one (1) Board, to be known as the Board of Zoning and Architectural Review, hereinafter referred to as the Board. The Board shall have all powers and responsibilities heretofore exercised by the Board of Adjustment and the Historic Preservation and Architectural Control Committee. The Board shall be comprised of one (1) chairman and six (6) regular members, to be appointed by the Council. The chairman and all members of the Board shall serve three (3) year staggered terms as fixed by the Council upon appointment. The Board members shall be residents of the Town for one (1) year, shall hold no other office of the Town and shall serve without compensation, unless the Council shall, by ordinance, fix reasonable compensation for service on the Board. No member of the Board shall be removed from office by the Council except for good cause shown after notice and hearing; provided, however, that the Chairman of the Board shall serve as Chairman at the pleasure of the Council.

(c) Amendment of Section 8.1(b). Section 8.1(b) of this Charter may be amended or repealed in whole or in part, by ordinance approved by any Council to hold office under this Charter. (Rev. Ord 22, 2000)

Section 8.2. Composition of Boards and Commissions.

No member of the Council, the mayor, any Town employee, nor any appointed Town official shall serve on any permanent board or commission heretofore established or hereafter established during his or her tenure as councilman, mayor, Town employee or appointed Town official. Every member of any permanent board or commission appointed by the Council shall be a resident of the Town of Crested Butte. Terms of appointment to such boards and commissions shall not exceed four (4) years. There shall be no limitation on the number of terms a member may serve on any permanent board or commission.

Section 8.3. Vacancies.

Whenever a vacancy occurs on any board or commission, the Council shall cause public notice of such vacancy to be made and encourage volunteers to seek appointment to such board or commission.

Section 8.4. Right to Establish.

In addition to those boards and commissions heretofore created by ordinance, the Council shall have the power and authority to create boards and commissions, including advisory and appeal boards. All permanent boards and commissions, including advisory and appeal boards shall be created by ordinance, which shall set forth the powers and duties delegated to such boards and commissions. Initial appointments by the Council to any board or commission shall specify the term of office of each individual in order to achieve over-lapping tenure. All members, however, shall be subject to removal by the Council. The Council shall also make appointments to fill vacancies for the unexpired terms. The Chairman of each board and commission shall be chosen by the Council. Each board and commission shall operate in accordance with its own rules of procedure except as otherwise directed by the Council. All meetings of any board or commission shall be open to the public. Any board or commission created under this Article which is not required by statute or this Charter may be abolished by the Council.

ARTICLE 9

FINANCE

Section 9.1. Fiscal Year.

The fiscal year of the Town shall begin on the first day of January and end of the last day of December.

Section 9.2. Submission of Budget and Budget Message.

The Town Manager, prior to the beginning of each fiscal year, shall submit to the Council the budget for said ensuing fiscal year and an accompanying message.

Section 9.3. Budget Message.

The manager's message shall explain the budget both in fiscal terms and in terms of the work programs. It shall outline the proposed financial policies of the Town for the ensuing 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 Town's debt position, and include such other material as the manager deems desirable or which the Council may require.

Section 9.4. Budget Content.

The budget shall provide a complete financial plan of all municipal funds and activities for the ensuing fiscal year and, except as required by law or this Charter, shall be in such form as the manager deems desirable or the Council may require. In organizing the budget, the 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 indicate in separate sections: (a) Anticipated revenues classified as cash surplus, miscellaneous revenues, and amount 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 ensuing fiscal year; (b) Proposed expenditures for current operations during the ensuing fiscal year, detailed by offices, departments and agencies in terms of their respective work programs, and the methods of financing such expenditures; (c) A reasonable provision for contingencies; (d) A capital depreciation fund; (e) Required expenditures for debt service, judgments, cash deficient recovery and statutory expenditures; (f) Proposed capital expenditures during the ensuing 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 ensuing fiscal year for each utility owned or operated by the Town and the proposed method of its disposition and subsidiary budgets for each such utility giving detailed income and expenditure information shall be attached as appendices to the budget; (h) The total proposed expenditures and provision for contingencies shall not exceed the total of estimated revenue.

Section 9.5. Capital Program.

(a) Submission. 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) Contents. The capital program shall include:

- (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 year, with appropriate supporting information as to the necessity for the improvement.
- (3) Cost estimates, methods 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.

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

Section 9.6. Budget Hearing.

A public hearing on the proposed budget and proposed capital program shall be held by the Council on any date at least fifteen (15) days prior to the final day established by law for the certification of the ensuing year's tax levy to the county. Notice of the time and place of such hearing shall be published one time at least seven (7) days prior to the hearing.

Section 9.7. Budget Amendment.

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.

Section 9.8. Budget Adoption.

The Council shall adopt the budget by resolution on or before the final day established by law for the certification of the ensuing year's tax levy to the county. If it fails to adopt the budget by this date, the amounts appropriated for the current operation for the current fiscal year shall be deemed adopted for the ensuing 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 ensuing fiscal year.

Section 9.9. Property Tax Levy.

Adoption of the budget by the 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. The Council shall cause the same to be certified to the county as required by law.

Section 9.10. 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, appropriation or expenditure shall be made except by ordinance, and then only for expenditures which could not readily be foreseen at the time the budget was adopted.

Section 9.11. Public Records.

Copies of the budget and the capital program as adopted shall be public records and shall be made available for inspection by the public.

Section 9.12. 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 ordinance may make supplemental appropriations for the year up to the amount of such excess.

(b) Emergency Appropriations. To meet an emergency affecting public property, health, peace or safety, the Council may make emergency appropriations. Such appropriations may be made by emergency ordinance in accordance with provisions of Section 4.12. 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 thereof 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 such further action as it deems necessary to prevent or minimize any deficit and for that purpose it may by ordinance 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 without a department, office or agency and, upon written request by the manager, the Council may by ordinance transfer part or all of any unencumbered appropriation balance from one department, office, agency, or object to another.

(e) Limitations Effective Date. No appropriation for debt service may be reduced or transferred, and no appropriation 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 9.13. Administration of Budget.

(a) Work Programs and Allotments. The manager may require each department, office or agency to submit work programs for the ensuing fiscal year showing the requested allotment of its appropriation by periods within the year. The manager shall review and authorize such allotments with or without revision as early as possible in the fiscal year. He may revise such allotments during the year if he deems it desirable and shall revise them to accord with any supplemental, emergency, reduced or transferred appropriation made pursuant to Section 9.12.

(b) Payments and Obligations Prohibited. No payments shall be made or obligation incurred against any allotment or appropriation except in accordance with appropriations duly made and unless the manager first certifies that there is a sufficient unencumbered balance in such allotment or appropriation and that sufficient funds therefrom are or will be available to cover the claim or meet the obligation when it becomes due and payable. Any authorization of payment or incurring of obligation in violation of the provisions of this Charter shall be void and any payment so made illegal; such action shall be cause for removal of any officer who knowingly authorized or made such payment or incurred such obligation, and he shall also be liable to the Town for any amount so paid. However, except where prohibited by law, nothing in this Charter shall be construed to prevent the making or authorizing of payments or making of contracts for capital improvements to be financed wholly or partly by the issuance of bonds, or to prevent the making of any contract or lease providing for payments beyond the end of a fiscal year, provided that such act was made or approved by ordinance.

(c) Monthly Budget Report. Each month, the manager shall submit to the Council a list of budget accounts, bank reconciliations, the status of each budget account, and such other budgetary information as may be required by Council in the form of a monthly budget report.

Section 9.14. Independent Audit.

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

ARTICLE 10

BORROWING

Section 10.1. General Provisions.

The Town may borrow money and issue the following securities to evidence such indebtedness.

- (a) Short-term notes.
- (b) General obligations bonds.
- (c) Revenue bonds.
- (d) Special or local improvement bonds.
- (e) Any other securities not in contravention of this Charter.

The terms and maximum interest rate of all securities shall be fixed by the ordinance authorizing the borrowing and providing for its payment and all securities shall be sold or exchanged as determined by the Council. If securities are publicly sold, Council action awarding their sale and thereby establishing the interest rates and price paid therefor may be by resolution.

No action or proceeding, at law or in equity, to review any election, act or proceeding, or to question the validity of, or enjoin the issuance or payment of any securities issued in accordance with their terms, or the levy or collection of any assessments, or for any other relief against any act or proceeding of the Town done or had under the limitations of this Article, shall be maintained against the Town, unless commenced within thirty (30) days after the election or performance of the act or the effective date of the resolution or ordinance complained of, or else be thereafter perpetually barred.

Section 10.2. Short-Term Notes.

The Town is hereby authorized to borrow money, by Council action and without an election, in anticipating the collection of taxes or other revenues and to issue short-term notes to evidence the amount so borrowed. Any such short-term notes payable in whole or part from ad valorem taxes or to which the full faith and credit of the Town is pledged shall be issued after the annual levy of taxes and be payable in full within twelve (12) months from their date, except as otherwise specifically provided in this Charter. Short-term notes, as defined herein, may be issued by Council action without an election and shall not affect the Town's debt incurring power.

Section 10.3. General Obligation Securities.

Except as otherwise provided in this Article, no securities payable in whole or part from the proceeds of ad valorem taxes or to which the full faith and credit of the Town is pledged, shall be issued until the question of their issuance shall, at a special or regular election, be submitted to a vote of the electors of the Town and approved by a majority of those voting on the question. The aggregate amount of such securities as are described in this Section shall not exceed ten per cent (10%) of the assessed valuation of the taxable property within the Town as shown by the latest assessment. Securities issued for the purposes

of water and sanitary and storm sewer facilities may be issued by Council action without an election and shall not be included in the determination of such debt limitation.

Section 10.4. Revenue Securities.

The Council may authorize the issuance of securities made payable solely from revenues derived from the operation of the project or capital improvement acquired with the securities' proceeds or from other projects or improvements, or from the proceeds of any sales tax, use tax or other excise tax, or from any source or sources except ad valorem taxes of the Town, so long as the full faith and credit of the Town is not pledged for the payment of such securities. Such revenue securities shall not be deemed to be subject to any debt limitation nor to affect the Town's debt incurring power, nor shall such securities be required to be authorized at an election.

Section 10.5. Refunding Securities.

The Council may authorize without an election issuance of refunding securities for the purpose of refunding and providing for the payment of outstanding securities or other obligations of the Town as the same mature, or in advance of maturity by means of an escrow or otherwise. No refunding securities (other than for the purposes of water and sanitary and storm sewer facilities) issued for the purpose of refunding revenue securities shall be issued without an election if such refunding securities are made payable in whole or part from ad valorem taxes of the Town or if the full faith and credit of the Town is pledged for the payment thereof.

Section 10.6. No Additional Limitations.

Except as explicitly provided in this Article, there shall be no limitations on the authority of the Council to incur indebtedness or to issue securities.

ARTICLE 11

PUBLIC UTILITIES AND FRANCHISES

Section 11.1. General Powers.

The Town 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 statute. The right of the Town to construct, purchase, or condemn 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 11.2. Water Rights.

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

Section 11.3. Utility Rates and Service Areas.

The Council shall by ordinance establish rates for services provided by municipality-owned utilities. If the Council desires to extend the municipal water utility transmission lines beyond Town boundaries, it shall do so by ordinance.

Section 11.4. Granting of Franchises.

No franchise shall be granted except by ordinance.

Section 11.5. Franchise Records.

The Council shall cause to be kept in the office of the Town Clerk an indexed franchise record in which shall be transcribed copies of all franchises 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.

Section 11.6. 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 as provided in Section 11.4.

ARTICLE 12

TAXATION

Section 12.1. Authority to Levy Taxes.

The Council may levy and collect taxes for any public purpose deemed by the Council to be in the Town's best interest, including, without limitation, general ad valorem property taxes and any other tax not prohibited by constitution or statute and it may levy and collect special assessments for local improvements as provided in this Charter; provided, however, that no income tax, sales tax or excise tax shall be levied after the adoption of this Charter until such tax shall have been approved by a majority of the electors voting at a regular or special election.

ARTICLE 13

IMPROVEMENT DISTRICTS

Section 13.1. Power to Create Special or Local Improvement Districts.

(a) The Town shall have the power to create Special or Local Improvement Districts within designated districts in the Town, to contract for, construct or install special or local improvements of every character within the said designated districts, to assess the cost thereof, wholly or in part upon the

property benefited in such district, and to issue special or local improvement bonds and securities therefor.

(b) The Council shall, by ordinance, prescribe the type of improvements, the method and manner of creating such improvements, of letting contracts therefor, issuing and paying bonds and securities 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 district and 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 13.2. Creation of Special or Local Improvement Districts.

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

(a) Ordinance; or

(b) On a petition by the owners of more than fifty per cent (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.

Notice of public hearing and right to protest shall be given as provided by ordinance. All protests shall be considered but if the public welfare warrants, Council shall have final decision on any matter relating to the district, including its creation. Such improvements shall confer special benefits on the real property within the said districts and general benefits to the Town 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 13.3. Improvement District Bonds; Levy for General Benefit to Special Fund; Pledge of Credit.

(a) In consideration of general benefits conferred on the Town at large from the construction or installation of improvements in Special or Local Improvement Districts, the 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 and securities, both as the principal, interest and costs appertaining thereto become due, is additionally secured by a Special Fund herein created, and pursuant thereto may levy annual taxes on all taxable property within the Town 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 13.5, for the payment of any assessment levied against the Town itself in connection with said bonds and securities 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 and securities or for any prior redemption premium appertaining to such bonds and securities.

(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 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.

(1) As long as any bonds and securities issued for Special or Local Improvement Districts hereafter organized, remain outstanding, the tax levy or equivalent transfer of money to the Special Fund created for the payment of said bonds and securities shall not be diminished in any succeeding year until all of said bonds and securities and the interest thereon shall be paid in full, unless other available funds are on hand therefor, or such bonds and securities and interest are paid by the Town as provided in Section 13.5 of this Article.

(c) After the bonds and securities have been retired in full, any monies remaining in such Special Funds shall be transferred as provided in Section 13.4.

(d) Bonds and securities 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 Town's debt incurring power, now shall such bonds and securities be required to be authorized at any election; and such bonds and securities shall not be held to constitute a prohibited lending of credit or donation, not to contravene any constitutional, statutory or Charter limitation or restriction.

Section 13.4. Surplus and Deficiency Fund Payment of Bonds and Securities by Town.

(a) Where all outstanding bonds and securities 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 13.3 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 13.3 for the said bond or securities issues to any other Town fund.

(b) Whenever a Special or Local Improvement District has paid and cancelled three-fourths (¾) of its bonds and securities issued and for any reason the remaining assessments are not paid in the time to redeem the final bonds of the district, the Town shall pay the bonds and securities when due and reimburse itself by collecting the unpaid assessments due the district.

Section 13.5. Limitation of Actions.

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 Article, or for any other relief against any acts or proceedings of the Town done or had under this Article, shall be maintained against the Town, unless commenced within thirty (30) days after the performance of the act or the effective date of the resolution or ordinance complained of, or else be thereafter perpetually barred. No referendum shall be held on any ordinance pertaining to an improvement district unless the referendum petition is filed with the Town within thirty (30) days after publication of the notice of adoption of said ordinance.

ARTICLE 14

MISCELLANEOUS LEGAL PROVISIONS

Section 14.1. Eminent Domain.

The Town shall have the right to eminent domain to acquire property both within and without the boundaries of the Town for any purpose deemed by the Council to be in the Town's best interest.

Section 14.2. Reservation of Power.

The power to supersede any law of this state now or hereafter in force, in so far as it applies to local or municipal affairs shall be reserved to the Town, acting by ordinance, subject only to restrictions of Article XX of the state constitution. It is the intention of this Charter to grant and confirm to the people of the Town of Crested Butte the full right of self-government on local and municipal matters and to that end, to grant and confirm unto the Town all governmental powers not restricted or prohibited by constitution or statute. The enumeration of certain powers shall not be construed to deny the Town any other right or power.

Section 14.3. Liability of Town.

No action for recovery of compensation for personal injury, death, or property damage against the Town on account of its negligence shall be maintained unless written notice of the alleged time, place and cause of injury, death, or property damage is given to the Town Clerk by the person injured, his agent, or attorney, within one hundred and eighty (180) days of the occurrence causing the injury, death, or property damage. The notice given under the provisions of this section shall not be deemed invalid or insufficient solely by reason of any inaccuracy in stating the time, place, or cause of injury, if it is shown that there was no intent to mislead and that the Town in fact, was not mislead thereby. This provision shall not be construed as a waiver of any governmental immunity the Town may have. (Rev. Ord. 18, 1997, 11/4/97)

Section 14.4. Restriction on Sale of Property.

The Council shall not sell, exchange or dispose of public utilities, or either public buildings or real property currently in use for public purposes except by ordinance.

Section 14.5. Co-operative Contracts.

The Council may by resolution enter into contracts or agreements with other governmental units, special districts, or persons for the joint use of buildings, equipment, or facilities, or for furnishing or receiving commodities or services.

Section 14.6. Grants to Regional Service Authorities.

In the interest of governmental services provided on a regional or area-wide basis and the benefits realized by the Town from services, the Council may by ordinance provide grants of municipal funds and services to regional service authorities existing at the time this Charter becomes effective or thereafter created.

Section 14.7. Bequests, Gifts, and Donations.

The Council, on behalf of the Town, may receive or refuse bequests, gifts, and donations of all kinds of property in fee simple or in 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 14.8. Emergency Powers.

In case of riot, insurrection, or other extraordinary emergency, the mayor, or in his absence, the manager, shall assume general control of the Town government and all branches and be responsible for the suppression of disorders and the restoration of normal conditions. At any time of threatened or actual civil insurrection, the mayor shall:

- (a) Proclaim the existence and termination of a threatened or actual civil insurrection.
- (b) Request the governor's assistance if he believes that the resources and ability of the community are inadequate to cope with the peril.
- (c) Convene the Council within two (2) days if it appears that the state of civil insurrection will continue for more than two (2) days.
- (d) Execute all his normal powers and all his special powers lawfully conferred upon him including, but not limited to, establishing written rules and regulations governing conduct and activities reasonably related to the protection of life and property and to the suppression of the civil insurrection.

Section 14.9. Severability of Charter Provisions.

If any article, section sentence, clause, phrase, word or other provision of this Charter or the application thereof to any person or circumstance shall be found to be invalid, such invalidity shall not affect the validity of the remaining articles, sections, sentences, clauses, phrases, words or other provisions of this Charter, or the validity of this Charter as an entirety, it being the intent that this Charter shall stand notwithstanding the invalidity of any article, section, sentence, clause, phrase, word or other provision and to that end, this Charter is declared to be severable.

Section 14.10. Charter Amendments.

This Charter may be amended at any time in the manner provided by the constitution. 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 14.11. 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" shall extend and be applied to bodies politic and corporate and to partnerships as well as to individuals.

Section 14.12. Definitions.

(a) Appropriation. The authorized amount of moneys set aside for expenditures during a specified time for a specific purpose.

(b) Constitution. The Constitution of the State of Colorado.

(c) Council. The Town Council of the Town of Crested Butte, including the mayor, unless provided otherwise.

(d) Elector. A person qualified to vote under the Constitution and Statutes of the State of Colorado.

(e) Employee. A person employed by the Town of Crested Butte.

(f) Franchise. An irrevocable privilege granted by the Town permitting a specified use of public property for a specified length of time.

(g) General Municipal Election. A municipal election held every year at which candidates for elective offices of the Town are voted upon in accordance with this Charter.

(h) Manager. The Town Manager of the Town of Crested Butte appointed pursuant to Section 6.1.

(i) Officer. Any person elected to office or appointed by Council, including appointees to boards and commissions.

(j) Permanent Board or Commission. A board or commission intended by Council to be a part of the permanent governmental structure of the Town of Crested Butte as established by ordinance.

(k) 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 Town.

(l) 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.

(m) Town. Town of Crested Butte, Colorado, a municipal corporation.

ARTICLE 15

TRANSITION

Section 15.1. Effective Date of Charter.

This Charter shall become effective immediately upon voter approval except that those provisions of Article 9 relating to the preparation and submission of the budget and capital program shall become effective for the 1976 annual budget. Those provisions relating to the election of the Council shall become effective at the special municipal election, which shall be held on January 21, 1975, following voter approval of this Charter.

Section 15.2. Prior Town Legislation.

All bylaws, ordinances, resolutions, rules and regulations of the Town which are not inconsistent with this Charter and which are in force and effect at the effective date of this Charter shall continue in full force and effect until repealed or amended. Those provisions of any effective bylaw, ordinance, resolution, rule or regulation which are inconsistent with this Charter are hereby repealed.

Section 15.3. Present Elected Officials to Continue in Office.

The present Town Council and mayor in office at the time of the adoption of this Charter shall continue at their present salaries, to serve and carry out the functions, powers and duties of their offices until the inauguration of the first Council hold office under this Charter.

The present Town Clerk and other Town employees in office at the time of the adoption of this Charter, shall continue at their present salaries to serve and carry out the functions, powers and duties of their offices until the inauguration of the first Council to hold office under this Charter.

Section 15.4. Continuation of Present Boards and Commissions.

Except as otherwise provided herein, all boards and commissions in office at the time of adoption of this Charter shall continue to function with their present powers and duties as provided in the respective ordinance.

Section 15.5. Continuation of Appointed Officers and Employees.

Except as otherwise provided herein, after the effective date of this Charter, all officers and all employees of the Town shall continue in that Town 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, and they shall in all respects be subject to the provisions of this Charter, except that any officer or employee who holds a position which this Charter provides be held at the pleasure of the appointing officer or body, shall hold such position only at such pleasure regardless of the term for which originally appointed.

Section 15.6. 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 contracts between the Town of Crested Butte and any person or public agency.

CERTIFICATE OF FINAL ADOPTION

WE, the undersigned, members of the Crested Butte Charter Commission, duly elected by the people of Crested Butte, Colorado at a general election held on April 2, 1974, under authorization of Article XX, Constitution of the State of Colorado, to frame a Home Rule Charter for the Town of Crested Butte, do hereby certify that the foregoing is the proposed Charter as finally approved and adopted by the members of the Commission on the 29th day of July, 1974, for submission to the people of Crested Butte at the general election to be held on November 5, 1974.

Executed in triplicate at Crested Butte, Colorado, this 29th day of July, 1974.

/s/Wesley A. Light, Chairman

/s/Thomas R. H. Glass, Member

/s/William D. Odell, Vice Chairman

/s/William O. Hickok, Member

/s/Bruce Baumgartner, Member

/s/Ronald L. Hudelson, Member

/s/Thomas S. Cox, Member

/s/Joseph G. Rous, Member

/s/William V. Crank, Member

/s/David Leinsdorf, Charter Commission Attorney