

# **CITY OF LONE TREE**

## **HOME RULE CHARTER**

**1998**

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**LONE TREE HOME RULE CHARTER**

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## **PREAMBLE AND INTERPRETATION**

We, the people of the City of Lone Tree, Colorado, under the authority of the Constitution of the State of Colorado and in order to exercise the rights, privileges and responsibilities of self-government granted to us by said Constitution, do ordain and establish this Home Rule Charter for the City of Lone Tree, Colorado.

Where any question exists as to the meaning of any portion of this Charter, it shall be interpreted consistently with the Charter's purpose to reserve to the City and its citizens the broadest possible powers of home rule and self-government available under the Constitution, as limited only by the specific language of this Charter and the Constitution of the State of Colorado. The City shall have all powers now or hereafter granted to home rule and statutory cities which are not specifically in conflict herewith.

Except as otherwise specifically provided in or indicated by the context, all words used in this Charter indicating the present tense shall not be limited to the time of the adoption of this Charter, but shall extend to and include the time of the happening of any event or requirement of which provision is made herein. The singular number shall include the plural, the plural shall include the singular, the masculine gender shall extend to and include the feminine gender and neuter and vice versa, and the word "person" may extend and be applied to bodies politic and corporate and to partnerships as well as individuals. The term "City" shall refer to the City of Lone Tree; the terms "City Council" and "Council" shall include members of the City Council and the Mayor except where the context specifically indicates otherwise or would produce an unintended result; and other capitalized terms herein shall have their ordinary meanings except where the context specifically indicates otherwise. References to statutes herein shall include subsequent amendments thereto if not inconsistent with the intent of this Charter, and the Council shall have power to construe the intent hereof as respects any future amendments to said statutes.

## **ARTICLE I**

### **FORM OF GOVERNMENT AND POWERS**

#### **Section 1. Name, Boundaries.**

The citizens of the City of Lone Tree, in the County of Douglas, State of Colorado, within the boundaries of the municipal corporation as now established or as hereafter modified in the manner provided by law, shall constitute a body corporate and politic in perpetual succession, under the name of "City of Lone Tree, Colorado" as a home-rule municipal corporation under Article XX of the Constitution of the State of Colorado.

#### **Section 2. Powers of the City.**

Except as specifically limited herein, the City shall have all the power of local self-government and home rule and all powers granted to home rule cities now or hereafter under the Constitution of the State of Colorado (hereafter, the "State Constitution" or "Constitution"). The City shall also have all powers granted to cities, towns and municipalities of all kinds by the laws of the State of Colorado not inconsistent with the terms of this Charter as interpreted by City Council. The enumeration of specific powers in this Charter shall not be considered as limiting or excluding any other power. All powers shall be exercised in the manner set forth in this Charter or, if not provided for in this Charter, in such manner as shall be provided by ordinance or resolution, or by other applicable law.

### **Section 3. Form of Government.**

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

### **Section 4. Annexation.**

A. Property Within Prescribed Annexation Area. Whenever any tract of real property meeting the requirements for annexation under state law and lying within the "annexation area" described in Section 4.C. below has been surveyed and duly recorded as may be required by law, the same may be annexed to and become a part of the City of Lone Tree, subject to any applicable state laws and this Charter governing such annexation, on condition that:

(i) if no residential land use shall be permitted for such real property except residential uses which are part of hotel operations or similar operations which are commercial in nature and not intended as the primary residence of the occupant, then, at least sixty percent (60%) of the Council members and Mayor then in office have approved all such annexation ordinances and other zoning and related ordinances pertaining to the annexation of such real property; and

(ii) if any residential land use shall be permitted for such real property exclusive of residential uses which are part of hotel or similar operations as contemplated above, then, at least eighty percent (80%) of the Council members and Mayor then in office have approved all such annexation ordinances and other zoning and related ordinances pertaining to the annexation of such real property;

provided, however, that as to (i) and (ii) above, if any annexation of real property would result in the annexation of any portion of any whole subdivision, as defined in the records of the clerk and recorder of Douglas County Colorado or the City of Lone Tree, containing in whole a number of existing residential structures that equals at least twenty percent (20%) of the number of permanent residential structures existing within the City of Lone Tree at the time of the proposed annexation, said annexation must also meet the requirements of Section 4.B.(i) below.

B. Property Outside Prescribed Annexation Area. Whenever any tract of real property meeting the requirements for annexation under state law and lying outside the "annexation area" described in Section 4.C. below has been surveyed and duly recorded as may be required by law, the same may be annexed to and become a part of the City of Lone Tree, subject to any applicable state laws and this Charter governing such annexation, on condition that:

(i) in the case of the first annexation of any such real property lying outside said annexation area, no annexation nor annexation ordinance, with or without an accompanying zoning ordinance or other land use decision, shall become effective until an election has been held within the City at large, and the electors of the City, exclusive of any electors in the area proposed to be annexed, and the ordinance(s) pertaining to such annexation and zoning or other land use decisions have been approved by a majority of those eligible electors who cast votes at said election; and

(ii) if no residential land use shall be permitted for such real property except residential uses which are part of hotel operations or similar operations which are commercial in nature and not

intended as the primary residence of the occupant, at least sixty percent (60%) of the Council members and Mayor then in office have approved all such annexation ordinances and other zoning and related ordinances pertaining to the annexation of such real property prior to such elections; and

(iii) if any residential land use shall be permitted for such real property exclusive residential uses which are part of hotel or similar operations as contemplated above, at least eighty percent (80%) of the Council members and Mayor then in office have approved all such annexation ordinances and other zoning and related ordinances pertaining to the annexation of such real property prior to such elections.

C. Annexation Area. For purposes of the application of Sections 4.A. and 4.B. above, the "annexation area" shall include all real property located in the 1997 City of Lone Tree Comprehensive Plan "Primary Plan Area" map boundaries generally described as starting at the southeast inside corner of the rights of way S. Quebec St. and County Line Road dividing Arapahoe and Douglas County, thence south along the east side of the public service right of way existing as of the effective date hereof to the property line of the Highlands Ranch Planned Development "Conservancy Area" existing as of the effective date of this Charter and located in unincorporated Douglas County, thence east along said property line to the western edge of the right of way of Interstate 25, thence north along the western edge of said right of way to the southern edge of the right of way of the aforesaid County Line Road, thence west along the southern edge of said right of way to the point of beginning at S. Quebec St., all as more particularly depicted on the map on file with the City of Lone Tree as of the date of adoption of this Charter.

D. Publicly Owned Property. Notwithstanding Sections A and B above, Council shall have authority pursuant to applicable state law to annex real property for purposes of construction, replacement, ownership, operation, maintenance and use of public utilities or other public infrastructure located on such real property, including but limited to, public recreation facilities, drainage improvements, public utilities and other improvements to be owned by the City or other governmental entities; provided, however, that a substantial majority of such property to be annexed must be essential to the public use contemplated for such property and provided that no special vote of Council except as required by applicable state law shall be required for such annexation. The City shall also be permitted to acquire real property outside its boundaries, without annexation, for purposes contemplated in this Section D.

## **ARTICLE II**

### **CITY COUNCIL**

#### **Section 1. Council Membership.**

The legislative affairs of the City shall be vested in the Council, consisting of four (4) Council members and the Mayor, all of whom shall be nominated and elected as provided herein. If the number of Council districts is increased as provided in Article IX, Section 3, the number of Council members shall be correspondingly increased by two (2) per Council district; provided, however, that the number of Council districts shall not exceed three (3) and the number of Council members and the Mayor shall not exceed seven (7).

## **Section 2. Qualifications of Council Members**

Any person shall be eligible to serve as a Council member if at the time of election or appointment he is a citizen of the United States; is at least twenty-five (25) years of age on or before the date of the election; is a registered elector of the City and has resided within the City for at least one (1) year immediately preceding the date of the election; and, in the case of a Council member elected from a district, as defined herein, has continuously resided in the district from which he is to be elected for at least one (1) year immediately preceding the date of the election. Council members must continuously maintain, during their term of office, a primary residence within the City and, in the case of a Council member elected from a district, in the district from which he was elected. Council members may hold no other public office or employment for which compensation is paid by City funds. No person who has been convicted of a felony may serve as a Council member and no Council member may remain in office if he shall be in default of any obligations owed to the City or any governmental unit. If any such default occurs, it must be rectified within a reasonable period of time as determined by the Council.

## **Section 3. Terms of Office of Council Members.**

Except as otherwise provided in this Charter, the term of office of all Council members shall be four (4) years, or until their successors have been elected and have taken office as provided in this Charter. The terms of the Council members shall commence at the first regular or special meeting of the Council conducted after their election and shall continue for the term described herein and until the first regular or special meeting of the Council following the election occurring at the end of such term. An organizational meeting of the Council shall be held at the first regular or special meeting conducted after such election. Notwithstanding anything contained in this Charter to the contrary, adoption of this Charter shall constitute the election of the electors voting hereon to extend the terms of the City Council members in office as of the date of adoption of this Charter, or their successors as a result of vacancy in office, until they or their successors are elected at the regular election to be held in May in the year 2000 at which time the Council member in each Council district receiving the highest number of votes at said regular election shall serve a four (4) year term and the Council member in each Council district receiving the next highest number of votes shall serve a two (2) year term. Thereafter, all terms shall be four (4) years as provided herein.

## **Section 4. Powers of the Council.**

The Council shall be the legislative and governing body of the City and shall have and exercise, except as otherwise provided in this Charter, all powers conferred upon or possessed by the City and shall adopt such laws, ordinances and resolutions as it shall deem proper. Council shall set rules for the governance of its meetings and the conduct of its members by ordinance not in conflict with this Charter. Council shall adopt an ordinance which defines and sets penalties for misconduct in office.

## **Section 5. Compensation.**

The Council members shall receive compensation in the amount of not less than five hundred dollars (\$500.00) per month and the Mayor shall receive compensation in the amount of not less than seven hundred fifty (\$750.00) per month. Unless further restrained by the State Constitution or other applicable law, such compensation may be increased by no more than three percent (3%) in any fiscal year, unless the proposed increase is submitted to the registered electors at a regular election and

approved by an affirmative vote of a majority of those voting on such issue. Members, upon order of the Council, may be reimbursed actual and necessary expenses incurred in the performance of their duties of office.

**Section 6. Qualifications of Mayor.**

The qualifications for Mayor shall be the same as those for Council members except that such person shall be at least thirty (30) years of age on or before the date of the election. The Mayor shall be elected from the City at large.

**Section 7. Term of Office of Mayor.**

The Mayor shall serve for a term of four (4) years, or until his successor has been elected and taken office as provided in this Charter. The term of the Mayor shall commence at the first regular or special meeting of the Council conducted after his or her election. Notwithstanding anything contained in this Charter to the contrary, adoption of this Charter shall constitute the election of the electors voting hereon to extend the term of the Mayor in office as of the date of adoption of this Charter, or his successor as a result of vacancy in office, until he or his successor is elected at the regular election to be held in May in the year 2000.

**Section 8. Powers of the Mayor.**

The Mayor shall preside at meetings of the Council and shall be recognized as head of the City government for all ceremonial purposes and by the Governor of the State for purposes of military law. The Mayor shall execute and authenticate legal instruments and ordinances of the City and such other documents as may require the signature of the Mayor. The Mayor shall also perform such other duties as may be provided by ordinance which are not inconsistent with the provisions of this Charter. The Mayor shall have power to vote on matters brought before the Council.

**Section 9. Mayor Pro-Tem.**

The Mayor Pro-Tem shall be elected from and by the Council members at the first regular or special meeting following each regular election. The Mayor Pro-Tem shall act in the absence or disability of the Mayor. When acting as the Mayor, the Mayor Pro-Tem shall enjoy the privileges of the Mayor and shall be subject to all limitations accruing to the office of Mayor. The Mayor Pro-Tem shall not receive the Mayor's compensation unless and until he becomes the Acting Mayor pursuant to Article III, Section 3.C.

**Section 10. Council Committees.**

The Council may provide for Council committees by resolution specifying the committee's membership, method of appointment, powers and duties, term of office, and any other relevant conditions.

**Section 11. Clerk and Treasurer.**

The Council shall have authority to appoint by resolution a clerk and a treasurer, or a clerk/treasurer, to serve at the pleasure of the Council for a term set by Council who shall have such

duties as are prescribed by Council. Compensation for such offices shall be as determined by Council.

### **ARTICLE III**

#### **LIMITS, VACANCIES AND REQUIREMENTS OF CITY OFFICES**

##### **Section 1. Limits on Elective Offices.**

The elective offices of the City shall be the offices of Mayor and Council members. No person shall be eligible to stand for election for more than one elective office at any single City election. A candidate may hold any elective position of any kind and run for another elective position of any kind at the same time, but if elected to more than one office, the candidate must resign his current office and fill the office to which he was subsequently elected. During a term of office, no elected official shall be otherwise employed by the City, shall not be appointed to any other City office, and shall not hold any other elective public office.

##### **Section 2. Term Limits.**

The Mayor and Council members shall serve no more than two (2) full consecutive terms in one (1) office or eight (8) consecutive years, whichever is longer, commencing after the effective date of this Charter. A person may serve two (2) consecutive terms as Mayor and two (2) consecutive terms as a Council member without a break between offices, or fewer terms in either office, without violating the terms hereof. For purposes of these term limits, one (1) Council member position is the same as any other Council member position.

##### **Section 3. Vacancies in Office.**

A. Definition of Vacancy. All elected City officers shall hold office until their successors are elected and qualified. Except as otherwise provided herein, a vacancy exists when a member of the Council fails to qualify within thirty (30) days after the commencement of such member's term, or if he dies, resigns, moves from the City or the district from which elected, assumes another elective office, fails to attend meetings of the Council for a period spanning sixty (60) consecutive days unless excused by motion of the Council, or is convicted of a felony, or is judicially declared incompetent.

B. Vacancy in Office of Council Member or City Officer. Except for the office of Mayor, any vacancy in a Council member or other elective office shall be filled as follows:

(1) If the vacancy occurs sixty (60) days or more prior to the next regular election, it shall be filled by appointment of the Council within forty-five days of such vacancy. The appointment shall be valid until the next regular election, when the vacancy shall be filled by election for the remainder of the term, if any.

(2) If the vacancy occurs within sixty (60) days prior to any regular election, and if the term of the Council office expires at such regular election, no appointment shall be made.

(3) If the vacancy occurs within sixty (60) days prior to any regular election and the remaining term of the Council office is at least two (2) years, the vacancy shall be filled by the Council

members seated after such election within the forty-five (45) days after such election. The appointment shall be valid until the next regular election.

C. Vacancy in the Office of Mayor. If the Council determines by resolution that a vacancy has occurred in the office of Mayor, the Mayor Pro-Tem shall become Acting Mayor, and the Council shall elect an Acting Mayor Pro-Tem. The Acting Mayor and the acting Mayor Pro-Tem shall retain the voting privileges of Council members and the Acting Mayor shall have no power to break ties except pursuant to his or her vote as a Council member.

(1) If a vacancy occurs in the office of Mayor at least two hundred seventy (270) days prior to the next regular election, the vacancy on the Council caused by the Mayor Pro-Tem assuming the office of Mayor shall be filled in accordance with the provisions of this Article III. The Council shall call for a special election to be conducted as expeditiously as possible and the Acting Mayor and the Acting Mayor Pro-Tem shall serve until a successor to the Mayor is elected at such election. The Mayor so elected shall serve until the next regular election and the Acting Mayor and Acting Mayor Pro-Tem shall resume their duties as Council members for the remainder of their unexpired terms of office. The Acting Mayor shall also reassume his position as Mayor Pro-Tem.

(2) If the position of Mayor becomes vacant less than two hundred seventy (270) days prior to any regular election, the duties of the Mayor shall be immediately assumed by the Mayor Pro-Tem, who shall serve as Acting Mayor until said regular election, at which time the office of Mayor shall be filled by the electors for a new term. After the election, the Acting Mayor and Acting Mayor Pro-Tem shall resume their duties as Council members for the remainder of their unexpired terms of office, if any, unless elected to another office. The Acting Mayor shall also reassume his position as Mayor Pro-Tem.

(3) Nothing herein shall preclude the Mayor Pro-Tem or any Council member from standing for election to the office of Mayor.

#### **Section 4. Limits and Requirements of Appointment.**

No person shall be appointed to any City office, position or employment for which the compensation was increased or fixed by the Council while such person was a Council member or Mayor until after expiration of one year from the date when such person ceased to be a Council member or Mayor. Any person appointed to fill a vacancy for an unexpired term in an elective office shall have the qualifications required of persons to be regularly elected. In the case of a vacancy in the office of a district Council member, any person appointed or elected to fill such vacancy shall be from the same district.

#### **Section 5. Oath of Office.**

Before entering upon the duties of his office, the Mayor and every Council member shall take, subscribe before and file with the City Clerk an oath or affirmation that he will support the Constitution of the United States of America, the State Constitution, this Charter, and the ordinances and other laws of this City and will faithfully perform the duties of the office.

## **Section 6. Standards of Conduct.**

The City shall be governed by the Standards of Conduct as contained in Title 24, Article 18 of the Colorado Revised Statutes (hereafter, "C.R.S.") as the same may be amended from time to time, to the extent the same do not conflict with the provisions of this Charter.

## **Section 7. Financial Interest Prohibited.**

A. Definitions. For purposes of this Section only:

(1) "City Officer" means the Mayor, any Council member, and any person appointed to any boards or commissions as provided herein.

(2) "Contract" means any arrangement or agreement pursuant to which any land, material, service, or other thing of value is to be furnished to the City for a valuable consideration to be paid, sold or transferred by the City. Contract shall not include those items excluded in Section 24-18-201(1)(b), C.R.S., as the same may be amended from time to time.

(3) "Financial interest" shall mean a "financial interest" as defined in Section 24-18-102(4), C.R.S., as the same may be amended from time to time, and shall also include ownership of securities of a corporation, or of any beneficial interest in a partnership or firm, when the aggregate amount of such interest owned by the City officer or such officer's family is ten percent or more of any class of securities of such corporation or ten percent or greater ownership in such partnership or firm.

(4) "Family" means the City officer's parents, siblings, spouse, and children, and the spouse of any of them.

B. Conflict of Interest. Except as provided in Title 24, Article 18, C.R.S., no City officer shall vote or seek to influence the vote of any other City officer in which he or his family has a financial interest or on any question concerning his own conduct. In the event that the City officer or any member of his family, respectively, has a financial interest in any matter proposed or pending before the Council or any board or commission, the City officer shall disclose such interest to the Council or the board or commission. If a City officer fails to disclose such interest but the interest is subsequently disclosed, the remaining members of the Council, board or commission shall determine by a majority vote whether said interest does in fact constitute a financial interest. When such a conflict of interest was not disclosed and is established with respect to a matter already considered by Council, board or commission, the remaining members of the Council, board or commission shall take any action they deem to be in the best interests of the City, including but not limited to terminating the unperformed portion of any contract entered into when such a conflict of interest existed.

## ARTICLE IV

### COUNCIL PROCEDURE

#### **Section 1. Regular Meetings.**

The Council shall meet regularly at least once each month at a day and hour established by ordinance or resolution.

#### **Section 2. Special Meetings.**

Special meetings may be called by the City Manager on the request of the Mayor, the City Manager or any two Council members, on at least seventy-two (72) hours' written notice to each Council member and the Mayor, served personally or left at their usual place of residence. Such notice shall state the purpose for which the meeting is called. A special meeting may be held on shorter notice if all Council members and the Mayor are present or have waived notice thereof in writing.

#### **Section 3. Open Public Meetings.**

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 shall cause written minutes of its regular and special meetings to be taken and retained in the records of the City. No resolution, rule, regulation, ordinance or formal action of the City shall be valid unless it is taken or made at an open public meeting which meets the requirements of this Article.

#### **Section 4. Notice Requirements.**

A. Established by Council. Council shall adopt an ordinance or resolution which establishes public notice and posting requirements, including designated public places for such postings, for regular and special meetings in accordance with this Article.

B. Special Meetings. Notice stating the purpose of a special meeting shall be posted at least twenty-four (24) hours in advance of any such special meeting in at least one (1) public place in the City which shall be accessible to the public after regular business hours. No business shall be transacted at any such special meeting of the Council unless the proposed action has been specifically identified in the notice of such meeting or unless the notice has been posted at least seventy-two (72) hours in advance and/or such meeting is conducted in accordance with the open meetings laws of the state.

#### **Section 5. Quorum; Adjournment of Meeting.**

A majority of the Council, including the Council members holding office and the Mayor, shall be a quorum for the transaction of business at all Council meetings. In the absence of a quorum, a lesser number may adjourn any meeting to a later time or date, and in the absence of all members of the Council and the Mayor, any officer of the City or the City Manager may adjourn any meeting to a date and time certain. For all purposes herein, a quorum of the Council shall be determined to exist if a majority of the Council and the Mayor are in attendance at such meeting at which a quorum is

required notwithstanding the declaration of a conflict of any person coupled with a statement of such person of his intention to abstain from any proposed action during such meeting and notwithstanding that any such person actually abstains from any action as a result of a declared or actual conflict of interest or otherwise.

### **Section 6. Executive Sessions.**

A. Requirements for Executive Sessions. The Council, upon the affirmative vote of sixty percent (60%) of the quorum present, may hold an executive session closed to the public only at a regular or special meeting and solely for the purpose of considering the following matters:

- (1) To determine a position relative to issues subject to negotiation, to receive reports on negotiation progress and status, to develop strategy, and to instruct negotiators;
- (2) To consider the acquisition or disposal of property if, in the judgment of the Council, premature disclosure of information might give any person an unfair competitive or bargaining advantage;
- (3) For matters of attorney-client privilege;
- (4) For matters required by federal law or non-superseded state law to be kept confidential;
- (5) For matters critical to the personal safety of members of the Council and for matters involving the protection and security of City property;
- (6) Personnel matters; and
- (7) To consider additional matters which are permitted to be the subject of an executive session under the Open Meetings Law, as the same may be amended from time to time, or under court decision.

Prior to the time the Council convenes in executive session, the Mayor shall announce the general topic of the executive session as enumerated above.

B. Limitation. No action approving or denying a contract, no decision concerning the payment of money, and no adoption or approval of a final policy decision, resolution, rule, regulation, or ordinance shall be taken or conducted in an executive session.

### **Section 7. Emergency Meetings; Study Sessions.**

A. Emergency Meetings. An emergency meeting may be called in the event of an immediate danger or threat to the public health, welfare, peace, safety or property for the purpose of preservation or protection of the public health, welfare, peace, safety or property. Unless it is impractical, all Council members shall be notified of such meeting and such meeting may be held if a quorum of the Council consents. Maximum practical notice, including posted notice shall be attempted to be given to the public stating the purpose, time and place of any such meeting.

B. Study Sessions. The Council may hold such study sessions as the Mayor or any two (2) Council members may request upon at least twenty-four (24) hours' written notice to each Council member and

by public notice through posting procedures established by ordinance or resolution. No quorum shall be required at any study session and no legally binding or formal action shall be taken at any such session.

**Section 8. Voting.**

A vote by "yes" and "no" shall be taken for the adoption on first and final reading of all ordinances, and adoption of any resolutions or any motion. Such votes shall be entered upon the minutes of the Council proceedings. Every ordinance, resolution and motion shall require the affirmative vote of a majority of the members present unless required otherwise in this Charter. No action of Council requiring a roll call vote shall be invalidated upon determination that a roll call vote was not taken on condition that as soon as reasonably possibly after such determination a roll call vote is taken ratifying such previous action.

**ARTICLE V**

**ACTS OF COUNCIL**

**Section 1. Ordinances, Resolutions and Motions.**

The Council shall act only by ordinance, resolution or motion. All legislative enactments of a permanent nature shall be by ordinance; all other actions, except as provided in this Charter, may be in the form of resolutions or motions. All ordinances and resolutions, except appropriation ordinances and ordinances concerning codification of ordinances, shall be confined to one subject which shall be clearly expressed in the title. No ordinance, section or subsection thereof shall be amended, superseded, or repealed except by an ordinance regularly adopted.

**Section 2. Action by Ordinance Required.**

In addition to other acts of the Council required to be taken by ordinance as provided herein, every act creating an indebtedness or authorizing the borrowing of money, levying a tax, establishing of any rule or regulation for the violation of which a fine or jail sentence may be imposed, establishing of rates for municipal utilities or providing for equitable remedies or injunctions, shall be by ordinance and approved by a sixty percent (60%) vote of the Council.

**Section 3. Enactment of Codes by Reference.**

Standard codes promulgated by the United States Government, State of Colorado or by any agency of either of them, or by any municipality, or by recognized trade or professional organizations, or amendments or revisions thereof, may be adopted with or without amendments by reference using the same procedure specified in Article V, Section 7; provided that the publication of the ordinances adopting any said code may be by reference and shall advise that copies and amendments are available for inspection at the office of the City Clerk, and provided that any penalty clause in any code may be adopted only if set forth in full and published in adopting ordinance.

**Section 4. Recording of Resolutions and Ordinances.**

A. Resolutions. A true copy of every resolution as hereafter adopted shall be numbered and recorded in the official records of the City.

B. Ordinances. All ordinances shall be kept and maintained by the City Clerk or City Manager in such form as is sufficient to assure reasonable access to the public. It shall be the duty of the Mayor and City Clerk to authenticate such records by their official signatures thereon, but the failure to so record and authenticate any ordinance shall not invalidate it or suspend its operation.

#### **Section 5. Ordinance Codification.**

The Council shall cause the permanent ordinances to be codified. Such codification may be of the entire body of permanent ordinances or of the ordinances on some particular subject and may be re-enacted by the Council or authenticated in such other manner as may be designated by ordinance. The first codification shall be completed within five (5) years of the effective date of this Charter and all permanent ordinances adopted thereafter shall be codified at least once a year. Subsequent re-codifications shall be made as deemed necessary by the Council.

#### **Section 6. Ordinance Review.**

The Council shall review ordinances of a general and permanent nature adopted on or after the effective date of this Charter at least once within five (5) years of its effective date, and at least once every five (5) years thereafter, for possible amendment or repeal. Failure to do so shall not invalidate or suspend the operation thereof on condition that as soon as practicable after learning of such failure, Council reviews such ordinance.

#### **Section 7. Procedure for Adoption of Ordinance.**

A. Enacting Clause. The enacting clause of all ordinances shall read substantially as follows, but no failure to so read shall invalidate any ordinance after sixty (60) days following second reading: "THE COUNCIL OF THE CITY OF LONE TREE, COLORADO, ORDAINS:"

B. Introduction on First Reading. All ordinances shall be formally introduced in printed form by any Council member or the Mayor at a regular or special Council meeting and considered on first reading and action taken thereon. No ordinance, except an emergency ordinance, shall be finally passed on first reading or at the meeting at which it is first introduced. First reading and introduction of an ordinance shall consist only of reading the title thereof, provided that, at least forty-eight (48) hours (excluding weekends and holidays) prior to the time such ordinance is introduced on first reading, copies of the full ordinance proposed shall be provided to each Council member and shall be available in the office of the City Clerk or City Manager for inspection and copying by the general public; and provided further that any member of the Council may request that an ordinance be read in full at any reading of the same, in which case such ordinance shall be read in full at such reading.

C. Adoption on Second Reading. Final passage and adoption of all ordinances on second reading, except emergency ordinances, shall be at a regular or special Council meeting. Ordinances, except emergency ordinances, adopted on second reading shall be posted in their entirety in a public place within the City and shall take effect on completion of publication as required herein. The Council may, by ordinance, provide for any additional posting or publication requirements it deems appropriate.

D. Publication of Ordinances. The full text of ordinances shall be published following introduction on first reading together with a notation that the ordinance and changes thereto shall be considered on second reading for adoption at a public meeting of the City Council at a date and time certain, which may

be postponed at said meeting, and which meeting shall be open to the public. Changes to ordinances after first reading shall be published following adoption on second reading. No second reading shall occur until fourteen (14) days after first reading and only on condition that publication of said ordinance after first reading has been completed at least forty-eight (48) hours prior to second reading. Ordinances, except emergency ordinances, shall become effective upon the earlier to occur of thirty (30) days following publication after first reading if no changes are made on second reading or twenty (20) days after publication following second reading if changes are made upon second reading. The completion of the processes identified in this Section 7 shall be deemed to fully satisfy the requirements found elsewhere in law for conduct of public hearings on ordinances on condition that any extra or special notice requirements for such hearings found elsewhere in law are complied with substantially.

### **Section 8. Emergency Ordinances.**

A. Restrictions on Adoption of Emergency Ordinance. Emergency ordinances may be introduced and adopted upon first reading at the same Council meeting upon the affirmative vote of eighty percent (80%) of the Council and Mayor without the requirement for second reading in the event of an immediate danger or threat to the preservation of the public health, welfare, peace, safety, or property or to authorize borrowing money or incurring indebtedness in order to relieve an emergency endangering the public peace, health, safety, or property as determined by an eighty percent (80%) vote of all Council members and the Mayor in office. The facts showing such urgency and need shall be specifically stated in the ordinance itself. No ordinance fixing rates charged by any City-owned utility shall ever be passed as an emergency ordinance.

B. Procedure for Adoption of Emergency Ordinances. Emergency ordinances may be introduced, acted upon and adopted on first reading at a regular, special or emergency Council meeting. An emergency ordinance shall take effect upon adoption on first reading and shall be published in full immediately after adoption. An emergency ordinance shall not be in effect longer than ninety (90) days after adoption unless the Council shall affirm the same by re-adoption of said ordinance on second reading and publication on a non-emergency basis in the manner prescribed in Section 7.D. above within said ninety (90) day period. Upon such affirmation, the ordinance shall become a regular ordinance.

## **ARTICLE VI**

### **CITY ADMINISTRATION**

#### **Section 1. City Administration.**

The City Council may provide that administrative functions be performed either by an individual City Manager or by a professional municipal management company under contract to the City. The term, "City Manager," as used herein, may refer either to an individual or to such company. If the City contracts with a company to perform such services, the company, with the approval of the Council, shall appoint one individual to perform the actions of the City Manager specified under Article VI, Section 3 and 8 and Article XVII, Section 1 and any other purpose designated by the Council.

## **Section 2. Appointment and Qualifications of City Manager.**

The Council shall appoint and determine the compensation of a City Manager. The Council may appoint the City Manager for a definite or indefinite term, subject to applicable law. The City Manager shall be appointed on the basis of executive and administrative qualifications, with special reference to actual experience in and knowledge of accepted practice in respect to the duties of the office. The City Manager need not be a resident of the City. No Council member nor the Mayor shall be appointed City Manager during the term for which he has been elected or within one year after the expiration of such term.

## **Section 3. Powers and Duties of City Manager.**

The City Manager shall be responsible to the Council for the proper administration of all affairs of the City and to that end shall have power and be required to:

- A. Prepare the budget annually for submittal to the Council and be responsible for its administration after adoption;
- B. Prepare and submit to the Council within sixty (60) days of the end of the fiscal year a complete annual report on the finances and administrative activities of the City for the preceding year;
- C. Advise the Council of the financial condition and future needs of the City, and make recommendations to the Council;
- D. Enforce the laws and ordinances of the City;
- E. Make written or oral reports to the Council when required by it as to any particular matter relating to the affairs of the City within the City Manager's supervision and participate in discussions of the Council in an advisory capacity;
- F. Keep and maintain all public records of the City; and
- G. Perform such other duties as may be prescribed by this Charter or required of the City Manager by the Council not inconsistent with this Charter.

## **Section 4. Absence of City Manager.**

The Council may by resolution designate an Acting City Manager to perform the Manager's duties during temporary absence or disability.

## **Section 5. Removal of City Manager.**

Council may remove a City Manager for any reason by majority vote of the Council members.

## **Section 6. City Clerk.**

The City Clerk shall give notice of Council meetings, keep minutes of Council proceedings, authenticate by his signature and record in full in a book kept for that purpose all ordinances and

resolutions, and perform other duties required by this Charter, the laws of the City, the Council or the City Manager.

**Section 7. City Employees.**

Council may empower the City Manager to hire, promote, suspend, transfer, or terminate other employees in the administrative service of the City; provided, however, that Council will retain the Authority to appoint and hire consultants. All City officers, as defined in Article III, Section 7, and City employees dealing directly with municipal funds shall post bond or furnish other security in an amount and under such conditions as required by the Council, at the expense of the City.

**Section 8. Relationship of City Council to Administrative Service.**

No Council member or members nor the Mayor shall have authority to require the hiring, promotion, suspension, transfer or termination of any person by the City Manager. Except for the purpose of making specific inquiries, all Council members and the Mayor shall deal with administrative personnel or consultants solely through the City Manager or the Manager's designee and no Council member or members nor the Mayor shall give orders to any employee of the City.

**ARTICLE VII**

**BOARDS AND COMMISSIONS**

**Section 1. Establishment and Operation.**

Council shall have the power and authority to create boards and commissions, including advisory and appeal boards. Advisory boards or commissions may be created by resolution. Appeal boards or commissions shall be created by ordinance. All boards and commissions in office as of the date of adoption of this Charter shall remain in office for the terms set forth in the resolutions or ordinances by which they were appointed. Thereafter, new boards and commissions shall serve terms as contemplated herein or as prescribed by Council by resolution. Council members and the Mayor shall be prohibited from serving on any appointed board or commission. Other citizens may serve on any number of boards or commissions upon appointment by the Council.

**Section 2. General Provisions for Board and Commissions.**

Unless otherwise provided by this Charter, all boards and commissions shall be appointed by the Council and shall have such powers and perform such duties as are provided by this Charter or by ordinance or resolution. Members of boards and commissions shall reside within the City boundaries. Initial appointments by the Council shall specify the term of office of each individual and provide for overlapping tenure, and thereafter all appointments shall be for the full term specified. All members shall be subject to removal by a sixty percent (60%) majority vote of the entire Council. The Council shall make appointments to fill vacancies for any unexpired terms. Each board and commission shall choose its own officers, and shall adopt its own rules of procedure for the proper conduct of its business, except as otherwise directed by the Council and subject to any applicable law. All meetings of any board or commission shall be open to the public and notice shall be provided as required by the Council. Every board or commission shall keep minutes of its proceedings, show the vote taken, and

keep records of its examinations and other official actions. Every order, requirement, decision or determination of a board or commission and minutes of its proceedings shall be filed in the office of the Clerk. Any board and commission not required by this Charter or other applicable law shall be reviewed annually by the Council for continuation, termination or reestablishment.

### **Section 3. Planning and Zoning Commission.**

A. Appointment and Qualifications. By ordinance, the Council shall create and establish a Planning and Zoning Commission and shall determine the number of members, which shall not be less than five (5). The Council shall appoint such members, who shall serve overlapping terms of three (3) years. Neither the Mayor nor any Council member shall serve on the Planning and Zoning Commission. Each member shall be a registered elector of the City and shall have resided within the City for at least one (1) year immediately preceding the date of his appointment. If any member ceases to reside in the City his membership shall immediately terminate and the Council shall fill all vacancies so created.

B. Powers and Duties. The Planning and Zoning Commission shall exercise the powers and perform the duties assigned to it by the Council acting by ordinance.

### **Section 4. Board of Adjustment and Appeals.**

A. Appointment and Qualifications. By ordinance, the Council shall create and establish a Board of Adjustment and Appeals and shall determine the number of its members. The Council shall appoint such members, who shall serve overlapping terms of three (3) years. Neither the Mayor nor any Council member shall serve on the Board of Adjustment and Appeals. Each member shall be a registered elector of the City and shall have resided within the City for at least one (1) year immediately preceding the date of his appointment. If any member ceases to reside in the City his membership shall immediately terminate and the Council shall fill all vacancies so created.

B. Powers and Duties. The Board shall exercise the powers and perform the duties assigned to it by the Council acting by ordinance. The findings and decisions of the Board shall be final and subject to judicial review.

## **ARTICLE VIII**

### **LEGAL AND JUDICIARY**

#### **Section 1. City Attorney.**

A. Appointment, Compensation and Duties. The Council shall appoint a City Attorney to serve at the pleasure of the Council and shall fix the compensation of the City Attorney. The City Attorney shall be an attorney-at-law admitted to practice in Colorado and have a minimum of five (5) years experience in the active practice of law. The City Attorney shall be the legal advisor of the Council in matters relating to their official powers and duties. He shall represent the City in all legal proceedings, review all ordinances, and prepare all other legal documents, attend all Council meetings and perform all services incident to the position as may be required by this Charter, City ordinances, or the Council.

B. Assistants and Special Counsel. The Council may appoint Assistant or Deputy City Attorneys and shall fix their compensation. They shall perform such duties as shall be assigned by the City Attorney, including attending Council meetings in the place of the City Attorney. The Council may, upon the request of the City Attorney, employ special counsel if deemed necessary and advisable under the circumstances.

## **Section 2. Municipal Court.**

There shall be a municipal court vested with original jurisdiction of all causes arising under the Charter and the ordinances of the City. The judge of the Court shall be an attorney admitted to practice law in the state of Colorado. The judge shall be appointed by the Council for a term of two (2) years, may be removed by the Council for cause, and shall receive such compensation as shall be fixed by the Council. The Council may also appoint any additional personnel required for the municipal court. Such compensation shall in no manner be contingent upon the amount of fees charged or collected. In the absence of the regular judge, the Council shall designate a reputable attorney possessing the qualifications for the office to serve as a temporary judge. Rules and procedure, costs and fees shall be enacted by the Council upon recommendation of the municipal judge.

## **Section 3. Enforcement.**

The Council shall provide for enforcement of its ordinances. The penalty or penalties for a violation of the ordinances of the City shall be set by the Council by ordinance.

# **ARTICLE IX**

## **ELECTIONS**

### **Section 1. Colorado Municipal Election Law Adopted.**

A. Governing Law. City elections shall be governed, to the extent practicable, by the Colorado Municipal Election Code of 1965, as adopted and in effect on November 15, 1995 (hereafter, the "Colorado Municipal Election Code") except that the provisions of Section 31-10-105, 31-10-107, 31-10-108, 31-10-502(2), C.R.S. existing as of the date of adoption of this Charter shall not apply. Except as otherwise provided in this Charter, the State Constitution and any State laws applicable to home-rule cities shall also apply to the extent practicable. Elections shall be non-partisan.

B. Special Elections. Special elections may be held on any date designated by the City Council and may be for the purpose of submitting any ballot question or ballot issue permitted under any applicable law. Without limiting the foregoing, a special election may be held at the same time and place as a primary, congressional vacancy or general election or on the first Tuesday of November of odd-years as a coordinated election pursuant to Section 1-7-116, C.R.S., as the same may be amended from time to time. Special elections shall be conducted as nearly as practicable in the same manner as regular elections.

C. Mail Ballots. Any regular or special election may be conducted as a mail ballot election pursuant to Title 1, Article 7.5, Part 1, C.R.S., as the same may be amended from time to time.

## **Section 2. Regular and Special Elections.**

All regular City elections shall be held on the first Tuesday after the first Monday of May of even-numbered years. Special elections may be called by Council at any time not specifically in conflict with provisions of the Colorado Municipal Election Code or the Colorado constitution.

## **Section 3. Establishment of Voting Districts.**

The City shall constitute two (2) voting districts for the first election of City officers following the adoption of this Charter, with two (2) Council members per district. Council shall, by ordinance adopted within eighteen (18) months after adoption of this Charter establish two (2) voting districts within the City. The number of districts may subsequently be increased to not more than three (3) Council districts with two (2) council members per district upon citizen initiative or upon the affirmative vote of a majority of Council and the Mayor then in office approving an ordinance increasing the number or Council districts. Any such increase by Council ordinance shall be effected by the Council submitting to the registered electors of the City the question of such increase and by an affirmative vote of the majority of registered electors voting thereon. Voting districts shall have approximately the same number of residents.

## **Section 4. Election of District Council Members.**

If, at any election for a district Council member, there are no qualified candidates for that district seeking office, the Council members elected at the election shall appoint the Council member for that district from the pool of any willing and qualified electors residing within the City at large notwithstanding said Council district's boundaries, and such member shall serve until the next regular election. At the next regular election, any qualified elector from within the district may seek election for the remaining two-year (2) period of the four-year (4) term. If there are again no qualified candidates for the Council member from within the district, the process for appointment by the Council set forth in this Section shall be followed.

# **ARTICLE X**

## **RECALL**

### **Section 1. Recall Process.**

A. "Registered Elector." For purposes of this Section, a "registered elector" shall be as defined in the Colorado Municipal Election Code, except that, in the case of recall of a district Council member, it shall be a person who is registered to vote within that Council district of the City.

B. Power. Any elected officer of the City may be recalled from office, through the procedure and in the manner provided herein, by the registered electors entitled to vote for a successor of such incumbent officer. No recall petition shall be circulated or filed against any officer until the officer has actually held office for at least six (6) month's in the officer's current term or within six (6) months of the end of such term.

C. Commencement of Proceedings. One or more registered electors may commence recall proceedings by filing with the City Clerk an affidavit of not more than two hundred (200) words stating the reasons for the recall of the officer sought to be removed. A separate affidavit shall be filed for each officer sought to be recalled. Within forty-eight (48) hours after the filing of the affidavit, the City Clerk shall mail a copy by registered mail to the affected officer. Within five (5) days after the date of receipt by such officer of the Clerk's mailing, the affected officer may file with the City Clerk a sworn statement of not more than three hundred (300) words in defense of the charges. The affidavit and the response are intended for the information of the registered electors, who shall be the sole and exclusive judges of the sufficiency of the ground or grounds assigned for the recall, and said ground or grounds shall not be open to judicial review. Upon the filing of the statement in defense, or after the expiration of the time allowed for such filing when no statement is filed, the City Clerk shall approve the form of the petition for recall of the officer in accordance with this Article. The petition shall be circulated, signed, verified and filed in the manner provided in this Article.

D. Call of Election. A recall election shall be for the dual purposes of voting on the recall of the officer sought to be removed and the election of a successor. Upon the City Clerk's presentation of a petition certified sufficient for recall, the Council shall set a date for the election which shall be held on a Tuesday not less than thirty (30) nor more than sixty (60) days from the date of presentation of the certified petition to Council. However, if any other City election is to occur within ninety (90) days from the presentation of the certified petition to Council, the recall election shall be postponed and consolidated with such other City election. The order setting a date for the recall election shall not become effective until five (5) days from the presentation of the certified petition to Council. If the Officer resigns within the five (5) day period, the vacancy may be filled by appointment. If a vacancy occurs in the affected office after the effective date of the order, the election to fill the vacancy shall nevertheless proceed.

E. Disqualification for Office. No person who has been recalled or has resigned after the Clerk's presentation to Council of a certified, sufficient petition for recall shall serve the City in any elected or appointed capacity within two (2) years after such removal or resignation.

## **Section 2. Petitions.**

### **A. Petition Requirements.**

(1) A separate petition shall be circulated and filed for each officer sought to be recalled.

(2) The Council shall prescribe by ordinance, upon recommendation of the City Clerk, a general form of petition which shall contain appropriate warnings and notices to signers. No petition shall be circulated until the City Clerk has determined that it complies with the approved form and that it contains only the matters required by this Article. The City Clerk's approval commences the time period provided for circulation and filing of executed petitions but does not constitute an approval of the content of the petition.

(3) The petition shall be addressed to Council and shall contain or have attached to each section throughout its circulation a copy of the charges set forth in the affidavit on file with the City Clerk, and if requested by the person sought to be recalled, a copy of the statement in defense.

B. Execution of Petition.

(1) Only registered electors may sign or circulate the petitions authorized under this Article. Each signer must sign his own signature and each signature shall be followed by the printed name of the signer, the street and number address of his residence, and the date of signing. No person shall knowingly sign his name more than once for the recall of the same incumbent. In the event that the signature of any person appears more than once on a petition authorized under this Article, all such signatures shall be subject to invalidation by the City Clerk.

(2) The petition may be circulated and signed in sections with each section consisting of one or more sheets securely fastened at the top, provided that each section contains a full and accurate copy of the text of the petition and the names and addresses of the designated representatives for the petition. All sections shall be filed as one instrument. The circulation of any petition by any medium other than personally by a circulator is prohibited. No person shall receive any compensation whatever for signing a recall petition.

C. Affidavit of Circulator. A circulator shall attach to each section of the petition circulated, an affidavit signed by the circulator under oath before a notary public stating the following:

- (1) The circulator's address of residence;
- (2) That the circulator is a registered elector;
- (3) That he personally circulated the section;
- (4) That each signature was affixed in the circulator's presence;
- (5) That to the best of the circulator's knowledge and belief each signer was at the time of signing a registered elector of the City;
- (6) That to the best of the circulator's knowledge and belief each signature is the genuine signature of the person whose name it purports to be;
- (7) That each signer had an opportunity before signing to read the full text of the petition; and
- (8) That the circulator has not paid or offered to pay any money or other thing of value to any signer for the purpose of inducing or causing the signer to affix his signature to the petition.

A petition verified by the valid affidavits of its circulators in each of its sections shall be prima facie evidence that the signatures thereon are genuine and true.

D. Signatures Required.

(1) First recall attempt. The petition must be signed by registered electors equal in number to at least twenty-five (25) percent of the entire vote cast at the last preceding election for all candidates for the position which the incumbent sought to be recalled occupies; provided, if more than one (1) person is required by law to be elected to fill the office of which the person sought to be recalled is an incumbent, then the number shall be twenty-five (25) percent of the entire vote cast at the last preceding general election for all candidates for the office, to which the incumbent

sought to be recalled was elected as one of the officers thereof, said vote being divided by the number of all officers elected to such office at said election. For purposes of this sub-subsection, each district Council member and each at-large Council member, with the exception of the first Council members elected, shall be deemed a separate office.

(2) Subsequent recall attempts. After one (1) recall petition and election, no further petition shall be filed against the same officer during the term for which he was elected, unless the petitioners signing such petition shall equal fifty (50) percent of the votes cast at the last preceding regular City election for all candidates for the office held by such officer as herein above defined.

E. Place and Time of Filing. Petitions for recall shall be filed with the City Clerk within thirty (30) days of the Clerk's approval of the form for circulation. Each petition shall designate by name and address not less than three (3) nor more than five (5) persons who shall represent the signers of the petition in all matters affecting the petition, and shall be endorsed by such persons.

F. Sufficiency of Petition and Amendment.

(1) Within five (5) working days of the filing of a petition the City Clerk shall ascertain by examination of the petition and the registration books whether the petition is signed by the requisite number of registered electors and contains the required particulars and affidavits. If the petition is insufficient, the Clerk shall so certify and forthwith notify all of the designated petition representatives in writing, specifying the particulars of insufficiency.

(2) Registered electors desiring to protest the sufficiency of a petition may file a written protest, under oath, in the office of the City Clerk within ten days of the filing of the petition. The protest shall set forth with particularity the technical grounds of protest and the names and defects in form protested; provided, however that the reasons assigned for recall may not be protested. Upon the filing of a written protest, the City Clerk shall set a time for hearing such protest, which shall be no more than seven days thereafter. At least five (5) days before the hearing, the City Clerk shall mail a copy of the protest to all of the designated petition representatives together with a notice of the time for hearing. All records and hearings shall be before the City Clerk who shall have the power to issue subpoenas to compel the attendance of witnesses and the production of documents. All records and hearings shall be public, and all testimony shall be under oath. The hearing shall be summary in nature and concluded within thirty (30) days after the petition was filed. The City Clerk shall decide and certify the results of the hearing within ten (10) days after the hearing is concluded.

(3) In case the petition is deemed insufficient, whether following the initial determination by the City Clerk, or following protest proceedings, it may be withdrawn and amended within fifteen (15) days from the filing of the Clerk's certificate of insufficiency. The City Clerk shall, within five (5) days after such amendment, examine the amended petition and the registration books and certify the result. If the petition is still insufficient, or if no amendment is made, the City Clerk shall return it to one of the designated petition representatives without prejudice to the filing of a new petition for the same purpose.

(4) When and if a petition or amended petition is deemed sufficient, whether following the initial sufficiency determination by the City Clerk in the absence of a protest, or following protest proceedings, the City Clerk shall so certify and present the certified petition to the Council at the

next regularly scheduled meeting. The City Clerk's certificate shall then be a final determination as to the sufficiency of the petition, subject to judicial review.

### **Section 3. Recall Elections.**

A. Generally. Elections on recall shall be conducted in the same manner as provided generally for regular or special City elections in this Charter. All Charter provisions related to nomination and qualification of candidates shall apply to recall elections. If more than one (1) official is sought to be recalled, then the nomination petitions must specify which incumbent the candidate seeks to succeed.

B. Ballots. There shall be printed on the official ballot, as to every Officer whose recall is to be voted on, the statement of grounds and, if requested by the affected officer, the officer's statement in defense followed by the words, "Shall (name of person against whom the recall petition is filed) be recalled from the office of (name of office)?" Following such question shall be the words, "Yes" and "No" on separate lines, with a blank space at the right of each, in which the voter shall indicate his vote for or against such recall. On such ballots, under each question, there shall also be printed the names of those persons who have been nominated as candidates to succeed the person sought to be recalled, but the following instruction shall govern the counting of votes and shall appear on the ballot: "No vote cast shall be counted for any candidate for such office, unless the voter also voted for or against the recall of the person sought to be recalled from the office." The name of the person against whom the recall petition is filed shall not appear on the ballot as a candidate for the office.

C. Election Results. If a majority of those voting on the question of the recall of any incumbent from office vote "No," the incumbent continues in office. If a majority votes "Yes," the incumbent shall thereupon be deemed removed from such office upon the qualification of his successor. If the Officer is recalled, the candidate for succession receiving the highest number of votes at the election shall be declared elected for the remainder of the incumbent's term. The candidate elected shall be issued a certificate of election by the canvassing board and he shall take office at the next regular Council meeting. In case the candidate elected fails to take or is disqualified from taking the oath of office, the candidate with the next highest vote shall be elected, and if there is no other elected successor who qualifies, the office shall be deemed vacant and shall be filled by appointment by the remaining members of the Council.

### **Section 4. Further Regulations.**

The Council shall, by ordinance, make any further provisions necessary to carry out the intent of this Article, not inconsistent with this Charter and the State Constitution.

## **ARTICLE XI**

### **INITIATIVE AND REFERENDUM**

The provisions of Title 31, Article 11, C.R.S., as amended from time to time, are hereby adopted.

## **ARTICLE XII**

### **FINANCIAL MATTERS**

#### **Section 1. Lapse of Appropriation.**

Every appropriation shall lapse at the close of the fiscal year to the extent that it has not been expended.

#### **Section 2. Deposit and Permitted Investment of City Funds.**

The revenues of the City shall be deposited and invested in accordance with the provisions of any applicable State statutes.

#### **Section 3. Payments.**

No demand for money against the City shall be approved or paid unless it is in writing, dated and sufficiently itemized to identify the expenditure to the Council for payment.

#### **Section 4. Authority to Levy Taxes and Fees.**

Subject to any applicable election requirements, the Council has the authority to levy and collect taxes and fees for any and all municipal purposes, and it may levy and collect special assessments for local improvements as provided in this Charter or as provided by State statute; provided however, that no tax shall be levied until such tax shall have been approved by a majority of the electors voting at a regular election or special election.

#### **Section 5. Budget, Audit, Investments.**

All applicable laws of the State of Colorado now or hereafter existing relating to budgets, audits, lawful investments and other financial matters for Colorado municipalities shall, to the extent not in conflict herewith, be followed by the City.

## **ARTICLE XIII**

### **MUNICIPAL FINANCIAL POWERS**

#### **Section 1. Financial Powers.**

The City shall have all financial powers, including but not limited to all powers of taxation of any kind, and the power to borrow money, issue securities, or otherwise incur financial obligations, now or hereafter permitted under Article XX, Section 6 of the State Constitution, except as specifically limited herein. Without limiting the generality of the foregoing, the City also shall have the authority, at its option, to exercise any financial or borrowing powers now or hereafter granted to home rule or statutory municipalities by statute.

## **Section 2. Short-term Notes.**

The City is hereby authorized to borrow money, by Council action and without an election, in anticipation of the collection of any revenues of any kind and to issue short-term notes to evidence the amount so borrowed. Any such short-term notes shall be payable in full during the fiscal year in which they were issued, or, subject to any applicable election requirement, within twelve months from their date.

## **Section 3. General Obligation Securities.**

No securities payable in whole or in part from the proceeds of ad valorem taxes of the City ("general obligation securities") shall be issued until the question of their issuance has been submitted to a vote of the electors of the City at a special or regular election and approved by a majority of those voting on the question.

## **Section 4. Revenue Securities.**

By Council action and without an election, the City may issue securities payable solely from revenues derived from the operation of a project or capital improvement acquired with the proceeds of such securities, or from other projects or improvements, or from the proceeds of any sales tax, use tax, or other excise tax, or from any other source or sources whatsoever other than ad valorem property taxes of the City.

## **Section 5. Refunding Securities.**

The City may issue refunding securities for the purpose of refunding and providing for the payment of outstanding securities or other obligations of the City as the same mature, or in advance of maturity by means of an escrow or otherwise. Such refunding securities may be issued by Council action and without an election, provided that if general obligation securities are to be issued to refund securities which are not general obligations, the election requirements of Section 3 above shall apply. The terms and conditions of the refunding securities, and the revenues pledged to the payment thereof, shall be determined by the Council. Specifically, but not by way of limitation, the interest rate and principal amount of the refunding securities may be higher or lower than the interest rate and principal amount of the securities being refunded, and the revenues pledged to the payment of the refunding securities may be the same as or different from, the revenues pledged to the payment of the securities being refunded, as the Council may determine to be in the best interests of the City; provided that the total principal and interest payable on the refunding securities does not exceed that of the securities being refunded, unless the Council makes a finding that a restructuring of the debt is in the best interest of the City.

## **Section 6. Special Assessment Securities.**

By Council action and without an election, the City may issue securities for the purpose of providing local improvements for any special or local improvement district. Such securities may be payable from the proceeds of special assessments levied against the property specially benefited by such local improvements, and may be additionally secured as provided herein. The City may include property owned by it within any special or local improvement district and provide for the assessment of such property on the same terms and conditions as it would any other specially benefited property,

including the right to pay such assessment in multiple-year installments, and such assessment shall not be deemed to create a general obligation security of the City hereunder.

When all outstanding securities for a special or local improvement district have been fully paid and moneys remain to the credit of the district, such moneys may be transferred to a surplus and deficiency fund. Whenever there is a deficiency in any special or local improvement district fund to meet any payment due on outstanding special or local improvement district bonds, the deficiency may be paid out of any such surplus and deficiency fund.

**Section 7. Terms and Disposal of Securities.**

The Council may make such promises, representations, covenants, warranties, conditions, and other provisions as it deems to be appropriate in connection with the issuance of securities. All such terms and the maximum interest rate of all securities shall be determined by ordinance or resolution of the Council. Securities may be sold or exchanged, by public or private sale, on such terms and conditions as the Council may determine.

**Section 8. Revenue Raising.**

The City shall have all powers now or hereafter granted to municipalities of any kind in the state to raise revenue by any power of any kind, including but not limited to taxes, rates, fees, licenses, tolls, penalties, and charges, each of all kinds whatever.

**ARTICLE XIV**

**DISTRICTS**

**Section 1. Power to Create Special or Local Improvement Districts.**

A. Generally. In addition to any powers under applicable State law to create financing districts of any kind, the Council shall have the power to create special or local improvement districts and to assess the cost of acquiring, constructing, or otherwise providing local improvements of every character against property determined by the Council to be benefited within any such district, and to issue special assessment securities as provided herein.

B. Initiation of District. The proceedings to establish an improvement district may be initiated in the following manner:

(1) By adoption of an ordinance or resolution of the Council after ten (10) days published notice and a public hearing, provided that no such ordinance or resolution shall be adopted if a written petition objecting to such assessments and signed by the owners of property to be assessed for more than one-half of the entire costs estimated by the Council to be assessed is submitted to the Council prior to the public hearing; or

(2) By a petition filed with the Council signed by the owners of property to be assessed for more than one-half of the entire costs estimated by the Council to be assessed.

**Section 2. Procedure.**

The procedures for the creation of special or local improvement districts, the issuance of securities therefor, the assessment of the costs of local improvements therein, and all other matters concerning local improvement districts, may be set forth in a procedural ordinance to be adopted by the Council in accordance with the provisions of this Charter.

**ARTICLE XV**

**FRANCHISES AND PUBLIC UTILITIES**

**Section 1. City Powers.**

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

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

C. Except as otherwise provided by the State Constitution or this Charter, all powers concerning the granting, amending, revoking or otherwise actions in relation to franchises shall be exercised by the Council.

**Section 2. Grant of Public Utility Franchises.**

A. Grants of public utility franchises and all extensions and amendments shall be granted only by ordinance. The granting of franchises by the City shall be limited only by the provisions of the State Constitution and statutes which may be applicable to home rule cities as now in effect or as hereafter amended.

B. No irrevocable franchises shall be granted.

**Section 3. Utility Rates.**

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

**Section 4. Term, Compensation, and Restriction.**

No franchise, lease, or right to use the streets, or the public places or property of the City shall be granted for a term which exceeds twenty years. Every grant of a franchise shall fix the amount and manner of payment of compensation to be paid by the grantee for the use of the same.

**Section 5. Franchise Review.**

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

**Section 6. Assignment of Franchise.**

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

**Section 7. Common Use of Facilities.**

The Council shall have the power to require any holder of a franchise from the City for any public utility to allow the use of its poles, tracks, wire, conduits and other related facilities by any other holder of a franchise granted by the City, or the City itself, upon the payment of a reasonable rental to the owner thereof. If the franchise holder desiring to use the same cannot agree with the owner regarding said rental and the terms and conditions for such use, then within the Council in its discretion, may require payment of a reasonable rental for the use of any rights-of-way, poles, wires, and trenches of any franchise holder and by any franchise holder. The City may, under the terms prescribed by the Council, allow any franchise holder to use rights-of-way, poles, wires, and trenches of City-owned utilities.

**Section 8. Franchise Records.**

The Council shall cause to be kept in the office of the City Clerk and open to the public for view, a franchise record in which shall be maintained copies of all franchises granted by the City. The Council shall adopt by ordinance or resolution procedures concerning the content and maintenance of such records.

**Section 9. Revocable Permits.**

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

**ARTICLE XVI**

**PROPERTY RIGHTS, DISPOSITION AND DEVELOPMENT**

**Section 1. Property Rights.**

The City shall have the power to buy, exchange, lease, sell, own, control, and dispose of real property and water rights in any reasonable manner directed by Council.

**Section 2. Eminent Domain.**

In carrying out the powers and duties imposed upon it by this Charter or by the general statutes, the City shall have power to acquire within or without its corporate limits interests in real property, buildings,

and other property, including but not limited to any interest in land and air rights over land and water rights, and may take the same upon paying just compensation to the owner as provided by law.

**Section 3. Lease of Property.**

The Council may lease, for such time as Council shall determine, any real or personal property to or from any person, firm or corporation, public and private, governmental or otherwise. Any lease of City property for a period of more than one (1) year shall be by ordinance. Any lease of City property for one (1) year or less than one (1) year shall be by resolution or ordinance.

**Section 4. Master Plan of the City.**

A. The Council shall provide for the development and adoption of a comprehensive master plan for the physical development of the City. No land development, by any private or governmental entity which, in the judgment of the Council or the entity designated by Council to make such determinations, will significantly affect the City, and no subdivision of land, zoning change, or annexation, shall be approved unless it is compatible with the master plan.

B. The Council shall provide for a review of the master plan at least once every three (3) years and may solicit recommended changes and revisions of the master plan.

C. The Council may revise the master plan following such review, and may consider any recommendations in making such revision.

**ARTICLE XVII**

**MISCELLANEOUS PROVISIONS**

**Section 1. Emergency Powers.**

In the event of an immediate danger or threat to the preservation of the public health, welfare, peace, safety, or property, the Mayor, with the assistance of the City Manager, shall assume the authority to execute any action necessary for the protection of life and property. Such authority may include, but not be limited to, establishing regulations governing conduct and activities related to the cause of the emergency, and if the emergency continues, the Mayor, or in the Mayor's absence, the Mayor Pro-Tem, or in the absence of the Mayor Pro-Tem, the City Manager, shall convene the Council to take such action as the Council deems necessary.

**Section 2. Severability of Charter Provisions.**

If any part of this Charter or the application thereof to any person or circumstance is found to be invalid, such invalidity shall not affect the validity of any remaining part of this Charter, and to this end this Charter is declared to be severable.

**Section 3. Penalties.**

Any willful violation of this Charter shall be a misdemeanor punishable in the municipal court by a penalty such fine and/or jail term which may be established by ordinance. Each such violation shall constitute a separate offense.

**Section 4. 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 (2) or more proposed amendments adopted or approved at the same election conflict, the amendment receiving the highest affirmative vote shall become effective.

**Section 5. Contracts with other Governmental Bodies.**

The Council may, by ordinance or resolution, enter into contracts with other governmental bodies to furnish governmental services and make charges for such services, or enter into cooperative or joint activities with other governmental bodies.

**Section 6. Licenses, Permits.**

The Council may provide for licenses and permits, and fees therefor, for regulatory purposes. The Council shall provide an administrative procedure for the hearing and determination of appeals relating to issuance, suspension or revocation of such licenses and permits. The Council itself may hear and decide such appeals.

**Section 7. Limitation of Action.**

A. No action or proceeding, at law or in equity, of any nature whatsoever to review or question any act, proceeding, or election of the City, including but not limited to the following enumerated actions, shall be maintained unless commenced within thirty (30) days after the performance of such act or proceeding or the election or else shall be thereafter perpetually barred:

- (1) Question the validity or enforceability of or enjoin the performance of any act;
- (2) Question the validity or enforceability of or enjoin the issuance or payment of any securities;
- (3) Question the validity or enforceability of or enjoin the incurring of any other payment obligation;
- (4) Question the validity or enforceability of or enjoin the imposition or collection of any taxes, assessments, fees, or charges; or
- (5) Obtain any other review of or relief against any act, proceedings, or election of the City pursuant to this Section.

B. Any action not commenced within the time limits provided in Subsection A of this Section shall be thereafter perpetually barred.

C. The limitations of this Section shall be in addition to any limitations or restrictions provided by ordinance.

**Section 8. Public Notices.**

Notwithstanding anything contained herein or in any ordinance or resolution adopted prior to the date hereof to the contrary, all public notices required to be given by Council or any board or commission of the City may be provided by first class mail notice in lieu of certified or registered mail.

**Section 9. Effective Date of Charter.**

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

**Section 10. Implementation of Charter.**

All resolutions and ordinances of the City of Lone Tree introduced by the City Council prior to the adoption of this Charter shall remain in effect unless specifically superseded hereby. In the event of any apparent inconsistencies between this Charter and said ordinances or resolutions, this Charter shall prevail. All prior action taken by the Council is hereby ratified and approved and shall be considered the lawful action of said Council.

**THE CITY OF LONE TREE**

**CHARTER COMMISSION**

**CERTIFICATE OF ADOPTION OF PROPOSED HOME RULE CHARTER**

We, the undersigned, members of the City of Lone Tree Charter Commission, duly elected by the people of Lone Tree, Colorado at an election held on November 4, 1997, under the authorization of Part 2, Article 2, Title 31 of the Colorado Revised Statutes, to frame a Home Rule Charter for the City of Lone Tree, do hereby certify that the foregoing is the Proposed Charter as finally approved and adopted by the members of the Charter Commission on the 2nd day of March, 1998, for submission to the registered electors of the City of Lone Tree at a special election.

Done this 2nd day of March, 1998.

_____	_____
_____	_____
_____	_____
_____	_____

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ATTORNEY, CITY	
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Established

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