

City of Ouray Home Rule Charter



As adopted by the citizens of the City of Ouray, Colorado
on May 5, 2009

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PREAMBLE

The nine members of the Home Rule Charter Commission of the City of Ouray, Colorado, elected the 4th day of November 2008, hereby submit to the Ouray City Council and to the citizens of Ouray a proposed Home Rule Charter which has been framed in conformity with Article XX of the Colorado Constitution and the Municipal Home Rule Act of 1971, as amended.

Respectfully submitted to the Council of the City of Ouray the 2nd day of March 2009.

Pamela J. Larson, Chair

Joe Kersen

Richard Spaulding, Chair Pro Tem

Lora Slawitschka

Betty J. Wolfe

Mike Fedel

Matthew Genuit

Gary Hansen

Deedra Williams

PREFATORY SYNOPSIS

The Home Rule Charter Commission (“Commission”) has prepared a Charter with emphasis on simplicity and flexibility that also reflects the integrity and efficiency afforded a home rule municipality. The Commission has taken consideration of the liberties afforded by home rule while maintaining many of the structures present in the current Government. The Charter is intended to provide a form of government that is accessible to the community and encourages citizen participation. The Charter protects the right of the citizens to vote on important City matters, including any tax or tax rate issue.

The Charter provides for a Council-Administrator form of government. The Council shall consist of five Council members, including the Mayor, all elected by the voters at large. The Administrator shall be accountable to the Council and shall be responsible for the effect and enforcement of any and all regular City business.

The Charter provides procedures for Council meetings, the enactment of ordinances, the initiative and referendum process, and recall elections. The Charter also includes key provisions with respect to City administration, elections, municipal court, utilities, finance, municipal borrowing, improvement districts and transition procedures.

The Commission has prepared this Charter with confidence that it provides the structure for a responsible and effective government for the City of Ouray, now and into the future, and that it will maintain and enhance the quality of life of its citizens, accommodate the growth and progress of the City, and continue to be responsible to the needs and concerns of the community.

The Commission has prepared this Charter believing that the citizens of Ouray possess the ultimate power and responsibility for the City of Ouray.

ARTICLE I

GENERAL PROVISIONS

- 1.1 Name and Boundaries.** The municipal corporation hereto existing as the City of Ouray, which is located in Ouray County, State of Colorado, shall remain and continue as a body corporate and politic and under this Charter be known as the City of Ouray, with the same boundaries, unless changed in a manner authorized by law.
- 1.2 Powers of the City.**
- A. The City shall have all powers which are necessary, requisite, proper or convenient for the government and administration of the City, including all powers granted to home rule and statutory cities or towns by the Constitution and statutes of the State of Colorado, and shall have the authority to supersede provisions of the Colorado Constitution, statutes and regulations to the maximum extent allowed by the Colorado Constitution. The enumeration herein of certain powers shall not be construed to be a limit or to deny any other right or power granted to the City under Article XX of the Colorado Constitution.
- B. The City shall have the power, within or without its municipal boundaries, to construct, condemn, purchase, acquire, lease, maintain, operate, and dispose of all property, real, personal, or otherwise, including but not limited to, water systems, sewer systems, power systems, telephone systems, transportation systems, streets, alleys, communication systems, water, ditches, water rights, and appurtenances, parks, recreation facilities, and all other utilities or works, and may enter into such contracts as necessary, convenient, or appropriate in relation thereto.
- 1.3 Form of Government.** The City shall operate under the Council – Administrator form of government.
- 1.4 Code of Ethics.** Unless otherwise prescribed by ordinance, the Colorado Code of Ethics, C.R.S. §24-18-101, et seq., shall apply to the City.
- 1.5 Titles and Headings.** The article titles and headings of sections are inserted for convenience and reference only and shall not be construed to limit, describe, or control the scope or intent of any provision contained therein.
- 1.6 Construction of Words.** Except as otherwise specifically provided or indicated by the context, all words shall be construed so that the present tense shall include the past tense, and the past tense shall include the present tense, a singular number shall include the plural and the plural shall include the singular, masculine shall include the feminine and feminine shall include the masculine and “person” shall include any legal entity. In interpreting the provisions of the Charter, words shall be given their common meanings unless otherwise defined.

1.7 Computation of Time. As used in this Charter, the word “day” or “days” means calendar days unless specifically designated as business days or day. “Business day” or “business days” means Monday through Friday except legal holidays as designated by the City. In computing any period of time prescribed or allowed by this Charter, the day of the act or event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, Sunday, or legal holiday, in which event the period runs until the end of the next day that is not a Saturday, Sunday, or legal holiday.

ARTICLE II

CITY COUNCIL

- 2.1 Qualifications of Elected Officials.** Registered electors of the City of Ouray, Colorado, who have resided within the City boundaries for one (1) year immediately preceding their election or appointment to office are eligible for nomination and service as Council members. Residency within an area annexed by the City during this time frame shall count toward the residency requirement. No Council member may be an employee of the City. A City employee must terminate his or her employment with the City upon commencement of the term of office as a Council member.
- 2.2 Powers of the Council.** All powers of the City shall be vested in the Council except as otherwise provided by this Charter. The Council shall consist of five (5) Council members including the Mayor.
- 2.3 Mayor and Mayor Pro Tem.**
- A. The Mayor shall preside at meetings of the Council and shall execute such powers and perform such duties as are conferred upon the Mayor by this Charter. The Mayor shall be recognized as the head of the City government for all ceremonial purposes, for the purposes of military law and shall have such emergency powers as provided by Council action or State law. The Mayor shall execute all deeds, contracts, and other documents authorized by the Council for the City, unless otherwise delegated.
 - B. The Council shall appoint one of the Council members as Mayor Pro Tem, who shall act as Mayor during the absence of the Mayor with all powers herein granted to the Mayor.
 - C. In the absence of both the Mayor and the Mayor Pro Tem, the Council may appoint another Council member as acting Mayor for the duration of the absence.
 - D. The Mayor shall vote as a Council member.
- 2.4 Terms of Office.**
- A. Council members, except for the Mayor, shall be elected for four (4) year terms. Terms of Council members shall be staggered in such manner that two (2) Council members shall be elected at large at each regular biennial election.
 - B. The Mayor shall be elected for a two (2) year term. The Mayor shall be elected at large.
 - C. Terms of office shall commence at the first regular Council meeting following election and continue until qualified successors are elected.

- D. There shall be no limit on the number of terms which may be served by the Mayor or by any Council member, other than that which exists through the exercise of vote by the registered electors of the City.
- E. The Council shall be the judge of the election and the qualifications of its members.

2.5 Vacancies.

- A. If the office of Mayor becomes vacant, the Mayor Pro Tem shall become Mayor and serve until the next regular election.
- B. If the office of Mayor Pro Tem becomes vacant, then the Council shall appoint a new Mayor Pro Tem at the next regular meeting of the Council who shall serve until the next regular election.
- C. Vacancies on the Council shall be filled by the affirmative vote of a majority of the remaining Council members. A person appointed to the vacancy shall serve until the appointed term concludes.
- D. A vacancy on the Council shall occur when:
 - 1. a Council member resigns;
 - 2. a Council member becomes deceased or incapacitated;
 - 3. a Council member is no longer a resident of the City;
 - 4. a Council member no longer meets the qualifications of Section 2.1;
 - 5. a Council member has three (3) consecutive unexcused absences from regular meetings of the Council;
 - 6. a Council member is convicted by a court of competent jurisdiction while in office for any offense for abuse of public office;
 - 7. a Council member is elected to the office of Mayor during the Council member's term;
 - 8. the Mayor Pro Tem succeeds to the office of Mayor; or
 - 9. a Council position is not filled at an election or recall election.
- E. In the event three (3) or more vacancies occur at the same time, the remaining Council members shall not fill the vacancies by appointment, but shall, at the next regular meeting, order a special election in accordance with the provisions of Article IV, to be held as soon as is practicable to fill the vacancies for the remainder of their respective terms.

2.6 Recall. A Council member may be recalled in accordance with the provisions and limitations of this Article.

- A. No recall petition shall be accepted against any Council member until the Council member has actually held the office for at least six (6) months.

- B. Any three (3) registered electors of the City may commence recall proceedings by filing with the City Clerk an affidavit stating that they will constitute the petitioner's committee, will cause the petition to be circulated and filed in proper form, stating their names, street addresses, the address to which all notices to the committee are to be sent, and setting forth the name of the Council member sought to be recalled, and the reasons for demanding his or her recall. The affidavit shall include the name of only one person to be recalled. Within two (2) business days following submittal of the affidavit of the petitioner's committee, the City Clerk shall issue the appropriate petition forms to the petitioner's committee.
- C. A recall petition shall be signed by a number of registered electors equal to or more in number than twenty-five percent (25%) of the entire vote cast at the last preceding regular election for all candidates, divided by the number of persons elected at the last preceding regular election.
- D. A recall petition complying with the requirements of this Article must be filed with the City Clerk within thirty (30) days after issuance of the petition forms by the City Clerk or it shall be of no effect.
- E. A special election shall be set in accordance with applicable State statutes, provided however that if a regular City election is scheduled to be held within ninety (90) days after submission of the recall petition, the recall election shall be held at the same time as the regular City election. If a successor is elected as a result of a recall, the successor's term of office shall be the remainder of the term of office for the recalled Council member.
- F. After one recall petition and election, no further recall petitions shall be accepted against the same Council member during the term for which the Council member was elected unless the number of petitioners signing the petition shall equal or exceed fifty percent (50%) of the entire vote cast at the last preceding regular election for all candidates, divided by the number of persons elected at the last preceding regular election.
- G. The City shall not reimburse any person for expenses incurred with regard to recall efforts.
- H. Unless otherwise provided by this Charter or procedures prescribed by ordinance, the procedures and provisions for recall, nomination and election of individuals to succeed recalled individuals shall be pursuant to applicable Colorado statutes.

2.7 Compensation of Council. The Council members shall receive such compensation as Council may prescribe by ordinance. Provided, however, no compensation of a Council member shall be increased or decreased during the term of office for which he or she was elected.

2.8 Oath of Office. Before entering upon the duties of office, every Council member shall take, subscribe before, and file with the City Clerk, an oath or affirmation that he or she will support the Constitution of the United States, the Constitution of the State of Colorado, this Charter and the ordinances of the City and will faithfully perform the duties of the office.

ARTICLE III

COUNCIL PROCEDURE

- 3.1 Rules of Procedure.** The Council may provide for its own rules of procedure.
- 3.2 Meetings.**
- A. Meetings of the Council shall be held in the City Hall. When the City Hall facilities are not available or are inadequate, the Council may designate an alternate place for such meeting and shall post notice thereof at the City Hall.
 - B. The Council shall hold at least two (2) regular meetings a month with the date, time, and manner of notice to be established by ordinance. The Council shall provide by ordinance for the manner in which special meetings or emergency meetings shall be called, notice of which shall be sent to all Council members. Minutes shall be kept of all meetings.
 - C. Three (3) Council members shall constitute a quorum to do business but a lesser number may adjourn to the next regular meeting.
 - D. All regular and special meetings of the Council shall be open to the public. The Council may go into an executive session in accordance with procedures provided by ordinance.
- 3.3 Council Action.** The Council may act by ordinance, resolution, or motion.
- 3.4 Voting.** The vote of each Council member upon every ordinance, resolution, and motion shall be recorded in the minutes. Each Council member shall be required to vote on every question unless the Council member has disclosed a substantial personal or significant financial interest in the matter or unless the matter concerns the Council member's own conduct.
- 3.5 Ordinances.**
- A. The Council may act by ordinance as it deems appropriate and shall act by ordinance when levying a tax, except that such tax shall have been approved by the majority of the qualified electors voting at a regular or special election. The Council shall also act by ordinance when establishing any rule or regulation the violation for which a penalty may be imposed, or which places any restriction or limit upon the use of private property or as otherwise required by the Charter.
 - B. Every ordinance shall have a title and an enacting clause which shall read "Be it ordained by the Council of the City of Ouray, Colorado."

- C. The ordinance shall be introduced at any regular or special meeting of the Council and shall either be available in written form for the Council to review or shall be read in full. The Council may approve as introduced, amend, defeat, continue, or take other action as deemed appropriate on the introduced ordinance.
- D. If approved after introduction, the ordinance shall be scheduled for public hearing and final action at a subsequent regular or special meeting of the Council. Prior to the hearing and final action of an ordinance, the title and summary of the ordinance together with a notice of the time and place of the hearing shall be published at least ten (10) days in advance of the hearing. In addition, the full text of the ordinance as approved, with any amendments thereto, shall be posted at City Hall from the day after introduction until the ordinance becomes effective or is withdrawn from consideration. Copies of the ordinance shall be available to the public.
- E. Prior to taking final action on the ordinance, the Council shall permit public comments on the ordinance. The Council shall vote to amend, defeat, finally adopt, continue, or take other action on the ordinance as deemed appropriate.
- F. Upon final adoption, the ordinance shall be published either in full or by title and summary only, as the Council may direct. The summary shall include a description of significant amendments during the legislative process.
- G. The ordinance shall take effect thirty (30) days following publication, except for emergency ordinances which shall take effect immediately upon adoption.
- H. All ordinances shall be appropriately numbered and preserved in the official records of the City. The adoption of the ordinance shall be authenticated by the signature of the Mayor or in the absence of the Mayor, the Mayor Pro Tem, and the certificate of the City Clerk.

3.6 Emergency Ordinances.

- A. An ordinance may be passed as an emergency ordinance without introduction when the Council determines that the ordinance is necessary to the immediate preservation of the public peace, health and safety, and includes such declaration within the ordinance and is adopted by the affirmative vote of four (4) Council members. Emergency ordinances may be adopted without the notice required by Subsections 3.5.D.
- B. Emergency ordinances shall take effect upon adoption by the Council and shall be published either in full or by title and summary only, as the Council may direct.
- C. No ordinance levying a tax or making a grant of a special privilege shall be passed as an emergency ordinance.

3.7 Enactment of Codes by Reference.

- A. Any ordinance may enact by reference, in whole or in part, any published compilations of statutes, ordinances, rules, regulations, or standards adopted by the federal government, the State of Colorado, or any agency or political subdivision of either.
- B. Any ordinance may also adopt by reference in whole or in part, codes and technical standards concerning buildings or structures, fire prevention, plumbing, housing, mechanical systems, electrical systems, energy conservation, and similar matters published by recognized technical organizations.
- C. The Council may also provide for the codification of all ordinances of the City of a general and permanent nature and adopt such Code by reference. Amendments to the Code shall be adopted by ordinance. Such codification may make appropriate non-substantive changes and may repeal ordinances or parts thereof by omission from the Code.
- D. A certified copy of the Code or other document adopted by reference shall be kept in the official records of the City except that it shall not be necessary to keep certified copies of provisions of state or federal statutes or regulations adopted by reference.
- E. The ordinance adopting any such code, law, or publication by reference, shall be adopted in accordance with the procedures of Section 3.5. Copies of the adopted Code shall be posted with the adopting ordinance.
- F. Copies of such codes in published form, duly certified by the Clerk and Mayor or Mayor Pro Tem, in the absence of the Mayor, shall be received without further proof as *prima facie* evidence of the provisions of such codes in all courts and administrative tribunals of the state.

3.8 Contracts. Except as otherwise prescribed by the Council, the Council shall approve all contracts for the City. All employment or personal service contracts shall either terminate in one year or less or be terminable for the City's convenience.

ARTICLE IV

ELECTIONS

- 4.1 Colorado Election Laws Adopted.** City elections shall be governed by the Colorado Municipal Election Code except as otherwise provided in the Charter or as the Council may otherwise prescribe by ordinance.
- 4.2 Regular Elections.** Regular municipal elections shall be held biennially on the first Tuesday in November of odd number years.
- 4.3 Special Elections.** Any special municipal election may be called by resolution or ordinance of the Council at least thirty (30) days in advance of such election.
- 4.4 Nonpartisan Elections.** The elections for the office of any Council member of the City shall be nonpartisan.
- 4.5 Referred Measures.** The Council may refer any ordinance or other question to the electorate at an election for adoption or rejection, including questions for advisory opinions.

ARTICLE V
ADMINISTRATION

5.1 City Administrator.

- A. The Council shall appoint a City Administrator, by affirmative vote of the majority of the entire Council, to serve at the pleasure of the Council. The Administrator must be a resident of the City at the time appointed by the Council or become a resident within the time established by the Council, and shall remain a resident throughout the Administrator's appointment. The Council shall establish the Administrator's compensation. The removal of the Administrator shall require the affirmative vote of the majority of the entire Council.

- B. During extended periods of absence or disability of the Administrator, or during any period of vacancy, the Council may appoint a City employee to serve as acting Administrator. The provisions of this Charter applicable to the Administrator shall apply to the acting Administrator accordingly.

- C. The Administrator shall serve as chief administrative officer of the City. He or she shall be responsible to the Council for the proper administration of City affairs placed in the Administrator's charge. Except as otherwise provided by ordinance or within this Charter, the Administrator shall:
 - 1. Provide for enforcement of the ordinances, resolutions, franchises, contracts and other enactments of the City;
 - 2. Provide for the hiring, suspension, transfer, demotion and termination of City employees;
 - 3. Establish and implement personnel rules and regulations for City employees;
 - 4. Cause a proposed budget to be prepared and submitted to the Council annually, and be responsible for the administration of the adopted budget;
 - 5. Cause a proposed capital improvement plan to be prepared and submitted to the Council annually, and be responsible for administration of the plan;
 - 6. Cause to be prepared and submitted to the Council other written and verbal reports on finances and administrative activities as requested by the Council;
 - 7. Cause to be established a system of accounting and auditing for the City which shall reflect, in accordance with generally accepted accounting principles, the financial condition and operation of the City;

8. Exercise supervision and control over all City personnel and departments, and make recommendations to the Council concerning the establishment, consolidation or abolition of City departments; make recommendations to the Council regarding the setting of compensation ranges and benefits;
9. Attend the Council meetings and participate in discussions in advisory capacity; inform the Council and the public of City functions and activities; and
10. Perform other duties as prescribed by this Charter, or as required by the Council if not inconsistent with this Charter.

5.2 City Clerk and City Treasurer. There shall be appointed a City Clerk and City Treasurer as employees of the City.

- A. The Clerk shall perform the responsibilities provided for in this Charter, the City's ordinances, other applicable laws, and other duties as directed by the Administrator.
- B. The Treasurer shall perform the responsibilities provided for in this Charter, the City's ordinances, other applicable laws, and other duties as directed by the Administrator.
- C. The responsibilities for both Clerk and Treasurer may be assumed by one individual.

5.3 Commissions and Boards.

- A. The Council may by ordinance create commissions or boards as it deems appropriate and may by ordinance abolish or alter any commission or board except for commissions and boards specifically provided for in this Charter. The Council shall prescribe by ordinance the powers and duties of any City commission or board, the qualifications of the members thereof, the method of making appointments thereto, filling vacancies, removing members, and other matters concerning the commission or board. Except as otherwise provided by this Charter or by ordinance, each board and commission shall be advisory in character and shall serve at the pleasure of the Council.
- B. There is hereby created a Planning Commission to assist the Council, in such manner as provided by the Council, in planning the development of the City. The Council shall prescribe by ordinance the powers and duties of the Planning Commission, the qualifications of the members thereof, the method of appointments, the terms of appointment, filling vacancies, removing members, and other matters related to the Planning Commission.

C. Each board and commission existing at the time this Charter is adopted shall continue, except as otherwise provided by the Charter or by ordinance.

5.4 Bonding of Employees. All City employees dealing directly with municipal funds may be required to post bond or furnish other security in an amount and under such conditions as required by the Council, and at the expense of the City.

5.5 City Attorney. The Council shall appoint a City Attorney who shall perform legal services for the City. The City Attorney shall serve at the pleasure of the Council.

ARTICLE VI

INITIATIVE AND REFERENDUM

6.1 General Authority.

- A. The registered electors of the City shall have power to propose any ordinance to the Council, pursuant to the initiative power reserved in Article V, Section 1(9) of the State Constitution. Any initiated measure shall be in the form of an ordinance, which shall be initiated pursuant to State statutes except as otherwise provided in this Charter.
- B. The registered electors of the City shall have power to require an adopted ordinance to be referred to them at election, pursuant to the referendum power reserved by Article V, Section 1(9) of the State Constitution. Such ordinance shall be referred pursuant to State statutes except as otherwise provided in this Charter. The referendum power shall not apply to emergency ordinances, or ordinances dealing with administrative matters, including but not limited to, budgets, appropriations, calling elections, employee salaries, contractual obligations and payments of bills.

6.2 Petitioner's Committee. Any three (3) registered electors of the City may commence initiative or referendum proceedings by filing with the Clerk an affidavit stating that they will constitute the petitioner's committee, will cause the petition to be circulated and filed in proper form, and further stating their names, street addresses, 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 referred.

Within two (2) business days following submittal of the affidavit of the petitioner's committee, the Clerk shall issue the appropriate petition forms to the petitioner's committee.

6.3 Petitions.

- A. Initiative petitions must be signed by registered electors of the City equal in number to at least fifteen percent (15%) of the total number of registered electors in the City as of the date the petition forms are issued by the Clerk. Referendum petitions must be signed by registered electors of the City equal in number to at least ten percent (10%) of the total number of registered electors as of the date the petition forms are issued by the Clerk.
- B. 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 and shall be followed by the physical 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. The Circulator shall require every person signing the petition to read the petition and the ordinance in question in full prior to signing.
- D. Each page of a petition shall have attached to it, when filed, an affidavit of the Circulator stating that the Circulator personally circulated the petition, the number of signatures thereon, that all the signatures were affixed in the Circulator's presence, that the Circulator believes them to be the genuine signatures of the persons whose names they purport to be and that each signer read the full text of the ordinance proposed or sought to be reconsidered prior to signing the petition.
- E. An initiative petition complying with the requirements of this Article must be filed with the Clerk within ninety (90) days after issuance of the petition forms by the Clerk or it shall be of no effect. A referendum petition complying with the requirements of the Article must be filed with the Clerk within forty-five (45) days after adoption by Council of the ordinance sought to be referred or it shall be of no effect.

6.4 Review of Petition. Within five (5) business days after the petition is filed, the Clerk shall issue a decision as to its sufficiency, specifying, if it is insufficient, the particulars wherein it is defective and shall promptly send a copy of the decision by U.S. mail, certified with return receipt, to the Petitioner's Committee and return the petition. A petition with an inadequate number of signatures may be re-filed once with additional signatures, but must be filed within fifteen (15) days after the decision of insufficiency is received by the Petitioner's Committee.

6.5 Suspension of Ordinance. When a referendum petition is filed with the Clerk, the ordinance sought to be reconsidered shall be suspended from taking effect. Such suspension shall terminate upon the occurrence of a determination of insufficiency of the petition, withdrawal of the petition by the petitioners' committee, repeal of the ordinance by the Council, or upon certification of a favorable vote on the ordinance.

6.6 Council Action on Petitions. When an initiative or referendum petition has been finally determined sufficient, the Council shall promptly consider the adoption of the initiated ordinance or repeal of the referred ordinance. If the Council fails to adopt a proposed initiated ordinance without any change in substance within sixty (60) days or fails to repeal the referred ordinance within sixty (60) days after the date the petition was determined sufficient, it shall submit the initiated or referred ordinance to the electorate of the City at a regular or special election within one hundred and twenty (120) days from determination of sufficiency, or as otherwise required by the Colorado Constitution.

6.7 Amendment and Repeal. An ordinance adopted by the electorate may not be amended or repealed by the Council for a period of twelve (12) months after the date of the election at which it was adopted, and an ordinance repealed by the electorate may not be reenacted by the Council for a period of twelve (12) months after the date of the election at which it was repealed, but such ordinances may be adopted, amended, or repealed at any time by the electorate.

6.8 Additional Procedures. The Council may by ordinance prescribe additional procedures as necessary or appropriate for the initiative or referendum process.

ARTICLE VII

MUNICIPAL COURT

- 7.1 Establishment of Municipal Court.** There is hereby established the Municipal Court for the City of Ouray, which shall have jurisdiction over all matters arising under this Charter, any ordinances and regulations of the City. The Municipal Court shall be held in a location within Ouray County approved by the Council.
- 7.2 Municipal Judge.** The Council shall appoint, by affirmative vote of the majority of the entire Council, a Municipal Judge for an indefinite term to serve at the pleasure of the Council. The Municipal Judge may be removed with or without cause by the affirmative vote of the majority of the entire Council, at any time. The Council may appoint additional assistant, alternate, or acting municipal judges as deemed appropriate from time to time. The Municipal Judge shall be compensated on a basis established by the Council provided that compensation shall not be based directly on the number of cases handled or heard by the Municipal Judge.
- 7.3 Municipal Court Clerk.** The Administrator may designate a person to perform the duties of Municipal Court Clerk and provide for such compensation as deemed appropriate by the Council.
- 7.4 Powers of Municipal Judge.** The Municipal Judge shall have all judicial powers relating to the operation of the Municipal Court to the extent not inconsistent with the Charter or City ordinances.
- 7.5 Penalties.** The Council shall prescribe by ordinance fines, jail sentences, and other penalties for violation of City ordinances and regulations.

ARTICLE VIII

UTILITIES, FRANCHISES, AND CITY PROPERTY

8.1 City Streets, Alleys, and Property. The City shall have full authority, power, and control over all City streets, alleys, rights-of-way, easements, and other City owned property including but not limited to all power and authority to regulate, operate, use, maintain, establish, repair, replace, vacate, purchase, sell, and lease such property.

8.2 Public Utility Franchises and Permits.

- A. No public utility including but not limited to those providing water, sewer, cable TV, electrical power, telephone, telegraph, telecommunications or natural gas, may use or occupy the streets, alleys, and other property of the City without obtaining a utility franchise or permit authorized by an ordinance adopted by the Council.
- B. All utility franchises shall be non-exclusive and shall not have a term longer than fifteen (15) years.
- C. Any franchise, and any renewal of or amendment to a franchise, shall be granted by the City by ordinance, and subject to referendum in accordance with the procedures and requirements as set forth in Article VI of this Charter. If such an election is ordered, the grantee of such franchise shall deposit the cost of the election with the Clerk in an amount determined by the Clerk.
- D. All franchise ordinances of the City in effect at the time that this Charter is adopted shall remain in full force and effect according to their terms and provisions and subject to the termination date as expressly provided therein.
- E. Except as otherwise provided in this Charter, the City may grant a permit at any time for the temporary use or occupation of any street, alley, right-of-way, easement, and other City owned property. Any such permit shall be revocable by the City at any time and without cause.
- F. Every utility franchise or permit granted by the City shall be subject to the reserved right of the City to acquire such utility by eminent domain.
- G. All public utilities shall remain subject to the police power of the City notwithstanding anything to the contrary in the franchise or permit.

8.3 City Utilities.

- A. The City shall have the power and authority within or without the City to construct, condemn, purchase, acquire, lease, operate, and maintain its own utilities, assets, equipment, and everything in relation or in connection therewith.

- B. The Council shall set rates for services provided by City utilities by ordinance.
- C. City utilities may be operated as an enterprise or enterprise fund by the City.
- D. Any right granted by the City to City water, the City water system, or the City sewer system, shall be subject to the most comprehensive oversight, control, and management by the City to insure that nothing can be done that would interfere with the successful long-term operation of the water, water or sewer systems or impair such systems for the benefit of the people of the City.

ARTICLE IX

FINANCE

- 9.1 Fiscal Year.** The fiscal year of the City shall be the calendar year.
- 9.2 Funds and Accounts.** The Council may establish such funds and accounts as necessary or convenient for the City. Funds and accounts may be established by ordinance, resolution, or by the annual budget.
- 9.3 Budget.**
- A. The proposed annual budget for the next fiscal year shall be submitted to the Council by a date to be established by ordinance.
 - B. The proposed budget shall provide a thorough financial plan for the City in a format acceptable to the Council, and shall contain at a minimum the detailed revenues, expenditures, balances and accounting for:
 - 1. the prior fiscal year;
 - 2. the adopted budget for the current fiscal year;
 - 3. the estimated actual revenues and expenditures for the current fiscal year;
 - 4. the proposed budget for the next fiscal year; and
 - 5. the proposed capital expenditures for the next fiscal year.
 - C. Prior to the adoption of the budget, a public hearing shall be held, notice of which shall be posted and published once at least ten (10) calendar days prior to the hearing. The proposed budget in its entirety shall be available to the public at City Hall.
 - D. Prior to adoption of the budget, the Council may amend the proposed budget.
 - E. The budgeted expenditures shall be balanced by budgeted revenues, which may include fund balances and reserves.
 - F. The Council shall adopt the budget by an affirmative vote of a majority of the entire Council by resolution prior to or on the date provided by law for certification of the property tax levy. Adoption of the budget shall constitute the appropriation of the budgeted expenditures by fund.
- 9.4 Adoption of Property Tax Levy.** The Council shall adopt the property tax (*ad valorem* tax) levy each year in time to have it certified to Ouray County for collection. If the Council should fail to make such levy, the rate last fixed shall be the rate for the next fiscal year and shall be levied according to law.

9.5 Budget Control.

- A. The Council shall require reports to be prepared at least quarterly for review by the Council showing the relation between budgeted expenditures and revenues, and the year's actual expenditures and revenues to date and other supplemental financial data.
- B. If it appears that revenues may be less than anticipated, the Council may reduce appropriations and amend the budget as necessary to avoid expenditures exceeding revenues, except expenditures required by law or for debt service.
- C. During the fiscal year, the Council may make supplemental appropriations provided that revenues are available from unanticipated revenues, unappropriated fund balances, reserves, emergency reserves, transfers, or other sources for such purpose.
- D. All supplemental appropriations shall be accomplished by resolution approved by an affirmative vote of a majority of the entire Council.
- E. The Council may by resolution authorize the Administrator to transfer any unused balance within the general fund appropriation or portion thereof from one department to another.
- F. The transfer of monies from one fund to another shall be accomplished by resolution approved by an affirmative vote of a majority of the entire Council. Annual expenditures shall not exceed appropriations on a fund basis.

9.6 Audit. The Council shall provide for an annual independent audit of the City's financial condition and may provide for more frequent audits as determined appropriate. The annual audit shall be made by a qualified, certified public accountant.

9.7 Accounting Principles. Except as otherwise provided by this Charter or City ordinances, the City shall comply with generally accepted accounting principles for municipalities.

9.8 Multi-year Fiscal Obligations. Nothing in this article shall prevent the City from entering into a multiple-year fiscal obligation in the manner provided by law.

9.9 Deposits and Investments. The City may deposit and invest its money until such time as it is required to be expended, in any bank, depository, savings and loan, financial institution, investment, or security authorized by Colorado Statutes for the State or local governments or any agency or political subdivision thereof. The City or any fund, district, or authority thereof may invest in the bonds or other securities of the City or any fund, district, or authority thereof.

9.10 Taxes.

- A. The Council may adopt, by ordinance, such taxes as are not prohibited for home rule municipalities by the Colorado Constitution, subject to any applicable limitations therein, including the requirement of approval by the registered electors.
- B. No new tax and no increase in the rate of any existing tax adopted by the City, shall take effect until approved by the registered electors, notwithstanding the elimination of any requirement in the Colorado Constitution for approval by the registered electors.

9.11 Capital Expenditures Plan.

- A. The Council shall provide for the development and adoption of a capital expenditures plan each year. The plan shall be developed and adopted each year in time to be considered in the preparation and adoption of the City's annual budget.
- B. The plan shall at a minimum include significant capital expenditures, planned or proposed, for the next five years, including estimated costs and sources of revenue proposed to finance such expenditures. Such plan shall be utilized by the Council as a guide in drafting and adopting the annual budget.

ARTICLE X

BORROWING

- 10.1 Borrowing Authorized.** Subject to any applicable limitations in the Colorado Constitution, the City may borrow money and issue securities or enter into other obligations to evidence such borrowing, in any form and in any manner determined by the Council to be advantageous to the City, including but not limited to short and long term notes, tax anticipation notes, warrants, bonds, lease purchase agreements and loan agreements.
- 10.2 Short-term Securities and Obligations.** The Council may, by ordinance and without election, issue short term securities or other payment obligations, which mature and become payable no later than the last day of the fiscal year in which such securities or obligations are issued.
- 10.3 General Obligation Securities.** Any security or other obligation which is payable in whole or in part from the proceeds of general property taxes, shall not be issued until the question of such issuance has been approved by the registered electors. The aggregate amount of such securities or obligations shall not exceed three percent (3%) of the actual value of all taxable real and personal property in the City, as determined by the Ouray County Assessor.
- 10.4 Enterprises.** The Council may, without an election, create a City owned business or enterprise. The Council shall remain the governing body with respect to the administration of such business or enterprise, and may, by ordinance and without election, issue securities and incur payment obligations payable from the revenues thereof. Such securities and obligations shall not be included in the determination of debt limitation as provided in Subsection 10.3 above.
- 10.5 Refunding Securities.** The City may, without an election, issue bonds or other securities for the purpose of refunding or providing for the payment of outstanding bonds and other securities on such terms and conditions as may be determined by the Council. The proceeds of refunding bonds or securities of the City may be invested in securities other than direct obligations of the United States or its agencies.
- 10.6 Lease Purchase Obligations.** The City may, without an election, acquire real or personal property for any public purpose by entering into rental or lease purchase agreements, limited to a period not exceeding the useful life of the property acquired. Leased property may be mortgaged or assigned, all or in part, during the term of the lease. Lease purchase obligations shall be subject to annual appropriations by the City.
- 10.7 Terms and Conditions.** The terms and conditions of any loan instrument including redemption features, interest rate, maturity date, and sale price may be determined by the Council.

10.8 Review of Proceedings. No action or proceeding at law or in equity to review or question the validity of any acts or proceedings, to enjoin the performance, issue or collection of any securities, or the levy or collection of any assessments, or for any other relief against any acts or proceedings of the City done under this Article, shall be maintained against the City unless commenced within thirty (30) days after the performance of the act or the effective date of the ordinance or other action authorizing borrowing the money, or shall thereafter be forever barred. The limitations of this section shall be in addition to any limitations or restrictions provided by ordinance.

ARTICLE XI

IMPROVEMENT DISTRICTS, AUTHORITIES, AND ASSESSMENTS

11.1 Authorization.

- A. The City shall have the power to create local improvement districts, general improvement districts, and other special improvement districts and authorities, wholly or partially within the City, as authorized by applicable State Statutes, or as otherwise authorized by this Charter or by ordinance.
- B. The costs of constructing, installing or acquiring public, local, or municipal improvements of every kind and character may be assessed in whole or in part upon the property benefited by such improvements by the City.
- C. The Council may by ordinance prescribe the method of creation of such districts, the manner of making such improvements, the manner of assessing the costs thereof, and the issuance and payment of bonds for costs and expenses of constructing, acquiring or installing such improvements.
- D. Funds may be borrowed to finance the construction, installation, or acquisition of such improvements by borrowing money as provided for in Article X of this Charter including securities secured by a pledge of assessments against the benefited property in the district.
- E. The City may also pay for such improvements out of monies available from any appropriate fund or source and provide for repayment to the appropriate fund from collection of the assessments.
- F. The City may also redeem or prepay improvement district securities at any time funds are available to do so and assign the assessments as collected to an appropriate fund of the City.

11.2 Hearing. Prior to the creation of any district with separate taxing powers or which is intended to assess the costs of improvements against the property within the district, a public hearing shall be held with written notice to the owners of record of real property within the district, in accordance with procedures established by ordinance.

11.3 Protests. All protests shall be considered in accordance with State statutes, unless otherwise provided by ordinance, but the Council shall have final decision on any matter related to the district, including its creation.

11.4 Limitations of Actions. No action or proceeding at law or in equity to review or question the validity of any acts or proceedings, to enjoin the performance, issue or collection of any securities, or the levy or collection of any assessments, or for any other relief against any acts or proceedings of the City done under this Article, shall be

maintained against the City unless commenced within thirty (30) days after the performance of the act or the effective date of the ordinance or other action authorizing borrowing the money, or shall thereafter be forever barred. The limitations of this section shall be in addition to any limitations or restrictions provided by ordinance.

ARTICLE XII

EFFECTIVE DATE AND TRANSITION PROVISIONS

- 12.1 Effective Date.** This Charter shall be effective upon adoption by the registered electors of the City.
- 12.2 Existing Ordinances and Regulations.** All ordinances, resolutions, rules, and other regulations of the City consistent with this Charter which are in effect as of the effective date of this Charter shall continue in full force and effect until repealed or amended. Any provision inconsistent with this Charter is hereby superseded and the Council shall proceed with due diligence after the adoption of this Charter to make the necessary amendments or repeals to bring ordinances of a general and permanent nature into consistency with this Charter.
- 12.3 Officers and Employees.** The adoption of this Charter shall not affect the status of any officers and employees currently under contract or employment with the City.
- 12.4 Terms of Office and Election.**
- A. The Mayor and the Council members in office upon the effective date of this Charter shall serve as such for the remainder of their respective terms, as modified pursuant to these transition provisions, and notwithstanding other provisions of this Charter.
 - B. The terms of the Mayor and Council members, currently serving at the time this Charter is adopted, shall be subject to the following transition provisions:
 - 1. The terms of Mayor and two (2) Council members are scheduled to terminate on January 11, 2010. These terms shall be amended by this Charter to terminate on November 16, 2009.
 - 2. The terms of the remaining two (2) Council members are scheduled to terminate on January 9, 2012. These terms shall be amended by this Charter to terminate on November 7, 2011.
 - 3. The two (2) election wards of the City shall be abolished upon the effective date of this Charter, at which time all Council members currently serving shall be considered elected at large.
 - C. All references to the Council in any ordinance, resolution, regulation, contract, or other documents shall be construed to include the Council after the effective date of this Charter.

- 12.5 Contracts.** The adoption of this Charter shall not be interpreted to affect any contract previously entered into by the City.
- 12.6 Existing Franchises.** Franchises and utility permits in effect upon the effective date of this Charter shall remain in full force and effect for the remainder of their terms.
- 12.7 Savings Clause.** The adoption of this Charter shall not be construed, except as specifically provided herein, to affect any offense or act committed, any penalty incurred or any contract, right, or duty established, or accruing before the effective date of this Charter.
- 12.8 Severability Clause.** 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.
- 12.9 Charter Amendments.** This Charter may be amended at any time in the manner provided by the State Constitution and State statutes pertaining to home rule charter amendments.