



TOWN OF HAYDEN HOME RULE CHARTER

As adopted by the citizens of the Town of Hayden, Colorado
on July 21, 2009

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HOME RULE CHARTER

The Town of Hayden Home Rule Charter Commission hereby presents this Charter to the citizens of the Town of Hayden, Colorado. The Charter has been prepared by the nine elected members of the Commission in accordance with Article XX of the Colorado Constitution and the Municipal Home Rule Act of 1971, as amended.

The Charter seeks to achieve the following objectives:

1. To reserve for the Town of Hayden the greatest autonomy and self-government legally permissible under the Constitution and laws of the State of Colorado; and
2. To establish a structure for the efficient, fair and orderly conduct of the Town government while also providing for flexibility and encouraging citizen participation to the fullest extent possible, with elections to be held in November of even-numbered years. The current Board of Trustees will serve out their elected terms as members of the new Town Council.

The Charter grants the Town new powers including the power of eminent domain outside the municipal limits and the power to organize any type of municipal utility. The Charter also requires the Town to adopt and maintain a master plan for the community and to consider the master plan in the context of all major new development applications. The purpose of this requirement is to demonstrate that the Town can thrive economically and function as a community with a diverse population while still maintaining environmental quality, protecting the river that forms an integral part of the Town's identity, and promoting growth in a thoughtful and responsible manner.

PREAMBLE

We, the citizens of the Town of Hayden, Colorado, believing that the government of Hayden exists to serve the people of the Town of Hayden; desiring to preserve the heritage of Hayden – its river, wildlife habitat, open spaces, and historic small town character; seeking to enable effective citizen participation and to promote involvement in the political process; committing to securing the benefits and advantages of the Constitution of Colorado and to availing ourselves of the rights and privileges of home-rule and self-government in local affairs to the fullest possible extent; do hereby adopt this Charter.

ARTICLE 1 - GENERAL PROVISIONS

Section 1-1. Name and Boundaries.

The municipal corporation, hereto existing as the Town of Hayden (hereinafter sometimes referred to as the "Town"), which is located in Routt County, State of Colorado, shall remain and continue as a body corporate and politic and under this Charter be known as the Town of Hayden, with the same boundaries, unless changed in a manner authorized by law.

Section 1-2. Powers.

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

Section 1-3. Rights and Liabilities.

By the name of the Town of Hayden, the municipal corporation shall have perpetual succession; In the name of the Town of Hayden, it shall own, possess and hold all property, real and personal heretofore owned, possessed and held by the Town of Hayden; shall assume and manage and dispose of all trusts in any way connected therewith; shall succeed to all the rights and liabilities; and shall acquire all benefits and shall assume and pay all bonds, obligations and indebtedness of the Town of Hayden, and may sue, defend, plead and be impleaded in all courts and places and in all matters.

Section 1-4. Amendments to the Charter.

- (a) Substantive Amendments. This Charter may be amended at any time in the manner provided in the Colorado Constitution and in Title 31, Article 2 of the Colorado Revised Statutes, as said provisions may be amended from time to time. Proceedings to amend the Charter may be initiated by: (1) the filing of a petition meeting the requirements of this Charter or (2) the adoption of an ordinance by the Town Council submitting the proposed amendment to a vote of the registered electors of the Town. Nothing herein contained shall be construed as preventing the submission to the people of more than one (1) 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.
- (b) Technical Amendments. The Town Council may, by ordinance, effect technical changes in the Charter which do not substantively change the provisions of this Charter, such as correction of spelling or grammatical errors.

Section 1-5. Form of Government.

The municipal government provided by this Charter shall be known as a Council-Manager government. Pursuant to the provisions of this Charter and subject only to limitations imposed by the constitution and laws of the state of Colorado, all powers shall be vested in an elected Town Council which shall enact local legislation, adopt budgets, determine policies and appoint the Town Manager who shall execute the laws and administer the Town government. All powers of the Town shall be exercised in the manner prescribed by this Charter, or if the manner be not

so prescribed, then in such manner as may be prescribed by ordinance, resolution or motion, or as provided by other applicable law.

ARTICLE 2 - TOWN COUNCIL

Section 2-1. Town Council.

There shall be a Town Council consisting of six (6) Councilmembers and one (1) Mayor. Except when appointed to fill a vacancy or at such time as the Town Council establishes voting precincts pursuant to Charter Section 5-6, all Councilmembers shall be elected at-large. Except when appointed to fill a vacancy, the Mayor shall be elected at-large. The Town Council shall be the governing body of the Town and shall have all policy-making and legislative powers and other powers possessed by the Town not otherwise limited or conferred upon others by this Charter.

Section 2-2. Powers of the Town Council.

The Town Council shall be the legislative and governing body of the Town and shall have such powers as are possessed by the Town and not otherwise conferred by this Charter. All such powers shall be exercised in the manner prescribed in this Charter or, if not provided for herein, in such manner as shall be provided by ordinance, resolution or state statute.

Section 2-3. Terms of Office.

- (a) Six (6) Councilmembers shall be elected for terms of four (4) years. Three (3) Councilmembers shall be elected at the coordinated election in November of 2010, and three (3) Councilmembers shall be elected at the coordinated election in November of 2012, it being the intent of this Charter that Councilmembers shall serve staggered, overlapping terms, subject to the provisions of Section 2-8 of this Article.
- (b) The Mayor shall serve a two-year (2-year) term subject to the provisions of Section 2-8 of this Article. Following the adoption of this Charter, the next mayoral election will be at the coordinated election in November of 2010.

Section 2-4. Term Limits.

- (a) Elected Officers shall be limited to three (3) consecutive terms in office, regardless of length.
- (b) A Councilmember who has reached the term limit may not run for the office of Councilmember again until such person has been out of office for a full four-year (4-year) term. A Mayor who has reached the term limit may not run for the office of Mayor again until such person has been out of office for a full two-year (2-year) term.
- (c) Notwithstanding Subsections (a) and (b) of this Section, any Councilmember at the term limit of the office of Councilmember may be elected to the office of Mayor; such office may be taken at the conclusion of the Councilmember's term of office. Notwithstanding Subsections (a) and (b) of this Section, any Mayor at the term limit of the office of Mayor may be elected to the office of Councilmember; such office may be taken at the conclusion of the Mayor's term of office.
- (d) Any term, or portion thereof, for which a person has been appointed to fill a vacancy shall not be considered a term for the purposes of this Section.

Section 2-5. Qualifications for Elected Officers.

Each Elected Officer shall be a qualified elector of the Town, at least twenty-one (21) years of age and shall be a resident of the Town for at least twenty-four (24) months as of the date of election and during his or her entire tenure in office. No Elected Officer shall be a paid employee of the Town, nor shall an Elected Officer apply for any employment position with the Town while in office, nor shall an Elected Officer hold any other elected office while serving as an Elected Officer. In addition to any other cause for termination, the term of any Elected Officer shall terminate when he or she no longer resides within the boundaries of the Town. For the purposes of the residency requirement of this Section, in the case of annexation, residence within the annexed territory for the prescribed period shall satisfy the residency requirements of this Section.

Section 2-6. Duties of the Mayor.

The Mayor shall be elected at-large and shall have the following powers, duties and responsibilities:

- (a) Preside at all meetings of the Town Council;
- (b) Have all powers, rights and privileges of a Councilmember, including the right to vote;
- (c) Act as the ceremonial head of government of the Town;
- (d) Execute and authenticate with the Mayor's original signature: legal instruments, contracts, and documents requiring a signature on behalf of the Town, unless the Town Council authorizes another manner of authenticating documents by ordinance or resolution.

The Town Council may, for specific and limited purposes, delegate certain non-legislative duties of the Mayor to the Town Manager or other employees of the Town.

Section 2-7. Mayor Pro Tem.

The Town Council shall appoint one (1) of its Councilmembers as Mayor Pro Tem at the first meeting following each election, who shall act as Mayor during the absence of the Mayor with all powers herein granted to the Mayor. Such appointment shall be made by a majority of a quorum of the Town Council. If the office of Mayor Pro Tem becomes vacant, then the Town Council shall appoint a new Mayor Pro Tem at its next regular meeting.

Section 2-8. Vacancies.

- (a) Occurrence of a Vacancy. A vacancy shall occur whenever an Elected Officer dies, becomes incapacitated, resigns, becomes a non-resident of the Town, is removed from office, or is convicted while in office of a felony or of any misdemeanor offense for abuse of public office as defined in Part 4, Article 8, Title 18, C.R.S., as now existing or as may be hereafter amended or recodified.
- (b) Absence. If an Elected Officer misses more than three (3) consecutive regular meetings or more than six (6) regular meetings within any twelve (12) month period, such person may be removed from his position by a vote of at least five (5) members of the Town Council, after notice and hearing. If an Elected Officer has a reasonable basis for missing meetings acceptable to other Elected Officers, particularly if given in advance, the absence may, at the determination of the Town Council, be deemed to be excused

and such absence shall not be a basis for removal.

- (c) Procedure to Fill Vacancy for an Elected Officer. Whenever a vacancy in the office of an Elected Officer occurs more than ninety (90) days prior to the next regular Town election, the Town Council shall solicit the general public for applications to fill the vacancy. Within ninety (90) days following the occurrence of a vacancy, the Town Council shall either appoint a replacement or call a special election to replace such person. If the Town Council fails to appoint a replacement within ninety (90) days following the occurrence of a vacancy, then the Town Council shall schedule a special election to be held within one hundred eighty (180) days after such vacancy has occurred, unless a general election is already scheduled within that time period. If a vacancy occurs within one hundred eighty (180) days before the next general election, then the Town Council may leave the office vacant and provide for a replacement to be elected at such general election. Any person appointed or elected to fill a vacancy must meet the qualifications for elected officers as set forth in Section 2-5.
- (d) Multiple Vacancies. If three (3) or more vacancies exist on the Town Council at any given time, then the remaining members of the Town Council, irrespective of Section 2-10 (g), shall immediately schedule a special election to take place within sixty (60) days after the occurrence of the third vacancy, unless a general election is already scheduled within ninety (90) days.
- (e) Terms of Persons Filling Vacancies. Any person appointed or elected to the Town Council to fill a vacancy shall hold office until the next regular election and until a successor is elected and qualified. It is the intent of this Charter to provide for and preserve staggered terms for all Elected Officers. At the next regular election at which persons are elected to fill a vacancy, such persons shall be elected to terms that preserve the staggered terms set forth in Section 2-3 of this Charter.

Section 2-9. Compensation of Elected Officers.

The minimum compensation for the Town Council shall be established as follows: Mayor - \$150 per month, Mayor Pro Tem - \$125 per month and Councilmember - \$100 per month. These amounts may be adjusted annually through a cost of living adjustment equal to the cost of living percentage adjustment given to Town staff. Any other changes to compensation may be made by ordinance from time to time; provided, however, that any change or increase passed during an Elected Officer's current term of office shall not take effect with respect to that Elected Officer until a subsequent term, if any. Notwithstanding the foregoing, the Town Council may establish additional compensation by ordinance for special meetings requested by applicants, and such compensation may take effect for all Elected Officers immediately, as the Town Council may determine appropriate by ordinance.

Section 2-10. Meetings of Town Council.

- (a) Regular Meetings. The Town Council shall schedule a regular meeting at least once each month at a day, hour and place to be fixed by the Council.
- (b) Special Meetings. Special meetings of the Town Council shall be called by the Town Clerk on the request of: the Mayor, the Town Manager, or upon request of a majority of Councilmembers. At least twenty-four (24) hours prior to such meeting, the Town Clerk shall post a notice of the meeting in at least two (2) public places within the Town and shall provide reasonable notice to the Town Council of the meeting. A special meeting may be held on shorter notice to the members of the Town Council and with less than twenty-four (24) hour advance posting of notice if a quorum of the Town Council

consents at the beginning of such meeting.

- (c) **Organizational Meeting.** At the first regular meeting following a regular election and before the Town Council conducts any official business other than approval of minutes from past meetings, the Town Clerk shall administer the oath of office to the newly-elected Councilmembers and Mayor and they shall assume office at that time. The Town Council shall then proceed at such meeting or at a subsequent meeting, if approved by a majority of the Elected Officers present and voting, to appoint the Mayor Pro Tem and conduct such other organizational business as it sees fit.
- (d) **Place of Meetings.** Meetings of the Town Council shall be held in Town Hall. When Town Hall facilities are not available or are inadequate, or if approved by a majority of the Town Council for special reasons, the Town Council may designate an alternate place for such meeting and post notice thereof as provided in Subsection (b) of this Section.
- (e) **Meetings Open to the Public - Executive Sessions Authorized.** All meetings of the Town Council shall be open to the public. Executive sessions, which shall not be open to the public, may be conducted during regular or special meetings of the Town Council to the maximum extent permitted by the laws of the state as may be enacted from time to time.
- (f) **Study Sessions.** The Council may hold such study sessions as the Mayor or any Councilmember may request and the Council may approve. No quorum shall be required at any study session and no legally binding or formal action shall take place at any such session.
- (g) **Quorum.** Four (4) Elected Officers shall be a quorum for the transaction of business at all Town Council meetings.

Section 2-11. Oath of Office.

Before entering upon the duties of their respective offices, every person elected or appointed to any office shall take and file with the Town Clerk an oath or affirmation to support the Constitution of the United States, the Colorado Constitution, the Charter and ordinances of the Town of Hayden, and to perform faithfully the duties of the office.

Section 2-12. Code of Ethics.

Pursuant to Colorado Constitution Article XXIX, Section 7, the Town adopts the Colorado Code of Ethics, C.R.S. 24-18-101, *et seq.*, and any successor provisions, to serve as the Town's Code of Ethics in lieu of Colorado Constitution Article XXIX.

Section 2-13. Conflict of Interest.

No Elected Officer shall vote or participate in discussion or deliberation on any question in which the Elected Officer has a substantial personal or financial interest, direct or indirect, including an interest held through a spouse or family member, other than the common public interest, or on any question concerning his or her own conduct. In the event the Elected Officer has such an interest, the Elected Officer shall declare such interest. Whether or not such a declaration is made, the remaining Elected Officers may determine by a majority vote whether said interest does in fact constitute a conflict of interest. When such conflict of interest is established, the Elected Officer affected shall not vote on the matter and the remaining Elected Officers shall take any further action they deem to be in the best interests of the Town. If such conflict of interest is not disclosed and is established with respect to a matter already considered by the Town Council, the remaining Elected Officers shall take any action they deem to be in the

best interests of the Town. This Section and any ordinance adopted in furtherance thereof shall abrogate and replace any common law doctrine on this subject.

ARTICLE 3 – COUNCIL ACTIONS

Section 3-1. Ordinances, Resolutions and Motions.

All actions of the Town Council shall be by ordinance, resolution, or motion. In addition to such Town Council acts that are required by other provisions of the Colorado Constitution or this Charter to be by ordinance, every action making an appropriation, creating an indebtedness, authorizing the borrowing of money, levying a tax, establishing any rule or regulation for the violation of which a penalty is imposed, repealing a prior ordinance, or approving an eminent domain action by the Town shall be by ordinance; provided, however, that where this Section conflicts with the annual appropriation and budget procedures set forth in Article 8 of this Charter, Article 8 shall control. In addition, no ordinance shall be required to levy an ad valorem tax. Ordinances making appropriations shall be confined to the subject of appropriation. Policies of the Town may be adopted by the Town Council by resolution or motion.

Section 3-2. Voting.

A roll call vote shall be taken in all instances and shall be entered into the minutes of the Town Council proceedings. Except as otherwise provided herein, all ordinances, resolutions, and motions shall pass if the majority of the votes cast are in the affirmative at a meeting at which a quorum is present. Any Elected Officer may abstain from any vote only upon declaration of a conflict of interest as set forth in Charter Section 2-13. If a conflict is declared, the conflicted Elected Officer's vote shall not be counted. Nothing herein shall preclude the Town Council from requiring by ordinance a greater number of votes in certain instances.

Section 3-3. Procedure for Ordinances.

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

- (a) The ordinance shall be introduced at any regular or special meeting of the Town Council by any Councilmember or the Mayor.
- (b) The ordinance shall be read in full or, in cases where copies of the ordinance are available to the Town Council and to those persons in attendance at said Council meeting, the ordinance may be read by title only. The title of the ordinance shall include a brief general description of the subject matter of the ordinance.
- (c) After the first reading of the ordinance, the same shall be approved or rejected by a vote of the Council. If approved, the Council shall set a date, hour and place at which the Council will hold a public hearing on the ordinance for its second reading.
- (d) If approved upon first reading, the ordinance shall be published by title as provided in Charter Section 14-1 (q) and the date, hour and place of the public hearing shall be included in such publication; provided, however, that for so long as a newspaper of general circulation is published within the Town, said publication shall be made in such newspaper.
- (e) The ordinance shall be read a second time in a public hearing at a regular or special

meeting of the Town Council held not sooner than ten (10) days after introduction on first reading. The ordinance shall be read by title and number at the second reading.

- (f) The ordinance may be amended at the second reading provided that any amendments address the same general subject matter addressed at first reading. Any amendments shall be read in full, unless copies of all amendments are available to the Council and to those persons in attendance at the Council meeting.
- (g) After the second reading, the ordinance, including any amendments, shall be approved or rejected by a vote of the Council.
- (h) After final passage, the ordinance, with any amendments, shall be published in full. Unless the ordinance provides for a different effective date, it shall be in force and take effect fifteen (15) days after second publication.
- (i) The Town Council may adopt other requirements for the consideration of ordinances as it deems necessary or appropriate, so long as those requirements do not conflict with the provisions of this Section.

Section 3-4. Form of Ordinances.

Every ordinance shall be in electronic, written or printed form. The enacting clause of all ordinances shall be, "BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF HAYDEN, COLORADO." Failure of the enacting clause to comply with this Section shall not invalidate the ordinance.

Section 3-5. Disposition of Ordinances.

Printed or electronic copies of the original ordinances and the affidavits of publication, if any, shall be kept and be available for public inspection in the office of the Town Clerk.

Section 3-6. Codes Adopted by Reference.

Any ordinance may adopt a code by reference as provided by state statute; provided, however that publication provisions of this Charter shall control.

Section 3-7. Emergency Ordinances.

- (a) An ordinance that is immediately necessary for the preservation of public peace, health, or safety may be enacted as an "emergency ordinance" at any regular or special meeting of the Town Council by affirmative votes equal to a quorum plus one (1). Any emergency ordinance shall state expressly that it is an emergency ordinance and shall describe the nature of the emergency. An emergency ordinance shall take effect immediately upon passage. The ordinance shall be published, as provided in Charter Section 14-1 (q) of this Charter as soon as reasonably possible.
- (b) No ordinance granting any special privilege, approving franchise agreements, levying taxes, approving the sale of real property, or incurring general obligation indebtedness shall be passed as an emergency ordinance.

Section 3-8. Severability of Ordinance.

Unless an ordinance shall expressly provide to the contrary, if any portion of an ordinance or the application thereof to any person or circumstances shall be found to be invalid by a court of competent jurisdiction, such invalidity shall not affect the remaining portions or applications of

the ordinance that can be given effect without the invalid portion or application; provided, such remaining portions or applications are not determined by the court to be inoperable, and to this end ordinances are declared to be severable.

Section 3-9. Intergovernmental Agreements.

The Town Council may, by resolution, enter into contracts or agreements with public and/or governmental units, agencies, boards and commissions and entities for the use of properties, improvements, buildings, equipment, or facilities, and for furnishing or receiving commodities or services and for all other legal purposes.

Section 3-10. Master Plan.

The Town Council shall adopt a Master Plan for the Town and update it from time to time as the Town Council deems appropriate. The Town of Hayden Comprehensive Plan of 2005 with updates adopted in 2007, as well as any legally adopted amendments, shall be considered a Master Plan for the purposes of this Section.

ARTICLE 4 - TOWN ADMINISTRATION

Section 4-1. Town Manager.

- (a) The Town Council shall appoint a Town Manager, who shall serve at the pleasure of the Council. The Town Manager shall be appointed on the basis of fitness, education, competency, training and experience. If the office of the Town Manager becomes vacant, the Town Council shall appoint either a temporary or permanent replacement as soon as reasonably possible. The Town Manager may be removed by the Town Council at any time with or without cause upon the affirmative vote of a majority of the Town Council, unless otherwise provided in the Town Manager's contract, if any. The Town Council may enter into a contract for services with the Town Manager, at its sole discretion.
- (b) The powers and duties of the Town Manager shall be as follows:
 - (1) Be responsible for the enforcement of the ordinances, resolutions, franchises, contracts and other enactments of the Town;
 - (2) Establish and implement personnel policies for Town employees. Such policies shall provide for the selection, promotion and retention of Town employees on the basis of ability, training, experience and performance;
 - (3) Sign contracts within budgeted amounts and limited by term of appropriation;
 - (4) Prepare a proposed budget and submit it to the Council and administer the adopted budget;
 - (5) Prepare and submit to the Council at the end of each fiscal year a complete report on the finances and administrative activities of the Town and upon request of the Council, report on the affairs of the Town supervised by the Town Manager;
 - (6) Advise the Council of the financial condition of the Town and make recommendations to the Council for future Town needs;
 - (7) Except as to the Municipal Court and the office of the Town Attorney, exercise supervision and control over all Town employees and departments, and make recommendations to the Council concerning the establishment, consolidation or

- abolition of such departments;
- (8) Attend meetings of the Council and participate in discussions with the Council in an advisory capacity;
 - (9) Be responsible for informing the public on, and involving the public in, Town functions, plans and activities; and
 - (10) Perform such other duties as prescribed in this Charter or by ordinance or resolution or by the Council and that are not in conflict with this Charter.

Section 4-2. Town Clerk.

The Town Manager shall appoint a Town Clerk with the approval of a majority vote of the Town Council; provided, however, removal of the Town Clerk shall be exclusively by the Town Manager. The Town Clerk shall be the custodian of the Town Seal and shall keep records of Council proceedings and record in full all ordinances, motions and resolutions. The Town Clerk shall have the power to administer oaths and take acknowledgments under the seal of the Town and shall perform such other duties as required by this Charter, the Town Manager, the Town Council or applicable state statute.

Section 4-3. Police Chief.

The Town Manager shall appoint a Police Chief with the approval of a majority vote of the Town Council; provided, however, removal of the Police Chief shall be exclusively by the Town Manager. The Police Chief shall be the head of the Police Department, shall see that the ordinances of the Town are duly enforced and shall have such other powers and duties as required by this Charter, the Town Manager, the Town Council or applicable state statute.

Section 4-4. Finance Director.

The Town Manager shall appoint a Finance Director with the approval of a majority vote of the Town Council; provided, however, removal of the Finance Director shall be exclusively by the Town Manager. The Finance Director shall have charge of the financial records of the Town and shall collect, receive and disburse all monies belonging to the Town and shall have all other duties required to administer properly the financial affairs of the Town as required by this Charter, the Town Manager, the Town Council or applicable state statute.

Section 4-5. Multiple Positions.

Unless otherwise prohibited by ordinance, any one (1) person may simultaneously serve as more than one (1) of the officers set forth in Sections 4-1 through 4-4.

Section 4-6. Council and Administration Relations.

Except for informal inquiry, Elected Officers shall deal with personnel and employees solely through the Town Manager. Complaints about the Town Manager shall first be registered with the Human Resource Director. If the complaint remains unresolved, the Human Resource Director shall contact the Mayor and remainder of the Town Council, if necessary. Except as provided in this Charter, no Elected Officer shall dictate or interfere with the appointment, removal or duties of any Town employee subordinate to the Town Manager, the Town Attorney, or Municipal Judge, or prevent or interfere with the exercise of judgment in the performance of the employee's Town responsibilities. The Town Council and each Elected Officer shall deal

with such employee solely through the Town Manager and shall not give orders to or reprimand any such employee. The Town Manager alone shall be responsible to the Council for the proper administration of all matters placed in the Town Manager's charge by or pursuant to this Charter.

ARTICLE 5 - ELECTIONS

Section 5-1. Colorado Municipal Election Laws Adopted.

All Town elections shall be governed by the Colorado Municipal Election Law, as now existing or hereafter amended or modified, except as otherwise provided in this Charter or by ordinance.

Section 5-2. Elector Qualification.

In order to vote in any election, an elector must be eighteen (18) years of age as of the day of the election, be a citizen of the United States of America, be registered with the Town Clerk or Routt County Clerk, not be in prison, and have legally resided for at least thirty (30) days immediately preceding the election in Colorado and in an area that is within the municipal limits of the Town as of the date of the election. For the purposes of the residency requirement of this Section, in the case of annexation, residence within the annexed territory for the prescribed period shall satisfy the residency requirements of this Section.

Section 5-3. Time of Elections.

All regular elections of the Town shall be coordinated with statewide general elections held in November of even numbered years. Any special election of the Town shall be called by resolution adopted at least sixty (60) days in advance of such election. The resolution calling a special election shall set forth the purpose of such election.

Section 5-4. Non-Partisan Elections.

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

Section 5-5. Petitions for Elected Officers.

Nominations for Elected Officers shall be by petition as provided in the Colorado Municipal Election Code of 1965 as now existing, or hereafter amended or modified, except that at least twenty-five (25) signatures of registered electors of the Town shall be required on each petition for the office of Councilmember, and at least thirty (30) signatures of registered electors of the Town shall be required on each petition for the office of Mayor. Notwithstanding the provisions of the Colorado Municipal Election Code, a registered elector may sign any number of nominating petitions regardless of the number of separate offices to be filled in any municipal election.

Section 5-6. Election Precincts.

The Town shall consist of one (1) voting precinct, provided that the Town Council may by ordinance establish more precincts and/or change precinct boundaries at least thirty (30) days or more prior to any election. Any precincts so established shall remain for subsequent elections

until otherwise provided by ordinance.

Section 5-7. Recall.

- (a) Elected Officers may be recalled in accordance with the provisions and limitations of this Section.
- (b) No recall petition shall be accepted against any Elected Officer until the Elected Officer has held the office for at least six (6) months.
- (c) In accordance with Article XXI Section 4 of the Colorado Constitution, a petition for recall shall be signed by not less than twenty-five percent (25%) of the registered electors who cast votes for all candidates for that particular office at the last preceding election at which the person sought to be recalled was elected to office.
- (d) Except to the extent inconsistent with this Charter or procedures prescribed by ordinance, the procedures and provisions for recall as provided by Article XXI of the Colorado Constitution applicable to municipal governing bodies and C.R.S. §§ 31-4-501 *et seq.* shall apply to recall of Elected Officers. Consistent with the Colorado Constitution, C.R.S. §§ 31-4-501 *et seq.* and this Charter, the Town Council may provide by ordinance for further recall procedures.

Section 5-8. Conduct of Elections.

The Town Clerk shall have charge of all activities and duties required pursuant to this Charter relating to the conduct of Town elections. In any case where election procedures are in doubt or question, the Town Clerk shall prescribe the procedures to be followed.

ARTICLE 6 - INITIATIVE, REFERENDUM AND REFERRAL

Section 6-1. General Authority.

- (a) Initiative. The registered electors of the Town shall have power to propose any ordinance to the Town Council, in accordance with the provisions of this Article, Article V, Section 1 of the Colorado Constitution and applicable portions of the Colorado Revised Statutes.
- (b) Referendum. The registered electors of the Town shall have power to require reconsideration by the Town Council of any ordinance in accordance with the procedures of this Article except emergency ordinances or ordinances dealing with administrative matters, including but not limited to, budgets, appropriations, calling elections, employee salaries, contractual obligations, and payment of bills in accordance with the provisions of this Article, Article V, Section 1 of the Colorado Constitution and applicable portions of the Colorado Revised Statutes.
- (c) The Town Council may refer a matter to the registered electors of the Town.

Section 6-2. Procedure.

Except as specifically provided in this Article or by ordinance to the contrary, the provisions of Title 31, Article 11, C.R.S., as amended from time to time, are hereby adopted and shall apply to the initiative and referendum process and to referred measures.

Section 6-3. Petitioners' Committee.

Any three (3) registered electors of the Town may commence initiative or referendum proceedings by filing with the Town Clerk an affidavit stating that they will constitute the petitioners' committee, will circulate the petition and file it 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 reconsidered. Promptly after the affidavit of the petitioners' committee is filed, the Clerk shall issue the appropriate petition forms to the petitioners' committee.

Section 6-4. Petitions.

- (a) **Number of Signatures.** Initiative petitions must be signed by registered electors of the Town equal to or more in number than fifteen percent (15%) of the total number of the registered electors at the last preceding regular election. Referendum petitions must be signed by registered electors of the Town equal to or more in number than ten percent (10%) of the total number of the registered electors at the last preceding regular election; provided, however, pursuant to Colorado Constitution Article XX, Section 4, signatures of not more than five percent (5%) of the registered electors of the Town shall be required to order a referendum on any franchise relating to any street, alley or public place.
- (b) **Form and Content.** All pages of a petition shall be uniform in size and style and shall be assembled as one instrument for filing. The form of the petition shall comply with state statutes. Each signature shall be executed in ink and shall be followed by the 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. No petition shall be circulated unless first issued and approved by the Town Clerk as set forth in Charter Section 6-3.
- (c) **Reading of Ordinance.** The circulator of a petition shall require every person signing the petition to read it and the ordinance in question in full prior to signing.
- (d) **Affidavit of Circulator.** 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) **Time for Filing Petitions.** Each initiative petition shall be filed with the Town Clerk. No signature on an initiative petition shall be valid if it is dated more than one hundred eighty (180) days after the date the form of petition was issued and approved by the Town Clerk as set forth in Charter Section 6-3. Each referendum petition shall be filed with the Town Clerk. No signature on a referendum petition shall be valid if it is dated more than thirty (30) days after the date of final publication of the ordinance sought to be referred. The Town Clerk shall, within five (5) business days of receipt of the petition, canvass the signatures thereon. If the petition does not contain a sufficient number of signatures of qualified electors of the Town, or if any other error or insufficiency is found in the petition, the Town Clerk shall notify the petitioners' committee and shall post a notice in the Town Clerk's office to this effect. Ten (10) business days from the date of posting of such notice shall be allowed for filing of supplemental or corrected petition papers, and the Town Clerk shall canvass the signatures of the corrected or supplemental petition within two (2) business days after receipt. When a petition with

sufficient signatures is filed within the time allowed by this Section, the Town Clerk shall present the petition to the Town Council at the next regular meeting.

Section 6-5. Protest.

The period of time for filing a written protest of an initiative or a referendum petition shall be within forty (40) days from the date the petition (or any amended petition), whichever is later, is filed with the Town Clerk.

Section 6-6. Suspension of Ordinance.

When a referendum petition is filed with and deemed sufficient by the Town Clerk, the ordinance sought to be reconsidered shall be held in abeyance until repealed by the Town Council or until repealed by a majority vote on the referendum. In the event the ordinance is not repealed by the referendum vote, it shall be deemed again in full effect as of the date of certification of the election results.

Section 6-7. Amendment and Repeal.

An ordinance adopted by the electorate may not be amended or repealed by the Town Council for a period of twenty-four (24) 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 Town Council for a period of twenty-four (24) 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 voters.

Section 6-8. Referral.

The Town Council shall have the power to submit to a vote of the registered electors of the Town, without receipt of any petition, any proposed or adopted ordinance or any question.

ARTICLE 7 - LEGAL AND JUDICIARY

Section 7-1. Town Attorney.

The Town Council shall appoint a Town Attorney, who shall be the legal representative of the Town, and the Town Attorney shall advise the Town Council and Town officers in matters relating to their official powers and duties and legal matters affecting the Town. The Town Attorney or his or her assistants shall represent the Town in legal proceedings and shall assist with the drafting of ordinances and resolutions and the preparation of other legal documents. The Town Attorney shall be an attorney-at-law licensed and admitted to practice in the state of Colorado, and he or she may be an employee of the Town or a contract attorney, at the sole discretion of the Town Council. The Town Council shall establish the compensation to be paid to the Town Attorney. The Town Attorney shall serve at the pleasure of the Town Council, and the Town Council may remove the Town Attorney at any time with or without cause. The Town Attorney may use associated counsel with the approval of the Town Council. The Town Council may also retain the services of special counsel for any matter and may, in its discretion, delegate any duty of the Town Attorney to such special counsel.

Section 7-2. Municipal Court.

There shall be a Municipal Court which shall have jurisdiction for all alleged violations of the Town ordinances. The Municipal Court shall have all jurisdiction as is provided under state statutes and rules promulgated by the Colorado Supreme Court. At the time of adoption of this Charter, the Municipal Court is not of record; however, the Council may create a court of record by ordinance at such time it deems appropriate.

Section 7-3. Municipal Judge.

The Town Council shall appoint a Municipal Judge for a two-year (2-year) term. The Municipal Judge may be removed during his or her term of office only for cause. A judge may be removed by a majority vote of the entire membership of the Town Council for cause if:

- (a) The judge is found guilty of a felony or any other crime involving moral turpitude; or
- (b) The judge has willfully or persistently failed to perform his or her duties; or
- (c) The judge has a disability which interferes with the performance of his or her duties, which disability is or is likely to become of permanent character.

The Town Council may appoint additional assistant or acting municipal judges as deemed appropriate from time to time. Municipal Judges shall be licensed to practice law in Colorado. Municipal Judges shall be compensated on a basis established by the Town Council provided that compensation shall not be based directly on the number of cases handled or heard by the Judge or the outcome of the same.

Section 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 this Charter, Town ordinances or state statute.

Section 7-5. Municipal Court Clerk.

The Town Manager may designate a person to perform the duties of Municipal Court Clerk.

ARTICLE 8 - BUDGET, FINANCE, INVESTMENTS AND TAXATION

Section 8-1. Fiscal Year.

The fiscal year of the Town shall be the calendar year.

Section 8-2. Contracts.

Except as otherwise prescribed by the Town Council, the Town Council shall approve all contracts for the Town. All employment or personal service contracts shall either terminate in one (1) year or less, unless authorized and a multi-year contract stipulates that the contract is subject to annual appropriation by the Town Council, or be terminable for the Town's convenience, with or without cause, unless otherwise provided by this Charter or by ordinance.

Section 8-3. Funds and Accounts.

The Town Council may establish such funds and accounts as necessary or convenient for the Town. Funds and accounts may be established by ordinance, resolution or by the annual budget.

Section 8-4. Proposed Budget and Message.

Prior to October 15th, or such other time as the Town Council may provide by ordinance, the Town Manager shall cause to be prepared and submitted to the Town Council a proposed budget and accompanying message. The proposed budget shall provide a financial plan for all Town funds and activities for at least the next fiscal year and, except as required by this Charter, shall be in such form as required by law.

Section 8-5. Budget.

The Town Council shall adopt an annual budget for the ensuing fiscal year. Such budget shall present a complete financial plan by fund and by spending agency within each fund and shall set forth the following:

- (a) All proposed expenditures for administration, operation, maintenance, debt service, and capital projects to be undertaken or executed by any spending agency during the fiscal year;
- (b) Anticipated revenues for the fiscal years;
- (c) Estimated beginning and ending fund balances;
- (d) The corresponding actual figures for the prior fiscal year and estimated figures projected through the end of the current fiscal year, including disclosures of all beginning and ending fund balances, consistent with the basis of accounting used to prepare the budget;
- (e) A written budget message describing the important features of the proposed budget, including a statement of the budgetary basis of accounting used and description of the services to be delivered during the fiscal year;
- (f) Explanatory schedules or statements classifying the expenditures by object and the revenues by source;
- (g) An estimate of the amount required to be raised from an ad valorem property tax levy; and
- (h) Such other information as the Town Council may require.

Section 8-6. Budget Hearing.

A public hearing on the proposed budget and capital program shall be held by the Town Council after receipt of the proposed budget. Notice of the time and place of such hearing shall be published at least one (1) time at least ten (10) days prior to the hearing and shall state that copies of the proposed budget and the proposed capital projects programs are available for public inspection in the office of the Town Clerk.

Section 8-7. Town Council Action on Budget.

- (a) Unless another date is provided by ordinance, the Town Council shall adopt the budget by resolution on or before the date provided by law for certification of the ad valorem property tax levy. If the Town Council fails to adopt the budget by the required date, the amounts appropriated for the current fiscal year, together with any additional amounts

necessary for payments of principal and interest on securities and other payment obligations, shall be deemed appropriated for the next fiscal year on a month-to-month basis, with all items in it prorated accordingly, until such time as the Town Council adopts the budget for that fiscal year.

- (b) The total of the proposed expenditures in the adopted budget shall not exceed the total of estimated revenues, including unappropriated cash reserves.
- (c) Adoption of the budget shall constitute appropriations of the amounts specified therein as expenditures from the funds indicated, and shall constitute a levy of the ad valorem property tax therein provided. The Town Council shall cause the ad valorem property tax levy to be certified as provided by law.

Section 8-8. Contingencies.

- (a) The budget may include a line item for contingencies.
- (b) Expenditures shall not be charged directly to contingencies except in those cases where there is no logical account to which an expenditure can be charged.

Section 8-9. Amendments After Adoption.

- (a) Supplemental Appropriations. If, during the fiscal year, the Town Manager certifies there are available for appropriation revenues in excess of those estimated in the budget or revenues not previously appropriated, the Town Council by resolution following a public hearing may make supplemental appropriations for the year up to the amount of such excess or unappropriated revenues.
- (b) Emergency Appropriations. To meet a public emergency affecting life, health, property or the public peace, the Town Council may make emergency appropriations. Such appropriations may be made by emergency ordinance in accordance with provisions of this Charter. To the extent that there are no available unappropriated revenues to meet such appropriations, the Town Council may by emergency ordinance authorize the issuance of emergency securities as provided in this Charter.
- (c) Reduction of Appropriations. If, at any time during the fiscal year, it appears probable to the Town Manager that the revenues available will be insufficient to meet the amount appropriated, the Town Manager shall report to the Town Council without delay, indicating the estimated amount of deficit and the Town Manager's recommendation as to any remedial steps to be taken. The Town Council shall then take such action as it deems necessary to prevent or minimize any deficit and for that purpose it may by resolution reduce one or more appropriations.
- (d) Transfer of Appropriations. Any time during the fiscal year, the Town Manager may, by written request, recommend the transfer of part or all of any unencumbered appropriation balance among programs within a fund, department, office or agency. The Town Council may by resolution transfer part or all of any unencumbered appropriation balance from one fund, department, office, agency or object to another.
- (e) Limitation - Effective Date. No appropriation for debt service may be reduced or transferred. The supplemental appropriations, emergency appropriations and reduction or transfer of appropriations authorized by this Section may be made effective immediately upon adoption.

Section 8-10. Administration - Payments and Obligations Prohibited.

Except for securities issued and payment obligations incurred pursuant to this Charter, no

payment shall be made or obligation incurred except in accordance with appropriations made pursuant to this Charter and unless the Town Manager first certifies that sufficient funds are or are estimated to be available to meet the payment or obligation when it becomes due and payable. Any authorization of payment or incurring of obligation in violation of the provisions of this Charter shall be void at the Town Council's discretion.

Section 8-11. Adoption of Property Tax Levy.

The Town Council shall adopt the property tax levy each year in time to have it certified to Routt County for collection. The property tax levy may be adopted by resolution or by ordinance. If the Town Council should fail to make such levy, the rate last fixed shall be the rate for the next ensuing fiscal year and shall be levied according to law and as set forth in Charter Section 8-7.

Section 8-12. Budget Control.

- (a) The Town Council shall require quarterly reports to be prepared for review by the Town Council showing the relation between budgeted expenditures and revenues, and the year's actual expenditures and revenues to date.
- (b) If it appears that revenues may be less than anticipated, the Town Council may reduce appropriations and amend the budget as necessary to avoid expenditures exceeding revenues and, in doing so, should prioritize essential services such as public safety, streets, water and sewer services, as possible.
- (c) During the year, the Town Council may make supplemental appropriations by resolution provided that revenues are available from unanticipated revenues, unappropriated fund balances, reserves, emergency reserves or other sources for such purpose.
- (d) The Town Council may authorize unappropriated fund balances, unencumbered appropriation balances or revenues to be transferred from one fund to another.
- (e) All supplemental appropriations, reduced appropriations or transfers shall be accomplished by a resolution approved by a minimum of four (4) members of the Town Council.
- (f) Annual expenditures shall not exceed appropriations on a fund basis.

Section 8-13. Audit.

The Town Council shall provide for an annual independent audit of the Town'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.

Section 8-14. Accounting Principles.

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

Section 8-15. Deposits and Investments.

The Town 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 Town or any fund, district or authority thereof may invest in the bonds or other securities of the Town or any fund, district or authority thereof. The Town Council may from

time to time adopt additional policies as deemed appropriate or necessary by resolution.

Section 8-16. Municipal Taxation.

Except for ad valorem taxes which may be adopted by resolution, the Town Council may adopt or increase municipal taxes by ordinance as long as those taxes or tax increases comply with the following conditions:

- (a) Such taxes or tax increases are subject to any applicable limitations in the Colorado Constitution, including any requirements for voter approval; and
- (b) Such taxes or tax increases are not prohibited for home rule municipalities by the Colorado Constitution.

Section 8-17. Authority to Acquire Property at Tax Sales.

In addition to any other power it has to acquire property, the Town is hereby authorized to purchase or otherwise acquire property on which there are delinquent taxes and/or special assessments. The Town may sell and dispose of any property acquired under this authority, provided approval for any such sale or disposal is accomplished by ordinance.

Section 8-18. Capital Improvements Plan.

- (a) The Town Council shall provide for the development and adoption of a capital improvements plan each year.
- (b) The plan shall be developed and adopted each year in time to be considered in the preparation and adoption of the Town's annual budget.
- (c) The plan shall at a minimum include significant capital improvement projects, planned or proposed, for the next five (5) years, including estimated costs and sources of revenue proposed to finance such improvements.
- (d) Such plan shall be utilized by the Town Council as a guide in drafting and adopting the annual budget.
- (e) The capital program shall include the estimated annual cost of operating and maintaining the facilities to be constructed or acquired.

Section 8-19. Forms of Borrowing.

The Town may, subject to any applicable limitations in the Colorado Constitution, borrow money and issue securities or enter into other obligations to evidence such borrowing in any form and in any manner determined by the Town Council to be in the best interests of the Town.

Section 8-20. 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 collect any securities, or the levy or collection of any assessments, or for any other relief against any acts or proceedings of the Town done under this Article, shall be maintained against the Town unless commenced within thirty (30) days after the performance of the act or the effective date of the ordinance or other action authorizing borrowing the money, or shall thereafter be forever barred.

Section 8-21. Enterprise Funds.

- (a) The Town Council may, subject to ordinance requirements and limitations, adopt ordinances providing for the establishment and operation of any enterprise deemed to be in the best interest of the Town.
- (b) Within this Article, enterprise refers to a government-owned business authorized to issue its own revenue bonds and receiving less than ten percent (10%) of its annual revenue in grants from all Colorado state and local governments combined.

Section 8-22. Competitive Bidding and Purchases.

The Council may establish, by resolution, procedures to ensure fair and competitive bidding and purchasing practices.

ARTICLE 9 - UTILITY DISTRICTS, FRANCHISES AND SPECIAL DISTRICTS

Section 9-1. Authorization.

- (a) The Town shall have the power to create local improvement districts, general improvement districts, special taxing districts, urban renewal authorities, housing authorities and other special districts and authorities as authorized by Colorado statutes for municipalities within or without or partly within or without the Town.
- (b) The Town shall also have the power to create districts and authorities similar to those referred to in Subsection (a) of this Section pursuant to provisions prescribed by ordinance subject to the provisions of this Charter, and to adopt policies by resolution regarding the establishment of any district.
- (c) 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 benefitted by such improvements by the Town.
- (d) Money may be borrowed to finance the construction, installation or acquisition of such improvements by borrowing money as provided for in this Charter, including securities secured by a pledge of assessments against the benefitted property in the District. Such obligations shall not require a vote of the electorate unless required by the Colorado Constitution.
- (e) The Town may also pay for such improvements out of monies available therefore from any appropriate fund or source and provide for repayment to the appropriate fund from collection of the assessments.
- (f) The Town 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 Town.

Section 9-2. Public 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 hearing shall be held with notice as may be required by the Hayden Municipal Code, as may be amended from time to time, or as otherwise provided by ordinance.

Section 9-3. Review of Improvement District Proceedings.

No action or proceeding at law or in equity to review or question the validity of any acts or proceedings, to enjoin the issuance or payment of any securities or levy or collection of assessments authorized by this Article or for any relief against any acts or proceedings of the Town done under this Article shall be maintained against the Town unless commenced within thirty (30) days after the performance of such act or the effective date of the ordinance or resolution complained of, or else be thereafter forever barred.

Section 9-4. Public Utility Franchises.

- (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 Town without obtaining a utility franchise or permit authorized by an ordinance adopted by the Town Council.
- (b) All franchise and utility permits shall be non-exclusive and shall not have a term longer than ten (10) years.
- (c) The Town shall have the power and authority within or without the Town to construct, condemn, purchase, acquire, lease, operate and maintain its own utilities, assets, equipment and everything in relation or in connection therewith and every utility franchise or permit granted by the Town shall be subject to the reserved right of the Town to acquire such utility by eminent domain.
- (d) All public utilities shall remain subject to the police power of the Town notwithstanding anything to the contrary in the franchise or permit.

Section 9-5. Franchise Records.

The Town Council shall cause to be kept in the office of the Town Clerk a franchise record in which shall be transcribed copies of all franchises granted by the Town. The record shall be a complete history of all such franchises and shall include a comprehensive and convenient reference to all actions at law affecting the same, and copies of all annual and inspection reports, and such other information as the Town Council may require.

Section 9-6. Existing Franchises.

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

Section 9-7. Town Utilities.

- (a) The Town shall have and exercise all the authority and powers provided by the Colorado Constitution, state statutes, and other applicable laws in any matter pertaining to Town-owned utilities, including water and water rights and acquisition thereof, and bonded indebtedness in connection therewith.
- (b) The Town Council shall from time to time fix, establish, maintain, and provide for the collection of rates, fees, and charges for water, sewer, and other utility services furnished by the Town.
- (c) Such rates, fees, and charges shall be sufficient in the Town Council's judgment to provide good service to the customers, pay all bonded indebtedness, pay legally required

refunds, cover the cost of operation, maintenance, additions, extensions, betterments, and improvements, provide a reasonable return on the Town's investment in utility properties and capital investments, and reimburse the general fund for administrative services and overhead provided and incurred by the Town on behalf of each utility, as allowed by the Colorado Constitution and other applicable laws.

- (d) Any right, privilege, permit or contract granted by the Town giving any right, permission or privilege to use Town water, the Town water system or Town sewer system shall always be subject to the most comprehensive oversight, control and management by the Town and such control is retained and reserved by the Town.

ARTICLE 10 - TOWN PROPERTY

Section 10-1. Town Streets, Alleys and Property.

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

Section 10-2. Conveyances of Town-Owned Real Property.

Acquisition and disposition of Town-owned real property and water rights shall be by motion. The Council shall dispose of street rights-of-way pursuant to state statute; provided, however that in no case may the Town convey an interest in a public street for compensation without first obtaining approval by the electors. The Council, by motion made and approved, may purchase, sell, exchange, receive by donation, enter into a lease, or dispose of any interest in real property including easements without the requirement of an election.

Section 10-3. Mineral Rights.

- (a) The Town shall have the right and power to buy, appropriate, sell, condemn, exchange, lease, own, control and otherwise deal in mineral rights, including the right to compel the dedication and conveyance of all mineral rights associated with real property as a condition precedent to obtaining or maintaining use or development rights or other municipal services from the Town.
- (b) The Council may adopt procedures to identify, document, and permanently record the ownership of all mineral rights associated with all property located within the Town. Nothing contained in this Section shall be construed as prohibiting the Council from adopting appropriate ordinances, which limit or prohibit the transfer or application of mineral rights associated with one parcel or development to another parcel or development.

Section 10-4. Water Rights.

- (a) The Town shall have the right and power to buy, appropriate, adjudicate, sell, condemn, exchange, lease, own, control and otherwise deal in water rights including the right to compel the dedication and conveyance of all water rights associated with real property as a condition precedent to obtaining or maintaining water or other municipal services from the Town.

- (b) The Council may adopt procedures to identify document, and permanently record the ownership of all water rights associated with all property located within the Town. Nothing contained in this Section shall be construed as prohibiting the Council from adopting appropriate ordinances, which limit or prohibit the transfer or application of water associated with one parcel or development to another parcel or development.

Section 10-5. Revocable Permits or Licenses.

The Town may grant a permit or license at any time for the temporary use or occupation of any street, alley, other public way, or Town-owned place. With the exception of a franchise otherwise granted by ordinance or resolution pursuant to Article 9 of this Charter, any such permit or license shall be revocable by the Town at any time and without cause, whether or not such right to revoke is expressly reserved in the permit, license or agreement.

Section 10-6. Eminent Domain.

Notwithstanding provisions of this Article to the contrary, the Town shall have the right of eminent domain, within or without its corporate limits as provided by the constitution and laws of the state of Colorado. No real property or interest therein acquired by the Town by eminent domain may be conveyed or leased for a period of five (5) years after the date of its acquisition unless to the United States, the state of Colorado, Routt County, a special district or school district created pursuant to the laws of this State, or a political subdivision, department or agency thereof.

ARTICLE 11 - BOARDS AND COMMISSIONS

Section 11-1. Existing Boards and Commissions.

All Boards and Commissions, in existence on the effective date of this Charter, shall continue as established, except as otherwise provided by ordinance or this Charter.

Section 11-2. General Provisions.

The Town Council may establish Boards and Commissions and provide for their powers and duties, and the Town Council may consolidate, merge, or abolish any Board or Commission. Further, the Town Council may establish temporary Advisory Commissions for advising the Town Council with regard to a specific matter or for accomplishing specific tasks. The establishment, consolidation, merger, or abolishment of any Boards or Commissions shall be accomplished by ordinance or resolution. The ordinance or resolution establishing a Board or Commission shall provide for any required qualifications of Board and Commission members, the terms of office for such members and the method of appointment. Members of Boards or Commissions shall be removable by a majority vote of the Town Council. The ordinance or resolution creating a temporary Advisory Commission shall describe the advice to be provided to the Town Council or the task to be accomplished by the temporary Advisory Commission. Unless otherwise provided by the establishing ordinance or resolution, the Town Council shall make appointments to fill vacancies for unexpired terms. Unless otherwise provided by this Charter or the establishing ordinance or resolution, each Board and Commission shall choose its own chairperson from its members and adopt and follow its own rules of procedure. All meetings of Boards and Commissions shall be open to the public. Copies of all records of all meetings

shall be kept and placed in the office of the Town Clerk for public inspection. Reports shall be made to the Town Council as the Town Council shall require. Members of Boards and Commissions may be paid, if such pay is established by ordinance, and they may be reimbursed for their reasonable expenses. A majority of any Board or Commission shall constitute a quorum. A vote of a majority of a quorum shall be a vote of the Board or Commission; provided, nothing herein shall preclude the Town Council or a Board or Commission from requiring a greater number of affirmative votes in certain instances.

ARTICLE 12 - TRANSITION PROVISIONS

Section 12-1. Purpose of Transitional Provisions.

The purpose of this Article is to provide for an orderly transition from the present Town government to the Home Rule government under the provisions of this Charter.

Section 12-2. Effective Date of Charter.

This Charter shall become effective immediately upon its filing and recording with the Colorado Secretary of State following an election at which the Charter is approved by a majority of the votes cast by the registered electors of the Town voting at such election.

Section 12-3. 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. The adoption of this Charter shall not be interpreted to affect any contract previously entered into by the Town.

Section 12-4. Existing Ordinances and Regulations.

- (a) All ordinances, resolutions, rules and other regulations of the Town 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 Town Council shall proceed with due diligence after the adoption of this Charter to make the necessary amendments or repeals to bring Town ordinances of a general and permanent nature consistent with this Charter.
- (b) To the maximum extent permitted by law, any ordinance, resolution, or other official action taken by the Town prior to the effective date of this Charter shall be deemed to have taken place under the authority of this Charter. Without limiting the preceding sentence, to the extent that the Town's home rule authority cannot legally be extended retroactively to apply to any particular ordinance or resolution, then, and only then, all such ordinances or resolutions which would otherwise be deemed wholly or partially invalid if enacted under the authority of a statutory town are hereby reenacted under the authority of this Charter as of the effective date hereof.

Section 12-5. Town Council.

The Mayor and Trustees of the Board of Trustees in office upon the effective date of this Charter shall thereafter become the Mayor and Councilmembers of the Town Council and shall serve as

such for the remainder of the term for which they were elected. Upon the expiration of those terms, the Mayor and Councilmembers shall be elected as provided in this Charter. All references to the Board of Trustees and the Mayor in any ordinance, resolution or regulation, contract or other documents shall be construed to include the Mayor and the Town Council after the effective date of this Charter.

Section 12-6. Employees and Independent Contractors.

The adoption of this Charter shall not affect the status of any employees or independent contractors currently under contract or employment by the Town.

ARTICLE 13 - MISCELLANEOUS PROVISIONS

Section 13-1. 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.

Section 13-2. Seal.

The Town Council shall provide for a Town seal.

Section 13-3. Interpretation.

- (a) Except as otherwise specifically provided or indicated by the context hereof, all words used in this Charter indicating the present tense shall not be limited to the time of the adoption of this Charter but shall extend to and include the time of the happening of any event or requirement for which provision is made herein. The singular shall include the plural, the plural shall include the singular and the masculine shall extend to and include the feminine and “person” may extend to and be applied to bodies politic, corporate partnerships, corporations, associations and individuals.
- (b) If the last day of any period required to be computed under this Charter is a Saturday, Sunday, or Town holiday, the period shall be extended to include the next day which is not a Saturday, Sunday, or Town holiday.
- (c) The titles and subheadings herein are for convenience and reference only and shall not be construed to limit, describe or control the scope or intent of any provision hereof.
- (d) References to state statutes shall be interpreted to include any successor provisions of the same.

Section 13-4. Emergency Powers and Line of Succession.

The Town Council may, by ordinance, provide for emergency powers and a line of succession in case of riot, insurrection, disaster or extraordinary emergency.

ARTICLE 14 - DEFINITIONS

Section 14-1. Definitions.

The following definitions shall apply as used in this Charter:

- (a) “**Ad valorem tax**” means only the general property tax levied annually on real or personal property listed with the assessor of Routt County, Colorado.
- (b) “**Appropriation**” means the authorized amount of monetary funds designated for expenditure during a specified time for a specified purpose, usually as an appropriation of funds in the Town budget or amendment thereto.
- (c) “**Board or Commission**” or “**Board and Commission**” means the boards and commissions established by this Charter or ordinances.
- (d) “**Clerk**” means the Town Clerk of the Town of Hayden or such office designation as may be used in place of the office of Town Clerk.
- (e) “**Councilmember**” means each member of the Town Council, whether appointed or elected, except as provided otherwise in this Charter. “Councilmember” does not include the Mayor.
- (f) “**Elected Officer**” means each Councilmember and the Mayor, whether elected or appointed.
- (g) “**Emergency ordinance**” means an ordinance which, in the opinion of the Town Council is necessary for the immediate preservation of the public property, health, welfare, peace and safety.
- (h) “**Employee**” means each compensated person in the service of the Town who is designated as an employee in the personnel code or applicable rules and regulations of the Town.
- (i) “**Entire Council**” means all of the members of the Town Council, whether appointed or elected, including the Mayor, provided for in Article 2.
- (j) “**Finance Director**” means the Finance Director or Treasurer of the Town of Hayden, or such office designation as may be used in place of the office of Finance Director.
- (k) “**Franchise**” means a right conferred by the Town (such as to a public utility) to use public property for public use but for private profit.
- (l) “**Initiative**” means the power of the registered electors of the Town of Hayden to propose to the Town Council, in accordance with the provisions of this Charter, certain ordinances for adoption by the Town Council which, if not adopted by the Council, shall be submitted to a vote of the registered electors of the Town for acceptance or rejection, in accordance with the provisions of this Charter.
- (m) “**Manager**” means the Town Manager of the Town of Hayden appointed by the Town Council.
- (n) “**Mayor**” means the Mayor of the Town of Hayden elected by the electors of the Town at-large (or appointed to fill a vacancy) who shall be a member of the Town Council and have all rights, powers and privileges as a Councilmember, including the right to vote. The Mayor shall preside at meetings of the Town Council.
- (o) “**Newspaper**” means a newspaper of general circulation in the Town which meets the requirements for a legal newspaper as established in the state statutes.
- (p) “**Notice**” means that notice may be provided to the public as prescribed by this Charter and/or by ordinance by any or all means and methods of communication.
- (q) “**Publication**” means:
 - (1) Publication in a newspaper of general circulation within the Town; or
 - (2) Publication by electronic means and methods, including the Town’s internet location;

or

- (3) Posting in at least (2) locations in Town as provided by ordinance.
- (r) **“Referendum”** means the power of the registered electors of the Town of Hayden to request that the Town Council reconsider certain ordinances adopted by the Council as provided in this Charter; and, if the Council fails to repeal such ordinances, to require that the Council submit the referred ordinances to a vote of the registered electors of the Town for approval or rejection, in accordance with the provisions of this Charter.
- (s) **“Referral”** any question referred to the electorate of the Town pursuant to Section 6-8 hereof and applicable state statutes.
- (t) **“Registered Elector”** means an elector who has registered in compliance with the provisions for registration to vote as provided in the state statutes.
- (u) **“Regular Election”** or **“Regular Municipal Election”** means a Town election held pursuant to Article 5.
- (v) **“Resolution”** means an expression of an administrative or a ministerial act of the Town Council without any required form or procedure, as distinguished from legislative acts embodied in Town ordinances.
- (w) **“Special Election”** or **“Special Town Election”** means a Town election held at a time other than a regular election.
- (x) **“Town Council”** or **“Council”** means six (6) Councilmembers (or such fewer number as may in office at the time) and the Mayor, whether such officers are appointed or elected.