

**CITY OF GUNNISON
MUNICIPAL HOME RULE CHARTER**

Adopted at Special Election July 10, 1962

AMENDED:

- May 11, 1965: Sections 3.7, 11.14 H & I
- May 31, 1967: Section 8.1
- May 31, 1973: Sections 2.11, 2.12, 2.14, 3.18, 3.19, 4.1, 6.3 & 8.3
- May 10, 1977: Section 3.19
- May 8, 1979: Section 3.17
- May 21, 1981: Sections 2.6, 2.9, 2.11, 2.14, 3.6, 3.7, 3.9, 3.13, 3.19, 4.3, 4.4, 4.7, 4.14, 5.7, 5.8, 6.7, 6.10, Article VIII, 10.2, 10.3, 10.4 & 10.5
- May 10, 1983: Article VI Section 6.10, Article VIII Section 8.8, Article X Section 11.5
- May 14, 1991: Article II Sections 2.8, 2.12, 2.15, 3.6, 3.12, 3.13, 3.16, 3.18, Article IV Section 4.2, 4.9, 4.10, Article V Sections 5.2, 5.5, 5.7, Article VI Section 6.4, 6.11, Article X Sections 10.2, 10.10, Article VII Sections 7.2, 7.3, 7.5, 7.6
- May 9, 1995: Article II, Section 2.2
Article II, Section 2.8
Article III, Section 3.22
- May 8, 2001: Article VI, Section 6.5
Article VII, Section 7.12

**CITY OF GUNNISON
MUNICIPAL HOME RULE CHARTER**

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PREFATORY SYNOPSIS

The Gunnison Charter Convention was elected March 20, 1962, under the authority and method set out in Article XX of the Constitution of Colorado. The 21 members of the Convention were charged with the responsibility of drawing up a document in which would be prescribed the form and substance of Home Rule Government for the City of Gunnison.

Two objectives of the members of the Charter Convention have been:

- First That the Charter must reserve to the people of the City of Gunnison absolute right and power of self-government under the Home Rule Provisions of the Constitution;
- Second That the Charter must ensure the orderly and economical management of City Government guided and controlled by the people through their elected representatives.

To accomplish these objectives, the Charter provides for the Council-Manager form of City Government.

The policy-making, legislative, and budget making powers are vested in five Councilmen elected by popular vote from the City at large. Provisions are made for the recall of elected officers and for control of legislation by the people through initiative and referendum.

The rights of the people with respect to franchises are carefully safeguarded.

The power to create and control necessary Boards and Commissions is vested in the Council.

The administrative officer of the City will be a City Manager, appointed by the Council on the basis of his administrative abilities. Provision is made in the Charter for the removal of the City Manager at the pleasure of the Council.

The City Manager will prepare a budget, but final approval and adoption of such budget and all appropriations of City funds will remain in the hands of the Council. The acts of the City Manager will be subject to review by the Council.

To preserve the independence of the judicial arm of government, provision is made that the Municipal Judge will be appointed by the Council, subject to removal at any time by the Council.

Provision is made in the Charter, pending approval by the City electorate on July 10, 1962, for the Charter to go into effect as the governing document of the City of Gunnison on August 1, 1962. Further provision is made for the incumbent Councilmen – five in number, including four Councilmen and Mayor – to continue to serve as Councilmen for the City of Gunnison during the transition period between August 1, 1962 through May 20, 1963.

The newly elected Council shall take office on May 20, 1963, following the first election provided for under the Provisions of this Charter on May 14, 1963.

Members of the Charter Convention believe incumbent Councilmen, experienced in City Government, can carry into effect the Provisions of this Charter through the transition months – August, 1962 - May, 1963 – better than five newly elected Councilmen who would be chosen at a special election. Further, the expense of a special election would be unnecessary.

Charter Convention members have attempted to design this Charter to best meet the continuing needs of the City of Gunnison, and its projected growth during the coming years. They make no claims to pre-

senting a document that will stand impervious to possible unforeseen requirements of future citizens, and thus, have provided a method to amend this Charter by popular vote. In putting together this Charter, Convention members have worked earnestly and long. In the process the opinions and views of many people have been secured and detailed studies of other Charters carried on.

The members of the Charter Convention believe this Charter will provide the basic law upon which the citizens of Gunnison may build a sound and progressive City Government.

PREAMBLE

We, the people of the City of Gunnison, Colorado, in order to promote the general welfare of our community and to exercise the rights, privileges, and responsibilities of self-government granted to us under the authority of the Constitution of the State of Colorado, do ordain and establish this Home Rule Charter for the City of Gunnison, Colorado.

ARTICLE I
GENERAL PROVISIONS

Section 1.1 Name and Boundaries:

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

Section 1.2 Powers, Rights and Liabilities:

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

The City shall have all the power of local self-government and home rule and all the power possible for a City to have under the Constitution of the State of Colorado. The City shall also have all powers that now or hereafter may be granted to municipalities by the laws of the State of Colorado, and the enumeration of particular powers in this Charter is not exclusive of others. All such powers shall be exercised in the manner prescribed in this Charter or, if not provided for herein, in such manner as shall be provided by ordinance of the Council of the City. All ordinances of the City of Gunnison in force at the time this Charter goes into effect shall continue in force except insofar as they may conflict with the Provisions of this Charter or shall be amended or repealed by ordinances enacted under the authority of this Charter.

Section 1.3 Form of Government:

The municipal government provided by this Charter shall be known as the “Council-Manager Government.” Pursuant to its provisions and subject only to the limitations imposed by the State Constitution and by this Charter all powers of the City shall be vested in an elective Council.

ARTICLE II ELECTIONS

Section 2.1 Applicability of State Constitution:

The Council shall provide by ordinance for the manner of holding City elections and such additional regulations in respect to elections as may be necessary to accomplish the intent of this article.

- A. The Colorado Municipal Election Law, and any amendments thereto, heretofore or hereafter adopted and then in force shall prevail, except those provisions which are inconsistent with this Charter.

Section 2.2 Elective Officers and Terms of Office:

The elective officers of the City shall be five Councilmen, all of whom shall be nominated and elected from the City at large. At each regular City election there shall be elected three Councilmen and such additional number as may be required to fill vacancies pursuant to the provision of Section 4.7. The two receiving the highest number of votes shall be elected for a term of office of four years. The one receiving the third highest number of votes shall be elected for a term of office of two years. A number equal to the number of vacancies being filled (if any) who shall receive the next highest numbers of votes in order shall be elected for a term of office of two years.

- A. The terms of office for Councilmen shall commence on the Monday next following the regular City or special election at which they are elected.
- B. Elections shall be non-partisan. There shall be no partisan designations affixed in any way or manner to any candidate for the office of City Councilman.
- C. The term limit of the office of a City Council Member is limited to no more than twelve (12) consecutive years, commencing with terms of office beginning May 12, 1987.

Section 2.3 City at Large; Voting Precinct:

The City of Gunnison shall consist of one ward. The voting precinct of the City shall consist of one until changed by the Council as hereinafter provided. The Council shall by resolution from time to time establish convenient voting precincts in accordance with this Charter and statutes.

Section 2.4 Election Date:

A regular City election shall be held on the second Tuesday in May of each odd numbered year, with the first regular City Election following adoption of this Charter to be held May 14, 1963. Special City elections shall be held in accordance with the provisions of this Charter.

Section 2.5 Special Elections:

Special City elections shall be held when called by resolution of the Council at least 30 days in advance of such election, or when required by this Charter or statute. Any resolution calling a special election shall set forth the purpose of such an election.

Section 2.6 Notice of Election:

The City Clerk shall prepare a list of candidates whose names are entitled to appear on the ballot, with the name of the office to be filled, and shall publish the same as an official notice. Official notice shall be in the same size and form as the official ballot. Publication shall be in a newspaper of general circulation of the City of Gunnison for three consecutive weekly publications immediately preceding the election.

Section 2.7 Voting Hours:

The polls shall be kept open on election day from 7:00 A.M. to 7:00 P.M.

Section 2.8 Nominations:

Any person who is qualified for the office to be filled may be nominated for an elective office by petition. A petition for this purpose shall be signed by not less than twenty-five qualified electors for each candidate to be elected. A qualified elector may sign petitions for as many persons as there are offices to be filled by election. The petition of each person nominated shall be preserved by the election authorities until the expiration of the term of office for which he has been nominated. All nominating petitions for the office of City Council member must be filed, together with verified acceptance of the nominee, with the City Clerk no more than sixty days nor less than thirty-two days before the election; and that a person who has been nominated may, not later than thirty-two days before the election, withdraw by filing a written request with the City Clerk.

Section 2.9 Election Commission:

An Election Commission is hereby created, consisting of the City Clerk and two qualified electors of the City, who during their term of office shall not be elected officials or employees or candidates or nominees for elected City office. These two members shall be appointed by the Council from July 1 following a regular City election for a term of two years, and shall serve without compensation.

The City Clerk shall be chairman. The Election Commission shall appoint the Board of Election judges and clerks for each voting precinct and have charge of all activities and duties required of it by statute and this charter relating to the conduct of elections in the City. In any case where election procedure is in doubt, the Election Commission shall prescribe the procedure to be followed.

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

Section 2.10 Form of Ballots:

The Election Commission may cause official ballots to be printed, bound, numbered, and authenticated, as required by this Charter or by ordinance. Ballots shall be printed on paper of uniform size, quality and color, and in the same kind of type and same color ink, and shall be so arranged that the voters can easily make their selections.

The ballot shall contain but one list of candidates, listed alphabetically on the ballots for both full regular terms and parts of terms to fill vacancies. There shall be as many blank spaces on the ballot for voters to write in other names as there are offices to be filled. Space on the ballot shall be provided for Charter Amendments and other measures to be voted on. All such questions shall be so worded that a vote "FOR" shall cause a change in the provisions of the Charter, or the then existing ordinances. For measures limited to taxpaying electors, a separate ballot shall be used. Nothing on the ballot shall indicate the source of support of candidacy nor any party or political designation or anything to indicate views or opinions of any candidate.

Section 2.11 Election Procedure:

If voting is by paper ballots, four (4) hours prior to the time of the closing of the polls, the counting judges shall begin counting the ballots, and if voting is by machines, immediately upon closing the polls and after all electors have departed from the polls, the counting judges shall unlock the voting machines and count the votes. Within twelve hours after closing the polls, the judges shall certify the number of votes and the election results to the City Clerk and deliver to him all used and unused ballots and elections supplies and records. It shall be his duty to preserve the used ballots for not less than one year after the election.

- A. The Election Commission shall meet as a canvassing board on the third day after every City election and canvass the vote. The Election Commission shall determine the total number of legal votes cast for each candidate and measure voted upon and file a certificate with the City Clerk declaring the

results of the election. The candidates receiving the highest numbers of votes, so far as there are full regular terms to be filled, shall be declared elected to those terms.

- B. If there is a vacancy term or terms to be filled, then the candidate or candidates having the next highest number of votes, so far as there are vacancy terms to be filled, shall be declared elected. In the event of a tie, the selection shall be made by the Election Commission by lot after notice to the candidates affected.

Section 2.12 Judges and Clerks:

The Election Commission shall, not less than twenty (20) days before any general City election, appoint such clerks, judges, and counting judges as may be necessary to serve in each voting precinct until the next general City election. Such judges and clerks shall be qualified electors in the voting precinct. The election Commission shall fill all vacancies for election clerks or judges.

- A. Judges and clerks of election and other election personnel shall receive compensation as may be set in advance of an election by the Council on recommendation of the Election Commission.

Section 2.13 Informalities:

No informalities in conducting City elections shall invalidate the same, if they have been conducted fairly and in substantial conformity with the requirements of this Charter.

Section 2.14 Qualification of Municipal Electors: Registration:

Every person over the age of eighteen (18) years of age or older possessing the following qualifications shall be entitled to vote at all municipal elections:

- A. He shall be a citizen of the United States.
- B. He shall have resided in the City thirty-two (32) days and in the election precinct fifteen (15) days, if more than one election precinct.

An otherwise qualified and registered voter who removes from the voting precinct where registered, within fifteen (15) days prior to any regular or special election, shall be permitted to cast his ballot for such election at the polling place in the voting precinct where registered.

At any time up to and including the thirty-second day before a municipal election, any qualified voter may register at the office of the City Clerk, or at the office of the Gunnison County Clerk, or before persons authorized by Council at branch registration offices open at such times and at such locations as the Council may, by resolution, determine. Registration may be otherwise in the manner and in such form as set forth by the Colorado Municipal Election Laws in force at that time.

The name of the voter once registered shall remain on the registration list until removed as follows:

- A. At any time until and including nine (9) days before any election any qualified elector may file a verified complaint with the judge of the municipal court giving the name or names of any person or persons whom he believes to be illegally registered, with his reasons therefor. Immediately upon receipt of such complaint, the municipal judge shall issue and provide for delivery a summons to each of the persons mentioned in the verified complaint, which shall command attendance at a hearing before him. If upon hearing, to be held within five (5) days of the filing of such complaint, the municipal judge finds that any such person has been illegally registered, the name of such person shall be stricken from the registration list. That person shall immediately be notified of this action by letter.

Section 2.15 Recall:

Any incumbent of an elective office may be removed from office by the qualified electors of the City after he has held office for six months. A petition demanding the recall of the officer sought to be

removed and signed by qualified electors equal in number to at least twenty-five percentum of the total number of votes cast for the office that is being recalled, to conform with Article XXI of the State Constitution, shall be addressed to the Council and delivered to the City Clerk not less than five nor more than thirty days after the affidavit making charges against said officer has been filed. Each elector signing the petition shall write his home address after his name. Said petition may be in sections of one or more sheets fastened securely at the top and upon each section of the petition shall be written or printed a copy of the charges previously filed with the City Clerk. One of the electors signing each section shall append thereto his affidavit that each signature written thereon is the genuine signature of the person whose name it purports to be and that the affiant has not and will not receive any compensation for obtaining the signature. All sections of the petition shall be filed as one instrument, with the endorsement of the names of three persons designated as filing same.

- A. Provided, however, that prior to the filing of any recall petition one or more qualified electors shall file with the City Clerk an affidavit of not more than three hundred words stating the reasons for the recall of the officer sought to be removed.
- B. The City Clerk shall, within forty-eight hours after the filing of said affidavit mail a copy by registered mail to the officer sought to be recalled who may file with the City Clerk a sworn statement in defense of any charges made against him.
- C. Within ten days of the filing of said petition, the City Clerk shall ascertain by examination of the petition and the registration books whether the petition is signed by the requisite number of qualified electors and shall attach thereto his certificate showing the result of such an examination. If the petition is insufficient he shall forthwith in writing, notify one or more persons designated on the petition as filing the same. The petition may be withdrawn and amended within twenty days from the filing of the certificate. The City Clerk, within five days after such amendment, shall make like examination of the amended petition and attach thereto his certificate of the result. If the petition is still insufficient, he shall return it to one of the persons designated thereon as filing it, without prejudice to the filing of a new petition for the same person.
- D. If the petition or amended petition is found sufficient, the City Clerk shall submit the same with his certificate to the Council without delay and the Council, if the officer sought to be removed does not resign within five days thereafter, shall order an election. There shall be printed on the official ballot, as to every officer whose recall is to be voted on the works: "Shall (name of person against whom the recall petition is filed) be recalled from the office of (...)" Following such question shall be the words "Yes" and "No" on separate lines, with a blank space at the right of each, in which the voter shall indicate, by marking a cross (x), his vote for or against such recall.
- E. On such ballots, under the question, there shall be printed the names of those persons who have been nominated as candidates to succeed the person sought to be recalled; but no vote cast shall be counted for any candidate for such office, unless the voter also voted for or against the recall of such person sought to be recalled from said office. The foregoing sentence or instructions shall be printed on the ballot. The name of the person against whom the petition is filed shall not appear on the ballot as a candidate for the office. If the majority of those voting on said question of the recall of any incumbent from office shall vote "NO," said incumbent shall continue in said office; if a majority shall vote "YES," such incumbent shall thereupon be deemed removed from such office upon the qualification of his successor.
- F. Such election shall be held on a Tuesday fixed by the Council not less than forty-five days nor more than sixty days from the date that the City Clerk's said certificate was filed; provided that if any other City election is to occur within ninety days from the date of the City Clerk's certificate, the Council shall postpone and consolidate the recall election with such other City elections.

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- G. If a vacancy occurs in said office after a recall election as been ordered, the election to fill the vacancy shall nevertheless proceed as in this article provided.
 - H. No person who has been recalled or has resigned while recall proceedings were pending against him shall serve the City in any capacity within two years after such removal or resignation.
 - I. Any qualified elector desiring to become a candidate at the recall election shall do so by petition as required by the article on the elections hereof, which petition if presented to the City Clerk at least twenty days before said election shall entitle him to have his name placed on the ballot. Notice of election shall be given as provided in the article of this Charter relating to elections.

**ARTICLE III
ORGANIZATION OF GOVERNMENT**

Section 3.1 The City Council:

The City council shall consist of five members, one of whom shall serve as Mayor as provided in Section 3.4. The Council shall constitute the legislative and governing body of the city and shall have power and authority, except as otherwise provided in this Charter or by statute, to exercise all powers conferred upon or possessed by the City, and shall have the power and authority to adopt such laws, ordinances, and resolutions as it shall deem proper in the exercise thereof.

Section 3.2 Qualifications of Councilmen:

Members of the Council shall meet the eligibility requirements contained in Section 4.1 of this Charter. The Council shall be the sole judge of the election and qualifications of its own members, subject only to review by the Court.

Section 3.3 Compensation of Mayor and Councilmen:

The members of the Council shall receive such compensation as the Council shall by ordinance prescribe; provided however, they shall neither increase nor decrease the compensation of any member during his term of office except members of the Council whose terms do not expire at the next regular City election, who shall receive the same salary as that provided for incoming members, for the remainder of their term of office. The Mayor and Councilmen may, upon order of the Council, be paid such necessary bona fide expenses incurred in service on behalf of the city as are authorized and itemized.

Section 3.4 Election of Mayor; Mayor Pro Tem:

The Council shall, at its first meeting following each regular City election, and after the newly elected members take office, elect one of its members to serve as Mayor and one to serve as Mayor Pro Tem; both for a term expiring at the first Council meeting following each regular City election. Such election shall be by written ballot and by majority of the members of the council in office at the time. In the event of absence or disability of both the Mayor and Mayor Pro Tem, the Council may designate another of its members to serve as Acting Mayor during such absence or disability.

Section 3.5 Duties of Mayor:

- A. Insofar as required by statute, and for all ceremonial purposes, the Mayor shall be the executive head of the city. He shall have a voice in all proceedings of the Council equal with that of other members of the Council but shall have no veto power. He shall be the presiding officer of the Council.
- B. The Mayor shall be a conservator of the peace, and in emergencies may exercise, within the City, the powers conferred by the Governor of the State of Colorado for purposes of military law, and shall have the authority to command the assistance of all able-bodied citizens to aid in the enforcement of the ordinances of the city and to suppress riot and disorder.
- C. The Mayor shall execute and authenticate by his signature such instruments as the Council, this Charter, or any statutes of the State of Colorado, or laws of the United States shall require.

Section 3.6 Administrative Services:

The administrative officers of the City shall be the City Manager and Director of Finance and City Clerk, and such additional administrative officers as may be created by ordinance. The Council may, by ordinance, combine any administrative offices in any manner it deems necessary or advisable for the proper and efficient operation of the City. The City Manager shall be appointed by the Council for an indefinite period, and shall be responsible to and serve at the pleasure of the Council and shall have his compensation fixed by the Council. All administrative officers of the City, except the City Manager, shall be appointed by the City Manager for an indefinite period. The appointment of Director of Finance and City Clerk shall be subject to confirmation by the Council. Such officers shall be responsible to the City Man-

ager and shall have their compensation fixed by the Council. Such officers, except the Director of Finance and City Clerk, may be discharged by the City Manager without confirmation by the Council. Except as may be otherwise required by this Charter, the Council shall establish by resolution such departments of the City as it deems necessary or advisable and shall prescribe therein the functions of each department and the duties, authorities, and responsibilities of the officers of each department.

The City Manager may prescribe such duties and responsibilities of the officer of those departments responsible to him which are not inconsistent with this Charter or with any resolution or ordinance. All personnel employed by the city who are not elected officers of the city or administrative officers by or under authority of this Charter shall be deemed to be employees of the City. The head of each department shall have the power to hire, suspend or discharge the employees of his department, with confirmation by the City Manager.

Section 3.7 City Manager, Appointment and Qualifications:

The Council shall appoint a City Manager within one hundred eighty (180) days after any vacancy exists in such position. The City Manager shall hold office at the pleasure of the majority of the Council. He shall be selected solely on the basis of his executive and administrative qualifications, with special reference to his actual experience in and his knowledge of accepted practice in respect to the duties of his office as hereafter set forth.

Section 3.8 City Manager, Functions and Duties:

The City Manager shall be the chief administrative officer of the City. He shall be held responsible to the City Council for the following functions and duties, any of which may be delegated at his discretion:

- A. For the efficient administration of all administrative departments of the City;
- B. To see that all laws and ordinances are enforced;
- C. To appoint the heads of the several City departments whose appointment is not otherwise specified in this Charter, and to direct and supervise such department heads;
- D. To give to the proper department or officials ample notice of the expiration or termination of any franchise, contracts or agreements;
- E. To see that all terms and conditions imposed in favor of the city or any of its inhabitants in any public utility franchise, or in any contract, are faithfully kept and performed;
- F. To recommend an annual budget to the Council and to administer the budget as finally adopted under the policies formulated by the Council, and to keep the Council fully advised at all times as to the financial conditions of the City;
- G. To recommend to the Council for adoption such measures as he may deem necessary or expedient; and to attend Council meetings with the right to take part in discussions but not to vote;
- H. To exercise and perform all administrative functions of the city that are not imposed by this Charter or ordinance upon some other official;
- I. To be responsible for the maintenance of a system of accounts of the city which shall conform to generally accepted principles and procedures of governmental accounting. He shall submit financial statements to the Council quarterly, or more often as the Council directs;
- J. To act as Purchasing Agent for the city and in such capacity to purchase all supplies and equipment and dispose of same in accordance with procedures established by the Council;

- K. To establish, subject to approval by the Council, appropriate personnel rules and regulations governing officers and employees of the City;
- L. To perform such other duties as may be prescribed by this Charter or required of him by ordinance or by direction of the Council.

Section 3.9 Acting City Manager:

The City Manager shall designate immediately upon his appointment a qualified City employee to perform his duties during his temporary absence or disability. Such designation shall be made by letter and filed with the Director of Finance. If he fails to make such designation, the Council may, by resolution, appoint a qualified City employee to perform the duties of City Manager until he shall return. In the event the position of City Manager becomes vacant, the Council may appoint an Acting City Manager for not more than one hundred eighty (180) days. Such Acting City Manager shall, while he is in such office, have all the responsibilities, duties, functions, and authority of the City Manager.

Section 3.10 Removal of the City Manager:

The City Manager shall be appointed for an indefinite term which may be terminated by a majority vote of the City Council. Upon such termination, the Council may in its discretion provide termination pay.

Section 3.11 Relationship of Council to Administrative Services and Departments:

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

Section 3.12 Director of Finance; Appointment; Powers and Duties:

The City Manager shall appoint a Director of Finance subject to confirmation by the Council. The City Manager may also appoint a deputy or deputies, subject to confirmation by the council, to serve under the supervision of the Director of Finance, who shall have authority to act in the absence of the Director of Finance.

The Director of Finance's functions and duties shall be:

- A. To have custody of all monies of the City, and all evidences of indebtedness belonging to the City or held in trust by the City;
- B. To collect all monies of the City, the collection of which is not provided for elsewhere by this Charter or ordinance; to receive from other officers and employees of the City all monies belonging to and receivable by the City that may be collected by such officers and employees, including fines, fees, taxes, assessments, and all other charges;
- C. To keep and deposit all monies or funds in such a manner and only in such places as Council may determine and to report the same in detail to the City Manager;
- D. To disburse all City funds in accordance with the provisions of statute, this Charter, and procedures which may from time to time be established by the Council;
- E. To perform such other duties as may be prescribed by him by this Charter, by the Council, or by the City Manager;
- F. To prepare all financial statements for the City of Gunnison as required by this Charter.

Section 3.13 City Clerk; Appointment; Power and Duties:

The City Manager shall appoint a City Clerk, subject to confirmation by the Council. The City Manager may also appoint a deputy or deputies, subject to confirmation by the Council, to serve under the supervision of the City Clerk, who shall have authority to act in the absence of the City Clerk.

The City Clerk's functions and duties shall be:

- A. To administer oaths and take acknowledgements under the seal of the City;
- B. To attend all meetings of the Council and keep a permanent journal of all proceedings in the English language;
- C. To act as custodian of the City seal and to affix it to all documents and instruments requiring the seal, and to attest the same;
- D. To act as custodian of all papers, documents, and records pertaining to the City, the custody of which is not otherwise provided for;
- E. To certify by his signature all ordinances and resolutions enacted or passed by the Council;
- F. To provide and maintain in his office a supply of forms for all petitions required to be filed for any purpose by the provisions of the Charter;
- G. To conduct and administer all municipal elections under the provisions of State Law and Gunnison City Charter.

Section 3.14 Attorney; Functions and Duties:

The Attorney shall be appointed by, act as legal advisor to, and be attorney and counsel for the Council, and shall be responsible solely to the council. His functions and duties shall be:

- A. To advise any officer or department head of the City in matters relating to his official duties when so requested and shall file with the Director of Finance a copy of all written opinions given by him;
- B. To prosecute ordinance violations and to conduct for the City, cases in court and before other legally constituted tribunals. To file with the Director of Finance copies of such records and files relating thereto as the Council may direct;
- C. To prepare or review all ordinances, contracts, bonds and other written instruments which are submitted to him by the Council and City Manager and shall promptly give his opinion as to the legal consequences thereof;
- D. To call to the attention of the Council all matters of law, and changes or developments therein affecting the City;
- E. To perform such other duties as may be prescribed for him by this Charter or by the Council.

Upon recommendation of the Attorney, or upon its own initiative, the Council may retain special legal counsel to handle any matter in which the City has an interest, or to assist and counsel with the Attorney therein.

Section 3.15 Compensation of Attorney and Special Counsel:

The compensation of the Attorney shall be set by the Council. No compensation to special legal counsel shall be paid, except in accordance with an agreement between the council and the Attorney or Special Counsel made before the service for which compensation is to be paid has been rendered.

Section 3.16 Departments Created:

The functions of the City shall be performed by the following departments: Municipal Utilities, Finance, Public Safety, Public Works, Recreation, City Clerk, and such departments as are or may be established by this Charter or ordinances of the City. Upon recommendation of the city Manager, the Council may by ordinance consolidate or merge any of the said departments, whether set forth in the Charter or created by ordinance, in order to achieve more efficient operation and administration. All departments of the City, except as otherwise provided in this Charter, shall be under the supervision and control of the City Manager.

Section 3.17 Boards and Commissions:

Unless otherwise provided by this Charter, all boards and commissions shall be appointed by the Council, shall be advisory in character, shall serve without compensation unless the Council by ordinance shall provide otherwise, and shall be paid their authorized expenses actually incurred in the discharge of their official duties, as are provided by this Charter or by Ordinance.

Initial appointments by the Council shall specify the term of office of each individual in order to achieve overlapping tenure, and thereafter all appointments shall be for the full term specified. All members shall be subject to removal by the council for cause. The council shall make appointments to fill vacancies for the unexpired terms. Each board and commission shall choose its own chairman and vice-chairman and shall adopt its own rules of procedure for the proper conduct of its business.

Section 3.18 Zoning Board of Adjustments and Appeals:

There is hereby created and established a Board of Adjustment and Appeals consisting of five (5) members to be appointed by the Council for overlapping terms of three (3) years. Members shall have been a resident of the city for at least one (1) year immediately preceding the time of their appointment, and they shall hold no other office or position in the City administration.

The board shall have power to hear and determine appeals from refusal of building permits in violation of the zoning ordinance; to make exceptions to the terms of the zoning regulations in harmony with their general purpose and intent; and to authorize variances from the strict application of the zoning regulations in such situations, and subject to such limitations as may be set by ordinance. The findings and decisions of the board shall be final, subject only to judicial review.

The board shall keep minutes of its proceedings, show the vote taken, keep records of its examinations, and other official actions. Every order, requirement, decision or determination of the board shall be filed in the office of the City Clerk. The board shall exercise the functions and powers and perform the duties assigned to it by this Charter and the ordinances of the City; and where not otherwise provided by ordinance or Charter, the board shall have the powers, perform the functions and follow the procedures set forth in the Statutes of the State of Colorado.

Section 3.19 Planning and Zoning Commission:

There is created and established hereby a Planning and Zoning Commission consisting of seven (7) members to be appointed by the Council. Six (6) of the members shall be citizens-at-large with overlapping terms of five (5) years and one (1) of the members shall be an incumbent councilman. The citizens-at-large members shall have been residents of the City for at least one (1) year immediately preceding the time of their appointment, and they shall hold no other office or position in the City administration. The City Manager, or his designee, shall meet with the Commission in an advisory capacity. The Planning and Zoning Commission shall be responsible for preparing a master plan for the City of Gunnison and keeping said plan updated in accordance with the statutes of the State of Colorado.

Section 3.20 Municipal Court:

There shall be a Municipal Court which shall have jurisdiction to hear and determine all cases arising under this Charter or the ordinances of the City. The powers of and the procedure in such Municipal Court and the manner of enforcement of its orders and judgements, shall be such as is provided for under the

Statutes of the State of Colorado, and the present ordinances of the City with respect to police magistrates, except as may otherwise be provided in this Charter or by ordinance hereafter enacted. The Council shall have the power to provide for juries for service in the Municipal Court.

Section 3.21 Qualification and Appointment of Judge:

The Municipal Court shall be presided over, and its functions exercised by, a Municipal Judge who shall be a licensed member of the Bar of this State, in good standing, appointed by the Council for a term to be at the pleasure of the Council. If no qualified member of the Bar satisfactory to the Council is available and willing to serve, any other person may be appointed until a qualified member of the Bar is willing to accept. He shall receive a fixed salary or compensation not dependent upon the outcome of the matters to be decided by him, and to be fixed by the Council from time to time. If absent, disqualified, or unable to act in any matter or case, the Municipal Judge may call any eligible person subject to council approval, to act and serve temporarily, and if he fails to, or cannot call in a substitute, the Council shall appoint a substitute. The Council shall provide a suitable place, and all supplies and things necessary for the proper functions of the Court.

Section 3.22 Limitation of Fines or Imprisonment:

The Council shall set the penalties for violation of municipal ordinances consistent with the statutes of the State of Colorado.

ARTICLE IV
GENERAL PROVISIONS REGARDING OFFICERS AND
PERSONNEL OF THE CITY

Section 4.1 Eligibility for Office and Employment in the City:

No person shall hold any elective office of the City unless he shall have attained the age of twenty-one (21) years, and have been a resident of the City for at least one (1) year immediately preceding the last day for filing the original petition for such office or preceding the time of his appointment to fill a vacancy.

No person shall hold any elective office unless he is a qualified and registered elector of the City at such time of appointment and throughout his tenure of office. No person shall be eligible for elective or appointive City office who is in default to the City. The holding office by any person who is in such default shall create a vacancy unless such default be eliminated within thirty days after written notice thereof by the Council or unless such person in good faith be contesting the liability for such default.

Each candidate for elective office shall file with his petition his affidavit that he possesses the qualifications for such office provided in the section. Failure to file such affidavit shall invalidate his petition.

Each member of a City board or commission created pursuant to the Charter, shall have been a resident of the City for at least one year immediately preceding the date of his appointment and shall be a qualified and registered elector of the city on such day and throughout his tenure of office.

All officers of the City shall be United States citizens. Unless otherwise provided by this Charter, no officer elected under this Charter may be appointed to any office or be employed by the City during the term of office for which he was elected, provided that after the expiration of his term of office he may be appointed as a member of an independent board or commission or fill a vacancy in the position of Councilman.

The Council may by ordinance require residence in the City of Gunnison as a condition of employment of all full time employees of the City.

Section 4.2 Removals from Office:

Removals by the Council of elective and appointive officers or of members of boards or commissions shall be made for either of the following reasons:

- A. For any reason specified by statute for removal of City Officers; or
- B. For any act declared by this Charter to constitute misconduct in office. Such removals by the Council shall be made only after a hearing, of which such officer has been given notice in writing by the City Clerk at least ten days in advance, either personally or by delivering the same to his last known place of residence. Such notice shall include a copy of the charges against such officer. The hearings shall afford an opportunity to the officer, in person or by attorney, to be heard in his defense, to cross examine witnesses and to present testimony. If such officer shall neglect to appear at such hearing and answer such charges, his failure to do so may be deemed cause for his removal. A majority vote of the members of the Council in office at the time, exclusive of any member whose removal is being considered, shall be required for any such removal.

Section 4.3 Vacancies in Boards and Commissions:

The office of any member of any board or commission created by or pursuant to this Charter shall be declared vacant by the Council:

- A. For any reason specified by statute or by this Charter as creating a vacancy in office;

- B. If the officer shall be found guilty by a competent tribunal of any act constituting misconduct in office under the provisions of this Charter;
- C. If such officer shall miss four (4) consecutive regular meetings of such board or commission, or twenty-five (25) per cent of such meetings in any fiscal year of the City, unless such absences shall be excused by such board or commission at the time of such absence;
- D. If the officer is removed from office by the Council in accordance with the provisions of Section 4.2.

Section 4.4 Vacancies in Elective Office:

Any elective office of the City shall be declared vacant by the Council upon occurrence of any of the following events before the expiration of the term of such office:

- A. For any reason specified by statute or by this Charter as creating a vacancy in office;
- B. If no person is elected or qualified for the office at the election at which such office is to be filled;
- C. If the officer shall be found guilty by a competent court of the State of Colorado of any act constituting misconduct in office under the provisions of this Charter;
- D. If the officer shall be convicted of crime involving moral turpitude;
- E. If the officer shall absent himself continuously from the City for more than thirty (30) consecutive days in any one (1) year without the permission of the Council.
- F. In the case of any members of the Council, if such officer shall miss four (4) consecutive meetings of the council or twenty-five (25) per cent of such meetings in any fiscal year of the City, unless such absence shall be excused by the Council and the reason therefor entered in the proceedings of the Council at the time of such absence;
- G. If the officer is removed from office by the Council in accordance with the provisions of Section 4.2 of this Charter.

Section 4.5 Resignations:

Resignations of elective officers and of members of boards and commissions shall be made in writing and filed with the City Clerk and shall be acted upon by the Council at its next regular meeting following receipt thereof by the City Clerk. Resignations of appointive officers shall be made in writing to the appointing officer or body and shall be acted upon immediately.

Section 4.6 Filling Vacancies in Appointive Offices:

Vacancies in appointive offices shall be filled in the manner provided for making the original appointment. In the case of members of boards and commissions appointed for a definite term, such appointments shall be for the unexpired term.

Section 4.7 Filling Vacancies in Elective Offices:

Any vacancy that occurs in the City Council less than ninety (90) days after a regular City election shall be filled by the appointment, by majority vote of remaining members of the Council, of that person, if that person is still qualified and accepts the appointment, who was runner-up in the last election after those elected, provided that person polled ten (10) per cent of the vote cast. Otherwise, Council may, in its discretion, appoint a successor to serve until the next regular City election, or call for a special election, at which such vacancy shall be filled as provided in Section 2.2 for any balance of the unexpired original term.

Any vacancy that occurs in the City council more than ninety (90) days before the next regular City election and more than ninety (90) days after the last regular City election shall be filled within thirty (30) days by a majority vote of the remaining members of the Council, said appointee to hold office until the Monday following the next regular City election at which election such vacancy shall be filled as provided in Section 2.2 for any balance of the unexpired original term.

Any vacancy that occurs in the City Council ninety (90) days or less before the next regular City election may not be filled.

If the vacancy in the office of councilman which the Council is authorized to fill is not filled within thirty (30) days after such vacancy occurs, or if two or more vacancies exist simultaneously in the office of councilman, such vacancy shall be filled for the respective unexpired terms at a special election.

Section 4.8 Change in Term of Office or Compensation:

Except by procedures provided in this Charter, the terms of office of the elective officers and members of boards and commissions appointed for definite terms shall not be shortened. The terms of elective officers of the City shall not be extended beyond the period for which any such officer was elected except that an elective officer shall after his term has expired, continue to hold office until his successor is elected and has qualified. The Council shall not grant or authorize extra compensation to any officer or employee after the service has been rendered except under those terms agreed to prior to the rendering of the service.

Section 4.9 Oath of Office and Bond:

Every officer elected or appointed, before entering upon the duties of his office, shall take the oath of office prescribed by Section 7, Article XII of the constitution of the State of Colorado and shall file the same with the City Clerk, together with any bond required by this Charter, or by the Council. In case of failure to comply with the provisions of this Section within ten days from the date of his election or appointment, such officer shall be deemed to have declined the office and such office shall thereupon become vacant unless the Council shall, by resolution extend the time in which such officer may qualify as above set forth.

Section 4.10 Surety Bonds:

Except as otherwise provided in this Charter, all officers of the City whose duties involve the custody of public property or the handling of public funds, either by way of receipt or disbursement or both, and all officers and employees so required by the Council shall, before they enter upon the duties of their respective offices, file with the City Clerk an official bond, in such form and amount as the Council shall direct and approve. Such official bond of every officer and employee shall be conditioned that he will faithfully perform the duties of his office and will on demand deliver over to his successor in office, or other proper officer or agent of the City, all books, papers, monies, effects and property belonging thereto, or appertaining to his office, which may be in his custody as an officer or employee, and such bonds may be further conditioned as the Council shall prescribe. The official bond of every officer whose duty it may be to receive or pay out money, besides being conditioned as above required, shall be further conditioned that he will on demand, pay over or account for to the City, or any proper officer or agent of the city, all monies received by him as such officer or employee. The requirements of this paragraph may be met by the purchase of one or more appropriate blanket surety bonds covering all or a group of, City employees and officers.

All official bonds shall be corporate surety bonds and the premiums thereon shall be paid by the City. The City Clerk shall be custodian of all bonds, of all officers or employees, except that the City Manager shall be custodian of any bonds pertaining solely to the City Clerk.

Section 4.11 Delivery of Office:

Whenever any officer or employee shall cease to hold such office or employment for any reason whatsoever, he shall within five days, or sooner on demand, deliver to his successor in office or to his superior,

all books, papers, monies and effects in his custody as such officer or employee. Any officer violating this provision may be proceeded against in the same manner as public officers generally for a like offense under the statute. Any employee found guilty by a competent tribunal of violating this provision may be punished by fine or imprisonment, or both, as determined by the Court.

Section 4.12 Pecuniary Interest Prohibited:

No member of the Council shall use his position or influence to promote his own financial interests through contracts, sales, purchases or otherwise, when such action would not be to the best interest of the City.

Section 4.13 Compensation of Officers and Employees:

The compensation of all officers and employees of the City whose compensation is not provided for herein shall be fixed by the appointing officer or body within the limits of budget appropriations and in accordance with any pay plan which may be adopted by the Council. The respective salaries and compensation of officers and employees, as fixed by, or pursuant to, this Charter shall be in full for all official services of such officers or employees and shall be in lieu of all fees, commissions and other compensation receivable by such officers or employees for their services. Such fees, commissions and compensation shall belong to the City and shall be collected and accounted for by such officers or employees, and be paid into the City treasury and a statement thereof filed periodically with the City Manager. Nothing contained in this section shall prohibit the payment of necessary bona fide expenses incurred in service in behalf of the City.

Section 4.14 Anti-Nepotism:

The following relatives of any officer, employee, or elective official of the city who has the authority to hire, fire, or supervise employees, or of his spouse, shall not be hired by any officer, employee or elective official of the City of Gunnison without the prior consent of the City Council: spouse, child, parent, brother, or sister. All relationships shall include those arising from adoption.

ARTICLE V
THE COUNCIL: PROCEDURE AND MISCELLANEOUS
POWERS AND DUTIES

Section 5.1 Regular Meetings:

The Council shall provide by resolution for the time and place of its regular meetings and shall hold at least one regular meeting each month. An organizational meeting shall be held on the Monday following each regular City election. Notices of all regular meetings shall be posted on the bulletin board in the Municipal Building.

Section 5.2 Special Meetings:

Special meetings shall be called by the City Clerk on the written request of the Mayor, or any two members of the Council, on at least twenty-four hours written notice to each member of the Council, served personally or left at his usual place of residence; but a special meeting may be held on shorter notice if all members of the Council are present or have waived notice thereof in writing; provided however, that such written notice shall not be required in case of emergency, where no more than two of the Councilmen cannot be reached in time. A majority of the Councilmen in office at the time, shall be the sole judge of what constitutes an emergency.

Section 5.3 Business at Special Meetings:

No business shall be transacted at a special meeting of the Council unless the same has been stated in the notice of such meeting, however, any business which may lawfully come before a regular meeting may be transacted at a special meeting if all the members of the Council present thereto and all the members absent file their written consent, except as provided in Section 5.2 regarding an emergency.

Section 5.4 Council Meeting Open to Public:

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

Section 5.5 Quorum; Adjournment of Meetings:

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

Section 5.6 Compulsory Attendance and Conduct at Meetings:

Any two or more members of the Council may, by vote, either request or compel the attendance of its members and other officers of the City at any meeting of the Council. Any member of the council or other officer who, when notified of such request for his attendance, fails to attend such meeting for reason other than confining illness or absence from the City shall be deemed guilty of misconduct in office unless excused by the Council. The presiding officer shall enforce orderly conduct at meetings and any member of the Council or other officer who shall fail to conduct himself in an orderly manner at any meeting shall be deemed guilty of misconduct in office. Any police officer designated by the presiding officer of the meeting shall serve as the Sergeant-at-Arms of the Council in the enforcement of the provisions of this section.

Section 5.7 Organization and Rules of the Council:

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

- A. A journal of the proceedings of each meeting shall be kept in the English language by the City Clerk and shall be signed by the presiding officer and clerk of the meeting.

- B. A vote upon all ordinances and resolutions shall be taken by “Yes” and “No” vote and entered upon the records, except that where the vote is unanimous it shall only be necessary to so state.
- C. No member of the Council shall vote on any question in which he has a conflicting interest, but on all other questions each member who is present shall vote when his name is called unless excused by unanimous consent of the remaining members present. Any member refusing to vote except when not so required by this paragraph shall be guilty of misconduct in office.
- D. The proceedings of the Council, or a brief summary thereof, shall either be published or posted on a bulletin board in the Municipal Building within (10) days following each meeting. Any such summary shall be prepared by the City Clerk and approved by the Mayor and shall show the substance of each separate proceeding of the Council.
- E. There shall be no standing committees of the Council.

Section 5.8 Investigations:

The Council or any person or committee authorized by it for the purpose shall have power to inquire into the conduct of any department, office, or officer and to make investigations as to matters in which the municipality has an interest. The Council, for the purposes stated herein, may summon witnesses and cause oaths to be administered and compel the attendance of witnesses and the production of books, papers, and other evidence. Failure to obey such summons or to produce books, papers, and other evidence as orders under the provisions of this section shall, in the case of an administrative officer, constitute misconduct in office and in the case of an employee, a violation of this Charter.

Section 5.9 Providing for Public Health and Safety:

The Council shall see that provision is made for the public peace and health, and for the safety of persons and property. The Council shall constitute the Board of Health and Safety of the City, and its officers shall possess all powers, privileges and immunities granted to boards of health by statute.

ARTICLE VI LEGISLATION

Section 6.1 Prior City Legislation:

All valid by-laws, ordinances, resolutions, rules and regulations of the city which are not inconsistent with this Charter and which are in force and effect at the time of the effective date of the Charter shall continue in full force and effect until repealed or amended. If any such ordinance, resolution, rule or regulation provided for the appointment of any officers or any members of any board or commission by the Mayor, such officers or members of any board or commission shall, hereafter be appointed by the Council.

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

Section 6.2 Ordinances and Resolutions:

All official action by the Council shall be by ordinance, resolution, motion or order. Action by resolution, motion or order shall be limited to matters required or permitted to be done so by this Charter or by state or federal laws pertaining to the internal affairs or concern of the City Government. In addition to such acts of the Council as may be required by other provisions of the Charter to be by ordinance, every act making an appropriation, creating an indebtedness, authorizing borrowing of money, levying a tax, establishing any rule or regulation for the violation of which a penalty is imposed, or placing any burden upon or limiting the use of private property, shall be by ordinance. Each ordinance shall be identified by a short title and by number and by a code section number, when a codification of ordinances is completed.

Each proposed ordinance shall be introduced in written or printed form. The style of all ordinance shall be: "The Council of the City of Gunnison, Colorado ordains."

Section 6.3 Procedure of Passage:

The course that an ordinance shall take for passage shall be:

- A. Introduction at any regular or special meeting by any member of the Council.
- B. Reading in full, unless otherwise provided by this Charter or provided by the Council to be read by title.
- C. Passage or rejection on the first reading by a roll call vote of the Council.
- D. If passed on first reading, the ordinance shall be published in full within ten (10) days unless otherwise provided in this Charter.
- E. Not later than one hundred (100) days from the date of first reading, introduction a second time at a regular meeting before final passage or rejection by a roll call vote of the Council. An ordinance may be amended before final passage by a roll call vote of the Council.
- F. Unless otherwise provided in this Charter, if an ordinance is amended, it shall be published in full after passage and shall take effect upon the date of such publication.
- G. The Council may, at its discretion, hold a public hearing before final passage of an ordinance where such hearing is not otherwise required.
- H. If an ordinance is not amended, it shall take effect upon final passage by a roll call vote of the Council after second reading, or upon such other date as set by council.

- I. Any emergency ordinance for the immediate preservation of the public peace, health, or safety may be introduced and adopted at any special or regular meeting of the Council, and they shall take effect immediately, provided said emergency ordinances are approved by at least three-fourths of the Council present. Facts showing such urgency and need shall be specifically stated in the measure itself and such ordinances shall be published in full within seven days.

An emergency ordinance shall be in effect for no more than ninety days after passage, and shall not again be passed as an emergency ordinance.

No ordinance making a grant of any special privilege, levying taxes, incurring indebtedness, authorizing borrowing of money, or fixing rates charged by a City-owned utility shall ever be passed as an emergency measure.

- J. Any ordinance in the passage of which the required publications were published by posting as set forth in Section 11.14 shall be published in full unless otherwise provided in this Charter, in a newspaper of general circulation within the city, as soon as such newspaper publication is available; but such required newspaper publication of an ordinance, or of any notice of public hearing called in connection with the passage of said ordinance, shall not be a requirement for the effectiveness of any ordinance so passed.

Section 6.4 Recording of Ordinances:

All ordinances shall be recorded by the City Clerk in a book called "The Ordinance Book" and it shall be the duty of the Mayor and City Clerk to authenticate such records by their official signature thereon, but the failure to do so record and authenticate such ordinances shall not invalidate it or suspend its operation.

Section 6.5 Penalties for Violation of Ordinances:

The Council shall provide for the enforcement of its ordinance, where applicable, by fine or imprisonment, or both; but no such fine nor imprisonment shall exceed the fine or imprisonment authorized for municipal ordinance violations as set by statutes of the State of Colorado.

Section 6.6 Enactment of Codes by Reference:

In accordance with statutes now or hereafter in effect, the Council may enact any technical codes, any appropriate Colorado statute, or any detailed technical regulations promulgated or enacted by any municipality, state or federal agency, by reference thereto in an enacting ordinance, and without reading or publishing such codes or statutes in full.

In the event that any such code or statute, after being adopted by reference, is revised or amended by the agency or organization by whom it was promulgated, then any such revision or amended version may be adopted by reference by an ordinance passed in the usual manner without strict compliance with statutory regulations relative to notices and public hearings.

Section 6.7 Severability of Ordinances:

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 which can be given effect without the invalid portion or application, provided such remaining portions or applications are not determined by the court to be inoperable, and to this end ordinances are declared to be severable. Furthermore, if an existing ordinance is ruled to be unenforceable or void in its entirety, any ordinance which said ordinance succeeded shall be automatically in effect.

Section 6.8 Codification of Ordinances:

As soon as feasible, but not more than three years after the effective date of this Charter, the Council shall direct and complete the codification of all ordinances of the City and shall provide for the publication of subsequent amendments thereto so that such amendments may readily be made a part of such published

code and maintained thereafter in current form. Any such codification may originally include provisions not previously contained in ordinances of the City.

Section 6.9 Initiation and Referendum:

An ordinance may be initiated by petition, or a referendum on an enacted ordinance may be had by petition, or the Council may, on its own notion, submit an ordinance to the electorate as hereafter provided.

Section 6.10 Petition Requirements:

An initiation petition shall be signed by qualified electors in a number not less than ten (10) percent of the number of persons who were registered electors of the City as of the date of the last regular City election, and all signatures on said petition shall be obtained within twenty-one (21) days before the date of filing the petition with the City Clerk. Any such petition shall be addressed to the council and may be the aggregate of two or more petition papers identical as to content and simultaneously filed by one person. An initiation petition shall set forth in full the ordinance it proposes to initiate, and no petition shall propose to initiate more than one ordinance.

A referendum petition shall be signed by qualified electors in a number no less than eight (8) percent of the number of persons who were registered electors of the City as of the date of the last regular City election. A referendum petition shall identify the ordinance to have repealed. Each signer of a petition shall sign his name, the date, and his place of residence by street number, or by other customary designation. To each petition paper there shall be attached a sworn affidavit by the circulator thereof stating the number of signers thereof, and that each signature thereon is the genuine signature of the person whose name it purports to be and that it was made in the presence of the affiant. Such petition shall be filed with the City Clerk, who shall within fifteen (15) days canvass the signature thereon. If the petition does not contain a sufficient number of signatures of qualified electors of the City, or any other error or insufficiency shall be found in the petition, the City Clerk shall notify forthwith by registered mail the person filing such petition, and fifteen (15) days from such notification shall be allowed for filing of supplemental or corrected petition papers. When a petition with sufficient signatures is filed within the time allowed by this section, the City Clerk shall present the petition to the Council at its next regular meeting.

Section 6.11 Council Procedure on Initiation and Referendum Petitions:

Upon presentation to the Council of an initiation or referendum petition by the City Clerk, the Council shall, within thirty-one days either:

- A. Adopt the ordinance as submitted by initiation petition;
- B. Repeal the ordinance, or part thereof, referred to by a referendum petition; or
- C. Determine to submit the proposal provided for in the petition to the electors.

Section 6.12 Submission of Initiation and Referendum Ordinances to Electors:

Should the council decide to submit the proposal to the electors, or should they, on their own motion submit an ordinance to the electors, it shall be submitted at the next regular City election held in the City for any other purpose, or at the discretion of the council, at a special election called for that specific purpose. In the case of an initiation petition, if no election is to be held in the City for any other purpose within one hundred-fifty days from the time the petition is presented to the Council, and it does not enact the ordinance, then the Council shall, by resolution, call a special election within sixty days from such date of presentation for the submission of the proposal. The result of all elections held under the provisions of this section shall be determined by a majority vote of the electors voting thereon.

Section 6.13 Miscellaneous Provisions on Initiation and Referendum Petitions:

An ordinance adopted by the electorate may not be amended or repealed for a period of six months after the date of the election at which it was adopted, and an ordinance repealed by the electorate may not be re-enacted for a period of six months after the date of the election at which it was repealed, provided how-

ever, that any ordinance may be adopted, amended or appealed at any time by appropriate referendum or initiatory procedure in accordance with the foregoing provisions of this Charter, or if submitted to the electorate by the Council on its own motion. If two or more ordinances adopted at the same election shall have conflicting provisions, the provisions in the ordinance receiving the highest number of affirmative votes shall govern.

Section 6.14 Ordinances Excepted:

Anything herein to the contrary notwithstanding, ordinances authorizing the issuance of bonds, levying taxes, the annual appropriation ordinances and those ordering improvements initiated by petition and to be paid for by special assessments shall be excepted from initiative and referendum powers.

**ARTICLE VII
CITY FINANCES**

Section 7.1 Fiscal Year:

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

Section 7.2 Annual Budget:

The City Manager shall present a proposed budget for the ensuing fiscal year to the Council, together with a budget message, on or before October fifteenth of each year.

Section 7.3 Budget Hearings:

The Council shall hold a public hearing on the proposed budget on or before November fifteenth of each year. Notice of the time and place of such hearing shall be published at least once five days or more prior to such hearings, and a copy of the proposed budget shall be made available for inspection by the public, by depositing it in the office of the Director of Finance.

The Council may at any time before final adoption of the budget, increase, or decrease, add or strike out any item in it.

Section 7.4 Scope of Annual Budget:

The budget adopted by the Council shall contain:

- A. An estimate of the anticipated revenue of the city other than the tax levy for the ensuing year;
- B. An estimate of the General Fund cash surplus at the end of the current fiscal year, or of the deficit to be made up by appropriation;
- C. The estimated expenditures necessary for the operation of the several departments, offices, and agencies of the City;
- D. Debt service requirements for the ensuing fiscal year;
- E. The amount to be set aside for the public improvements fund, together with a schedule showing all recommended public improvement expenditures during the ensuing five years.
- F. An estimate of the sum required to be raised by the tax levy for the ensuing fiscal year, and the rate of levy necessary to produce such sum based on the percentage of current levy collection experience during the three preceding fiscal years;
- G. A balance between the total estimated expenditures, including any deficit to be met, and monies set aside for public improvements and total anticipated revenue, plus any surplus. All estimates shall be in detail showing revenues by source, and detailed expenditures by organizational units, activities, character and object.

Section 7.5 Adoption of Budget and Appropriations:

Not later than December fifteenth of each year, the Council shall adopt on final reading an ordinance for the budget and an ordinance of the annual appropriations. When finally adopted, the budget shall become a public record and sufficient copies shall be deposited with the Director of Finance to insure adequate circulation.

Section 7.6 Certification of Tax Levy:

Not later than December fifteenth of each year, or such other date required by law the Council shall fix the amount of tax levy which shall be assessed upon each dollar of assessed valuation of all taxable property within the corporate limits of the City of Gunnison, and shall cause the same to be certified to the Board of County Commissioners of the County of Gunnison as required by law. If the council should fail in any year to make such levy as above provided, the rate last fixed shall be the rate for the ensuing fiscal year, which rate shall be levied as by law provided.

Section 7.7 General Fund:

There is hereby established a fund to be known as the General Fund. All revenues not specifically allocated to any other fund shall be placed in the General Fund. All general functions of the City shall be financed by expenditures from the General Fund. The General Fund may contain an item for contingencies. Except in those cases where there is no logical account to which an expenditure can be charged, expenditure shall not be charged directly to contingencies, but instead, the necessary part of the appropriation for contingencies shall be transferred to the logical account and the expenditure charged to such account. No such transfer shall be made without the express approval of the Council, and then only for expenditures which could not be readily foreseen at the time the budget was adopted.

Section 7.8 Public Improvements Fund:

There is hereby established a fund to be known as the Public Improvements Fund for the purpose of paying the cost of capital improvements not specifically chargeable to other funds. The Council shall have the power to define the rules and regulations pertaining to such funds by ordinance, and shall have power to transfer from time to time monies from the General Fund to the Public Improvements Fund. Appropriations for construction or other permanent Improvements from the Public Improvements Fund shall not lapse until the purpose for which the appropriation was made shall have been accomplished or abandoned; unencumbered balances from projects accomplished or abandoned shall be deposited in any bond sinking fund wherein the faith and credit of the City was pledged, and the same used for payment of such outstanding bond indebtedness of the City, or if none, to any other fund. Any appropriated or unencumbered balance in the Public Improvements Fund may be transferred by the Council to any fund, or used to pay outstanding bonded indebtedness of the City.

Section 7.9 Special Funds:

Additional funds which shall be known as special funds shall be created by ordinance to provide for monies to be held or used for special purposes such as: depreciation and obsolescence, debt service, equipment and building replacement, special services, local improvements, city-owned utilities, trust funds and endowments, and such other purposes as the Council may determine.

Section 7.10 Transfer of Funds:

The City Manager may at any time transfer any unencumbered appropriation balance, or portion thereof, from one classification of expenditure to another within the same department, office, or agency. Report of any such transfer shall be made to the Council. The Council may, by resolution, transfer any unencumbered appropriation balance or portion thereof from one department, office, or agency to another. The Council may also by resolution, transfer any excess earnings of any City-owned utility to the General Fund of the City without establishing a liability for the same.

Section 7.11 Additional Appropriations:

The Council may make additional appropriations by ordinance during the fiscal year for unanticipated expenditures required of the City, but such additional appropriations shall not exceed the amount by which actual and anticipated revenues of the year are exceeding the revenues as estimated in the budget, unless the appropriations are necessary to relieve an emergency endangering the public health, peace or safety.

Section 7.12 Departmental Appropriations Revert:

Any annual departmental appropriation, or any portion thereof, remaining unexpended and unencumbered at the close of the fiscal year, shall revert to the respective fund.

Section 7.13 Expenditures Forbidden:

No expenditures shall be made for any charitable or benevolent purposes to any person, corporation, or organization not under the control of the City, nor to any denominational or sectarian institution or association.

Section 7.14 Audit of Accounts:

An independent audit shall be made annually of all financial affairs of the City, and more frequent audits may be made if deemed necessary by the Council. Such audits shall be made by certified public accountants, experienced in municipal accounting, selected by the Council.

ARTICLE VIII BONDED INDEBTEDNESS

Section 8.1 Forms of Borrowing:

The City may borrow money and issue securities in evidence thereof as follows:

- A. Short term notes;
- B. Anticipation warrants;
- C. General obligation bonds;
- D. Revenue bonds;
- E. Industrial revenue development bonds;
- F. Local improvement bonds;
- G. Any other like securities.

Section 8.2 Short Term Notes:

The City may, by resolution of the City Council without an election, issue short term notes maturing within twelve (12) months of the date of this issuance. Such notes are not indebtedness within the limitations of Sections 8.3 and 8.4.

Section 8.3 General Obligations Securities:

No bonds or other evidence of indebtedness payable in whole or in part from the proceeds of ad valorem taxes or to which the full faith and credit of the City are pledged shall be issued until the question of their issuance shall be submitted to a vote of the registered electorate at a special or general municipal election and approved by a majority of those voting, but voter approval shall not be necessary for the issuance of such securities in connection with acquiring water and rights thereto, or acquiring, improving, or extending a municipal water system or any combination of such purposes, nor for acquiring, constructing, improving, or extending a municipal sewer system, or sewer treatment facilities, or any combination thereof, or for acquiring, constructing, extending, improving a municipal storm drainage system, or any combination thereof, nor for securities issued pursuant to Section 8.7 and 8.8 hereof.

Section 8.4 Limitations of Indebtedness:

The aggregate amount of bonds or other forms from the proceeds of ad valorem taxes or to which the full faith and credit of the City are pledged (including such debts relating to water and sewer, and excluding securities issued under Section 8.7) shall not exceed twenty (20) per cent of the assessed valuation of the taxable property within the City as shown in the most recent assessment.

Section 8.5 Revenue Bonds:

The City may, by ordinance of the City Council, without an election and without adherence to the limitations of Section 8.4, issue securities made payable solely from revenues other than the proceeds of ad valorem taxes, including, without limiting the generality of the foregoing, the issuance of securities payable from revenue derived from the operation of the project or capital improvements acquired or bettered with the securities' proceeds, or from any other projects or improvements, from the available proceeds of any sales tax, use tax, or excise tax, or from any part or combination of such sources. Interim securities and anticipation warrants are among the securities which may be issued and made so payable or made payable from the proceeds of the bonds.

Section 8.6 Industrial Revenue Development Bonds:

The City may, by ordinance of the City Council, without an election and without adherence to the limitations of Section 8.4 hereof, issue industrial revenue development bonds in accordance with the statutes of the State of Colorado.

Section 8.7 Local Improvement Bonds:

The City may, by ordinance of the City Council, contract or construct local or special improvements within a specified district of the City and determine the method of specially assessing the cost of such improvements, unless the owners of a majority of the property of such district oppose the project, or alternatively, if Council so provides by procedural ordinance, a majority of the owners of property in an assessment unit oppose the project to be constructed in such unit. In connection with local improvement bonds payable for special assessments to be levied in such districts, the City may provide a special surplus and deficiency fund. Such fund shall be maintained to provide separate accounting for any surplus or deficiency after the bonds for a district are completely paid. Any surplus may be applied to any other local improvement bonds or may be returned to the general fund when no other improvement bonds are outstanding. In addition, the City Council may provide for additional security by annual tax levied on all taxable property within the City of no more than three (3) mills, or in lieu of such a tax, may annually transfer to such special fund any available money of the City. The City may also pay out of such funds of the general fund the balance of any local improvement bond that had been retired, to the extent of eighty (80) per cent, in order for the remaining bonds to be retired as due. The City shall reimburse itself by collecting any unpaid assessments due in connection with the district. Local improvement bonds, as well as any other securities of the City, may be sold at public or private sale.

Section 8.8 Refunding Securities:

The City may, by ordinance, issue securities for the purpose of refunding outstanding securities as the same mature or in advance of maturity (without impairing them outstanding contractual rights) by means of escrow or otherwise. It shall be the duty of the council to authorize such refunding securities whenever it determines it to the best advantage of the City to do so. Refunding securities are made payable in whole or part from the proceeds of the ad valorem taxes, or if they constitute a pledge of the full faith and credit of the City, the refunding securities shall not be issued unless they are first submitted to a vote in conformity with Section 8.3 hereof, except that no such election shall be necessary as a condition precedent to the issuance of securities to refund general obligations originally issued with voter approval, water securities, sewer securities, or local improvement securities. General obligation refunding securities except water and sewer debts, shall be included in any debt limitation determination made pursuant to Section 8.4, but the securities so refunded shall not be included in such determination.

Section 8.9 Lease Agreement:

The City Council may, by ordinance, without the necessity of a vote of the registered electorate, enter into a rental or leasehold agreement that may provide for payment thereof by general appropriation levy, by imposition of usage fees on such rental or leasehold property, or a combination of both general appropriation levy and imposition of usage fees. The obligation to pay such rental or leasehold cost shall not be construed to be part of this Charter's limitation on indebtedness.

ARTICLE IX
CITY OWNED UTILITIES

Section 9.1 Authority and Powers:

The City shall have an exercise, with regard to City-owned utilities (refer to 11.14J) including water and water rights and acquisition thereof, and bonded indebtedness in connection therewith, all the authority and powers provided by the Constitution and Statutes of the State of Colorado. In addition, the City shall also have power to exchange water rights owned by it for water rights owned by other person, municipalities, or quasi-municipal corporations. The City shall also have the right to contract with such aforementioned persons or entities for the purpose of forming consolidated water or sewer districts, or for furnishing any municipal services, within or without the corporate limits of the City, provided any agreements or contract arising therefrom would clearly benefit the inhabitants of the City.

Section 9.2 Rates and Finances:

The Council shall by ordinance from time to time fix, establish, maintain, and provide for the collection of such rates, fees, or charges for water and electricity, and for water, sewer, electric service, and other utility service furnished by the City, as will produce revenues at least sufficient to pay the cost of operation and maintenance of said utilities in good repair and working order; to pay the principal of and interest on all bonds of the City payable from the revenues of said utilities; to provide and maintain an adequate fund for replacement of depreciated or obsolescent property, and for the extension, improvement, enlargement, and betterment of said utilities; to pay the interest on, and the principal of, any general obligation bonds issued by the City to extend or improve said utilities.

The provisions hereof shall be subject at all times to the performance by the City of all covenants and agreements made by it in connection with the issuance, sale or delivery of any bonds of the City, payable out of the revenues derived from the operation of its water, electric, sewer and other utilities, whether such revenue bonds be heretofore or hereafter issued.

ARTICLE X FRANCHISES

Section 10.1 Present Franchises:

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 provisions and terms, until the expiration date provided in such ordinances.

Section 10.2 Franchises Granted upon Vote:

No franchise shall be granted until such time as the Council shall determine, in its discretion, by resolution, the advisability and/or necessity of granting such a franchise, and until the question of whether or not the City should grant a franchise for the purposes approved by council has received an affirmative vote of a majority of the qualified electors voting thereon at a special election called for that purpose. In the event the City council shall determine that the granting of such a franchise is neither advisable or necessary, it shall list its reasons for such determination at the request of any person seeking such a franchise. Should Council decide to refer the matter to a special election, said special election shall be held after the deposit by an applicant with the City Clerk and anticipated expenses of holding such an election, which amount shall be determined by the City Clerk. In the event there is more than one applicant for such a franchise, the City Clerk is authorized to collect from each applicant a pro rata share of the anticipated expenses.

Section 10.3 Powers of City Council:

After approval by the qualified electors as called for in Section 10.2, Council shall have full power and authority to determine and negotiate with the applicants the nature and extent of the franchise to be granted covering all areas of the franchise agreement, including but not limited to, the nature and extent of services to be provided, the means by which said services shall be provided, the geographic areas in which such services are to be provided, to approve the rates for such services to be provided by the franchisee, to fix the franchise fee payable to the City of Gunnison for such franchise, to provide for regulation of the franchisee, to determine which applicant, if more than one applicant, shall be awarded the franchise, and such other authority as may be appropriate to carry out the purposes of this Charter. Provided, however, that in no event shall an exclusive franchise ever be granted unless, by reason of the terms and conditions contained therein the granting of such an exclusive franchise will clearly be to the benefit of the inhabitants of the City.

Section 10.4 Extension of Territory:

With respect to any existing franchise, the Council may, by ordinance, extend the area to include streets, alleys, or public places and properties not embraced in such original franchise where public necessity and convenience would require, subject to all the terms and conditions of such original franchise and co-extensive with the terms thereof, without a vote of the qualified electors.

Section 10.5 Term, Compensation, Description:

No franchise, lease, or right to use the streets or public places or property of the City shall be granted for longer than twenty (20) years. Every grant of a franchise shall fix the franchise fees and manner of payment of said fees to be paid by grantee for use of the same, and no other compensation of any kind shall be enacted for such use during the life of the franchise. This provision shall not exempt the grantee from any lawful taxation upon his or its property, nor any license, charge, or other imposition levied by Council, not levied on account of the use granted by the franchise.

Section 10.6 Revocable Licenses:

After public hearing, the Council by ordinance may grant a revocable license to lay sidetracks and switches along or across any public thoroughfare, in accordance with standards and procedures to be adopted by the Council.

Section 10.7 Revocable Permits:

The Council may grant permits for the temporary use or occupation of any street, alley or public place, and establish conditions and compensation to be paid the City therefor.

Section 10.8 Condemnation or Purchases:

The right of the City to construct, purchase, or condemn any public utility, work or way, as provided by law, is expressly reserved.

Section 10.9 Assignments:

Assignment or leasing of a franchise shall be considered a forfeiture unless consent is given by the Council by ordinance.

Section 10.10 Books and Records:

The Council shall cause to be kept in the office of the City Clerk, an indexed franchise record in which shall be transcribed copies of all franchises granted by the City. 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 Council may require.

Section 10.11 Control of Franchise for Use of Water Reserved to City:

No franchise, right, or privilege shall be granted affecting the use of water belonging to the City, or affecting its water systems, without retaining complete and absolute control of the City.

Section 10.12 Common Use of Facilities:

The Council shall have power to require any holder of a franchise from the City, or other public utility, to allow the use of its right-of-way, poles, structures, and wires by any franchise holder, or the City itself, upon payment of a reasonable rental therefor; and the City may, under the terms prescribed by the Council, allow such franchise holders to use rights-of-ways, poles, structures and wires of City-owned utilities.

ARTICLE XI
MISCELLANEOUS LEGAL PROVISIONS

Section 11.1 Water Rights in Annexation:

The City shall have power to purchase, or obtain, such existing water rights as may be used upon, or allotted to, any land which is annexed to the City.

Section 11.2 Restriction on Sales of Land and Water Rights:

Neither lands owned and used by the City for park or governmental purposes, nor water rights, shall be sold or conveyed without an affirmative vote of a majority of the qualified tax-paying electors of the City voting thereon, at any special or general election. Nothing in this provision, however, shall prohibit the City from exchanging, or changing point of diversion of water rights without such vote.

Section 11.3 Notice Required on Negligence Action:

No action for the recovery of compensation for personal injury, or death, or property damages against the city on account of its negligence, shall be maintained unless written notice of time, place, and cause of injury is given to the Director of Finance by the person injured, his agent or attorneys, within sixty days, and the action is commenced within two years of the occurrence of the accident causing the injury, or death, or property damage. The notice given under the provisions of this section shall not be deemed invalid or insufficient solely by reason of inaccuracy in stating the time, place, or cause of injury, if it is shown that there was no intention to mislead and that the City was, in fact, not mislead thereby.

Section 11.4 Right of Eminent Domain:

The City shall have the right of eminent domain as provided by the Constitution and the Statutes of the State of Colorado.

Section 11.5 Authority to Levy Taxes:

The Council shall have the power to levy and collect real property taxes. All existing taxes shall remain in force until repealed by ordinance. The Council may levy and collect such other taxes as may be lawful in the State of Colorado, upon approval of a majority vote of the qualified electors. The council may levy and collect assessments for local improvements, penalty assessments, licenses, fees and permits by ordinance.

Section 11.6 Contracts with Other Governmental Units:

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

Section 11.7 Bequests, Gifts, and Donations:

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

Section 11.8 Purchases:

The Council shall establish by ordinance procedure for entering into contracts for purchases and contract for construction of public works.

Section 11.9 City Not to Pledge Credit:

The City shall not lend or pledge its credit or faith, directly or indirectly, or in any manner to, or in aid of any person, corporation, or other organization, public or private, for any amount or any purpose whatsoever, or become responsible for any debt, contract, or liability thereof.

Section 11.10 Article and Section Headings:

The article and section headings used in this Charter are for convenience only, and shall not be considered as part of this charter.

Section 11.11 Amendments:

This Charter may be amended at any time in the manner provided by the Constitution of the State of Colorado. Should two or more amendments adopted at the same election have conflicting provisions, the one receiving the largest affirmative vote shall prevail as to those provisions.

Section 11.12 Sundays and Holidays:

Whenever the date fixed by this Charter, or by ordinance, for the doing or completion of any act falls on a Sunday or legal holiday, such act will be done or completed on the next succeeding day which is not a Sunday or a legal holiday.

Section 11.13 Temporary Zoning:

In all proceedings for the annexation of territory to the City, the Council may determine temporary zoning and establish temporary zoning district or districts for the newly annexed territory at the time of the annexation of any territory to the City. Immediately upon annexation of any territory the Council shall comply with the statutory procedure for permanent zoning.

Section 11.14 Interpretations:

- A. 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.
- B. The singular number shall include the plural, the plural number shall include the singular, and the masculine gender shall extend to and include the feminine gender and the neuter.
- C. The word "person" may extend and be applied to bodies politic and corporate, and to partnerships, trusts, and associations as well as to individuals.
- D. The word "publication" shall mean publishing in a newspaper of general circulation within the City. Only in time of emergency or disaster, or when no such newspaper is available, the requirements for publication may be met by posting such notice in at least one conspicuous place in each voting precinct within the City. Any notice published by posting shall be published in a newspaper of general circulation within the City as soon as such newspaper is again available.
- E. Except in reference to signatures, the words "written" and "in writing" shall include printing, typewritten, engraving, stencil duplicating, lithographing, or any similar method.
- F. The word "statute" shall denote the laws of the State of Colorado in effect at the time the provision of the Charter containing the word "statute" is to be applied.
- G. The word "City" shall mean the City of Gunnison, Colorado, a municipal corporation.
- H. The term "taxpaying elector" or "qualified taxpaying elector" shall be held to mean and include only those persons who are qualified voters under the registration and election laws of this state and who, in the calendar year last preceding the election at which such vote is offered, shall have paid a tax or be liable for the payment of such tax upon real or personal property assessed to them and owned by them in the city where such vote is offered. The taking or placing of the title to property in the name of another, or the payment of taxes or the taking or issuing of a tax receipt in the name of another, for the purpose of attempting to qualify such person as a "taxpayer" or as a "taxpaying elector" or as a "qualified taxpaying elector" shall be deemed a fraud against the ballot and any ballot cast by such person shall be void.

- I. The words “qualified elector” shall mean a resident of the City who is qualified to vote under the Constitution and Statutes of the State of Colorado.

- J. The term “public utility” or “public utility corporation” when used in this Charter shall mean any person, firm, or corporation operating heat, power or light systems, communication systems, water, sewer or scheduled transportation systems, and serving or supplying the public. It shall not include any person, firm, or corporation owning or operating sidetracks or switches for the accommodation of manufacturing plants and business houses, or private telephone lines, and shall not include City-owned utilities within the corporate boundaries of the City of Gunnison.

ARTICLE XII TRANSITIONAL PERIOD

Section 12.1 Status of Transitional Provisions:

The purpose of this article is to provide for an orderly transition from the present City government to a Home Rule Government under the provisions of this Charter. This article shall constitute a part of this Charter during the transition period.

Section 12.2 Effective Date and Transition Period:

The effective date of this Charter shall be August 1, 1962. During the transition period from August 1, 1962, and the date when the newly elected Council take office on May 20, 1963, following the first election provided for in the Charter (May 14, 1963), the incumbent councilman and Mayor will serve as Councilmen under the provisions of this Charter, carrying on the functions, powers, and duties of their offices, as provided in this Charter.

Section 12.3 Present Council to Continue in Office:

Incumbent Councilmen serving during the transition period will continue at their present salaries, to serve and carry out the functions, powers, and duties of their offices, as provided in this Charter.

Section 12.4 Continuation of Present Boards and Commissions:

All boards and commissions in office at the time of adoption of this Charter shall continue to function with their present powers and duties. The temporary Election Commission required under this Charter shall be appointed within 60 days after adoption of the Charter.

Section 12.5 Continuation of Appointed Officers and Employees:

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

Section 12.6 Term of Office Abolished:

The term of any elective office not provided by this Charter is hereby abolished as of August 1, 1962.

Section 12.7 First Election Under the Charter:

The first election under this Charter shall be held Tuesday, May 14, 1963, pursuant to Article II of this Charter. The Councilmen elected at such City election shall take office on Monday, May 20, 1963.

Section 12.8 Retirement Plans:

This Charter shall not affect any contractual relationship existing on the effective date of this Charter between the City and any officer or employee by reason of any retirement and pension plans in effect.

ADOPTED IN CONVENTION, THIS 19TH DAY OF MAY, 1962, AND SIGNED IN TRIPLICATE.

CERTIFICATE OF FINAL ADOPTION:

The undersigned members of the Gunnison Charter Convention, elected under Article XX, Constitution of the State of Colorado, do hereby certify that the foregoing is the Proposed Charter as finally approved

and adopted for submission to the people of the City of Gunnison at a special election to be held July 10, 1962.

Copies of this Proposed Charter will be mailed to every resident of the City of Gunnison carried on the rolls of the City Treasurer, as paying monthly costs of lights, power, water and garbage collection.