

CITY CHARTER

THE CHARTER OF THE CITY OF DELTA, COLORADO

PREAMBLE

We, the people of the City of Delta, under the authority of the Constitution of the State of Colorado, do ordain and establish this Charter for the City of Delta.

ARTICLE I

INCORPORATION; FORM OF GOVERNMENT; POWERS

1. Incorporation. The inhabitants of the City of Delta, within the corporate limits as now established or as hereafter established in the manner provided by law, shall continue to be a municipal body politic and corporate in perpetuity, under the name of the "City of Delta."

2. 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, hereinafter referred to as "The Council" which shall enact all ordinances and local legislation, adopt budgets, determine policies, and appoint the City officers who shall execute the laws and administer the government of the City. All powers of the City shall be exercised in the manner prescribed by this Charter, or if the manner be not prescribed, then in such manner as may be prescribed by ordinance.

3. Powers of City. The City shall continue as a "home rule" city and shall have all the powers granted to municipal corporations and to cities by the constitution and general laws of this state, together with all the implied powers necessary to carry into

execution all the powers granted. The City may acquire property within or without its corporate limits for any City purpose, in fee simple or any lesser interest or estate, by purchase, gift, devise, lease or condemnation, and may sell, mortgage, hold, manage and control such property as its interests may require; and, except as prohibited by the constitution of this state or restricted by this Charter, the City shall and may exercise all municipal powers, functions, rights, privileges and immunities of every name and nature whatsoever. The enumeration of particular powers by this Charter shall not be deemed to be exclusive, and in addition to the powers enumerated therein or implied thereby, or appropriate to the exercise of such powers, it is intended that the City shall have and may exercise all powers, which, under the constitution of this state, it would be competent for this Charter specifically to enumerate.

ARTICLE II

THE COUNCIL

4. Number, Selection, Term. The Council shall have five members, all of whom shall be nominated and elected by the qualified electors of the entire City as herein provided. The terms of the members of the Council shall commence at the first regular Council meeting following their election and shall be for a term of four years each or until a successor is elected or appointed as hereinafter provided, except when a two year term is necessary to complete the term of a Council position which had become vacant. Councilmembers whose terms are to expire following the general municipal elections which would have been scheduled for November of 1995 and 1997 shall serve until their successors are qualified and take office following the general municipal elections of April 1996 and 1998 respectively. (Amended 11-2-93)

5. Qualifications. Councilmen shall be registered electors of the City and shall have resided continuously in the City of Delta for a period of one year or more prior to their election. (Amended 7-17-84)

6. Membership. Of the five members of the Council, one shall be elected by the qualified electors of the entire City from each of the districts hereinafter described, and two members shall be elected from the City at large. The Council may from time to time, by ordinance passed by 4/5 or more of all its members, change the boundaries of the districts hereby created; and said districts, until so changed by the Council, shall be designated and described as follows:

District A shall contain and include all that portion of the City of Delta lying East of Main Street and North of Sixth Street.

District B shall contain and include all that portion of the City of Delta lying West of Main Street.

District C shall contain and include all that portion of the City of Delta lying East of Main Street and South of Sixth Street.

7. Compensation. Each member of the Council shall receive \$100.00 per month, except the Mayor shall receive an additional \$50.00 per month. (Amended 11-5-85)

8. Presiding Officer: Mayor. At its first meeting the Council shall elect one of its members for a term of two years who shall have the title of Mayor, shall preside at meetings of the Council, shall have the right to vote, and shall be recognized as head of the City government for all ceremonial purposes and by the governor for purposes of military law, but shall have no regular administrative duties. The Council shall also elect one of its members as Mayor Pro Tem who shall act as Mayor during the absence or disability of the Mayor, and if a vacancy occurs, shall become Mayor for the completion of the unexpired term.

9. Powers. All powers of the City and the determination of all matters of policy shall be vested in the Council. Without limitation of the foregoing, the Council shall have the power to:

- (1) Appoint and remove the City Manager;
- (2) Establish other administrative departments and distribute the work of divisions;
- (3) Adopt the budget of the City;

(4) Authorize the incurrence of general obligation indebtedness, for purposes other than supplying water, in the manner and subject to the limitations provided in Article XI of the Constitution of the State of Colorado; and authorize the issuance of revenue bonds, special improvement bonds and general obligation water bonds by ordinance passed by the Council. All ordinances heretofore adopted authorizing the issuance of bonds, but pursuant to which ordinances no bonds have been issued, shall henceforth be a nullity and of no effect. (Amended 11-1-66)

The Council shall have the power, without other or further preliminaries, to issue Sales Tax Revenue Bonds of the City of Delta, Colorado, in the principal amount of \$1,700,000 for the purpose of street improvements, to include necessary grading, paving, curbs, gutters and sidewalks, within and for the City of Delta, such bonds to be payable solely from the available proceeds of a municipal sales or use tax, or from the proceeds received by the City from the imposition of a sales or use tax by the State of Colorado, or any agency thereof, such bonds to bear interest at a net effective interest rate not exceeding 7½% per annum, to mature serially within fifteen years from their date and to be callable for redemption prior to maturity at such time and in such manner, with or without premium, as may later be determined by the Council. Such bonds shall not be considered a debt or general obligation of the City, and shall not be included as part of the indebtedness of the City for purposes of determining any debt limitation thereof. (Amended 10-17-78)

(5) Inquire into the conduct of any office, department or agency of the City and make investigations as to municipal affairs;

(6) Appoint the members of the personnel board, should they by ordinance create such a board;

(7) Appoint the members of the Planning Commission;

(8) Adopt plats;

(9) Adopt and modify the official map of the City;

(10) Regulate and restrict the height and number of stories of buildings and other structures, the size of yards and courts, the density of populations and

the location and use of buildings for trade, industry, business, residence or other purpose;

(11) Appoint the members of any and all other boards as now or hereafter may be provided for;

(12) Adopt, modify and carry out plans proposed by the Planning Commission;

(13) Provide for an independent audit;

(14) The Council shall not have the right or power to sell the City light plant or any other utility belonging to the City without such sale first being authorized by a majority vote of the qualified taxpaying electors as defined by the statutes of the State of Colorado. (Amended 11-1-66)

10. Deposit of Public Funds. City funds and monies may be deposited in banks or financial institutions as permitted by Colorado statutes and authorized by the City Council, but nothing herein contained shall make the Council or any member thereof, or the Director of Finance, personally liable to the City for loss of any funds so deposited. (Amended 11-5-85)

11. Investments. Moneys remaining in any City fund not required for current operation may be invested in one or more of the securities permitted by the statutes of Colorado governing investment of public funds. Such investments will take into account the time when moneys will be required for their intended purpose. Interest on such investments shall be credited to the fund to which the invested money belongs, if such can be determined, otherwise to the general fund of the City. The Council, or any member thereof, or the Director of Finance shall not be personally liable to the City for any loss incurred through investment of any funds as herein provided. (Amended 7-17-84)

12. Appointment and Removal of City Manager and Other Officers.

(1) CITY MANAGER. The Council shall appoint a City Manager who shall have the powers and perform the duties in this Charter provided. No Councilman shall receive such appointment during the term for which he shall have been elected.

(2) CITY ATTORNEY. The Council shall appoint a City Attorney who shall be a licensed attorney and who

shall have practiced in the state for at least two years, who shall be the legal adviser of the Council and of all other City officials, and shall perform such other duties as required by ordinance. The Council may also employ special counsel.

(3) MUNICIPAL JUDGE. The Council shall appoint a Municipal Judge to preside over the municipal court of Delta and who shall have judicial powers, duties and limitations as are or may be provided by the statutes of the State of Colorado for police magistrates. Such judge shall have exclusive original jurisdiction in a summary manner to hear, try and determine all charges of the violation of ordinances. Appeals from said court shall lie with the County Court of Delta County. (Amended 7-17-84)

(4) (Repealed 4-2-96)

(5) Except as otherwise provided in this Charter, the Council shall have power to fix the salaries and official bonds of all officers and other employees of the City, and such salaries may be changed by resolution of the Council. The City Manager and all other officers and employees appointed by the

Council shall serve at the pleasure of the Council and may be removed at any time by a majority vote.

13. Council not to Interfere in Appointments or Removals. Neither the Council nor any of its members shall direct or request the appointment of any person to, or his removal from, office by the City Manager or by any of his superintendents, or in any manner take part in the appointment or removal of officers and employees in the administrative service of the City; except, however, that the said Council in their Council meetings may suggest, advise and counsel with the manager in the appointment of such officers and employees, but said Council shall deal with the administrative service solely through the City Manager.

14. Vacancies in Council. Vacancies in the Council shall be filled by appointment of the Council, the appointee to hold office until the next general election. A vacancy shall be taken to exist when a member of the Council fails to qualify for thirty days after the commencement of his term, dies, resigns,

removes from the City, absents himself from meetings of the Council for sixty days unless excused by resolution thereof, is convicted of a felony, or is judicially declared a mental incompetent as defined by statute.

15. Creation of New Departments or Offices; Change of Duties. The Council by ordinance may create, change and abolish offices, departments or agencies, other than the offices, departments and agencies established by this Charter. The Council by ordinance may assign additional functions or duties to offices, departments or agencies established by this Charter, but may not discontinue or assign to any other office, department or agency any function or duty assigned by this Charter to a particular office, department or agency.

16. Induction of Council into Office; Meetings of Council. The first meeting of the newly elected Council for induction into office shall be the next regular Council meeting following the election. The Council shall meet regularly at such times as may be prescribed by its rules, but not less frequently than twice each month. All regular meetings of the Council shall be open to the public. (Amended 11-2-93)

17. Council to be Judge of Qualifications of its Members. Subject to review by the courts the Council shall be the judge of the election and qualifications of its members and for such purpose shall have power to subpoena witnesses and require production of records.

18. Rules of Procedure; Records. The Council shall determine its own rules and order of business. It shall keep a record of its proceedings and the record shall be open to public inspection.

19. Ordinances and Resolutions.
(a) In legislative sessions, the Council shall act by ordinance, resolution or motion.
(b) The votes for and against shall be taken upon the passage of all ordinances and resolutions, and entered upon the journal of its proceedings. Upon the request of any member the votes for and against

shall be taken and recorded upon any motion. Every member when present must vote, and every ordinance passed by the City Council shall require on final passage the affirmative vote of a majority of all members of the Council.

(c) No ordinance, except an emergency ordinance, shall be passed by the City Council finally on the day it is introduced, and no ordinance shall take effect before thirty days after its final passage and publication, except an ordinance calling for a special election, or necessary to the immediate preservation of the public peace, health or safety in a special emergency, and not then unless the ordinance states in a separate section the reasons why it is necessary, and unless it receives the unanimous affirmative vote of the members elected to the City Council. No appropriation ordinance nor any ordinance making a grant of any franchise or special privilege shall ever be passed as an emergency ordinance. (Amended 11-2-1999)

(d) The Council is hereby authorized to enact any ordinance which adopts any Code by reference in whole or in part; and such primary Code thus adopted may in turn adopt by reference in whole or in part any secondary Codes duly described therein, provided that every such primary Code and every secondary Code shall be specified in the title of the ordinance. In the enactment of such ordinances, the Council shall follow the procedure set forth in the Colorado Revised Statutes 1973, 31-16-203 through 31-16-208, and as the same may be hereafter amended. (Amended 7-17-84)

(e) The enacting clause of all ordinances passed by the Council shall be in these words: "BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DELTA."

20. Publication of Ordinances. Every proposed ordinance shall be published once in full in a newspaper of the City, at least five days before its final passage. After such final passage, it shall again be published once in a newspaper as amended and completed, except in cases of emergency ordinance, which may be passed as heretofore provided and which shall take effect upon passage, and be so published within ten days thereafter. (Amended 11-7-89)

21. Amendment or Repeal. No ordinance or section thereof shall be amended or repealed except by an ordinance regularly adopted.

22. Ordinances Granting Franchise. No proposed ordinance granting any franchise shall be put upon its final passage within sixty days after its introduction, nor until it has been published not less than once a week for four consecutive weeks in the official newspaper of the City.

23. Record of Ordinances. A true copy of every ordinance when adopted shall be numbered and recorded in a book marked "ORDINANCE RECORD" and an affidavit of adoption and publication shall be authenticated by the oath of the publisher and by the signature of the Mayor and Clerk. The ordinances adopted by the vote of the qualified electors of the City shall be consecutively numbered and recorded.

24. Proof of Charter and Ordinances. This Charter or any ordinance may be proved by a copy thereof, certified to by the City Clerk under seal of the City; or when printed in book or pamphlet form, and purporting to be printed by authority of the City, the same shall be received in evidence in all courts without further proof.

25. Recodification and Revision. The Council shall provide for and cause to be made a recodification and revision of the ordinances of the City of Delta at least once every twenty-five (25) years.

26. Independent Annual Audit. Prior to the end of each fiscal year the Council shall designate qualified public accountants who, as of the end of the fiscal year, shall make an independent audit of accounts and other evidences of financial transactions of the City government and shall submit their report to the Council and to the City Manager. Such accountants shall have no personal interest, direct or indirect, in the fiscal affairs of the City government. They shall post-audit the books and documents kept by the Department of Finance, and any separate or subordinate accounts kept by any other office, department or agency of the City government.

A notice shall be published in the official newspaper of general circulation within the City that the annual audit is on file at City offices for review or purchase by the public. (Amended 7-17-84)

ARTICLE III

THE CITY MANAGER

27. The City Manager; Qualifications. The City Manager shall be chosen by the Council solely on the basis of his executive and administrative qualifications, with special reference to his actual experience in, or his knowledge of accepted practice in respect to the duties of his office as hereinafter set forth. During his tenure of office he shall reside within the City.

28. The City Manager; Powers and Duties. The City Manager shall be the chief executive officer and the head of the administrative branch of the City government. He shall be responsible to the Council for the proper administration of all affairs of the City, and to that end he shall have power and shall be required to:

(1) Appoint, and when necessary for the good of the service, remove all officers and employees of the City except as otherwise provided by this Charter, and except as he may authorize the head of a department or office to appoint and remove subordinates in such department or office;

(2) Prepare the budget annually and submit it to the Council and be responsible for its administration after adoption;

(3) Prepare and submit to the Council as of the end of the fiscal year a complete report on the finances and administrative activities of the City for the preceding year;

(4) Keep the Council advised of the financial condition and future needs of the City and make such recommendations as may seem to him desirable;

(5) Perform such other duties as may be prescribed by this Charter or required of him by the Council, not inconsistent with this Charter.

29. Absence of City Manager.

(a) To perform his duties during his temporary absence or disability, the manager may designate by letter filed with the City Clerk a qualified administrative officer of the City. In the event of failure of the manager to make such designation, the Council may by resolution appoint an officer of the City to perform the duties of the manager until he shall return or his disability shall cease. (Amended 7-17-84)

(b) In the event that a vacancy occurs in the city manager position under a condition not provided for in Section 29(a) of this Charter, then the City Council may appoint an acting city manager to serve for a period not lasting more than 180 days. Such acting city manager shall, while he serves in office, have all the responsibilities, duties and functions and authority of the City Manager. Such acting city manager shall be selected on the basis of the same qualifications provided for in Section 27 of this Charter, except that the acting city manager need not reside within the City during his term of office as acting city manager. (Amended 7-17-84)

30. Establishment of Departments. There shall be such departments as are created by this Charter and such other departments as shall be established by ordinance. It is expressly provided that the Council may create any department, the function of which may hereafter be permitted by state law.

31. Directors of Departments. At the head of each department there shall be a director or superintendent who shall have supervision and control of the department subject to the direction of the City Manager. Two or more departments may be headed by the same individual and, except as otherwise provided herein, that individual may be the City Manager.

32. Departmental Division. The work of each department may be distributed among such divisions thereof as may be established by ordinance upon the recommendation of the City Manager. Pending the passage of an ordinance or ordinances distributing the work of departments under the supervision and control of the manager among specific divisions thereof, the manager may establish temporary divisions.

32A. City Clerk; Duties. The City Manager, or his designee, shall act as City Clerk and shall have charge of all records of the City, and to that end he shall have authority and be required to:

- (1) Give notice of meetings of the Council;
- (2) Keep a journal of the meetings of the Council;
- (3) Authenticate by his signature and record in full in a book kept for that purpose all ordinances and resolutions;
- (4) Have charge of the City's seal and attest the Mayor's signature on all official documents.

The City Clerk shall perform such other duties as required by this Charter or the City Council.
(Amended 7-17-84)

ARTICLE IV

A. DEPARTMENT OF WATER AND SEWERS

33. Department of Water and Sewers. There is hereby created the Department of Water and Sewers, which shall embrace all property rights and obligations of the City in respect to water, waterworks, and sewers, and shall, as far as practicable, be administered as an entity. All contracts, records and muniments of title pertaining thereto shall be assembled and carefully preserved, and accounts shall be kept of its assets, liabilities, receipts and disbursements, separate and distinct from the accounts of any other department.

34. Rates, Regulations, Fines. The City Council shall by ordinance fix rates, establish regulations for use of water by consumers, provide for the orderly administration of the department, and impose fines and penalties for the violation thereof. Such ordinance shall establish a uniform classified system of rates for the use of water consumers in any given classification, from which rates there shall be no rebates or reductions, it being the intent hereof to prevent any consumers in any given classification within the City from having any advantage or favor over other water consumers in the same classification, by contract or otherwise. The rates determined upon shall provide at least sufficient revenues to cover all costs of operation, necessary enlargements and

extensions, reserve for depreciation, interest on and amortization of bonds.

Whenever in the opinion of the City Council the water supply is or becomes greater than the needs of the inhabitants of the City for fire, domestic and all other municipal purposes, the City Council may dispose of such surplus water to consumers of water outside the City limits at such reasonable rates and for such uses as in the opinion of the Council are just and proper, giving preference to household uses, taking into consideration the benefit to be derived by such outside consumers.

35. (Repealed 4-4-2000.)

36. (Repealed 4-4-2000.)

B. DEPARTMENT OF LIGHT

37. Lighting. The Department of Lighting shall embrace all property rights and obligations of the City in respect to its lighting plant and system, whether situated within or without the City limits.

38. Municipal Electric Light and Power System. It shall be the duty of the City Council to maintain and operate a municipal electric light and power system consisting of a generating plant and distribution system with all necessary appurtenances, for the use and benefit of said City and its inhabitants. The City Council shall have the power to issue interest bearing revenue bonds payable solely out of the earnings and revenues to be derived from the operations of said plant and system for necessary capital enlargements of such plant and system, and such revenue bonds shall in no event be paid by taxation or out of the general funds of the City except that the City shall pay reasonable rates for all light and power service actually rendered to the City of Delta, or its agencies, as such services accrue, should the City elect to avail itself of such services. The Council shall have all other powers and shall adopt all means necessary and appropriate to carry out the requirements, purpose and intent of this section in accordance with the most liberal construction which may be placed thereon.

39. Rates, Regulations, Fines. The City Council shall by ordinance establish regulations and fix rates to be charged for electric service furnished by the City owned and operated electric light and power plant and system, provide for the orderly administration of the department to be administered as an entity, and impose fines and penalties for the violation thereof. Such ordinance shall establish a uniform classified system of rates for the use of electric service, from which rates there shall be no rebates or reductions, it being the intent hereof to prevent any consumers in any given classification from having any advantage or favor over other consumers in the same classification by contract or otherwise. The rates determined shall provide sufficient revenues to cover all costs of operation, distribution and maintenance, all necessary enlargements and extensions, reserve for depreciation, interest on and amortization of bonds, and an amount equivalent to taxes chargeable against said utility the same as if privately owned, and a reasonable allowance for interest on capital invested in such plant and system.

C. PUBLIC WORKS AND PUBLIC IMPROVEMENT DISTRICTS

40. The City shall have the right and power to construct, operate and maintain public works and public improvements for any public purpose as authorized by the laws of Colorado, this Charter, and Ordinances and Regulations of the City. The City Council may create general improvement districts, and other districts authorized by Colorado Statutes, this Charter, or Ordinances of the of the City for the construction and operation of improvements and facilities, and provide the assessment of the costs against benefitted property, for the issuance of bonds and other instruments for the purpose of financing such improvements, and for the creation of special funds and exercise all other powers related thereto for public purposes as authorized by the laws of the State of Colorado, this Charter and Ordinances of the City. (Amended 4-4-2000)

41. Public Property. The City shall have the right to own, operate, maintain, and care for, all public property owned by the City, including sidewalks, curbs, gutters, public utilities, streets,

trees, and other appurtenances, as it shall determine desirable in the public interest, in accordance with the provisions of this Charter and Ordinances and Regulations of the City. (Amended 4-4-2000)

D. HEALTH DEPARTMENT

42. Health Department. The City Council shall appoint a health officer who shall be head of the Department of Health. He shall be a physician, duly licensed to practice medicine in the state of Colorado, or shall hold a certificate or degree in public health or sanitary engineering from a college of recognized standing, and shall have practiced his profession for a period of not less than five years. He shall have all the powers and duties provided by the laws of the state of Colorado for Boards of Health and City Physicians, and such other powers and duties as may be provided by ordinance.

43. The Council shall have authority to establish and conduct the City Health Department independently, or may conduct the same jointly, or in cooperation with a County Health Department or a District Health Department created under the laws of the state of Colorado as they now are or as they may be amended, at such time or times as the Council may determine to be the best interests of the City.

E. POLICE AND FIRE DEPARTMENTS

44. Police and Fire Departments. The City Council shall by ordinance provide for the establishment and maintenance of a Police Department, consisting of such employees as it may deem necessary.

The City Council may by ordinance provide for the establishment and maintenance of a Fire Department, consisting of such employees as it may deem necessary; or the City Council may by ordinance provide that the City shall discontinue its Fire Department, and the City shall be annexed into and become a part of the Delta County Rural Fire Protection District #1, pursuant to the provisions of law.

Unless and until otherwise provided by ordinance, the administration of the Policemen's Pension Fund and the Firemen's Pension Fund shall be as now or as may be provided by state law. (Amended 11-3-81)

F. PUBLIC LIBRARIES

45. The City shall create, maintain, operate, care for and improve from time to time as necessity requires, suitable public library for the use and benefit of the inhabitants of the City and the Council shall have authority to pass such resolutions and ordinances as are proper for such purposes and for the establishment of reasonable rules and regulations governing the use of the same.

G. CEMETERY

46. The City shall create, maintain, operate, care for and improve from time to time as necessity requires, proper grounds for cemetery purposes, and the Council shall have authority to pass such resolutions and ordinances as are proper for the regulation, beautification, adornment, platting, managing and caring for the same. Such funds as may be realized from the sale of lots, donations, devises, bequests and from any other sources, including receipts from contracts for the temporary or permanent care of lots, shall be used solely for cemetery purposes and in accordance with agreements pertaining thereto. Permanent and perpetual care funds shall be invested as provided in Section 11 of this Charter. The City may exercise the power of eminent domain for the purposes herein set forth.

H. PARKS, PLAYGROUNDS AND RECREATION

47. The City shall create, maintain, operate, care for and improve from time to time as necessity requires, suitable parks, playgrounds and recreation and community building facilities for the use and benefit of the inhabitants of the City, and the Council shall have authority to pass such resolutions and ordinances as are proper for such purposes and the establishment of reasonable rules and regulations governing the use of the same.

48. The Council may establish by ordinance such commissions as it may determine to be necessary for

the proper administration of the library, cemetery, parks, playgrounds and recreation functions of the City and shall define the duties and powers of such commissions, the terms of office of the members thereof and provide for the right of removal therefrom.

I. DEPARTMENT OF PLANNING

49. Planning Commission. There shall be a City Planning Commission consisting of seven members appointed by the Council who shall be qualified electors of the City. (Amended 4-2-96)

50. Terms. Members of the Planning Commission shall be appointed for staggered three-year terms with no Commissioner eligible to serve more than six consecutive years. Commissioners may be removed by Council for misconduct, malfeasance or excessive absence from meetings. Any vacancies shall be filled by Council for the remaining term. The current terms of the Commissioners shall be restated by the Council April 1, 1996, to two three-year terms, two two-year terms, and three one-year terms, and they shall be eligible for one more consecutive three-year term thereafter, notwithstanding the six year limitation of this section. (Amended 4-2-96)

51. Organization and Procedure. The Commission shall meet at least once a month or more often as provided by by-laws to be adopted by the Commission. (Amended 4-2-96)

52. Duties of the Commission.

(a) The Commission shall perform the following duties:

(1) Review and recommend to the Council for adoption ordinances and regulations, and amendments thereto, related to planning, zoning, subdivision, land use and development.

(2) Perform duties specified to Planning and Zoning Commissioners by applicable state statutes.

(3) Review projects of other governmental agencies pursuant to C.R.S. 31-23-209 for consistency with the City's comprehensive or master plan.

(4) Review and recommend to the Council each year a five year capital improvements plan.

(5) Promote public interest and education in planning, land use and development matters.

(6) Recommend to the Council for adoption a comprehensive or master plan and amendments thereto as described in Section 53.

(7) Perform other duties as set out in this Charter and City ordinances or regulations.

(b) The Planning Commission may adopt by-laws for the conduct of its business consistent with this Charter and City ordinances and regulations. (Amended 4-2-96)

53. Comprehensive Plan.

(a) The Commission shall be responsible to recommend to the Council for adoption a Comprehensive Plan (sometimes referred to as a master plan), parts thereof, and amendments thereto.

(b) The elements of the plan may be adopted separately and may include but are not limited to the following:

(1) Plans for physical improvements, public projects and facilities;

(2) A major street plan;

(3) A land use plan;

(4) Detailed goals, objectives, guidelines, policies, and implementation steps;

(5) Other plans related to development, land use and environmental protection.

(c) The plan shall be made with the general purpose of guiding and accomplishing the coordinated and harmonious development of the City and its environs which will, in accordance with present and future needs, promote the health, safety, morals, order, convenience, prosperity, and general welfare, as well as efficiency and economy in the process of development, including, among other things, adequate provision for traffic, the promotion of safety from fire, flood waters, and other dangers, adequate provision for light and air, the promotion of healthful and convenient distribution of population, the promotion of good civic design and arrangement, wise and efficient expenditure of public funds, the promotion of energy conservation, and the adequate provision of public utilities and other public requirements.

(d) Prior to adoption of the plan or any element thereof, Council shall hold a public hearing with prior published notice thereof.

(e) Following adoption, the Comprehensive Plan and elements thereof shall serve as a guide to the City Council and City Manager, and shall have such legal status as may be provided by ordinance or state statutes. (Amended 4-2-96)

54. Staff and Finances. Council shall provide the Commission with such staff assistance and financial support pursuant to the City budget as it deems appropriate. (Amended 4-2-96)

ARTICLE V

BUDGET

55. Fiscal Year. The fiscal year of the City government shall begin on the first day of January and end on the thirty-first day of December of each calendar year. Such fiscal year shall also constitute the budget and accounting year. As used in this Charter, the term "budget year" shall mean the fiscal year for which any particular budget is adopted and in which it is administered.

56. Council Shall Adopt Budget. The Council shall adopt an annual budget as hereinafter provided.

57. Assessment, Equalization, Levy, Collection of Taxes. The Council may by ordinance provide a system for the assessment, equalization, levy and collection of all City taxes not inconsistent with the provisions of this Charter. Until the Council shall otherwise by ordinance provide, the statutes of the state of Colorado now or hereafter in force shall govern the making of the assessments by the assessor of the county in which the City is situated; and including the duty of said assessor to certify the total amount of property assessed within the limits of the City to the Director of Finance of the City not

later than the fifteenth day of September of each year; and the collection and payment to the City of taxes by the treasurer of said county for and on behalf of the City; including the sale of property for taxes and the redemption of same, and also the certification and collection of all delinquent charges, assessment or taxes. (Amended 7-17-84)

58. Preparation and Submission of Budget. The City Manager shall submit to the Council the annual budget for the ensuing fiscal year no later than November 1 of each year. (Amended 11-7-89)

59. Budget a Public Record. The budget and budget message and all supporting schedules shall be a public record in the office of the Director of Finance, open to public inspection.

60. Publication of Notice of Public Hearing. Upon receipt of such proposed budget the Council shall cause to be published a notice showing that such proposed budget is open for inspection by the public at City Hall, that said Council will consider the adoption of such proposed budget and hold a public hearing on same on a certain date, and that all interested taxpayers and electors shall be given an opportunity to be heard. (Amended 11-7-89)

61. Further Consideration of Budget. After the conclusion of such public hearing, the Council may make amendments to the proposed budget consistent with this Charter and other legal requirements. (Amended 11-7-89)

62. Revenues to Equal Expenditures. The total anticipated revenues shall at least equal the total proposed expenditures in the budget. (Amended 11-7-89)

63. Vote Required for Adoption. The budget shall be adopted by resolution by the favorable votes of at least a majority of all members of the Council. (Amended 11-7-89)

64. Date of Final Adoption; Failure to Adopt. The budget shall be finally adopted not later than the first day of December of each fiscal year. Should the

Council take no final action on or prior to such day, the budget, as submitted and revised, shall be deemed to have been finally adopted by the Council.

65. Effective Date of Budget. Upon final adoption the budget shall be in effect for the budget year. (Amended 11-7-89)

66. Appropriations. Prior to the beginning of the fiscal year the Council shall adopt an ordinance providing for the annual appropriations. (Amended 11-7-89)

67. Budget Establishes Amount to be Raised by Property Tax Levy; Certification to Taxing Authority. From the effective date of the budget the amount stated therein as the amount to be raised by property tax shall constitute a determination of the levy for the purposes of the City in the corresponding tax year. Such levy shall be certified by the Director of Finance to the Board of County Commissioners. If the City fails in any year to certify a tax levy as herein provided, then the rate last certified shall be the rate for the ensuing fiscal year, which rate shall be levied by the Board of County Commissioners the same as if certified by the City. (Amended 11-7-89)

68. Budget Message. The budget message submitted by the City Manager to the Council shall be explanatory of the budget. It shall set forth the reasons for salient changes from the previous year in cost and revenue items and shall explain any major changes in financial policy. The City Manager shall include in the message or attach thereto a program of pending and proposed capital projects for the budget year and for the five years next succeeding the budget year, prepared by the Planning Commission, with any preliminary estimates of costs as may have been prepared by any department or agency of the City.

69. Budget Message; Supporting Schedules. Attached to the budget message shall be supporting schedules, exhibits and other explanatory material, in respect to both current operations and capital improvements as the City Manager shall believe useful to the Council and as the Council may require.

70. Budget. The budget shall provide a complete financial plan for the budget year. It shall contain in tabular form:

- (a) a general summary;
- (b) detailed estimate of all anticipated revenues applicable to proposed expenditures;
- (c) all proposed expenditures.

The total of such anticipated revenues shall at least equal the total of such proposed expenditures. (Amended 11-7-89)

71. Anticipated Revenues. Anticipated revenues shall include:

- (1) unexpended fund balances as estimated to exist at the end of the current or budget year, to be reapportioned as provided by the budget;
 - (2) miscellaneous revenues, classified by sources;
 - (3) the anticipated revenues and proposed expenditures of each utility or other public service enterprise owned or owned and operated by the City shall be stated in a separate section of the budget (each bearing the name of the utility) and, as to each utility, any anticipated surplus if legally available for general purposes shall be stated as an item of revenue in the budget;
 - (4) revenues from the collection of special assessments on property specially benefited shall not be stated in an amount which is in excess of the amount so derived which it is estimated will be held in cash on the first day of the budget year;
 - (5) revenues to be raised by property tax.
- (Amended 11-7-89)

72. Anticipated Revenues Compared with Other Years. Anticipated revenues shall be compared to revenues of other years consistent with generally accepted accounting procedures for local governments or as specified by ordinance. (Amended 11-7-89)

73. Proposed Expenditures. The proposed expenditures shall be itemized in such form and to such extent as legally required and as convenient for budget purposes. Separate provisions shall be included in the budget for at least:

- (a) debt service payments;
- (b) other statutory expenditures;

- (c) the payment of all judgments;
- (d) an amount equal to the aggregate of all emergency notes which it is estimated will be outstanding at the end of the current year;
- (e) if the City is required to make up the deficit arising from the operations of utility or other public service enterprises, an amount equal to the deficit from such operations during the last completed fiscal year, separately stated for each utility or other public service enterprise which appears in a separate section of the budget;
- (f) administration, operation and maintenance of each office, department or agency of the City itemized by character and object of expenditure;
- (g) contingent expense in an amount not more than three percent of the total amount stated pursuant to subsection (f) of this Section;
- (h) expenditures proposed for capital projects. (Amended 11-7-89)

74. Proposed Expenditures; Comparisons with Other Years. In parallel columns opposite the several items of proposed expenditures, there shall be placed the amount of each such item actually expended during the last completed fiscal year, the amount of each item in the budget of the current year, the amount actually expended to the time of preparing the budget, plus the expenditures for the remainder of the current fiscal year, estimated as accurately as may be. (Amended 7-17-84)

75. Budget Summary. At the head of the budget there shall appear a summary of the budget, which need not be itemized further than by principal sources of anticipated revenue, stating separately the amount to be raised by property tax, and by departments and kinds of expenditures, in such manner as to present to taxpayers a simple and clear summary of the detailed estimates of the budget.

ARTICLE VI

DEPARTMENT OF FINANCE AND RECORD

76. Director of Finance; Appointment. There shall be a Department of Finance and a Director of

Finance appointed by the City Manager pursuant to Subsection 28(1). The Director of Finance shall perform the duties set out in this Charter or as otherwise provided under the direction and supervision of the City Manager. (Amended 4-2-96)

77. Director of Finance; Qualifications. The Director of Finance shall have knowledge of municipal accounting and taxation and shall have had experience in budgeting and financial control.

78. Director of Finance; Surety Bond. The Director of Finance shall provide a bond with such surety and in such amount as the Council may require by resolution. The premium on such bond shall be paid by the City.

79. Director of Finance; Powers and Duties. The Director of Finance shall have charge of the administration of the financial affairs of the City, and to that end he shall have authority and shall be required to:

- (1) Compile the current expense estimates for the budget for the City Manager;
- (2) Compile the capital estimates for the budget for the City Manager;
- (3) Supervise and be responsible for the disbursement of all moneys and have control over all expenditures to ensure that budget appropriations are not exceeded;
- (4) Maintain a general accounting system for the City government and each of its offices, departments, agencies and City owned, or City owned and operated utilities; keep books for and exercise financial budgetary control over each office, department, agency and City owned, or City owned and operated utility; keep separate accounts of the items of appropriation contained in the City budget, each of which accounts shall show the amount of the appropriation, the amounts paid therefrom, the unpaid obligations against it and the unencumbered balance; require reports of receipts and disbursements from each receiving and spending agency of the City government to be made at such intervals as he may deem expedient. The accounting system of the City shall provide such accounts and funds as may be deemed necessary by the Director of Finance and the City

Manager, or as may be required by ordinance or resolution.

(5) Submit to the Council through the City Manager a monthly statement of all receipts and disbursements in sufficient detail to show the exact financial condition of the City;

(6) Prepare for the City Manager, as of the end of each fiscal year, a complete financial statement and report;

(7) Supervise and be responsible for all special assessments for the City government and give notice of special assessments as may be required by law;

(8) Collect or receive all money due the City and issue receipts for same;

(9) Have custody of all public funds belonging to or under control of the City, or any office, department, agency or utility owned, or owned and operated by the City, and deposit all funds coming into his hands in such depositories as may be designated by resolution of the Council;

(10) Have custody of all investments and invested funds of the City government, or in the possession of such government in a fiduciary capacity, and have the safekeeping of all bonds and notes of the City and the receipt and delivery of City bonds and notes for transfer, registration or exchange in such manner as is outlined in Section 11 of the City Charter;

(11) Under direction of the purchasing agent supervise, be responsible for and maintain an inventory of all supplies, materials, equipment and other articles used by any office, department, agency of the City or of any utility owned or owned and operated by the City;

(12) Approve all proposed expenditures. No appropriation shall be encumbered and no expenditure shall be made unless he shall certify that there is an unencumbered balance of appropriation and available funds. (Amended 11-7-89)

80. (Repealed 11-7-89)

81. (Repealed 11-7-89)

82. Transfers and Increases in Appropriations.

The City Council may at any time by an ordinance amending the annual appropriation -

(1) transfer any unencumbered appropriation balance or portion thereof between funds;

(2) increase appropriations when additional revenues are available from unappropriated fund balances, unanticipated revenues or other unbudgeted revenues.

The City Manager may authorize transfers of specific expenditures within a fund. No transfers shall be made from the appropriations required by subsections a, b, c, d, e of Section 73 of this Charter. (Amended 11-7-89)

84. When Contracts and Expenditures Prohibited.

No officer, department or agency shall, during any budget year, expend or contract to expend any money or incur any liability, or enter into any contract which by its terms involves the expenditure of money for any purpose, in excess of the amounts appropriated for that general classification of expenditure pursuant to this Charter. Any contract, verbal or written, made in violation of this Charter shall be null and void. Any officer or employee who shall violate this Section shall be guilty of a misdemeanor and, upon conviction thereof, shall cease to hold his office or employment. Provided, however, that nothing herein contained shall prevent the Council from providing by ordinance for payment of any expense in excess of the annual appropriations, the necessity of which is caused by any casualty, accident or unforeseen contingency arising after the final adoption of the budget. In case of such emergency and the passing of an ordinance adopted by the favorable vote of four-fifths of all the members of the Council authorizing additional expenditures in excess of the annual appropriations, and if there be funds or moneys available in some other fund or funds which will not be required to be expended during the remainder of the fiscal year, the Council shall transfer such available money from such fund or funds to the fund from which the excess expenditure is to be paid. If sufficient money which can be so transferred is not available to meet the authorized excess expenditure, then in that event, the Council may make a temporary loan through the issuance of emergency notes so as to provide for payment of

such expenditures; provided, however, that the total amount of such temporary loan shall not exceed such amount as can be raised by a two mill levy on the assessed valuation of the taxable property within the limits of the City. The provisions of this Section shall not apply to or limit the authority conferred in relation to bonded indebtedness, nor for moneys to be collected by special assessments for local improvements, nor for emergency expenditures by the water department. (Amended 11-7-89)

85. Appropriations Lapse at End of Year. All appropriations shall lapse at the end of the budget year to the extent that they shall not have been expended or lawfully encumbered.

86. Fees Shall be Paid to City Government. All fees received by any officer or employee of the City shall belong to the City government and shall be paid daily to the department of finance and record.

87. Division of Purchases. There shall be established in the department of finance a division of purchases, the head of which shall be the City Manager as Purchasing Agent. The Purchasing Agent, pursuant to rules and regulations established by resolution of the Council, shall contract for, purchase, store and distribute all supplies, materials and equipment required by any office, department, agency or utility of the City government. The Purchasing Agent shall also have the power and be required to:

(1) Establish and enforce specifications with respect to supplies, materials and equipment required by the City government;

(2) Inspect or supervise the inspection of all deliveries of supplies, materials and equipment, and determine their quality, quantity and conformance with specifications;

(3) Have charge of such general store rooms and warehouses as the Council may provide by resolution'

(4) Transfer to or between offices, departments, agencies or utilities, or sell under the supervision of the Council surplus, obsolete, or unused supplies, material and equipment. (Amended 7-17-84)

88. Competitive Bidding. Before the City Purchasing Agent makes any purchase of or contract for supplies, material or equipment, he shall give ample opportunity for competitive bidding, under such rules and regulations, and with such exceptions as the Council may prescribe by ordinance or resolution; provided, however, that the Council shall not except individual contracts, purchases or sales from the requirement of competitive bidding.

89. Contracts for City Improvements. All contracts for City improvements costing over \$20,000 shall require Council approval and shall be awarded pursuant to a competitive bid process unless otherwise authorized by Council. Council may prescribe by ordinance, resolution or regulation procedures and requirements for bidding and contracting. (Amended 11-5-85)

90. Accounting Control of Purchases. All purchases made and contracts executed by the Purchasing Agent shall be pursuant to a written requisition from the head of the office, department or agency whose appropriation will be charged, and no contract or order shall be issued to any vendor unless and until the Director of Finance certifies that there is to the credit of such office, department or agency a sufficient unencumbered appropriation balance to pay for the supplies, materials or equipment or contractual services for which the contract or order is to be issued.

91. No Contract Executed Until Bond Ordinance Effective. No contract shall be executed for the acquisition of any property or the construction of any improvement or betterment to be finance by the issuance of bonds until the ordinance authorizing the issuance of such bonds shall have taken effect and any contract executed before such day shall be unenforceable in any court of law.

92. Limitation of City Indebtedness. The indebtedness of the City shall be incurred and limited as provided in Article XI of the Constitution of the State of Colorado.

ARTICLE VII

ELECTIONS

93. Regular Elections. Regular municipal election shall be held annually on the first Tuesday in April. (Amended 4-2-96)

94. Nonpartisan Elections. All elections for elective positions of the City shall be nonpartisan. (Amended 4-2-96)

95. Special Elections. Special elections may be called by the Council by action taken at least 30 days in advance of the date of the election. (Amended 4-2-96)

96. Election Laws. City elections and registration of voters shall be governed by applicable Colorado statutes except as otherwise provided by the Charter or by ordinance. (Amended 4-2-96)

97. Referred Measures. The Council may refer any ordinance or other question to the voters at an election for adoption or rejection, including questions for advisory opinions. (Amended 4-2-96)

98. (Repealed 4-2-96)

ARTICLE VIII

INITIATIVE AND REFERENDUM

99. Initiative and Referendum Powers. The initiative and referendum powers reserved to the electors of the City in Subsection 9 of Section 1, Article V of the Colorado Constitution shall be exercised in accordance with procedures set out in Colorado Statutes, except as otherwise provided by City Charter or Ordinances. A petition executed by 10% of the registered electors shall be required to order the referendum, and a petition executed by 15% of the registered electors shall be required to proposed any legislative measure by the initiative. (Amended 11-2-1999)

- 100. (Repealed 11-2-1999)
- 101. (Repealed 11-2-1999)
- 102. (Repealed 11-2-1999)
- 103. (Repealed 11-2-1999)
- 104. (Repealed 11-2-1999)
- 105. (Repealed 11-2-1999)
- 106. (Repealed 11-2-1999)
- 107. (Repealed 11-2-1999)
- 108. (Repealed 11-2-1999)
- 109. (Repealed 11-2-1999)

ARTICLE IX

RECALL OF ELECTIVE OFFICERS

110. Applies to All Elective Officers. Any holder of an elective office may be recalled and removed therefrom by the qualified electors of the City as provided in this Article.

111. Petition for Recall. Any ten qualified electors of the City may make and file with the City Clerk an affidavit containing the name of the officer sought to be removed, and a specific statement of the grounds of removal. The Clerk shall thereupon deliver to the electors making such affidavit a sufficient number of copies of petitions for such recall and removal, printed forms of which he shall keep on hand. Such petitions shall be issued by the Clerk with his signature and official seal thereto attached; they shall be dated and addressed to the City Council,

shall contain the name of the person to whom issued, the number of forms so issued, the name of the person sought to be removed, the office from which such removal is sought, the grounds of such removal as stated in said affidavit, and shall demand the election of the successor to such office, a copy of which petition shall be entered in a record book to be kept in the office of said Clerk. Any defect in said form or record shall not invalidate the same. Said recall petition must be returned and filed with said Clerk within thirty days of its issuance. Said petition before being returned and filed shall be signed by qualified electors equal in number to at least twenty-five percent of the total number of votes cast at the last preceding general municipal election by the electors of the City, and to each such signature shall be attached his place of residence, giving the street and number. Such signatures need not all be on one paper. One of the signers of each paper shall make an affidavit thereto that the statements therein contained are true, and that each signature appended to the paper is the genuine signature of the person whose name it purports to be. All such papers for the recall of any one officer shall be fastened together and filed as one instrument, with the endorsements thereon of the names and addresses of three persons designated as filing the same.

112. Petition May Be Amended or New Petition Made. Such petition may be amended or a new petition filed in the same manner as provided in Section 103 of this Charter.

113. Election Under Recall Petition; Unless Officer Resigns. If the petition or amended petition shall be found and certified by the Clerk to be sufficient, he shall submit the same with his certificate to the Council within ten days and Council shall, if the officer sought to be removed does not resign within five days thereafter, thereupon order an election to be held on a Tuesday fixed by it, not less than thirty days nor more than forty days from the date of the Clerk's certificate that a sufficient petition is filed; provided, however, that if any municipal election is to occur within sixty days from the date of the Clerk's certificate, the Council may,

in its discretion, postpone the holding of the removal election to the date of such other municipal election. If a vacancy occurs in said office after a removal election has been so ordered, the election shall nevertheless proceed as in this Article provided.

114. Candidates; Election. Any officer sought to be removed may be a candidate to succeed himself, and unless he requests otherwise in writing, the Clerk shall place his name on the official ballot without nomination. The nomination of other candidates, the publication of notice of such removal election, and the conduct of the same shall all be in accord with the provisions of Article VII hereof relating to elections.

115. Incumbent Removed. The incumbent shall continue to perform the duties of his office until the removal election. If then elected, he shall continue in office for the balance of his term. If not then elected, he shall be deemed removed upon the qualification of his successor, who shall hold office during the unexpired term. If the successor fails to qualify within ten days after receiving notification of his election, the incumbent shall thereupon be deemed removed and the office vacant.

116. No Recall Petition for Six Months. No recall petition shall be filed against any officer until he has actually held his office for at least six months.

117. Incapacity of Recalled Officer. No person, who has been removed from office by recall or who has resigned from such office while recall proceedings were pending against him, shall be appointed to any office within one year after such removal by recall or resignation.

ARTICLE X

FRANCHISES

118. Grant. No franchise to construct and operate a public utility in any street, avenue, alley or public place of the City shall be granted except upon the majority vote of the taxpaying electors of said City voting at such election. The question of its being granted shall be submitted to such vote only upon deposit with the Director of Finance of the expense to be estimated by him of such submission by the applicant for such franchise.

119. No Exclusive Grant. No franchise or privilege shall be granted for a longer period than twenty years. No exclusive franchise or renewal shall ever be granted and no franchise shall be renewed before one year prior to its expiration.

120. Assignment. No franchise shall be leased, assigned or transferred except as approved by a vote of the electors of the City in an election thereon at the expense of the franchisee, as provided in Section 118. Provided, however, and notwithstanding any provision in any existing franchise to the contrary, the City Council may approved the assignment of a franchise in those cases where the Colorado Public Utilities Commission, the Federal Energy Regulatory Commission, or other State or Federal regulatory body has approved the assignment or restructuring as being in the public interest. (Amended 4-4-2000)

121. Conditions. All franchises or privileges hereafter granted to construct and operate a public utility shall prescribe the kind and quality of service or product to be furnished, the maximum rate or rates to be charged therefor, shall specify on which particular streets, avenues, alleys or public grounds the same shall apply, and the manner in which the streets, avenues, alleys and public grounds shall be used and occupied, and any other terms and conditions conducive to the public interest.

122. Termination. All such grants and renewals thereof shall preserve to the City the right to terminate the same and to purchase all the property of the utility as may be provided in the franchise making the grant or renewal, used in or useful for the operation of the utility. Nothing in such franchise shall prevent the City from acquiring the property of

such utility by condemnation proceedings or other lawful mode; but all such methods of acquisition shall be alternative to the power of purchase, reserved in the franchise or renewal as hereinabove provided. Upon the acquisition by the City of the property of any utility by purchase, condemnation, or otherwise, such franchise or renewals shall at once terminate.

123. Purchase Price. No franchise making such grant or renewal shall be valid unless it shall expressly provide therein that the price to be paid by the City for the property that may be acquired by it from such utility, by purchase, condemnation or otherwise, shall exclude all value of such grant or renewal.

124. Extensions. No amendment, renewal, extension or enlargement of any franchise of rights or powers previously or heretofore granted to any corporation, person or association of persons, shall be made except in the manner and subject to all the conditions provided in this Article for the making of original grants and franchises.

125. Right to Insert Additional Matter. The enumeration and specification of particular matters in this Charter which must be included in every franchise or grant, shall never be construed as impairing the right of the City to insert in such franchise or grant, such other and further conditions or provisions whatsoever, as the City shall deem proper, to protect the interests of the people.

126. Regulations. The Council shall at all times control the distribution of space in, over, under and across all streets or public grounds occupied by public utility fixtures. All rights granted for the construction and operation of public utilities shall be subject to the continuing right of the Council to require such reconstruction, relocation, change or discontinuance of the appliances used by the utility in the streets, avenues, alleys and public places of the City as shall in the opinion of the Council be necessary in the public interest.

127. Contracts for Service. All contracts for service with the holder of any such franchise shall be

made by ordinance, the terms of which shall be agreed to in writing by said holder prior to the passage of such ordinance. No contract for service shall be made by the Council for a longer period than two years unless such contract be approved by a majority of the qualified electors voting on said question.

128. Power to Regulate Rates. All power to regulate the rates, rentals and charges for service by public utility corporations is hereby reserved to the people to be exercised by them by ordinance of the Council, or in the manner herein provided for initiating or referring an ordinance. Any right of regulation shall further include the right to require uniform, convenient and adequate service to the public and reasonable extensions of such service and of such public utility works. The granting of a franchise shall not be deemed to confer any right to include in the charge for service any return upon the value of the franchise or grant itself.

Every franchise voted upon shall specify therein the uniform schedule of maximum charges for service by such holder, which schedule of charges shall not be exceeded and shall not be revised until the expiration of five years from the date of the passage of said ordinance granting such franchise, and no revision of the rates for such services shall be made more often than once in each five years.

129. Ordinance in Plain Terms. No franchise, right, privilege or license shall be considered as granted by any ordinance except when granted therein in plain and unambiguous terms, and any and every ambiguity therein shall be construed in favor of the City and against the claimant under said ordinance.

130. Franchise Provides for Safety. The grant of every franchise or privilege shall be subject to the right of the City, whether in terms reserved or not, to make any regulations for the safety, welfare and accommodation of the public, including, among other things, the right to require proper and adequate extension of such grant, the right to require any or all wires, cables, conduits, and other appliances, to be placed underground, and the right to protect the public from danger or inconvenience in the operation

of any work or business authorized by the grant of the franchise.

131. General Supervision. The City, acting through ordinance or resolution, shall have power to examine and have examined by its agents at any time during reasonable hours, the books, documents, schedules, plant, equipment, appliances and physical properties of any franchise holder, and to compel the production before such officers and agents of the City as the Council may direct of any and all books, documents, papers, reports and schedules which may pertain to or be evidence of the earnings of the utility or the value of its property used in the operation of the utility, in determining what constitutes fair and proper rates, fares, rentals and charges for services.

132. Books of Record. The Director of Finance shall cause to be kept a franchise record which shall set out in full, true and correct copies of all franchises and assignments thereof. Such records shall also contain true and correct copies of all ordinances and resolutions pertaining to or affecting such franchises in any way and shall show such other information as may affect such franchise, in order to provide a full and complete source of information concerning all such franchises.

133. Repealed.

134. Oversight of Water Reserved to City. Every franchise, right or privilege which has been or which may hereafter be granted conveying any right, permission or privilege to the use of the water belonging to the City, or to its water system or sewer system shall always be subject to the most comprehensive oversight, management and control in every particular by the City; and such control is retained by the City in order that nothing shall ever be done by any grantee or assignee of such franchise, right or privilege which shall in any way interfere with the successful operation of the waterworks or sewer systems of the City, or shall divert, impair or render the same inadequate for the complete performance of the trust for the people under which

said waterworks or sewer systems are held by the City, or which would tend to do so.

135. Provision for Common Use of Poles. The City may, by ordinance or resolution, require the holder of any franchise from the City for any public utility to allow the use of any of its poles, wires, conduits or electric current by any other person or corporation to which the City shall grant a franchise, upon the payment of a reasonable rental therefor; and any franchise or right which may hereafter be granted to any holder shall be subject to the condition that the City shall have the right to grant to any other person or corporation desiring to build or operate any public service within or into the City, the right to utilize its poles, wires, conduits or electric current insofar as may be necessary to enter the City and reach any section thereof; provided that the holder desiring to use such other public service shall first agree in writing with the holder thereof to pay it a reasonable compensation for such operation or use. And if such person or corporation desiring to use same cannot agree with said holder as to said compensation within sixty days from offering in writing to do so, as to terms and conditions for such use, then the Council shall by resolution, after a fair hearing to the parties concerned, fix the terms and conditions of such use and compensation to be paid therefor, which award of the Council when so made shall be final and binding on the parties concerned.

136. Revocable Permits. The Council may grant a permit at any time in or upon any street, alley or public place, provided such permit may be revocable by the Council at any time, whether such right to revoke be expressly reserved in such permit or not.

ARTICLE XI

GENERAL PROVISIONS

137. Intoxicating Liquor. The power to regulate, control or prohibit sale, exposure for sale, barter, exchange, giving away or manufacture of any spirituous, vinous, malt, fermented, distilled, alcoholic, or any intoxicating liquors is hereby

reserved to the people of the City of Delta, to be exercised by them through their Council by ordinance and by vote of the people on local option questions, or in any other manner provided by the laws of the State of Colorado, as the same now are or as said laws may be amended.

138. Oath of Office--Bond. Every officer or salaried employee shall, before he enters upon the duties of his office, take, subscribe and file with the Clerk an oath or affirmation to support the Constitution of the United States, the Constitution of the State of Colorado and the Charter and ordinances of the City of Delta, and faithfully to perform the duties of the position upon which he is about to enter. Any officer or employee required to give bond shall not be qualified for his office or appointment until such bond has been duly approved by the Council and filed with the Clerk who shall have custody thereof.

139. Reimbursement of Expense. All elective officers and employees of the City shall be entitled to recover such actual and necessary expenses as may be incurred by them for the benefit of the City in for performance of their duties and as may be approved by the Council.

140. Opinions Not Affect Appointment. No appointment to any position under the City government shall be made or withheld by reason of religious or political opinions or affiliations or political service; and no appointment or election to or removal from any office or employment, and no transfer, promotion, reduction, reward or punishment shall be in any manner affected or made by reason of such opinions, affiliations or service.

141. Contractual Powers. The Council shall have no power to make any contract of any kind or nature whatsoever or to make any lease of City property, the operation of which extends beyond the time of the term of office of the majority of its members. This Section shall not apply to the construction of waterworks and extensions thereof or of other public utilities owned by the City, when by reason of emergency it is deemed necessary that the operations shall extend beyond the term of the Council's term in

office, provided that it shall not apply to the construction of, or contract relating to any local or special improvement in any special assessment district in the City. The City Council by ordinance shall have the power to sell real estate and real property of the City which is found by the City Council not to be presently used or presently needed for any public purpose. The Council shall have no power to sell, abandon, grant, or otherwise dispose of any title or right of the City to any water works, ditches, gas works, electric light plant and works, or other public utilities, public buildings, or real property used or held for park purposes, until the question of said sale and terms and consideration thereof shall be submitted at a regular or special election and approved by a majority of the voters casting votes on said issue at such election. (Amended 11-4-75)

142. Official Books and Documents.

(a) All books, records and papers of each office, department, board or commission are City property and must be kept as such by the proper official or employee during his continuance in office, and delivered to his successor who shall give duplicate receipts therefore, one of which shall be filed with the City Clerk. The failure to so deliver such books, records and papers shall be a misdemeanor.

(b) Certified copies or extracts from the books, records and files shall be given by the officer, board, commission or employee having the same in custody to any person demanding the same and paying for such copy or extract; but the records of the Police Department shall not be subject to inspection or copy without the permission of the Mayor.

143. Should this Charter be approved by a majority of the qualified electors voting thereon, and upon filing two copies thereof officially certified by the City Clerk, in the office of the Secretary of State of Colorado, it shall thereupon, on January 2, 1952, be in full force and effect and the present form of government shall thereupon cease and terminate.

144. Outgoing Officers. All officers of the City whose term of office shall be terminated by the first election under this Charter shall deliver and turn over to the officers upon whom their powers and duties

devolve all papers, records and property of every kind in their possession or custody by virtue of their office, and shall account to them or to any authority designated by the City Council for all funds, credits or property of any kind with which they are properly chargeable as such officials.

145. Present Ordinances Continue in Force. All laws, ordinances, resolutions, by-laws, orders, rules or regulations in force in the City of Delta at the time this Charter takes effect, not inconsistent with its provisions, whether enacted by the authority of the City or any other authority, shall continue in full force and effect until otherwise provided by ordinance.

146. Definition of Misdemeanor. The term "misdemeanor" as used in this Charter shall mean a violation thereof or of any ordinance of which the Police Court or Municipal Judge thereof shall have jurisdiction. (Amended 7-17-84)

147. Penalty for Violation. Any person who shall violate any of the provisions of this Charter for the violation of which no punishment has been provided herein shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding one hundred dollars, or by imprisonment in the City jail not exceeding three months, or by both fine and imprisonment.

148. Construction of Words. Whenever such construction is applicable, words used in this Charter importing singular or plural number may be construed so that one number includes both; words importing masculine gender may be construed to apply to the feminine gender as well; and the word person may extend to and include firm and corporation; provided that these rules of construction shall not apply to any part of this Charter containing express provisions excluding such construction or where the subject matter or context is repugnant thereto.

149. Construction of Charter. This Charter shall be construed as a whole, and shall receive a liberal construction to carry out the intents and purposes herein set forth. In the event any Section or part of

a Section shall be declared unconstitutional or invalid, the validity of the remaining sections and parts of sections shall not be affected thereby.

150. Submission of Charter Amendments. This Charter may be amended at any time in the manner provided by Article XX of the Constitution of the State of Colorado. Nothing herein shall be construed as preventing the submission to the people of more than one Charter amendment or measure at any one election.

151. Reservation of Power. The power to supersede any law of this State, now or hereafter in force, insofar as it applies to local or municipal affairs, shall be reserved to the City acting by ordinance.

CERTIFICATE

WHEREAS, The City of Delta, in the County of Delta and State of Colorado, a city of the second class, did, on the 21st day of February, A.D. 1950, at a special election under and in accordance with the provisions of Article XX of the Constitution of the State of Colorado, elect W. T. Artt, King L. Banks, Ralph Botting, Clement A. Bowle, Robert F. Broughton, A. Allen Brown, Henry Cox, Harold V. Craig, Gene Day, Tony Gallegos, Roselle B. Glenn, W. W. Henry, Lawrence L. Hick, Gordon V. Hodgkin, Quincy Lamar, Otis C. Madden, John W. Maxwell, K. C. O'Dell, T. E. Paxson, Roy R. Shults and Roderick N. Stewart as a charter convention of twenty-one electors qualified as required by said Article XX to prepare and propose a charter for said city,

BE IT KNOW, That, in pursuance of said provision of the Constitution and within a period of sixty days after said election, said Charter Convention has prepared and does propose the foregoing as and for the Charter of the said City of Delta.

IN WITNESS THEREOF, We, the duly elected and qualified members of the Charter Convention of the City of Delta, State of Colorado, have hereunto subscribed our names in triplicate, in convention, in the court room at the court house in the said city, this 20th day of April, in the year of our Lord, one thousand nine hundred and fifty.

President CLEMENT A. BOWLE,

President OTIS C. MADDEN, Vice

HENRY COX, Secretary

King L. Banks
Ralph Botting
Robert F. Broughton
A. Allen Brown
Harold V. Craig

Gene Day
Tony Gallegos
Roselle B. Glenn
W. W. Henry
Lawrence L. Hick
Gordon V. Hodgins
Quincy Lamar
John W. Maxwell
K. C. O'Dell
T. E. Paxson
Roy R. Shults
Roderick N. Stewart

NOTE:

The above Charter of the City of Delta was adopted at a special election held in the City of Delta on May 23, 1950.