

ARTICLE I

GENERAL PROVISIONS

Section 1.1 – Name, Boundaries.

The municipal corporation now existing as the City of Fountain, El Paso County, Colorado, shall be known as the “City of Fountain, Colorado”, shall remain and continue to be a body politic and corporate under that name and shall have power and authority to change its boundaries in manner authorized by law.

Section 1.2 – Municipal Powers, Rights and Liabilities.

By the name of the City of Fountain, 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 Fountain 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 Fountain; may, in the name of the City of Fountain, 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 powers of local self-government and home rule, and all powers possible for a city to have under the Constitution and laws of the State of Colorado, or which it would be competent for this Charter specifically to enumerate or for the general assemble to grant, including all powers enumerated by the statutes of this State now or hereafter applicable to cities of any class or population group whatsoever; and, except as prohibited by the constitution or laws of the state, the city may exercise all municipal powers, functions, rights, privileges and immunities of every name and nature whatsoever. Such powers shall be exercised in conformity with the provisions of this Charter, or in such manner as may be provided by the Council, not inconsistent with this Charter.

The enumeration of particular powers in this Charter shall not be deemed to be exclusive of others, nor restrictive of general words or phrases granting powers, nor shall a grant or failure to grant power in this article impair a power granted in any other part of this Charter; and whether powers, objects or purposes are expressed conjunctively or disjunctively they shall be construed so as to permit the Council to exercise freely any one or more such powers as to any one or more such objects for any one or more such purposes.

Section 1.3 – Form of Government.

The municipal government provided by this Charter shall be known as a form of Council-Manager government. Pursuant to the Charter provisions and subject only to limitations imposed by the State Constitution and by this Charter, all municipal responsibilities shall be vested in an elective Council which shall enact local legislation, adopt budgets, determine policies and appoint the City Manager, who shall execute the laws and administer the City government. All rights and powers of the City shall be exercised in the manner prescribed by this Charter, or in such manner as may be prescribed by ordinance, resolution, or other applicable law.

Section 1.4 – Present Ordinances in Force.

All ordinances of the City of Fountain in force at the time this Charter becomes effective shall continue in force except insofar as they conflict with provisions of this Charter, or until they shall be amended or repealed by ordinance enacted under authority of this Charter.

Section 1.5 – Definitions.

1. Appropriation – The word “appropriation” shall mean an authorization by the Council of an amount of funds allocated for expenditures during a specified time for a specific purpose.
2. City – The word “city” shall mean the City of Fountain, a municipal corporation.
3. Clerk – The word “clerk” shall mean the City Clerk of the City of Fountain.
4. Council – The word “council” shall mean the City Council of the City of Fountain, composed of the Mayor and its members, elected or appointed as provided in this Charter. When the word “council” is used in this Charter with or without the word “mayor”, the word “council” shall always be construed as including the Mayor. (November 7, 2006)
5. Council Member – The word “council member” shall mean a member of council, including the Mayor.
6. Elector – The word “elector” shall mean a person who is entitled to vote at a particular time pursuant to terms of this Charter and shall include the term “registered elector”. (November 7, 2006)
7. Employee – The word “employee” shall mean any person employed by the City who is not an officer.
8. Franchise – The word “franchise” shall mean a privilege granted by the city permitting a specified use of public property for a specified time.
9. Governing Body – The words “governing body” shall mean the City Council of Fountain, Colorado.
10. Officer – The word “officer” shall mean any person who is elected to office or appointed by Council, including members of Boards and Commissions and such other persons as may be so designated by the Council.
11. Person – The word “person” shall mean an individual but may also be

construed to include bodies politic and corporate and partnerships or like associations or entities.

12. Treasurer – The word “treasurer” shall mean the City Treasurer of the City of Fountain.
13. Gender – The word “he” or “his” when used in the Charter is used as third person singular and shall be considered neutral in gender in that “he” also includes reference to “she” when applicable.

ARTICLE II

CITY COUNCIL

Section 2.1 – Rights of the City Council.

(a) The legislative affairs of the City shall be vested by the people in a Council consisting of not more than eight council members and a Mayor. The Council shall constitute the governing body of the City, and shall have the authority and the responsibilities of the City which are delegated to it by this Charter, by Article XX of the Constitution of the State of Colorado, by amendments to the Constitution of the State of Colorado, or by General Law of the State of Colorado or the United States as now constituted or as hereafter may be amended or enacted. All other rights are expressly reserved to the people of the City of Fountain as provided in this Charter. (November 5, 1985)

(b) The Council shall have the authority to enact and to provide for the enforcement of all ordinances necessary to protect life, health and property; to declare, prevent, and summarily abate and remove nuisances; to establish, preserve, finance, and enforce good government, order, and security of the City and the inhabitants thereof; to enforce ordinances and regulations by ordaining fines or imprisonment or both not exceeding the limitations imposed by the State of Colorado for each and every offense; to provide for the granting of probation and the conditional suspension of sentences by the Municipal Court; and to delegate to boards and commissions and individuals within the limitations of the Constitution of the State of Colorado and this Charter such functions and authority of the City as the Council may deem proper and advisable.

(c) No member of Council may become an employee or officer, or be retained in any capacity, for compensation, monetary or otherwise, of the City of Fountain, within one year from the date of resignation from or expiration of term of office. (June 9, 1981)

Section 2.2 – Qualifications.

(a) Those registered voters of the City who have resided in the City for a period of not less than one year immediately preceding the date of election, and who shall have attained the age of twenty-five years prior to the date of election shall be deemed qualified to hold the office of Mayor. Those registered voters of the City who have

resided within the City for a period of not less than one year immediately preceding the date of election shall be deemed qualified to hold the office of Council Member; provided, however, that this section concerning general residency shall not be interpreted as voiding the requirements that a person who is elected from a Ward shall be a registered voter of that Ward. (June 9, 1981) (November 3, 1987)

Any person who is a resident of the City or has resided in any area annexed or consolidated with the City for the required length of time as herein provided shall be deemed to meet the residency requirements of this Section. Each Council Member shall maintain his residency in the City or his Ward if so applicable throughout his term of office. If a member of the Council shall cease to be a resident of the City, if a member at-large, or cease to be a resident of his Ward if elected by Ward during the term of his office, his seat shall be declared vacant by resolution of the Council, and such vacancy shall be filled as provided in this Charter. (June 9, 1981)

(b) The Council shall consist of members elected both at-large and from Wards established within the City on the basis of population, and a Mayor elected as provided in Section 2.3(b) of this Charter. The number of Wards shall be set by ordinance. One Council Member shall be elected from each Ward, and additional Council Members shall be elected at-large, the number of which shall equal the number of Wards. The Council membership, including the Mayor, shall not exceed nine members. The term of office shall be four years and no member may serve more than two regularly elected, consecutive terms. On the first Tuesday in November, 1977, the first regular election under the provisions of this Charter shall be held at which time the Mayor and Council Members shall be elected as provided in this Charter. Commencing with the first regular Municipal election after the adoption of this Charter and at each succeeding regular election thereafter, the members of the Council shall be elected to overlapping terms of office. On the first Tuesday in November, 1979, and on the first Tuesday of November of every odd numbered year thereafter, the expired terms shall be filled by electing the Council Members to four-year terms. (June 9, 1981) (November 7, 2006)

(c) The term of a Council Member shall commence upon the taking of the oath of office at the first regular Council meeting held after the results of the election have been certified by the City Clerk. The terms shall continue for the period for which the member has been elected and until a successor shall have been elected and sworn or, in the case of a vacancy, until a successor is appointed and sworn. Nothing in this section shall be construed to conflict with the right of the electors to recall any elected official.

Section 2.3 – Mayor.

(a) The Mayor shall be the presiding officer of the Council and the recognized head of the City government for all legal, dignitary, ceremonial, martial law and disaster emergency purposes. He shall preside at meetings of the Council, and shall have the same right and obligation to speak and vote therein as any member. All contracts, conveyances of interest in land, bonds, indentures, evidences of indebtedness, proclamations and all other legal documents shall be signed by the Mayor or as delegated

by the Council. All resolutions and ordinances of the City shall be signed by the Mayor and attested by the City Clerk under the seal of the City. The Mayor shall exercise such powers and perform such other duties as are conferred and imposed upon him by this Charter or by ordinance. (November 7, 2006)

(b) The Mayor shall have the qualifications of age and residency as provided in Section 2.2(a) of this Charter, and shall be elected at-large by popular vote of the electors. The term of office shall be two years and no Mayor may serve more than four regularly elected consecutive terms. (June 9, 1981)

Section 2.4 – Mayor Pro Tem.

A Mayor Pro Tem shall be elected by the City Council from its own membership at the first meeting following the certification of the results of each regular city election by the City Clerk. The Mayor Pro Tem shall serve until the Council meeting following the certification by the City Clerk of the regular City election, and shall act as Mayor during the absence or disability of the Mayor. If a vacancy shall occur in the office of Mayor Pro Tem, the City Council shall choose a successor from its members to fill the unexpired term. In the event of the absence or disability of both the Mayor and Mayor Pro Tem, the Council shall designate one other of its members to serve as Acting Mayor. Any Mayor Pro Tem or Acting Mayor while serving as Mayor shall retain all powers granted herein to Council Members. (November 7, 2006)

Section 2.5 – Vacancies.

(a) The office of Mayor or Council Member shall become vacant whenever the person holding the office is recalled, dies, becomes incapacitated, resigns, refuses to serve, is expelled, ceases to meet the residency requirements for the office, is judicially declared to be mentally ill or incompetent, or is convicted of a felony.

(b) The person appointed to fill the vacancy shall serve in that office only until the person elected for the office at the next regular election or at any special election held for the purpose of filling vacancies qualifies for the office. (June 9, 1981)

(c) When a vacancy shall be declared to exist, any person who is qualified under the provisions of this Charter to hold such office, and who desires to be considered for appointment to the vacant office, shall offer his name in nomination by filing a petition with the City Clerk signed by twenty-five registered voters who are eligible to cast ballots for such office. The petition shall meet the requirements of other petitions for other elective offices of the City, and may be amended as provided herein. The Council shall, when declaring the existence of a vacancy, establish the last date for filing of petitions which shall not be longer than fifteen days from the date of the declaration. The City Clerk shall determine the sufficiency of such petitions, and petitions judged insufficient may be amended and re-filed one time within forty-eight hours of the judgment of insufficiency. The City Clerk shall deliver the petitions to the Council, and the Council shall appoint the individual it deems most qualified for the office by majority vote taken

during a regular or special Council meeting. Such appointment shall be made within fifteen days after the delivery of the petitions by the City Clerk. In the event that a qualified candidate does not file a petition within the allotted time, the Council shall appoint a registered elector to fill the vacancy within fifteen days of the final date for the filing of such petitions. (November 7, 2006)

(d) If two or more vacancies on the Council shall occur between regular municipal elections, the Council shall call a special election to fill the unexpired terms of the appointed and vacant offices, provided, however, if there is a regular municipal election within one hundred eighty days after the most recent vacancy is declared, the vacancies and unexpired terms shall be filled at that regular election. (June 9, 1981) (November 7, 2006)

Section 2.6 – Compensation.

The Council shall prescribe by ordinance the emoluments for its members, provided that monetary compensation for each member shall not be less than \$25.00 for each regular or special meeting attended. Such emoluments shall be fixed by ordinance for each office prior to the final date for the filing of petitions of candidacy for said office. Emoluments of any member of the Council shall not be increased or decreased during the term for which the member has been elected or appointed. Any member of the Council who has resigned or vacated an office prior to the end of his elective or appointive term shall not be eligible for re-election or re-appointment to said office during such term if, during such term, the compensation has been increased. The effective date of this provision shall commence with the first regular election held subsequent to the adoption of this Charter. The Mayor and Council Members may be paid such actual and bona fide expenses incurred as a result of service to the City upon presentation of proper receipts to the City Manager and authorized by the Council.

Section 2.7 – Regular Meetings.

The Council shall meet regularly at least twice each month at a day and hour to be fixed by the rules of the Council. The Council shall determine the rules of procedure governing meetings and shall open all regular meetings with the Pledge of Allegiance to the Flag of the United States of America. At the first regular meeting following a regular municipal election, the Council shall organize as a matter of business, and shall not be restricted from transacting other proper business.

Section 2.8 – Special Meetings.

(a) Special meetings of the Council shall be called by the City Clerk on the written order of the Mayor or any four Members of the Council. Written notice of not less than twenty-four hours shall be delivered personally to each member of the Council, or in the event he cannot be located, then left at the member's usual place of residence. (June 9, 1981)

(b) Written notice of not less than twenty-four hours of the special meeting shall be posted in or on at least three public buildings. The notice of special meeting shall state the place, date, and time of such meeting and shall include the purpose of the meeting, all business to be conducted and why the meeting is necessary. No other item of business shall be discussed or transacted at any special meeting than stated in the official notice issued by the City Clerk. (June 9, 1981)

(c) The Mayor, or the four Members calling the special meeting, shall be responsible for deciding that such special meeting is necessary and shall so state in the written order calling the meeting. (June 9, 1981)

(d) Council may, at a regular meeting, set a special meeting. (November 7, 2006)

Section 2.9 – Other Meetings.

(a) Executive Session - Colorado statutes as now existing or hereinafter amended applying to open meetings of local governments shall apply to meetings of the City Council and its Boards, Commissions and Committees. (November 7, 2006)

(b) Informal Meetings – The Council may on its own initiative or at the request of the Mayor, City Manager, or any citizen or group of citizens hold informal sessions to discuss matters provided that such sessions are previously announced during a regular or special Council meeting and are open to the public. No final action may be taken at an informal session which would constitute a legal obligation of the City, but the Council may direct work or studies to be performed or agree to consider an item at a regular or special meeting.

Section 2.10 – Notice of Meetings.

(a) Formal notice of regular Council meetings need to be given one time upon direction of the Council acting by resolution at its first organizational meeting after the adoption of this Charter. In the event that the Council shall act to change or alter the time and place of its regular meetings, the City Clerk shall publish notice of the change sufficiently in advance of the first meeting to allow the public to attend.

(b) Public hearings shall be set by Council action at either a regular or special meeting, or as delegated by Council, and shall require publication and posting of notice at least ten days prior to the date of the public hearing. Any notice to be posted shall be placed in or on not less than three public buildings within the City. (June 9, 1981) (November 7, 2006)

Section 2.11 – Meetings to be Public.

(a) All regular, special, and informal meetings of the City Council shall be open to the public, and citizens shall have the opportunity to be heard under such rules and

regulations as the Council may prescribe.

(b) Minutes of the proceedings of each meeting shall be kept by the City Clerk, and shall be signed by the Mayor and City Clerk upon approval and except for minutes of executive sessions, shall become public record. (November 5, 1985) (November 7, 2006)

(c) Colorado statutes as now existing or hereinafter amended applying to open meetings of local governments shall apply to meetings of the City Council and its Boards, Commissions and Committees. (November 5, 1985) (November 7, 2006)

Section 2.12 – Quorum: Adjournment of Meeting.

A majority of the members of the Council shall constitute a quorum for the transaction of business at all Council meetings. A quorum shall be present at all regular and special meetings before any formal or legally binding action shall be taken by the Council. In the absence of a quorum, a lesser number may adjourn any meetings to a later time or date. In the absence of all members, the City Clerk may adjourn any meeting for not longer than one week.

Section 2.13 – Oath of Office.

(a) Every officer of the City, whether elected or appointed, shall before assuming the duties of the office take an oath of office affirming that he will support the Constitution and laws of the United States and of the State of Colorado, and the provisions of this Charter and the Ordinances of the City, and that he will faithfully perform the duties of the office to be assumed. The City Clerk shall administer such an oath verbally to the Mayor and each appointed officer individually and Council Members severally. Each elected or appointed officer shall also sign the oath form provided by the City Clerk, and the City Clerk shall file each administered and executed oath. The Mayor shall administer the oath of office to the City Clerk.

(b) In the event that a person shall fail to take the oath within thirty days after the date of certification of the election or appointment to office, the City Clerk shall inform the Council which shall at a regular meeting either declare the office vacant due to the failure of the person to accept the office or, in the case of extenuating circumstances, extend the time in which that person may take the oath of office. (November 7, 2006)

Section 2.14 – Conflict of Interest.

The use of public office for private gain is prohibited. The City Council shall implement this prohibition by ordinance, the terms of which shall include, but not be limited to: acting in an official capacity on matters in which the official has a private financial interest clearly separate from that of the general public; the acceptance of gifts and other things of value; acting in a private capacity on matters dealt with as a public official; the use of confidential information; and appearances by City Officials before other city

agencies on behalf of private interests. (November 7, 2006)

Section 2.15 – Compulsory Attendance, Conduct at Meetings, and Conduct Generally.

(a) A majority of the members of the Council may by motion require the attendance of its members and other officers of the City at any meeting of the Council. Any members of the Council or other officer who when notified of such request for his attendance fails to attend such meetings for reasons other than confining illness, necessary absence from the City, or because of the transaction of City business which precludes his attendance shall be deemed subject to appropriate disciplinary action by the Council which may include removal from office. (June 9, 1981)

(b) The Council may by majority vote of its members cause the Mayor, one of its members, or any officer of the City to be censured for actions held by majority vote of the Council to be misconduct, malfeasance, misfeasance, or in violation of the rules, regulations or ordinances adopted by the City Council for the proper conduct of its meetings. The Council may, when confronted with a violation or violations of such rules, regulations or ordinances by an elected or appointed officer, by majority vote, expel the person from office and declare the office vacant under the provisions of this Charter. (November 7, 2006)

ARTICLE III

CITY ADMINISTRATION

Section 3.1 City Manager: Appointment, Qualifications and Removal.

(a) For the efficient performance of the administrative functions of the City, the Council shall by majority vote appoint a City Manager as soon as possible after adoption of this Charter and whenever a vacancy occurs in the position.

(b) The City Manager shall be selected with regard to his/her education, executive, and administrative abilities, experience and any other qualifications required for the successful accomplishment of the duties of the office which may be established by Council. Minimum requirements are a college degree or equivalent and five years experience relative to City Government. Such appointment shall be without definite term and shall be at an annual salary to be established by the Council. Neither the Mayor nor any other member of the Council shall be appointed to the position of City Manager during his/her term of office or within two years after the expiration of his/her term of office. Any person currently serving or selected and appointed for the position of City Manager after November 7, 1995 shall become a resident of the City of Fountain within six (6) months of his/her date of hire, and shall maintain that resident status within the City of Fountain during the entire term of their employment as City Manager for the City of Fountain. The City Manager shall devote his/her entire business time of the

administration of the City, shall hold no other employment, full or part time, that interferes with his/her ability to fulfill his/her duties as City Manager and shall have no financial interest, direct or indirect, with any firm or corporation which may conduct commercial transactions with the City. (November 7, 1995) (November 7, 2006)

(c) It shall be the responsibility of the Council to judge the performance of duty of the City Manager, and it is within the discretion of the Council to establish such standards for the performance and execution of the duties of the office of the City Manager as it deems necessary. The City Manager may be removed for cause by majority vote of the Council. The Council shall then declare the position vacant, and shall proceed to fill the vacancy under the provisions of this Charter. The City Manager may request a public hearing and the opportunity to answer specific charges brought against him prior to his final removal from the office.

Section 3.2 – Absence of City Manager.

The City Manager may suggest, and the Council shall select by resolution, a Deputy City Manager to act in the absence of the City Manager or during a vacancy in the office. The position of Deputy City Manager may be filled either by a current employee as an additional duty or be a separate budgeted position. The Deputy City Manager shall, while acting in the capacity of the City Manager, have all the responsibilities, duties, functions, and authority of the office of City Manager. In the event of the incapacity or inability of the City Manager to act and of the Deputy City Manager to act instead of the City Manager, the City Clerk shall have all the responsibilities, duties, functions, and authority of the City Manager while so acting. (June 9, 1981) (November 5, 1985)

Section 3.3 – City Manager: Authority and Responsibilities.

The City Manager shall be the Chief Administrative Officer of the City Government, and shall be responsible to the Council for the proper and efficient administration and execution of the affairs of the City. His responsibilities shall include the following:

(a) Laws – The proper enforcement of the laws and ordinances of the City, the policies and directives of the Council, and conformance to the applicable laws of the State of Colorado and the United States.

(b) Personnel – The preparation of and responsibility for a system of personnel administration, subject to approval by the Council, which provides for the recruitment, selection, appointment, transfer, promotion, evaluation, discipline and removal of all employees of the City; for the definition of their jobs and duties; for the establishment of appropriate wage and salary scales and classifications for the various positions of the City; for the proper supervision of the employees of the City and for the conformance of the system to applicable laws and regulations of the State of Colorado and the United States.

(c) Budget – The preparation of an annual budget to be submitted to the Council for

approval and adoption as provided in this Charter, and for the proper administration of the budget after its adoption.

(d) Finance – The provision of a system of accounting that will reflect, within generally accepted accounting principles, the financial condition of the City; a system of financial reporting which demonstrates the current financial condition and future needs of the City; a comprehensive system of managing the financial resources of the City which provides that the funds of the City are held in securities and accounts which are properly insured as required by law and where feasible offers preference to chartered commercial banks, savings and loan institutions, and industrial banks, located within the City limits; and a system for the payment of funds for the debts of the City upon receipt of proper documentation.

(e) Purchasing – The establishment of a system for the acquisition of materials, equipment, supplies, and services for the City which will reflect cost effectiveness and a high quality of products and services. When feasible merchants and suppliers located within the City will be utilized and when required by law, the procedure of competitive public bidding or selective public bidding will be utilized.

(f) Departmental Supervision – The supervision and control over the operations, functions, duties, responsibilities, policies, regulations, rules and changes thereto of all of the departments and offices of the City and, subject to the advice and consent of the Council, for the creation, establishment, consolidation, division, or abolishment of departments and offices.

(g) City Representatives – The attendance at Council meetings and participation in an advisory capacity; serving as a non-voting member of any boards, committees, and commissions of the City both present and future which are established by action of the Council, or in an advisory capacity to such boards, committees, and commissions as determined within the discretion of the Council; when designated by the Council, representing the City as a voting member of any board, council, organization, committee, corporation, or other group to which the City has membership, but taking no action that would bind the City legally without the advice and consent of the Council.

(h) Other – The performance of such other duties as may be prescribed by this Charter, applicable laws and ordinances, or as are directed by the Council.

Section 3.4 – Relationship of City Council to Administrative Service.

No member of the Council shall dictate or interfere with the appointment or the duties of any officer or employee of the City, except as expressly provided in this Charter, nor shall any member of the Council prevent or interfere with any officer or employee of the City in the exercise of his judgment in the performance of his assigned municipal responsibilities. The Council and its members shall deal with the administrative service of the City solely through the City Manager, and neither the Council nor its members shall give orders or reprimands to any employee or subordinate of the City Manager. The

City Manager shall be held accountable to the Council for his actions and those of his subordinates, and the Council retains the prerogative of requiring the City Manager to make verbal or written reports concerning his activities, those of his subordinates, and the administrative service under his charge.

Section 3.5 – City Clerk.

(a) The City Manager shall, subject to the advice and consent of the Council appoint a Clerk and a Deputy Clerk who, before entering upon the duties of the office, shall take an oath of office to be administered by the Mayor and shall furnish a surety bond in an amount as required by the Council. The position of Deputy Clerk, who will act in the absence of the Clerk, shall be filled by a current employee as an additional duty. (June 9, 1981)

(b) The Clerk shall be the Clerk of the Council and shall attend all meetings of the Council and shall keep a permanent record of minutes of its proceedings and all ordinances and resolutions. (November 5, 1985)

(c) The Clerk shall be the sole custodian of the City Seal and shall affix it to all documents and instruments requiring the Seal and shall attest the same by his signature. He shall be the sole custodian of all papers, documents, and records of the City, the custody of which is not otherwise provided for, and shall establish and maintain a systematic and efficient system of filing. (June 9, 1981)

(d) The Clerk shall certify by his signature all ordinances and resolutions enacted or passed by the Council, and shall be authorized to countersign all checks issued by the City.

(e) The Clerk shall provide and maintain in his office all forms required by this Charter or applicable statutes for the proper conduct of municipal elections, and shall provide for the proper administration of elections as required by this Charter and applicable statutes.

(f) The Clerk shall have the authority to administer oaths of office and receive their acknowledgments under the Seal of the City.

(g) The Clerk shall perform such other duties as may be prescribed by this Charter, the City Manager or the Council.

(h) The Clerk may be removed by the City Manager for cause; provided, however, that such action shall be subject to the advice and consent of the Council. ¹

¹ This section of the Charter is in effect until replaced by the following section printed in italics.

(a) The City Manager shall, subject to the advice and consent of the Council appoint a Clerk and a Deputy Clerk who, before entering upon the duties of the office, shall take an oath of office to be administered by the Mayor and shall furnish a surety bond in an amount as required by the Council. The position of Deputy Clerk, who will act in the absence of the Clerk, shall be filled by a current employee as an additional duty. (June 9, 1981) (November 7, 2006)

(b) The duties of the City Clerk shall be established by Ordinance. (November 5, 1985) (November 7, 2006)

(c) The Clerk may be removed by the City Manager for cause; provided, however, that such action shall be subject to the advice and consent of the Council. (June 9, 1981) (November 7, 2006) ²

² This section of the Charter becomes effective upon passage by the City Council of the City of Fountain of an implementing ordinance or City Council formally determines that no implementing ordinance is necessary

Section 3.6 – City Treasurer.

(a) The City Manager shall, subject to the advice and consent of the Council, appoint a Treasurer, who may also serve as the Clerk, and who shall before entering into the office take an oath of office and furnish a surety bond in an amount as required by the Council.

(b) The Treasurer shall have custody of all monies of the City and all evidences of indebtedness belonging to the City.

(c) The Treasurer shall provide for the collection of all monies for the City. He shall receive from the other offices and employees of the City all monies belonging to and receivable by the City and collected by its offices, officers, and employees, including fines, bonds, fees, taxes, payments, assessments and all other charges. All monies shall be promptly turned over to the Treasurer after collection or receipt.

(d) The Treasurer shall keep and deposit all monies and funds in such manner and only in such places as authorized under the provisions of this Charter.

(e) The Treasurer shall disburse all City funds in accordance with this Charter, applicable statutes, and procedures established by the City Manager under the provisions of this Charter.

(f) The Treasurer shall maintain a monthly summary of all monies paid during that month identifying each person, firm, corporation, or entity receiving funds, and the amounts paid, and shall post a copy of said summary in a conspicuous place in his office, and shall provide all supporting documents or files for public inspection during normal business hours, and shall allow the public to make copies thereof at a fair and reasonable charge.

(g) The Treasurer shall perform such other duties as may be prescribed by the Council, by this Charter, or by the City Manager.

(h) The Treasurer may be removed by the City Manager for cause; provided, however, that such action shall be subject to the advice and consent of the Council. ³

³ This section of the Charter is in effect until replaced by the following section printed in italics.

(a) The City Manager shall, subject to the advice and consent of the Council, appoint a Treasurer, who may also serve as the Clerk, and who shall before entering into the office take an oath of office and furnish a surety bond in an amount as required by the Council.

(b) The duties of the City Treasurer shall be established by Ordinance. (November 7, 2006)

*(c) The Treasurer may be removed by the City Manager for cause; provided, however, that such action shall be subject to the advice and consent of the Council. (November 7, 2006)*⁴

⁴ This section of the Charter becomes effective upon passage by the City Council of the City of Fountain of an implementing ordinance or City Council formally determines that no implementing ordinance is necessary.

Section 3.7 – Deputy or Acting Officers.

In the event of the authorized absence or illness of a department head, an appointive officer, or if a vacancy should occur in an appointive office of the City, the City Manager shall have the authority to appoint a deputy or acting officer, with the exception of the office of Deputy City Manager; who shall perform all duties and responsibilities regularly assigned to the office. (June 9, 1981)

Section 3.8 – Labor Relations.

(a) It shall be the prerogative of the Council to decide upon the recognition of any organization, group or individual representing, professing to represent, or engaged in the attraction of membership from the employees of the City who may constitute a collective bargaining unit or a potential collective bargaining unit, subject, however, to the statutory or case law of the State of Colorado or the United States.

(b) It shall be the sole responsibility of the City Manager to provide for collective bargaining on behalf of the City with any bargaining agent representing a bargaining unit of employees of the City, which bargaining agent and bargaining unit shall have first been recognized as such by the Council. No member of the Council shall participate in, be affiliated with, interfere with, or otherwise become directly or indirectly involved in collective bargaining, any proceedings flowing therefrom, or any other activity relating to the collective bargaining process.

(c) The City Manager shall provide such information to the Council as will relate to the legislative functions of the Council, and will present any collective bargaining agreement to the Council for ratification, which ratification shall be by a majority vote of its members at a special or regular meeting.

Section 3.9 – Departments Created.

The administrative functions of the City shall be performed by the departments existing at the time this Charter is adopted and such other departments as may be hereafter established by the City Manager with the advice and consent of the Council. The City Manager may also, with the advice and consent of the Council, consolidate, abolish,

divide or restructure any of the departments of the City except that no such action shall be taken unless it conforms with the provisions of the budget and appropriations adopted by the Council. It shall be the responsibility of the City Manager to properly supervise and control the departments of the City; promulgate such administrative policies as necessary to insure the effective and efficient operation of the departments; to appoint department heads, and to establish a fair and just system for their removal, promotion, or termination; and to establish a system to measure the performance of each department. The City Manager shall at least annually report to the Council on the performance of the departments and offices of the City and shall report more frequently if required by the Council or if special problems exist. (November 7, 2006)

Section 3.10 – Police Authority.

(a) There is hereby created a Department of Police, the director of which shall be the Chief of Police who shall be appointed by the City Manager with the advice and consent of the Council. The Chief of Police shall be subject to the supervision and direction of the City Manager, and shall be selected, promoted, evaluated, or removed in the manner provided for all other department heads or equivalent appointive officials.

(b) The Department of Police shall be responsible for the preservation of the public peace, for the prevention of crime, for the investigation of suspected or ascertained criminal activities, for the apprehension of criminals, for the protection of the rights and property of persons, for the enforcement of the laws of the State of Colorado and of the ordinances of the City, for the service of municipal summonses and complaints within its jurisdiction, and for the performance of all other functions for the preservation of public safety that the City Manager may direct, the Mayor may direct, when acting under emergency conditions and powers conferred by this Charter, or the Council may prescribe by ordinance or resolution.

(c) All sworn officers of the Department of Police shall have all powers with respect to the service of criminal process and the enforcement of criminal laws as are vested in Police Officers in the State of Colorado.

(d) (1) Any person currently employed in or selected and appointed for the position of Fire Chief or Police Chief after November 7, 1995 shall become a resident of the City of Fountain within six (6) months of his/her date of hire, and shall maintain that resident status within the City of Fountain during the entire term of their employment as Police or Fire chief. (November 7, 1995)

(d) (2) All regular full-time employees of the Department of Police, except the Police Chief, who is provided for in subsection (d)(1) above, shall be required to establish and maintain during the balance of their term of employment, a residence no more than thirty (30) miles from the Fountain Police Department within one year of their date of hire with the Police Department. The area within thirty (30) miles of the Police Department building shall be that area enclosed by a circle whose center is the building and whose radius is thirty (30) miles pursuant to the scale of the map it is drawn upon. (November

5, 1991; November 5, 1996) (November 7, 2006)

Section 3.11 – Special Provisions.

In the event that a natural or civil disaster occurs and neither the Mayor nor the Mayor Pro Tem can be located or are for some reason unable to so act, the City Manager shall act in their stead to assure the safety of persons and property with all authority granted under this Charter, the law of the State of Colorado, and of the United States until the Mayor or Mayor Pro Tem can assume the responsibility. (November 7, 2006)

ARTICLE IV

BOARDS AND COMMISSIONS

Section 4.1 – Existing Boards and Commission.

All Boards and Commissions existing at the time this Charter is adopted shall continue as established by ordinance, except as otherwise provided by this Charter.

Section 4.2 – Right to Establish, Amend and Abolish.

(a) The Council may create any boards and commissions including corporate, advisory, and appeal boards, provided that no such board or commission shall have the authority to perform functions or duties otherwise assigned in this Charter or to interfere with any function or duty of any individual or department or other provision of this Charter. Advisory boards may be created by resolution, but all other boards and commissions shall be created by ordinance unless otherwise expressly required by law, ordinance, or this Charter. The Council shall prescribe as part of the ordinance or resolution the duties, responsibilities, terms of office, membership, and other appropriate designations of the board or commission. Each board or commission shall operate with its own officers, keep its own records, set its own meeting arrangements except as otherwise directed by the Council or this Charter. All meetings shall be public meetings except as provided in the Colorado Open Meetings Act as adopted under Section 2.11 (c) of the Charter. A copy of all minutes, records, and proceedings shall be filed with the City Clerk. The Council may require such reports from the various boards and commissions as it desires. (November 7, 2006)

(b) The Council may increase, reduce, or alter any or all of the duties and procedures of any board or commission existing at the time of the adoption of this Charter, or as thereafter created by ordinance or resolution.

(c) Any board or commission existing at the time of the adoption of this Charter, or created under the provisions of this Article and which is not required by statute or this Charter, may be abolished at any time by the Council.

Section 4.3 – Composition of Boards or Commissions.

(a) Initial appointments by the Council to any board or commission shall specify the term of office of each member in a manner which will insure the overlapping terms. All appointments or reappointments thereafter shall be made for the full term provided in the enabling law, ordinance, resolution, or this charter. Members of boards and commissions shall serve without compensation, but shall be reimbursed for authorized expenses actually incurred in the discharge of their official duties. Vacancies on boards and commissions shall be filled by appointment by the Council for the remainder of the unexpired term. In the event that an unexpired term is for a period of less than six months, the Council may appoint a replacement for the regular term plus the unexpired portion of the vacated term. Members of boards and commissions shall be subject to removal for just cause by a majority vote of the Council.

(b) Eligibility for membership on a board or commission shall extend to those residents of the City who have resided within the City for a period of not less than one year immediately preceding appointment, and who shall have attained the age established by this Charter to hold elective office and who are registered voters. Any person who has been a resident of any area annexed to or consolidated with the City for the requisite period of time prior to annexation or consolidation and who is otherwise qualified shall be eligible for membership on boards and commissions. (November 3, 1987)

In the event that specific skills or knowledge are required for the proper function of a board or commission and are not possessed by a qualified resident of the City, the Council may by majority vote appoint a non-resident who is technically qualified to any board or commission as an ex-officio, non-voting member.

(c) In the event that a board or commission may have responsibilities or duties which affect certain areas outside the City limits, the Council may appoint qualified residents of the affected area to that board or commission; provided, that the majority of the voting members of such board or commission shall always be residents of the City.

Section 4.4 – Planning Commission.

(a) There shall be, and hereby is, created a Planning Commission to serve as a commission of the City in relation to all matters pertaining to the physical development of the City of Fountain.

(b) The Planning Commission shall consist of not less than five nor more than nine members to be selected and appointed by the Council. The Council shall not appoint members of its own body to the Planning Commission. (June 9, 1981)

(c) The Planning Commission shall perform such duties in regard to zoning as prescribed by this Charter or by ordinance.

(d) The Planning Commission shall be responsible for the preparation and promulgation of regulations concerning the subdivision of land; shall prepare, adopt, and enforce compliance with a master street plan for the City and its environs; shall prepare,

amend, and submit a comprehensive development plan for the City and its environs to the Council for adoption; and shall review all subdivision plats and zoning requests and make recommendations prior to submitting same to the Council for action.

(e) Where not otherwise provided in this Charter or by ordinance, the Planning Commission shall have the powers, perform the functions, and follow the procedures set forth in the statutes and laws of the State of Colorado or of the United States.⁵

⁵ This section of the Charter is in effect until replaced by the following section printed in italics.

*There shall be, and hereby is, created a Planning Commission to serve as a commission of the City in relation to all matters pertaining to the physical development of the City of Fountain. The duties, authority, accountability, terms of office, qualifications of membership, size, and functions of the Commission, and other matters relating to its operations shall be as designated by Ordinance of City Council. Where not otherwise provided, the Planning Commission shall have the powers, perform the functions, and follow the procedures set forth in the statutes of the State of Colorado. (June 9, 1981) (November 7, 2006)*⁶

⁶ This section of the Charter becomes effective upon passage by the City Council of the City of Fountain of an implementing ordinance or City Council formally determines that no implementing ordinance is necessary.

Section 4.5 – Economic Development Committee.

The Council shall establish an Economic Development Committee consisting of no less than three nor more than seven members. This Committee shall work for the orderly, progressive, and diversified growth of the economic base of the community. The Council shall establish the responsibilities, authority and accountability of the Committee when created by enabling ordinance. The Committee shall meet and report at least once each month to Council at a regular Council meeting. (June 9, 1981)⁷

⁷ This section of the Charter is in effect until replaced by the following section printed in italics.

The Council shall establish an Economic Development Commission to serve as a commission of the City in relation to the orderly, progressive and diversified growth of the economic base of the community. The duties, authority, accountability, terms of office, qualifications of membership, size, and functions of the Commission, and other matter relating to its operations shall be as designated by Ordinance of City Council.

(June 9, 1981) (November 7, 2006)⁸

⁸ This section of the Charter becomes effective upon passage by the City Council of the City of Fountain of an implementing ordinance or City Council formally determines that no implementing ordinance is necessary.

Section 4.6 – Park and Recreation Advisory Board.

A Park and Recreation Advisory Board shall be established by Council which shall have no less than three and no more than five members who shall be appointed by Council. The duties, obligations, responsibilities, terms of office, qualifications of membership, functions of the board and other matters relating to its operations shall be designated by ordinance of City Council. (June 9, 1981) (November 5, 1985)⁹

⁹ This section of the Charter is in effect until replaced by the following section printed in italics.

The Council shall establish a Park and Recreation Advisory Board. The duties, authority, accountability, terms of office, qualifications of membership, size, and functions of the Board, and other matter relation to its operations shall be as designated by Ordinance of City Council. (June 9, 1981) (November 5, 1985) (November 7, 2006)¹⁰

¹⁰ This section of the Charter becomes effective upon passage by the City Council of the City of Fountain of an implementing ordinance or City Council formally determines that no implementing ordinance is necessary.

ARTICLE V

LEGAL AND JUDICIARY

Section 5.1 – City Attorney.

(a) The Council shall provide for a City Attorney to be the legal adviser to the City by appointment on a retainer, fee, or contract basis, or by providing a budgeted position for a full-time attorney. The City Attorney shall have an indefinite term and shall serve at the pleasure of the Council. The City Attorney shall be an attorney-at-law admitted to practice in the State of Colorado, and shall have had prior to his appointment a minimum of five years experience in the general practice of law. In the event that the Council selects an attorney firm, any attorney from the firm who serves as City Attorney shall

meet these qualifications. The Council may allow the City Attorney such assistants, facilities, and considerations as the Council may deem appropriate. The Council may upon its own motion, the advice of the City Attorney, or request by the City Manager employ special counsel for specific purposes and needs. In the course of routine proceedings the City Attorney and City Manager by mutual agreement may employ special counsel for specific purposes and needs within the guidelines of the adopted budget without the action of the Council. (November 7, 2006)

(b) It shall be the duty of the City Attorney to attend all regular and special council meetings, and other meetings upon request and to provide such legal advice as may be required.

(c) The City Attorney shall act as legal adviser to, and be attorney and counsel for, the Council and shall be responsible solely to the Council. He shall also advise the City Manager, and any department head, through the City Manager, and any officer, board, or commission through or by authority of the City Council, in matters relating to his or its official duties when requested. (June 9, 1981) (November 7, 2006)

(d) The City Attorney shall prepare or review all ordinances, resolutions, contracts, bonds, and written instruments which could legally bind the City which are submitted to him by the Council or the City Manager, and shall give his opinions as to the legal consequences thereof. (November 7, 2006)

(e) The City Attorney shall represent the City in all cases and in all courts, and shall perform such other duties as the Council shall request, or as ordinance or resolution require.

Section 5.2 – Municipal Court.

(a) There shall be, and hereby is created, a Municipal Court of the City of Fountain, which shall meet the requirements of a Court of Record according to the laws of the State of Colorado and which shall have jurisdiction to hear and determine all cases arising under the ordinances or codes, or codification thereof of the City, subject to appeal to the appropriate court in the manner provided by law for appeals. The Municipal Court shall be vested with exclusive original jurisdiction of cases arising under the Ordinances of the City and as may be conferred by law.

(b) The Court may enforce its orders and judgments as a Court of Record may, and as provided by general law. The Court may render final judgment on any forfeited bond or recognizance returnable to such court, subject to appeal as in other cases.

(c) The Municipal Court shall be presided over, and its functions exercised by, a Municipal Judge, who shall be an attorney-at-law admitted to practice in the State of Colorado, and who shall have had five years experience in the general practice of law prior to his appointment, and who shall be appointed by the Council for a term of not less than three years. The Council may reappoint the Municipal Judge for a subsequent term or terms. Any vacancy in the office of Municipal Judge shall be filled by appointment by the Council for the remainder of the unexpired term.

(d) The Council may appoint one or more deputy judges as it deems necessary. A Deputy Municipal Judge shall have all the powers of the Municipal Judge when called on to act by the City Manager or the Municipal Judge during the absence of the Municipal Judge or when the Municipal Judge is unable to perform his duties. In the event that more than one Municipal Judge is appointed, the Council shall designate a Presiding Municipal Judge, who shall serve in the capacity during the term for which he was appointed. In the event that all regularly appointed Judges are absent, disqualified, or unable to act in any matter or case, the City Manager may call a qualified person recommended by the City Attorney or the Municipal Judge to act and serve temporarily. In the event that the regularly appointed Judges remain absent or unable to perform by the time of the next regularly scheduled Council meeting after the temporary appointment by the City Manager, the Council shall act to appoint a qualified substitute to serve until the return of one of the regular Judges.

(e) Each Judge shall receive such compensation as is set by the Council which shall not be dependent upon the result of any matter decided by the Municipal Court, nor upon the size of the docket, nor upon the length of the Court session.

(f) The City Manager shall provide for the supplies for the proper functioning of the Court. The place of the Court shall be established by the Presiding Municipal Judge with such court annexes within or outside the City limits as may be necessary, and confirmed by resolution of the Council.

The Presiding Municipal Judge shall set the forms of complaint; costs and fees associated with the Court and other rules, instructions, procedures, and the proceedings for the proper functioning of the Municipal Court.

(g) The City Manager shall appoint a Clerk of the Court, and such deputies as necessary, whose salaries shall be provided in the budget adopted by the Council. The Clerk of the Court and all deputies shall have such duties and authority as set by this Charter, ordinance, or by rules, instruction, or orders of the Court or the Presiding Municipal Judge.

(h) Upon request by the Presiding Municipal Judge or the Clerk of the Court, the City Manager shall instruct the Chief of Police or his designated assistant to provide a Police Officer to the Court to act as a bailiff.

(i) When a Municipal Judge is not immediately available for the purposes of admission to bail persons arrested and brought to the Municipal Court on charges of violating a municipal ordinance or code, such persons may be admitted to bail pursuant to court rule, by the Clerk of the Court, or other responsible and appropriate officer designated by the Presiding Municipal Judge. The Court shall provide by rule for the conditions and circumstances under which such admission to bail will be granted, pending appearance before the Judge. Bail so required shall be consistent with statutory provisions. In cases when so permitted under the rules or orders of the Court, bail may be upon personal recognizance without security or surety. ¹¹

¹¹ This section of the Charter is in effect until replaced by the following section printed in italics.

*There shall be a Municipal Court for the City of Fountain. The Municipal Court shall be vested with jurisdiction as conferred by the Ordinances of the City. The practice and procedure the Municipal Court shall be as set forth by Colorado Revised Statutes, Colorado Supreme Court Rules, and City Ordinances as now existing or hereinafter amended. (November 7, 2006)*¹²

¹² This section of the Charter becomes effective upon passage by the City Council of the City of Fountain of an implementing ordinance or City Council formally determines that no implementing ordinance is necessary.

Section 5.3 – Process Jurisdiction.

Summonses, complaints, citations, subpoenas, and warrants, or any other process within the jurisdiction of the Municipal Court may be served on any person anywhere within the State of Colorado.

ARTICLE VI

LEGISLATION

Section 6.1 – Prior Municipal Legislation.

(a) All laws, ordinances, resolutions, rules and regulations of the City which are not inconsistent with this Charter and which are in force and effect on the effective date of this Charter shall continue in full force and effect after the effective date of this Charter, until repealed or amended by the Council.

(b) Those provisions of any effective valid law, ordinance, resolution, regulation, rule, or policy which are inconsistent with this Charter are hereby repealed.

Section 6.2 – Ordinances, Resolutions, and Motions.

The Council shall act only by ordinance, resolution, or motion. All legislative enactments which are of a permanent nature, provide for a penalty or fine, imprisonment, or both, or provide appropriations for any purpose regardless of time limitations; or which deal with items of such significance that the City Attorney recommends enactment by ordinance, shall be in the form of ordinances. Except as otherwise required by this Charter, all other actions may be in the form of resolutions or motions. All ordinances and resolutions, except in the case of repealing ordinances, amending ordinances, or an ordinance providing for the general codification of ordinances shall be confined to one subject or related subjects which shall be expressed in the title. All ordinances providing for appropriations shall be confined to the subject of the appropriation, but may include

more than one appropriation.

Section 6.3 – Voting.

The members of the Council shall cast their votes on each and every ordinance, resolution, or motion. There shall be no secret ballots. The vote shall be recorded by the City Clerk in the proceedings of the meeting; provided, however, that a unanimous vote may be indicated as being unanimous. Except as expressly provided in this Charter, every ordinance, resolution, or motion shall require the affirmative vote of the majority of the members present before it shall be declared passed by the City Clerk. Every member of the Council, when present, shall vote upon ordinances, resolutions, and motions, except a member shall be excused from voting on any question in which he has a conflict of interest or on any question concerning his own conduct. Each member of the Council who is present shall vote, unless excused by the consent of the remaining Council Members present. (June 9, 1981) (November 5, 1985) (November 6, 2006)

Section 6.4 – Form of Ordinance and Effective Date.

All ordinances to be considered by the Council shall be introduced in written form and each Council Member shall be provided a copy pursuant to rules adopted by the Council before the first reading of the ordinance. No ordinance or section of an ordinance shall be amended or repealed except by an ordinance duly passed and adopted. No ordinance shall be amended by reference to its title only, but an ordinance or section may be repealed by reference to its title or code number. The enacting clause of all ordinances shall read, “Be it ordained by the City Council of the City of Fountain, Colorado”, but such wording shall be deleted when ordinances are compiled and printed in book form or are revised and codified by order of the Council. Any section or provision of an ordinance or the applicability of any section or provision of an ordinance to any person or circumstance which shall be found by a court to be invalid shall not affect the remaining sections, provisions, or applicability of the ordinance, if these are complete in and of themselves and are not dependent on the invalid provisions of the ordinance. (November 7, 2006)

Section 6.5 – Procedure for Passage of Ordinances.

Except for emergency ordinances, ordinances making general codification of existing ordinances, and ordinances adopting standard codes by reference without modification, the following procedure for the enactment of ordinances shall be required:

- (a) The ordinance shall be introduced at any regular or special meeting of the Council by any member thereof. (November 7, 2006)
- (b) The ordinance shall be read in full, or in the case where copies of the ordinance are available to the Council and to those persons in attendance at said Council meeting, said

ordinance may be read by title only. (November 3, 1987)

(c) After the first reading of the ordinance, the Council shall vote to pass the ordinance with or without amendment, reject the ordinance, or table the ordinance for consideration on a specific date.

(d) The passed ordinance shall be signed by the City Clerk under the Seal of the City.

(e) If the ordinance is passed on first reading, it shall be published in full in a paper of general circulation within the City. However, when the Council deems it appropriate, publication of the title of any ordinance with a summary written by the City Clerk, together with a statement that the ordinance is available for public inspection and acquisition in the office of the City Clerk shall be sufficient publication. (June 9, 1981) (November 3, 1987)

(f) If an ordinance or any other item, matter or action is tabled by the Council, it shall be tabled for a specific period of time and for a specific purpose. The Council may table an ordinance, item, matter or action only twice, and thereafter it must be acted upon at the first regular meeting subsequent to the termination of the time period. In no event will an ordinance, item, matter or action be tabled for a period of cumulative time exceeding ninety days.

(g) Upon consideration on second reading, the ordinance need only be read by title. The ordinance may be amended before consideration for final approval or rejection by the Council; provided, however, that the amended text shall be read in full, if copies of the amendment are not available at the Council meeting. If not amended, the ordinance need only be published by title after passage on second reading. The publication of the title shall include a certification signed by the Mayor and City Clerk under the Seal of the City that the ordinance was duly passed on second and final reading and shall indicate the date of passage. If amended on second reading, the publication of the ordinance shall include the text of the amendment, or if the Council deems it appropriate publication of the title of the ordinance with a summary of the amendment written by the City Clerk, together with a statement that a copy of the amendment is available for public inspection and acquisition in the office of the City Clerk shall be sufficient publication. (November 3, 1987)

(h) The effective date of an ordinance shall be five days from the date of final publication subsequent to passage on second reading. An ordinance may include a clause for emergency conditions which when utilized will allow the effective date of the enforcement of the ordinance to be the date of publication subsequent to final passage by the Council. An emergency clause shall not be used unless the reasons for such an emergency are disclosed and stated within such clause. (November 7, 2006)

(i) Resolutions and motions of the Council need be passed only once at any regular or special meeting. Resolutions shall be recorded by the City Clerk in the minutes and filed chronologically. Resolutions shall not be entered in the official book of ordinances, or be

included in the City Code. Resolutions shall not require publication. The effective date of a resolution shall be included in the resolution.

Section 6.6 – Emergency Ordinances.

(a) An emergency ordinance which is necessary for the immediate preservation of the public peace, health, safety, or the security of property may be enacted only by unanimous vote of the Council Members present at the regular or special meeting at which it is introduced, and without the requirements of publication, public hearing, and approval for second reading. The facts demonstrating such urgency and need shall be specifically stated in the ordinance itself. An emergency ordinance shall take effect immediately upon passage, and may be passed at the same meeting at which it is introduced. Publication shall be made as soon as practical, but within ten days after passage.

(b) An emergency ordinance shall be in effect for the duration of the specified emergency, and shall not be in effect for longer than ninety days after the passage, and shall not be extended as an emergency ordinance. In the event that the Council determines the measure to be in the best interest of the City, it may introduce the ordinance at a regular meeting following the provisions of Section 6.5.

Section 6.7 – Codification.

The Council shall cause such ordinances of the City as it deems necessary to be codified and maintained in a current form. Copies of the ordinances and of the codification thereof, and of the provisions adopted by reference in accordance with this Charter, shall be certified by the City Clerk and shall be competent evidence in all courts and other legally established tribunals as to the matter contained therein. (November 7, 2006)

Section 6.8 – Publication of Ordinances.

Pursuant to the requirements established by this Charter for the publication of ordinances, said ordinances shall be published in the newspaper designated by the Council as the official City newspaper; provided, that where time frames required for publication and subsequent action are so constrained to make it impractical to use the official City newspaper, nothing shall prevent the publication in another newspaper of general circulation within the City.

Section 6.9 – Codes Adopted by Reference.

(a) The Council shall have the authority to enact an ordinance which adopts any code by reference, in whole or in part. (November 7, 2006)

(b) Before the adoption of such ordinance the Council shall hold a public hearing thereon and notice of the public hearing shall be published twice in the official City newspaper, one of such publications to be at least fifteen days prior to the date of the public hearing.

The notice shall state the time, date and place of the public hearing, that copies of the adopting ordinance and the code or codes under consideration are on file in the office of the City Clerk and may be reviewed during the normal office hours of the Clerk's office. The notice shall also indicate the subject matter of the code or codes under consideration, the name and address of the agency or organization by which each has been promulgated. (November 7, 2006)

(c) Any penalty clause may be enacted only if set forth in full and published in the adopting ordinance. (November 7, 2006)

(d) The adopting ordinance shall be published in the manner provided for the publication of all other ordinances. (November 7, 2006)

(e) Copies of such adopted codes in published form duly certified by the City Clerk shall be received without further proof as prima facie evidence of the provisions of such codes in all courts or legally constituted tribunals. (November 7, 2006)

Section 6.10 – Disposition of Ordinances.

Notwithstanding the promulgation of a City Code, a true copy of every ordinance as adopted by the Council shall be certified by the signatures of the Mayor, or Mayor Pro Tem, and the City Clerk or Deputy City Clerk under the Seal of the City, and shall include a certificate of publication. All proofs of publication shall be maintained or filed in the office of the City Clerk. All ordinances adopted by vote of the electorate shall be numbered chronologically with the other ordinances and shall be certified by signatures of the Mayor, or the Mayor Pro Tem, and the City Clerk or Deputy City Clerk will certify that the ordinance was adopted through the electoral process rather than certifying its publication. The failure to file, or certify any ordinance shall not, however, invalidate, suspend, or void such ordinance. (November 7, 2006)

ARTICLE VII

INITIATIVE AND REFERENDUM

Section 7.1 – General Authority.

(a) Any proposed ordinance, except an ordinance pertaining to tax levy for the city, appropriations for the functions of the City or to the cancellation of any bonds or other like securities previously issued by the City, may be submitted to the Council by petition signed by registered electors of the City equal in number to the percentage hereinafter required.

(b) An initiative petition accompanying the proposed ordinance, signed by registered

electors of the City equal in number to not less than five percent of the total number of electors of the city registered to vote during the preceding regular municipal election shall be filed with the City Clerk, and if the submitting person desires the ordinance to be submitted to the voters, the petition shall contain therein a request that said proposed ordinance be submitted to a vote of the people if the Council does not pass the proposed ordinance.

(c) An initiated ordinance, if not passed by the Council, shall be submitted to the voters if required by the initiating petition. The ballot upon which such proposed ordinance is submitted and the notice of election thereof shall state briefly the nature of the ordinance. The question concerning the ordinance shall be stated so that those who wish to vote in favor of the ordinance shall cast their vote in the space labeled “For the Ordinance”, and so that those who wish to vote against the ordinance shall cast their vote in the space labeled “Against the Ordinance”. If a majority of the registered electors voting thereon shall cast their ballots in favor thereof, the ordinance shall, without further publication, be signed by the Mayor, or the Mayor Pro Tem, and by the City Clerk, and shall without delay after the certification of the results of the election by the City Clerk become an ordinance of the City and shall be recorded and codified as with other ordinances.

(d) Any number of proposed ordinances may be submitted at the same election; however, not more than one special election under this Article shall be held within any twelve month period, unless a number of registered electors of the City equal to fifteen percent of the total number of electors of the City registered to vote during the preceding regular municipal election shall petition for such additional elections.

(e) The provision of this Article shall in no way affect or preclude the procedures for recall of any person holding elective office as provided in this Charter.

(f) Article 11 of Title 31 Colorado Revised Statutes as amended shall apply to municipal initiative, referenda, and referred measures unless alternative procedures are provided by the Charter, ordinances or resolutions of the City.

(g) The Council shall have authority to adopt ordinances or resolutions to implement or supplement this Article VII not inconsistent herewith. (November 7, 2006)

Section 7.2 – Referendum - General Authority.

(a) The referendum authority shall apply to all ordinances passed by the Council, except ordinances related to the tax levy for the city to appropriations for the operation of the functions of the City, the cancellation of any bonds, or other like securities previously issued by the City authorizing the issuance of local improvements district bonds payable primarily from special assessments, and emergency ordinances.

(b) One or more registered electors may commence referendum proceedings by filing with the City Clerk within five days after publication of the ordinance in question, a notice of protest against the implementation of the ordinance, The notice shall be brief

and need not state any reasons, but shall identify the ordinance or part thereof, or code section it proposes to have repealed. Not later than ten days after the filing of the notice, the proponents shall present to the City Clerk the final form for the referendum petition conforming to the requirements of the Article. If the notice and petition form are timely presented the City Clerk shall approve the petition form for circulation, in accordance with this Article. The petition shall be circulated, signed, verified, and filed in the manner prescribed by this Article. If a notice of protest is filed protesting the ordinance, the ordinance shall thereupon be suspended until a referendum petition is timely filed. Upon the filing of a referendum petition, suspension of the ordinance shall continue until the conclusion of the referendum proceedings. The referendum petition must be signed by registered electors of the City equal in number to not less than five percent of the electors of the City registered to vote during the preceding regular municipal election. The referendum petition shall be filed within thirty days after the City Clerk's approval of the petition for circulation. If a completed petition is not subsequently filed within the requisite time after the City Clerk's approval of the petition for circulation, the referendum is null and void and the petition shall not be circulated further. Upon determination by the City Clerk that the petition is sufficient, the Council shall reconsider the ordinance at the next regular meeting. A referendum petition shall identify the ordinance or section thereof, or in the event of code adopted by reference that section or provision of the code, which it proposes to have repealed. If the Council shall not act to repeal the ordinance or section which is the subject of the referendum, the question shall be submitted to voters in the same manner as an initiated ordinance. If a majority of the registered electors vote in favor of said ordinance, it shall go into effect without further publication. If a majority of the registered electors cast their ballots against the ordinance it shall be null and void, and shall be removed from the ordinances of the City. (November 7, 2006)

(c) The Council may, by its own motion, submit to the electorate for adoption or rejection at a regular or special election, any proposed ordinance, measure, or question, or proposition for the repeal or amendment of any ordinance in the same manner and with the same force and effect as provided in this Charter.

(d) If provisions of two or more proposed ordinances adopted or approved at the same election conflict, the ordinance receiving the highest affirmative vote shall become effective.

Section 7.3 – Certificate of Clerk; Amendment.

Within ten days from the filing of any initiative or referendum petition, the City Clerk shall ascertain whether the petition satisfies the requirements established by this Charter. If the petition is judged to meet all the requirements, the City Clerk shall declare it as being sufficient, and shall attach a certificate of sufficiency under his hand and the Seal of the City, and shall deliver the same to the Council at its next regular meeting or special meeting called for the purpose of receipt of the petition. If the petition does not meet the requirements established by this Charter, the City Clerk shall declare the petition insufficient, and shall attach a certificate of insufficiency under his hand and the Seal of

the City specifically stating the reason for the judgment, and shall forthwith return the petition and the attached certificate to the circulator of the petition by registered mail. The circulator of the petition shall have fifteen days from the date of the aforesaid mail registration to correct the deficiencies and file an amended petition with the City Clerk. In the event that the fifteenth day falls upon a holiday or non-working day for the office of the City Clerk, the time will be extended to the next normal working day. The City Clerk shall within ten days of the filing of an amended or corrected petition judge its final sufficiency. If the petition is judged to again be insufficient, the City Clerk will so certify and return same to the circulator of the petition without prejudice to the filing of a new petition for the same purposes; provided, however, that the original petition shall not be re-filed.

Section 7.4 – Petition.

(a) The City Clerk shall prepare and maintain forms for petition and shall disseminate them upon request to any qualified elector. The pages shall be of uniform size, and the petition shall be assembled into a single instrument when filed. Each signature shall be in ink or indelible pencil. A signer shall be a registered voter of the City, and shall when signing a petition affix his name, his place of residence, and the date of signing in the spaces provided on the form for such information. A petition shall set forth in full the ordinance it proposes to initiate, or the ordinance, portion, or section thereof that it seeks to be reconsidered. A separate petition will be required for each ordinance which is the subject of either initiative or referendum. Additional pages shall be positively identified by title or brief extract of the proposed ordinance, portion, or section thereof.

(b) All signatures on the petition shall be obtained within the thirty-day period immediately prior to the date of filing of the petition. Any such petition shall be addressed to the Council. The person filing the petition shall be considered the circulator of the petition, and shall sign his name, place of residency, and the date of filing in the space provided on the form. The circulator shall be the person with whom the City Clerk corresponds and returns certificates of insufficiency relating to the petition. The City Clerk shall note the date and the time of filing and the name of the individual circulating the petition on the petition form. (November 7, 2006)

Section 7.5 – Action on Petitions.

(a) After a petition for initiative or referendum has been declared sufficient by the City Clerk, duly certified, and delivered to the Council pursuant to Section 7.3 of this Charter, the Council shall, within sixty days thereof:

- (1) adopt the ordinance without alteration and as submitted by the petition for an initiative; or
 - (2) repeal the ordinance, portion, or section, thereof referred without alteration and as submitted by the petition for referendum; or
 - (3) set the date for the submission of the ordinance provided for in the petition, without alteration, to the registered electors of the City.
- (November 7, 2006)

(b) The election to consider an initiated ordinance or subject of a petition for referendum shall be held in compliance with the provisions established by Article VIII of this Charter.

Section 7.6 – Prohibition of Amendment or Re-Enactment.

An ordinance adopted by the electorate may not be amended or repealed by the City Council for a period of two years after the date of the election at which it was adopted, and an ordinance repealed by the electorate may not be re-enacted by the Council for a period of two years after the date of the election at which it was repealed; except, however, as provided for the enactment of emergency ordinances under this Charter, and provided that ordinances may be adopted, amended, or repealed at any time by appropriate referendum or initiative action in accordance with the provisions of this Charter. (June 9, 1981)

Section 7.7 – Result of Election.

(a) If a majority of the registered electors voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification of the election results by the City Clerk.

(b) If a majority of the registered electors voting on a referred ordinance vote for its repeal, it shall be considered repealed upon certification of the election results by the City Clerk. (November 7, 2006)

ARTICLE VIII

ELECTIONS

Section 8.1 – Laws Governing Elections.

All regular and special elections held by the City of Fountain shall be governed by the laws of the State of Colorado, the laws of the United States and such ordinances and resolutions as the Council may prescribe not inconsistent herewith. (November 7, 2006)

Section 8.2 – Regular and Special Elections.

(a) Regular municipal elections shall be held on the first Tuesday of November in each odd-numbered year. The first regular municipal election shall be held under the provisions of this Charter on the first Tuesday in November in 1977.

(b) Special elections shall be called and held in compliance with the laws governing elections as referenced in Section 8.1 of this Charter.

(c) Elections called for initiative and referendum as originated under Article VII of this Charter shall be held in compliance with the laws governing elections as referenced in Section 8.1 of this Charter.

Section 8.3 – Non-Partisan Elections.

All municipal elections shall be non-partisan. No candidate for any elective municipal office shall be allowed to seek election under a party of any name.

Section 8.4 – Election Commission. (Repealed. November 7, 2006)

Section 8.5 – Recall.

(a) Every elected official of the City may be recalled from office by the qualified electors of the City in the manner herein provided.

(b) The procedure to effect the recall of an elected official shall be as follows:

(1) A petition, signed by electors registered to vote for a successor to the incumbent sought to be recalled equal in number to twenty-five percent of the entire vote cast for all the candidates for that particular office at the last preceding regular election, except in the case of at-large candidates which shall require a petition signed by twenty-five percent of the last preceding regular election for all candidates for the office to which the incumbent sought to be recalled was elected as one of the officers thereof, such entire vote being divided by the number of all officers elected to such office at the last preceding regular election at which the office was considered, and demanding the election of a successor to the official named in said petition, shall be filed in the office of the City Clerk. (June 9, 1981) (November 7, 2006)

(2) The recall petition shall contain a general statement, in not more than two hundred words, demonstrating the grounds on which such recall is sought, which statement is intended for the information of the registered electors. (November 7, 2006)

(3) The voters registered to cast their ballots for said office shall be the sole and exclusive judges of the legality, reasonableness, and sufficiency of such grounds assigned for such recall, and said grounds shall not be open to review. (November 7, 2006)

(4) A petition for recall may be circulated and signed in sections if each section contains a full and accurate copy of the title and text of the petition. The circulation and filing of a recall petition shall be accomplished in the manner prescribed by this Charter for initiative and referendum. The City Clerk shall judge the sufficiency of any recall petition filed in regard to the method of circulation and the qualification of the signatures only, and shall not judge the reasons stated for the recall of the official. The sufficiency of a recall petition

shall be decided in the manner provided for initiative and referendum. A petition which is declared to be insufficient may be amended in the same manner as that provided for initiative and referendum.

(5) Notwithstanding the above provisions, a written protest to a recall petition may be filed with the City Clerk by any voter registered to cast his ballot for the office within fifteen days of the filing of the original petition. The written protest shall fully disclose the specific grounds for such protest. The City Clerk shall, upon receipt of such written protest, immediately dispatch a copy of the protest to the circulator of the recall petition by certified mail with a return receipt requested, together with a notice fixing the time, place and date for hearing such protest. The date of hearing shall not be less than ten days nor more than fifteen days from the date of certification of the letter. (June 9, 1981) (November 7, 2006)

(6) All hearings shall be before the City Clerk, and all testimony shall be under oath. Such hearings shall be summary and not subject to delay, and shall be concluded within thirty days after the filing of the protest, and the findings shall be dispatched to the parties by certified mail with a return receipt requested. A petition which, as the result of the hearing is judged insufficient, may be amended as provided above. The findings of sufficiency may be reviewed by the appropriate district court in the manner provided by law. (June 9, 1981)

(7) When the petition for recall is judged sufficient, the City Clerk shall forthwith submit said petition, together with a certificate of its sufficiency, to the City Council. The City Council shall call for a special election in the event that a regular election is not to be held within one hundred eighty days of the submission of the petition to the Council, unless the official subject to the recall resigns as provided herein. The date of the special election shall be not less than thirty days nor more than ninety days from the date of submission of the petition to the Council. If a regular election is to be held within one hundred eighty days from the date of the submission of the petition to the Council, the recall election shall be held as a part of the regular election. (November 7, 2006)

(8) If the official who is the subject of the recall offers his resignation, it shall be accepted, and this official shall not be eligible to serve on City Council by appointment, and the vacancy shall be filled as provided by this Charter; provided, however, that the person appointed to fill the vacancy shall hold office only until the next regular election at which a successor shall be elected. If the official who is the subject of the recall does not resign within five days after the City Clerk has submitted the petition to the Council, the Council shall cause notice to be published for the holding of the election, and the election shall be held in accordance with the provisions of this Article. (June 9, 1981)

(c)

(1) On the official ballot for such elections shall be printed, in not more than two hundred words, the reasons set forth in the petition demanding the recall; and, in not more than two hundred words, there shall also be printed, if requested in writing by the person subject to the recall, the official's justification of his actions while in office. (November 7, 2006)

(2) There shall be printed on the official ballot, for each official whose recall is to

be voted on, the words “Shall (name of person subject to the recall) be recalled from the office of (title of office)?”. Following such question shall be provided a space marked “Yes” for those casting their votes in the affirmative to the question, and a space marked “No” for those casting their votes in the negative to the question.

(3) Also on such ballots, under each 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 voters also voted for or against the recall of such person sought to be recalled. The name of the person against whom the recall is sought shall not appear on the ballot as a candidate for the office.

(4) If a majority of those voting on the question of the recall of any incumbent from the office vote “No”, the incumbent shall continue in the office. If a majority vote “Yes”, the incumbent shall be removed from the office, and his successor shall be sworn and seated at the next regular Council meeting after the results of the election have been certified by the City Clerk.

(5) If the majority vote recalls the incumbent, the candidate who has received the highest number of votes for the office thereby vacated shall be declared elected for the remainder of the term, and a certificate of election shall forthwith be issued to him.

(6) Candidates desiring to place their names in nomination for the office, and who are qualified to hold such office, shall file their petitions with the City Clerk not less than twenty days prior to the recall election. All petitions and procedures shall be in conformance with the laws governing elections as referenced in Section 8.1. (November 7, 2006)

(d)

(1) No recall petition shall be circulated or signed against any official until he has actually held his office for at least six months, unless he holds office by virtue of appointment to fill a vacancy.

(2) After one recall petition and election, no further petition shall be filed against the same official during the term for which he was elected unless the petitioners signing said petition equal fifty percent of the total ballots cast for all the candidates for the office at the preceding election for said office. In the case of at-large candidates, the petition shall require signatures equal to fifty percent of the total voters casting votes. (June 9, 1981)

(e) Part 5 of Article 4 of Title 31 Colorado Revised Statutes as amended shall apply to recall of elected officials unless inconsistent with or superseded by the Charter, ordinances or resolutions of the City. (November 7, 2006)

(f) The Council shall have authority to adopt ordinances or resolutions to implement or supplement Section 8.5 not inconsistent therewith. (November 7, 2006)

Section 8.6 – Cost of Elections.

The cost of all elections shall be paid by the City, except as otherwise provided by this

Charter or ordinance.

ARTICLE IX

FINANCIAL ADMINISTRATION

Section 9.1 – Fiscal Year.

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

Section 9.2 – General Finance.

(a) Accounts shall be kept by the office of the Finance Director demonstrating the financial transactions and related activities for all departments, funds, and utility operations of the City. (November 7, 2006)

(b) No payment of any bill shall be made upon any fund unless an appropriation has been provided in the budget adopted by the City Council, and such budgeted appropriation is not exhausted. Every check issued by the City shall be signed by the Mayor or Mayor Pro Tem and countersigned by the City Clerk or City Manager. Facsimile or mechanical signatures may be used for such checks if authorized by the Council. The Finance Director may, with the approval of the City Manager, adopt such other controls over the disbursement of funds as may be necessary. (November 3, 1987) (November 7, 2006)

Section 9.3 – Provision of a Tax System.

(a) All taxes imposed by the City Council shall be in accordance with Article X, Section 20 of the Colorado Constitution.

(b) It shall be the responsibility of the City Council to provide for the required revenues of the City by the levying and imposition of taxes, fees, licenses, and other charges as may be necessary and which are not prohibited by this Charter, the laws of the State of Colorado, or the laws of the United States.

(c) The City Council shall have the authority to levy and impose ad valorem property taxes for municipal purposes, and to provide for their collection. “Ad valorem tax” is hereby defined as being the general property tax levied on real or personal property listed with the County Assessor.

(d) The Council shall have the authority to levy general sales taxes, selective sales taxes, and use taxes, or any combination of said taxes or any other taxes permitted by law. (June 9, 1981)

(e) The Council shall be authorized to adopt, levy, and impose such other taxes, fees and charges which are not prohibited by this Charter, the Statutes or Constitution of the State of Colorado, or the Statutes of the United States; provided, however, except as otherwise provided in this Charter, any such tax is adopted and imposed by ordinance and any fee, or charge is adopted and imposed by ordinance or resolution. (June 9, 1981)

(f) The Council shall be authorized to levy special assessments and tax liens against property, and to provide for their collection. (November 7, 2006)

Section 9.4 – Collection of Property Taxes.

Unless otherwise provided, the County Treasurer shall collect City Ad Valorem property taxes in the same manner and at the same time as all other general ad valorem taxes are collected. In like manner, the Council may provide for the collection of special tax assessments and liens by the County Treasurer.

Section 9.5 – Capital Improvements Program.

The City Manager, with such assistance as the Council may allow, shall prepare and submit to the Council a long-range capital improvements program simultaneously with the recommended budget. The program may be revised or extended each year with regard to capital improvements still pending or in the process of construction or acquisition.

Section 9.6 – The Budget.

(a) The City Manager shall prepare and submit to the Council, on or before the first day of October of each year, a recommended budget for the next fiscal year and an accompanying message. The proposed budget shall be based upon detailed estimates by the several departments and other divisions of the City government, according to a classification as nearly uniform as possible. (November 7, 2006)

(b) The City Manager's message shall explain therein the budget both in fiscal terms and in terms of the work program. It should contain the proposed financial policies of the City for the next fiscal year; describe the important policies of the City for the next fiscal year; describe the important features of the budget; indicate any major changes from the current year in financial policies; expenditures and revenues, together with the reasons for such changes; summarize the City's debt position; give the balance between the total estimated expenditures and total anticipated revenues from all sources taking into account the estimated surplus or deficits in the various funds, and include such other material as the Manager deems necessary or which the Council may require.

(c) The budget shall provide a complete financial plan of all municipal activities for the next fiscal year, and, except as required by law or this Charter, shall be in such form as

the City Manager deems desirable or as the Council may require. In organizing the budget, the City Manager shall utilize the most feasible combination of expenditure classifications by fund, organizational unit, program, purpose or activity. It shall begin with a clear general summary of its contents and shall be so arranged as to show comparative figures for actual and estimated income and expenditures of the current fiscal year and the immediate past fiscal year. It shall include, but shall not be limited to, the following, in separate sections or columns:

- (1) Detailed estimates of all anticipated revenues of the City by source.
- (2) Detailed estimates, with supporting explanations, of all proposed expenditures for each department, office and agency of the City during the next fiscal year, together with the proposed method of financing such expenditures.
- (3) A reasonable provision for contingencies.
- (4) Required expenditures for debt service, judgments, cash deficient recovery and statutory expenditures.
- (5) Proposed capital expenditures during the next fiscal year, detailed by offices, departments and agencies when practicable and the proposed method of financing each such capital expenditure.
- (6) Anticipated net surplus or deficit for the next fiscal year for each utility owned or operated by the City and the proposed method of its disposition, together with subsidiary budgets for each such utility stating anticipated income and expenditure information.
- (7) The bonded and other indebtedness of the City, showing the debt redemption and interest requirements, the debt authorized and unissued, and the condition of special funds, if any; and
- (8) Such other information as the Council may request.

Section 9.7 – Budget Hearing.

A public hearing on the proposed budget and proposed capital improvements program shall be held before its final adoption, at such time and place as the Council shall direct. Notice of such public hearing and notice that the proposed budget is on file for public inspection in the office of the City Clerk shall be published in the official City newspaper at least seven (7) days prior to the hearing. The complete proposed budget shall be on file for public inspection during regular office hours at such office for a period of not less than seven (7) days prior to such hearing.

Section 9.8 – Council Amendments.

After the public hearing, the Council may adopt the budget with or without amendment. In amending the budget, the Council may add or increase any program or amount, or may delete or decrease any program or amount, except it may not alter expenditures required by law for debt service nor eliminate a provision preventing an estimated cash deficit.

(June 9, 1981)

Section 9.9 – Council Adoption.

(a) The Council shall adopt the next year's property tax levy by resolution on or before the final day established by law for the certification of said levy to the County. Adoption of the next year's budget by the Council, based upon such tax levy as earlier adopted, shall be not less than fifteen days before the next fiscal year. If the Council fails to adopt the budget prior to this date, the amounts appropriated for the operation of the current fiscal year, less any capital expenditures, shall be deemed adopted for the next fiscal year on a month-to-month basis, with all items in it pro-rated accordingly, until such time as the Council adopts the budget for the next fiscal year.

(b) Proposed expenditures shall not exceed anticipated revenues.

(c) The annual appropriation ordinance shall be based upon the budget as adopted, shall include separate sections to detail each tax to be levied, and shall demonstrate expenditures by fund.

Section 9.10 – Public Records. (Repealed, November 7, 2006)

Section 9.11 – Amendments After Adoption.

(a) Supplemental Appropriations – If during the fiscal year the Manager certifies that there are revenues available for appropriation in excess of those estimated in the budget, the Council may, by ordinance, make supplemental appropriations for the lawful purposes of the City for the year up to the amount of such excess, or by resolution may permit funds to be invested pursuant to the investment plan of the City Manager in order to provide interest income.

(b) Emergency Appropriations – To meet a public emergency which jeopardizes public health, peace, safety or property, the Council may make emergency appropriations. Such appropriations may be made by emergency ordinance in accordance with the provisions of this Charter. (November 7, 2006)

(c) Reduction of Appropriations – If at any time during the fiscal year it appears probable to the City Manager that the revenues available will be insufficient to meet the amount appropriated, he shall report to the Council without delay, indicate the estimated amount of deficit, any remedial action taken by him, and his recommendation as to any other steps to be taken. The Council shall then take action to prevent any deficit and for that purpose it may, by ordinance, reduce one or more appropriations. Except as otherwise specifically provided in this Charter and in accordance with such provisions, the Council shall consistently seek to operate within a balanced budget. (November 7, 2006)

(d) Transfer of Appropriations and Funds – At any time during the fiscal year, the City Manager may transfer part or all of any unencumbered appropriation balance among

programs within a department, office or agency, or fund and, upon request by the Manager, the Council may, by ordinance, transfer part or all of any unencumbered appropriation balance from one department, fund, office or agency, to another. Cash transfers between City funds to meet temporary cash deficiencies may be ordered by the Manager, subject to proper report to the Council in the regular monthly financial statement.

(e) Limitation, Effective Date – No appropriation for debt service may be reduced or transferred, and no appropriation may be reduced below any amount required by law to be appropriated, or by more than the amount of the unencumbered balance thereof. The supplemental and emergency appropriation and reduction or transfer of appropriations authorized by this Section 9.11 may be made effective immediately upon adoption. (November 7, 2006)

Section 9.12 – Independent Audit.

(a) An independent audit shall be made of all City accounts at least once annually, or more frequently if deemed necessary by the Council or the City Manager with approval by the Council. The independent audit shall be accomplished by Certified Public Accountants experienced in municipal accounting, selected by the Council upon the recommendation of the City Manager. Copies of such audit shall be available for public inspection at the office of the City Clerk, and notice that such copies are available shall be published in the official City newspaper. (June 9, 1981)

(b) At least every five years, the City Council shall evaluate various accounting firms which perform, or which are capable of performing, the annual audit, so as to secure the best possible accounting services for the City. (June 9, 1981) (November 7, 2006)

Section 9.13 – Appropriation of Unexpended Funds.

An annual appropriation or any portion thereof remaining unexpended and unencumbered at the close of the fiscal year shall lapse and revert to the applicable fund.

Section 9.14 – Contingency Expenditures.

The Council may provide in the budget for reasonable contingency accounts in any City Funds. The Council may further, by ordinance, establish a separate fund to be known as the Contingency Fund.

Section 9.15 – Special Funds.

The Council may, by ordinance, establish special funds as it deems necessary and appropriate. The ordinance establishing such funds shall clearly state the purpose for the fund.

ARTICLE X

MUNICIPAL BORROWING

Section 10.1 – Forms of Borrowing.

The City may borrow money and issue the following securities to evidence such indebtedness:

- a. Short-term notes
- b. General obligation bonds
- c. Revenue bonds, and other like securities
- d. Special or local improvement bonds
- e. Any other securities not in contravention of this Charter and not otherwise prohibited by law. (November 7, 2006)

Section 10.2 – Short-term Notes.

The City is hereby authorized to borrow money by Council action and without an election except when an election is required under Article X, Section 20 of the Colorado Constitution in anticipation of the collection of taxes or other revenues, and to issue short-term notes to evidence the amount so borrowed. Any such short-term notes payable in whole or part from ad valorem taxes shall be issued after the annual levy of taxes and be payable in full within twelve months from their date, except as otherwise specifically provided in this Charter. (November 7, 2006)

Section 10.3 – General Obligation Bonds.

No bonds or other evidences of indebtedness payable in whole or in part from the proceeds of general (Ad Valorem) property taxes or to which the full faith and credit of the City are pledged, shall be issued, except in pursuance of an ordinance, nor until the question of their issuance shall be considered at a special or regular election and approved by a majority of those voting on the question. Nothing in this section shall be construed as requiring prior voter approval of the issuance of bonds and securities payable solely from the revenues of the City, its utilities, or departments which are derived from sources other than ad valorem property taxes, provided that all such issues shall be accomplished pursuant to an ordinance. The Council shall have the authority to acquire, hold, and own water, water rights, and properties associated therewith, both within and outside of the City; to contract for the purchase of water and electricity; to acquire, construct, extend, and lease municipal and public utilities and systems of every kind and character and all their associated properties, both within and outside of the City; and to issue bonds and securities for the payment thereof, which bonds and securities are to be made payable from revenues derived from the project. However, nothing shall prohibit the pledging of ad valorem taxes for such purposes if so approved by the voters

at a regular or special election. Nothing in this section shall be construed to limit the City to the provision of municipal utilities and systems which it currently operates. The Council may, pursuant to this Section, acquire or accept a municipal or public utility or system which has outstanding debt so long as said debt can be serviced with the proceeds or revenues of the utility.

Section 10.4 – Limitation of Indebtedness.

The aggregate amount of bonds or other evidences of indebtedness shall not exceed ten percent of the assessed valuation of the taxable property within the City as shown by the most recent assessment for City purposes; provided, that in determining the aggregate amount of indebtedness, there shall not be included within the computation, bonds or other evidences of indebtedness outstanding or authorized to be issued for the acquisition, extension, or improvement of the municipal waterworks system or the municipal storm sewer system, combined storm and sanitary sewers, or sewage disposal systems, short-term notes, local improvement securities, or securities payable solely from the revenues of an income-producing system, utility or other project. All bonds issued pursuant to the provisions of this Charter shall be sold at public or private sale to the best advantage of the City at above or below par. Bonds may contain provisions for calling same at designated periods prior to the final due date, with or without the payment of a prior redemption premium.

Section 10.5 – Revenue Securities and Bonds.

The City, by Council action and without an election, may issue bonds and securities made payable solely from revenues derived from the operation of a project or capital improvement acquired with the proceeds of the bond or security, or from other projects or improvements, or from the proceeds of any sales tax, use tax or other excise tax, or solely from any source or sources or any combination thereof other than ad valorem taxes of the City.

Section 10.6 – Refunding Securities and Bonds.

The Council may authorize without an election issuance of refunding securities and bonds for the purpose of refunding and providing for the payment of outstanding securities and bonds or other obligations of the City as the same mature, or in advance of maturity by means of an escrow or otherwise.

Section 10.7 – Long-term Rentals and Leaseholds.

In order to provide necessary land, buildings, equipment and other property for governmental or proprietary purposes, the City is hereby authorized to enter into long-term rental or leasehold agreements. Such agreements may include an option or options to purchase and acquire title to such leased or rented property within a period not exceeding the useful life of such property, and in no case exceeding forty years. Unless otherwise provided by ordinance, such agreements shall be approved by the Council.

Property acquired or occupied pursuant to this Charter shall be exempt from taxation so long as used for authorized governmental or proprietary functions of the City. (November 7, 2006)

Section 10.8 – Power to Construct Improvements and Create Improvement Districts.

The City shall have the power to contract for, construct, or install special or local improvements of every character within designated districts of said City, and to assess the cost thereof wholly or in part upon the property especially benefited. The Council shall by ordinance prescribe the method and manner of making such improvements, of letting contracts therefore, assessing the cost thereof; and issuing and paying bonds for costs and expenses of the organization of said districts and of construction or installation of said improvements. Nothing herein contained shall be construed to limit the power of the Council to otherwise act in accordance with the Constitution and State of Colorado in carrying out such purposes.

(a) Improvement District Bonds – General Benefit.

1. The power to create special or local improvement districts, to assess the cost of the construction of public improvements of a local and municipal character or any part thereof against benefited property therein, and to issue special or local improvement bonds, is vested in the Council. The cost of that part of local improvements which is of special benefit to particular real property may be assessed against the real property so benefited.

The procedure governing the creating of special or local improvement districts, the assessment of a part of or all the cost against the benefited property, and the issuance of special local improvement bonds shall be governed by general law relating to special or local improvements in cities and towns, unless, prior to the initiation thereof, the Council by ordinance has prescribed a different procedure thereof, and except insofar as general law has been superseded by this Charter or by ordinance. The Council may prescribe the procedure to be followed in the construction of special or local improvements, assessment of the costs thereof, issuance of local improvement bonds, and all things in relation thereto. (November 7, 2006)

2. Whenever a special or local improvement district has paid and cancelled three-fourths of its bonds issued, and for any reason the remaining assessments are not paid to service the remaining bonds of the district and the interest due thereon, then the City may pay said bonds when due and the interest due thereon, and reimburse itself by collecting the unpaid assessments due said district. (November 7, 2006)

Section 10.9 – Limitation of Actions.

No action or proceeding, at law or in equity, to review any elections, acts or proceedings, or to question the validity of or enjoin the issuance or payment of any securities issued in accordance with their terms, or the levy or collection of any assessments, or for any other

relief against any acts or proceedings of the City done or had under this Article of this Charter, shall be maintained against the City, unless commenced within thirty (30) days after the election or performance of the act or the effective date of the resolution or ordinance complained of, or else be thereafter perpetually barred. (November 7, 2006)

ARTICLE XI

PERSONNEL

Section 11.1 – Personnel Appeals and Grievances Board.

(a) Within ninety days after the effective date of this Charter, the Council shall, by ordinance, establish a Personnel Appeals and Grievances Board, hereinafter referred to as Personnel Board, composed of three members who are registered voters, and who are impartial and disinterested in regard to the administration of personnel by the City. Members of the Personnel Board shall hold no other appointive or elective municipal office during their tenure in the Personnel Board.

(b) The term of the office for the members shall be three years, and the terms shall be overlapping. Initial terms shall be for one, two and three years respectively; and thereafter all appointments shall be made for three years each. Members shall reside within the City during their terms and if a member ceases to reside within the City during his term, the office shall be declared vacant and filled by appointment by the Council. Members shall serve without compensation, but shall be reimbursed for authorized expenses actually incurred in the discharge of their official duties.

(c) The Personnel Board shall be an advisory body only, and is constituted to review grievances and appeals brought by City employees under the provisions of the City's Personnel Policy. The Personnel Board shall not interfere with or become involved with the personnel administration of the City, and shall only consider those appeals and grievances properly brought before it. The Personnel Board is expressly prohibited from participation in collective bargaining, and from reviewing or arbitrating differences arising under any labor agreement or contract.

(d) The Personnel Board may promulgate its own rules of procedure; provided, however, that no such rules shall usurp or conflict with the authority or responsibility of the City Council, the City Manager, or any officer of the City's delegated duties in regard to personnel administration. The Personnel Board shall review the merits of any appeal or grievance filed with it by any City employee, and shall render a final determination on the action. If the appeal or grievance is found to be insufficient or invalid, the Personnel Board shall so declare, and the action taken by the City shall stand. If the appeal or grievance is found to be sufficient or valid, the Personnel Board shall so declare, and shall forthwith notify the City Council of its determination and recommendations. The City Council shall take such action in regard to the finding and determination as is

consistent with the provisions of the City's Personnel Policy.

ARTICLE XII

MISCELLANEOUS PROVISIONS

Section 12.1 – Cooperation, Intergovernmental Contracts.

The City Council by majority vote may join with or participate in formation of corporations, associations, authorities, or other legal entities, and enter into joint exercise of powers agreements, or other cooperative arrangements with other governmental units of every kind and character for the joint use of buildings, equipment and facilities, or for furnishing, purchasing, or receiving commodities, electricity, water, gas, other products of every kind and character, or services, and may commit financial, property, and personnel resources under the terms of any such arrangement.

Section 12.2 – Eminent Domain.

In carrying out the authorities and duties imposed upon it by this Charter or by the Statutes of the State of Colorado, the City shall have the right of eminent domain as provided by the Statutes of the State of Colorado.

Section 12.3 – Purchase, Sale or Lease of Real Property.

(a) The Council may purchase, sell, exchange, encumber, or dispose of any interest in real property. (November 7, 2006)

(b) The Council may lease for such a term as it deems appropriate any property to or from any person, firm or corporation. No permanent improvements or excavation shall be permitted on any property under lease from the City or to the City unless specifically permitted in the lease.

Section 12.4 – Bequests, Gifts and Donations.

The Council, on behalf of the City, may receive or refuse bequests, gifts and donations of all kinds of property, real and personal, 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 authority to manage, sell, lease or otherwise dispose of the same in accordance with the terms of the gift, bequest or trust.

Section 12.5 – Reservation of Power.

The power to supersede any law of the State of Colorado now or hereafter in force, insofar as it applies to local or municipal affairs, shall be reserved to the City pursuant to

Article XX of the Constitution of the State of Colorado.

Section 12.6 – Public Utilities and Franchises.

(a) The Council shall have all municipal powers relating to all utilities and franchises including, but without limitation to, all powers and authority now existing and which may be hereafter provided by the Constitution or Statutes of the State of Colorado, or by ordinance, or by this Charter. The right of the City to construct, purchase, or condemn any public or private utility work or way, shall not be abridged. Except as otherwise required by this Charter or ordinance, the Council shall exercise all powers and authority concerning the granting, amending, revoking or otherwise dealing in franchises.

(b) The City shall have the authority to construct, purchase, acquire, and lease public and private utilities and their assets, equipment, and property in whole or in part both within and outside of the City limits for the use of the City and its inhabitants.

(c) Grants of public utility franchise and all extensions and amendments shall be made only by ordinance.

(d) No franchise, lease or right to use the streets, alleys, public places, property of the City, or utility easements shall be granted which exceeds twenty years. Every grant of a franchise shall fix the amount and manner of payment of compensation to be paid by the grantee for the use of the same. Such compensation shall be paid to the City as provided by ordinance and shall be subject to periodic review and renegotiation as provided in the granting ordinance. Failure on the part of the utility to honor the compensation commitment shall result in the forfeiture of the franchise at the option of the Council. This provision shall not exempt the utility from any lawful taxation upon its property, nor from any license, charges, fees, or other lawful impositions levied by the City.

(e) Assignment or leasing of a franchise shall be considered a forfeiture unless consent is given by the Council by appropriate action.

(f) All municipally owned or operated utilities shall be operated as regular departments of the City under the same supervision and control exercised by the City Manager as with all other departments, offices, and agencies of the City.

(g) All franchises to which the City is a party when this Charter shall become effective shall remain in full force and effect in accordance with their respective terms and conditions until amended, modified or superseded by appropriate action by the Council as provided in this section.

(h) Every public utility may be required by the City to permit joint use of its property and appurtenances located in the streets, alleys, public places, property of the City, or utility easements, by the City and by the utilities, insofar as such joint use may be reasonably conducted without detrimental effect upon the utility or the City. Every public utility, whether or not it has a franchise, shall pay such part of the cost of improvements, repairs

and maintenance as shall arise from its use, and shall hold the City harmless from all damages arising therefrom.

(i) The City Clerk shall cause an indexed franchise record to be kept in his office which shall include copies of all franchises. The index shall contain such appropriate information in relation to the grantee, its operations, and other information, as the City Clerk may determine as necessary or the Council shall require.

(j) The Council may grant a permit at any time for the temporary use or occupation of any street, alley or City owned property; or specifying the manner of granting of such permit by ordinance provided, however, that such permit shall be revocable by the Council at its pleasure, regardless of whether or not such right to revoke is expressly reserved in such permit. Such temporary permit shall carry with it the same obligations imposed by subparagraph (h) of this Section. (November 7, 2006)

Section 12.7 – Zoning.

The authority to zone and re-zone property within the City is vested in the City Council under such rules, regulations, and procedures as may be established by ordinance. Notification of public hearing to the property owner of record by first class mail is required to be mailed at least ten (10) days prior to a hearing before the City Council on any proposed rezoning of such property from an existing zoning district to a different district, or on a proposed elimination of use legally authorized in a zoning district, except when the rezoning or elimination of use is proposed by the property owner. (November 7, 2006)

Section 12.8 – Annexations.

Pursuant to ordinance and this Charter, the City may annex, or may accept for annexation, property adjacent to its existing boundary; provided, however, that nothing herein shall preclude either the Council or the registered electors of the City from refusing such proposed annexation. (November 7, 2006)

Section 12.9 – Severability of Charter Provisions.

If any provision, section, article or clause of this Charter, or the application thereof to any person or circumstance, shall be found to be invalid by a court, such invalidity shall not affect any remaining portion or application of the Charter 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 this Charter is declared to be severable.

12.10 – Amending the Charter.

This Charter may be amended at any time in the manner provided by statute. Nothing herein contained shall be construed as preventing the submission to the registered electors of the City of more than one Charter amendment at any one election. If provisions of two or more proposed amendments adopted or approved at the same election conflict, the amendment receiving the highest affirmative vote shall prevail. (November 7, 2006)

Section 12.11 – Publication Procedure and Requirement.

The requirements contained in this Charter for the publishing or publication of notices, ordinances or other documents of the City shall be met by publishing an appropriate insertion or insertions in a legal newspaper which has had a general circulation in the City for at least one year. (November 7, 2006)

Section 12.12 – Article and Section Headings.

Article, section and sub-section headings contained in this Charter are inserted for convenience and reference only, and shall not be construed to limit, describe or control the scope or intent of any provisions therein.

Section 12.13 – Saving Clause.

This Charter shall not affect any action pending in any court or any document heretofore executed in connection therewith. Nothing in this Charter shall invalidate any existing contracts between the City and individuals, corporations or public agencies.

Section 12.14 – Penalties for Violation of Charter.

Any willful violation of a provision of this Charter shall constitute misconduct, and any person holding an elective or appointive position in the City, or employed by the City, found guilty of such misconduct, shall be penalized by the Council as it may determine or as provided by ordinance or resolution.

Section 12.15 – Transitional Provisions.

(a) Upon the adoption of this Charter, the Council shall act with the authorities and powers granted within the provisions of this Charter, and the Mayor shall be a member of the Council pursuant to the provisions of this Charter. In the event that a vacancy shall occur among the members of the Council, such vacancy shall be filled under the provisions of this Charter; provided, however, that such vacancy shall be filled only for the original length of the term of the office and shall not extend past the date of the first regular election to be held under this Charter. (November 7, 2006)

(b) All appointive officers and employees of the City under employ by the City, upon the adoption of this Charter, shall continue in that office or position subject to the provisions established by this Charter for personnel administration. The position of “City Administrator” is hereby reconstituted as “City Manager” under the terms of this Charter,

and shall have full force and effect as provided by the terms of this Charter.

Section 12.16 – Effective Date.

This Charter and all its provisions shall be effective immediately upon approval by the voters of the City, and its subsequent filing and recording with the Secretary of State of the State of Colorado.