



HOME RULE CHARTER

DRAFT 5-8-

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HOME RULE CHARTER

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

The Charter seeks to achieve the following objectives:

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

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

PREAMBLE

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

ARTICLE 1 - GENERAL PROVISIONS

Section 1-1. Name and Boundaries.

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

Section 1-2. Powers.

The Town shall have all powers which are necessary, requisite, proper or convenient for the government and administration of the Town, including all powers granted to home rule and statutory cities or towns by the Constitution and statutes of the State of Colorado, and shall have the authority to supersede provisions of the Colorado Constitution, statutes and regulations to the maximum extent allowed by the Colorado Constitution and by law. The enumeration below of certain specific powers shall not be construed to limit, impair or deny any other right or power granted to the Town.

- (a) The Town shall have the power of eminent domain, within or without its municipal limits, to construct, condemn, purchase, acquire, lease, maintain, operate, and dispose of all property, real, personal or otherwise, including but not limited to, water systems, sewer systems, power systems, telephone systems, transportation systems, streets, alleys, rights of way, easements, communication systems, water, ditches, water rights and appurtenances, parks, recreation facilities and all other utilities or works, and may enter into such contracts as necessary, convenient or appropriate in relation thereto.
- (b) The Town shall have the power of taxation, the power to provide for health, safety, welfare, and the common good of the Town and its citizens, and the power to construct and operate any type of public utility.
- (c) The Town may accept bequests, gifts, and donations of all kinds of property in fee simple, or in trust, for public, charitable, and other purposes, and do all things and acts necessary to carry out the purposes of such gifts, bequests, and donations, with the power to manage, sell, lease, or otherwise dispose of the same in accordance with the terms of the gift, bequest, or trust.
- (d) The Town shall have the right and power to grant and enter into revocable license agreements and lease agreements for the use of public streets, rights of way, easements, and alleys with private parties without the need for an election.

Section 1-3. Rights and Liabilities.

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

Section 1-4. Existing Ordinances and Regulations.

- (a) All ordinances, resolutions, rules and other regulations of the Town consistent with this Charter which are in effect as of the effective date of this Charter shall continue in full force

and effect until repealed or amended. Any provision inconsistent with this Charter is hereby superseded, and the Town Council shall proceed with due diligence after the adoption of this Charter to make the necessary amendments or repeals to bring Town ordinances of a general and permanent nature into consistency with this Charter.

- (b) To the extent that the Town has not adopted an ordinance or resolution to address a matter that is addressed by the Colorado Revised Statutes and would be applicable to a statutory town that did not have such an ordinance or resolution, then the provisions of such statutes shall continue to apply until the Town adopts such an ordinance or resolution.
- (c) To the maximum extent permitted by law, any ordinance, resolution, or other official action taken by the Town prior to the effective date of this Charter shall be deemed to have taken place under the authority of this Charter. Without limiting the preceding sentence, to the extent that the Town's home rule authority cannot legally be extended retroactively to apply to any particular ordinance or resolution, then, and only then, all such ordinances or resolutions which would otherwise be deemed wholly or partially invalid if enacted under the authority of a statutory town are hereby reenacted under the authority of this Charter as of the effective date hereof.

Section 1-5. Amendments to the Charter.

This Charter may be amended at any time in the manner provided in the Colorado Constitution and in Title 31, Article 2 of the Colorado Revised Statutes, as said provisions may be amended from time to time. Proceedings to amend the Charter may be initiated by the filing of a petition meeting the requirements of the Colorado Revised Statutes or by the adoption of an ordinance by the Town Council submitting the proposed amendment to a vote of the registered electors of the Town. Nothing herein contained shall be construed as preventing the submission to the people of more than one 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 become effective.

Section 1-6. Ordinances, Resolutions and Motions.

All actions of the Town Council shall be by ordinance, resolution, or motion. In addition to such Town Council acts that are required by other provisions of the Colorado Constitution or this Charter to be by ordinance, every action making an appropriation, creating an indebtedness, authorizing the borrowing of money, levying a tax, establishing any rule or regulation for the violation of which a penalty is imposed, disposing of any municipally owned real estate, including water rights, repealing a prior ordinance, or approving an eminent domain action by the Town shall be by ordinance; provided, however, that this Section shall not apply to the annual appropriation and budget procedures set forth in Article VIII of this Charter, nor shall an ordinance be required to levy an ad valorem tax. Ordinances making appropriations shall be confined to the subject of appropriation. Policies of the Town may be adopted by the Town Council by resolution or motion.

Section 1-7. Voting.

A roll call vote shall be taken in all instances and shall be entered into the minutes of the Town Council proceedings. Except as otherwise provided herein, all ordinances, motions, and resolutions shall pass if the majority of the votes cast are in the affirmative. Any member of the Town Council may abstain from any vote only upon declaration of a conflict of interest. Nothing herein shall preclude the Town Council from requiring by ordinance a greater number of votes in certain instances.

Section 1-8. Procedure for Ordinances.

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

- (a) The ordinance shall be introduced at any regular or special meeting of the Town Council by any member of the Council.
- (b) The ordinance shall be read in full or in cases where copies of the ordinance are available to the Town Council and to those persons in attendance at said Council meeting, said ordinance may be read by title only. The title of the ordinance shall include a brief general description of the subject matter of the ordinance.
- (c) After the first reading of the ordinance, the same shall be approved or rejected by a vote of the Council. If approved, the Council shall set a date, hour and place at which the Council will hold a public hearing on the ordinance for its second introduction.
- (d) If passed upon first introduction, the ordinance shall be posted in full in at least two (2) public places within the Town and, whenever technologically feasible, on the internet. A First Notice shall be published which shall include the number and title of the ordinance, a statement indicating where the full text is available to the public (including the internet web address if applicable), and the date, hour and place of the public hearing scheduled thereon.
- (e) The ordinance shall be introduced a second time in a public hearing at a regular or special meeting of the Town Council held not sooner than ten (10) days after publication of the First Notice. The ordinance shall be read by title and number at the second introduction.
- (f) The ordinance may be amended at the second introduction provided that any amendments address the same general subject matter addressed at first introduction. Any amendments shall be read in full, unless copies of all amendments are available to the Council and to those persons in attendance at the Council meeting.
- (g) After the second reading, including any amendments, the ordinance shall be passed or rejected by a vote of the Council.
- (h) After final passage, the ordinance shall again be posted in at least two (2) public places within the Town and, whenever technologically feasible, on the internet. A Second Notice shall be published which shall include the number and title of the ordinance, a statement where the full text is available to the public (including the internet web address if applicable), and a statement as to the effective date of the ordinance. Unless the ordinance provides for a later effective date, it shall be in force and take effect thirty (30) days after publication of the Second Notice.
- (i) The Council may adopt other requirements as they deem necessary or appropriate, as long as those requirements do not conflict with the provisions of this Section 1-8.

Section 1-9. Form of Ordinances.

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

Section 1-10. Disposition of Ordinances.

Copies of the original ordinances and the certificates of the publisher of notice of ordinance shall be kept and be available for public inspection in the office of the Town Clerk.

Section 1-11. Codes Enacted by Reference.

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

Section 1-12. Emergency Ordinances.

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

Section 1-13. Severability of Ordinance.

Unless an ordinance shall expressly provide to the contrary, if any portion of an ordinance or the application thereof to any person or circumstances shall be found to be invalid by a court of competent jurisdiction, such invalidity shall not affect the remaining portions or applications of the ordinance that can be given effect without the invalid portion or application; provided such remaining portions or applications are not determined by the court to be inoperable, and to this end ordinances are declared to be severable.

Section 1-14. Intergovernmental Agreements.

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

commodities or services and for all other legal purposes.

Section 1-15. Master Plan.

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

Section 1-16. Code of Ethics.

Unless otherwise prescribed by ordinance, the Colorado Code of Ethics, C.R.S. 24-18-101, et seq., shall apply to the Town.

Section 1-17. Conflict of Interest.

No Councilor shall vote or participate in discussion or deliberation on any question in which he or she has a substantial personal or financial interest, direct or indirect, including an interest held through a spouse or family member, other than the common public interest, or on any question concerning his or her own conduct. In the event the Councilor has such an interest, he or she shall declare such interest. Whether or not such a declaration is made, the remaining Councilors may determine by a majority vote whether said interest does in fact constitute a conflict of interest. When such conflict of interest is established, the Councilor affected shall not vote on the matter and the remaining Councilors shall take any further action they deem to be in the best interests of the Town. If such conflict of interest was not disclosed and is established with respect to a matter already considered by the Town Council, the remaining members of the Town Council shall take any action they deem to be in the best interests of the Town, including, but not limited to, terminating the unperformed portion of any contract entered into when such a conflict of interest existed. This Section and any ordinance adopted in furtherance thereof shall abrogate and replace any common law doctrine on this subject.

Section 1-18. Conveyances of Real Property Owned.

The Council, by motions made and approved, may purchase, sell, exchange, receive by donation, enter into a lease, or dispose of any interest in real property including easements. When possible, the Council's actions shall identify the location of the property or property interest by lot and block or subdivision designation. Motions authorizing the acquisition or disposal of real estate interests shall take effect thirty (30) days after public notification.

ARTICLE 2 - FORM OF GOVERNMENT, TOWN COUNCIL, TERMS OF OFFICE, AND VACANCIES

Section 2-1. Town Council.

There shall be a Town Council consisting of seven (7) Councilors. The Town Council shall select one Councilor to serve as President and one Councilor to serve as President Pro Tem, both of whom shall act as and be considered as full members of the Town Council. The Town Council shall be the governing body of the Town and shall have all policy-making and legislative powers and other powers possessed by the Town not otherwise limited or conferred upon others by this Charter. The Town Council may also be referred to as the Town Board.

Section 2-2. Terms of Office.

Six (6) Councilors shall be elected for a term of four (4) years and one (1) Councilor shall be elected for a term of two (2) years. Four (4) Councilors shall be elected at the coordinated election in November of 2010 and the Councilor with the lowest number of votes of the four (4) elected shall serve a two-year term. Elections shall be held the first Tuesday in November every two years thereafter with four (4) Councilors elected and the Councilor with the lowest number of votes of the four (4) elected serving a two-year term, subject to the provisions of Section 2-6 of this Article.

Section 2-3. Qualifications for Elected Office.

Each Councilor shall be a qualified elector of the Town, at least 21 years of age and shall be a resident of the Town for at least twenty-four (24) months as of the date of election and during his or her entire tenure in office. No Councilor shall be a paid employee of the Town, nor shall they apply for any employment position with the Town while in office, nor shall they hold any other elected office while serving as Councilor. The term of any Councilor shall terminate when he or she no longer resides in the boundaries of the Town of Hayden.

Section 2-4. Duties of the Council President.

The Town Council shall appoint one (1) of its Councilors as Council President at the first meeting following each election. Such appointment shall be made by a majority of the Councilors present constituting a quorum. The President shall preside at all regular and special meetings of the Town Council and shall be required to vote on matters being considered by the Town Council, except as otherwise provided herein. The President shall act as the ceremonial head of government of the Town. The President shall execute and authenticate with his original signature legal instruments, contracts, and documents requiring a signature on behalf of the Town, unless the Town Council authorizes another manner of authenticating documents by ordinance or resolution. The Town Council may, for specific and limited purposes, delegate certain non-legislative duties of the President to the Town Manager or other employees of the Town. If the office of President becomes vacant, then the Town Council shall appoint a new President at its next regular meeting.

Section 2-5. President Pro Tem.

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

Section 2-6. Vacancies.

- (a) Occurrence of a Vacancy. A vacancy shall occur whenever a Councilor dies, becomes incapacitated, resigns, becomes a non-resident of the Town, or is convicted while in office of a felony or of any misdemeanor offense for abuse of public office as defined in Part 4, Article 8, Title 18, C.R.S., as now existing or as may be hereafter amended or recodified.
- (b) Removal. If a member of the Town Council misses more than three consecutive regular meetings or more than six regular meetings within any twelve month period, he may be removed from his position by a vote of at least five (5) members of the Town Council, after

notice and hearing. If a Councilor has a reasonable basis for missing meetings acceptable to other Town Council members, particularly if given in advance, the absence shall be deemed to be excused and shall not be a basis for a removal vote.

- (c) Procedure to Fill Vacancy for Councilor. Whenever a vacancy occurs more than ninety (90) days prior to the next regular Town election, the Town Council shall solicit the general public for applications to fill the vacancy. Within ninety (90) days following the occurrence of a vacancy, the Town Council shall either appoint a replacement or call a special election to replace such person. If the Town Council fails to appoint a replacement within ninety (90) days following the occurrence of a vacancy, then the Town Council may schedule a special election to be held within one hundred eighty (180) days after such failure, unless a general election is already scheduled within that time period. If a vacancy occurs within one hundred eighty (180) days of the next general election, then the Town Council may leave the office vacant and provide for a replacement to be elected at such general election.
- (d) Multiple Vacancies. If three (3) or more vacancies exist on the Town Council at any given time, then the Town Council shall immediately schedule a special election to take place within sixty (60) days after the occurrence of the third vacancy, unless a general election is already scheduled within ninety (90) days.
- (e) Terms of Persons Filling Vacancies. Any person appointed or elected to the Town Council to fill a vacancy shall hold office until the next regular election and until a successor is elected and qualified.

Section 2-7. Powers of the Council.

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

Section 2-8. Term Limitations.

Councilors shall be limited to three (3) consecutive terms in office, regardless of length. A person who has reached the term limit may not run for Councilor again until such time as they have been out of office for a full four-year term.

Section 2-9. Compensation of Elected Officials.

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

Section 2-10. Meetings of Town Council.

- (a) Regular Meetings. The Town Council shall hold regular meetings not less than twice per month and shall schedule by ordinance a time and place for regular meetings.
- (b) Special Meetings. Special meetings of the Town Council shall be called by the Town Clerk

- on the request of the Council President or the Town Manager with the informal consent of at least a quorum of the Town Council. At least twenty-four (24) hours prior to such meeting, the Town Clerk shall post a notice of the meeting in at least two (2) public places within the Town and shall provide reasonable notice to all Councilors of the meeting. Councilors shall have the duty to keep the Town Clerk informed of their preferred method of receiving notice for this and other provisions of this Charter. A special meeting may be held on shorter notice to the members of the Town Council and with less than twenty-four (24) hour advance posting of notice if a quorum of the Town Council consents at the beginning of such meeting.
- (c) Organizational Meeting. At the first regular meeting following a regular election and before the Town Council conducts any official business other than approval of minutes from past meetings, the Town Clerk shall administer the oath of office to newly-elected members of the Town Council and they shall assume office at that time. The Town Council shall then proceed at such meeting or at a subsequent meeting, if approved by a majority of the Councilors present and voting, to appoint the President and President Pro Tem and conduct such other organizational business as it sees fit.
 - (d) Place of Meetings. Meetings of the Town Council shall be held in Town Hall. When Town Hall facilities are not available or are inadequate, or if approved by a majority of the Town Council for special reasons, the Town Council may designate an alternate place for such meeting and post notice thereof as provided in subsection (b) above.
 - (e) Meetings Open to the Public - Executive Sessions Authorized. All meetings of the Town Council shall be open to the public. Executive sessions may be conducted during regular or special meetings of the Town Council to the maximum extent permitted by the laws of the State as may be enacted from time to time. Executive sessions shall not be "meetings" for the purpose of this Section.
 - (f) Quorum. A majority of the Town Council in office at the time shall be a quorum for the transaction of business at all Town Council meetings.

Section 2-11. Oath of Office.

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

ARTICLE 3 - TOWN ADMINISTRATION

Section 3-1. Town Manager.

The Town Council shall appoint a Town Manager, who shall execute the laws and ordinances of the Town, shall have the duty and authority to hire, suspend, transfer and remove any Town Employee, except as otherwise provided in this Charter or by ordinance, and other powers and duties as provided by ordinance. If the office of the Town Manager becomes vacant, the Town Council shall appoint either a temporary or permanent replacement as soon as reasonably possible. The Town Council shall appoint the Town Manager on the basis of fitness, education, competency, training and experience. The Town Manager shall serve at the pleasure of the Town Council, and he or she may be removed by the Town Council at any time with or without cause upon the affirmative vote of a majority of the Town Council. The Town Council may establish policies and procedures for a contract with the Town Manager, at their sole discretion.

Section 3-2. Town Clerk.

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

Section 3-3. Police Chief.

The Town Manager shall appoint a Police Chief with the approval of the Town Council. The Police Chief shall be the head of the Police Department, shall see that the ordinances of the Town are duly enforced and shall have such other powers and duties as provided by ordinance.

Section 3-4. Finance Director.

The Town Manager shall appoint a Finance Director with the approval of the Town Council. The Finance Director shall have charge of the financial records of the Town and shall collect, receive and disburse all monies belonging to the Town and shall have all other duties required to administer properly the financial affairs of the Town.

Section 3-5. Multiple Positions.

Unless otherwise prohibited by this Charter or by ordinance, any one person may be appointed to multiple positions.

Section 3-6. Council and Administration Relations.

Except for informal inquiry, Council Members and the Council President shall deal with personnel and employees solely through the Town Manager. Complaints about the Town Manager shall first be registered with the Human Resource Director. If the complaint remains unresolved, the Human Resource Director shall contact the Council President and the Town Council, if necessary. For all other employees, the Council may from time to time adopt by resolution personnel procedures and complaint procedures. Complaints about individual employees shall not be permitted at Council meetings without first having followed the procedures established by the Town Council.

ARTICLE 4 - TOWN ATTORNEY

Section 4-1. Town Attorney.

The Town Council shall appoint a Town Attorney, who shall be the legal representative of the Town, and he or she shall advise the Town Council and Town officials in matters relating to their official powers and duties and legal matters affecting the Town. The Town Attorney or his or her assistants shall represent the Town in legal proceedings and shall assist with the drafting of ordinances and resolutions and the preparation of other legal documents. The Town Attorney shall be an attorney-at-law licensed and admitted to practice in the State of Colorado, and he or she may be an employee of the Town or a contract attorney, at the sole discretion of the Town Council. The Town Council shall establish the compensation to be paid to the Town Attorney. The Town Attorney shall serve at the pleasure of the Town Council, and the Town Council may remove the Town Attorney at any time with or without cause. The Town Attorney may use

associated counsel with the approval of the Town Council. The Town Council may also retain the services of special counsel for any matter and may, in its discretion, delegate any duty of the Town Attorney to such special counsel.

ARTICLE 5 - ELECTIONS AND RECALL

Section 5-1. Colorado Municipal Election Laws Adopted.

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

- (a) The Colorado Municipal Election Code of 1965 as now existing or hereafter amended or modified, shall govern Town elections; and
- (b) For the purpose of participating in coordinated elections, as defined in the Colorado Uniform Election Code of 1992, and mail ballot elections, as defined in the Colorado Mail Ballot Election Act, the Town adopts and will follow all applicable provisions of those statutes, as now existing or hereafter amended or modified, notwithstanding any contrary provisions of the Colorado Municipal Election Code of 1965.

Section 5-2. Elector Qualification.

In order to vote in any election, an elector must be eighteen (18) years of age as of the day of the election, be a citizen of the United States of America, be registered with the Town Clerk or Routt County Clerk, not be in prison, and have legally resided for at least thirty (30) days immediately preceding the election in Colorado and in an area that is within the municipal limits of the Town as of the date of the election.

Section 5-3. Time of Elections.

All regular elections of the Town shall be held on the first Tuesday following the first Monday of November in even numbered years. Any special election of the Town shall be called by resolution enacted at least sixty (60) days in advance of such election. The resolution calling a special election shall set forth the purpose of such election.

Section 5-4. Non-Partisan Elections.

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

Section 5-5. Elective Officers.

The elective officers of the Town shall be seven (7) Councilors, all of whom shall be nominated and elected from the Town at large unless otherwise provided by ordinance in accordance with this Charter. Nominations shall be by petition as provided in the Colorado Municipal Election Code of 1965 as now existing, or hereafter amended or modified, except that at least twenty-five (25) signatures of registered electors of the Town of Hayden shall be required on each petition. Notwithstanding the provisions of the Colorado Municipal Election Code, a registered elector may sign any number of nominating petitions regardless of the number of separate offices to be filled in any municipal election.

Section 5-6. Election Precincts.

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

Section 5-7. Election Procedures.

The establishment of regulations on registration, judges, and clerks, and the conduct of elections shall be governed by the Colorado Municipal Election Code as now existing, or hereafter amended or modified, except as otherwise provided in this Charter, or by ordinance.

Section 5-8. Recall.

- (a) Members of the Town Council may be recalled in accordance with the provisions and limitations of this Section.
- (b) No recall petition shall be accepted against any Councilor until the Councilor has actually held the office for at least six (6) months.
- (c) A petition for recall shall be signed by a number of registered electors equal to or more in number than twenty-five percent (25%) of total number of the registered electors at the last preceding regular election.
- (d) Except to the extent inconsistent with this Charter or procedures prescribed by ordinance, the procedures and provisions for recall as provided by Article XXI of the Colorado Constitution applicable to municipal governing bodies shall apply to recall of the Town Council. Consistent with the Constitution and this Charter, the Town Council may provide by ordinance for further recall procedures.

Section 5-9. Conduct of Elections.

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

ARTICLE 6 - INITIATIVES, REFERENDUMS AND PETITIONS

Section 6-1. General Authority.

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

Section 6-2. Procedure.

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

Section 6-3. Petitioner's Committee.

Any three (3) registered electors of the Town may commence initiative or referendum proceedings by filing with the Town Clerk an affidavit stating that they will constitute the petitioner's committee, will circulate the petition and file it in proper form, and further stating their names, street addresses, the address to which all notices to the committee are to be sent, and setting out in full the proposed initiative ordinance or citing the ordinance sought to be reconsidered. Promptly after the affidavit of the petitioner's committee is filed, the Clerk shall issue the appropriate petition forms to the petitioner's committee.

Section 6-4. Petitions.

- (a) Number of Signatures. Initiative petitions or referendum petitions must be signed by registered electors of the Town equal to or more in number than fifteen percent (15%) of the total number of the registered electors at the last preceding regular election.
- (b) Form and Content. All pages of a petition shall be uniform in size and style and shall be assembled as one instrument for filing. The form of the petition shall comply with state statutes. Each signature shall be executed in ink and shall be followed by the address of the person signing. Petitions shall contain or have attached thereto throughout their circulation the full text of the ordinance proposed or sought to be reconsidered.
- (c) Reading of Ordinance. The Circulator shall require every person signing the petition to read it and the ordinance in question in full prior to signing.
- (d) Affidavit of Circulator. Each page of a petition shall have attached to it, when filed, an affidavit of the Circulator stating that the Circulator personally circulated the petition, the number of signatures thereon, that all the signatures were affixed in the Circulator's presence, that the Circulator believes them to be the genuine signatures of the persons whose names they purport to be and that each signer read the full text of the ordinance proposed or sought to be reconsidered prior to signing the petition.
- (e) Time for Filing Referendum Petitions. Such petition shall be filed with the Town Clerk within thirty (30) days. The Town Clerk shall, within five (5) business days, canvass the signatures thereon. If the petition does not contain a sufficient number of signatures of qualified electors of the Town, or if any other error or insufficiency is found in the petition, the Town Clerk shall post a notice in the Town Clerk's office to this effect, and it shall be the Applicant's duty to check with the Town Clerk for such a notice. Ten (10) business days from the date of posting of such notice shall be allowed for filing of supplemental or corrected petition papers, and the Town Clerk shall canvass the signatures of the corrected or supplemental petition within two (2) business days after receipt. When a petition with sufficient signatures is filed within the time allowed by this Section, the Town Clerk shall present the petition to the Town Council at the next regular meeting.

Section 6-5. Protest.

The period of time for filing a written protest of an initiative or a referendum petition shall be within thirty (30) days from the date the petition is filed.

Section 6-6. Suspension of Ordinance.

When a referendum petition is filed with the Town Clerk, the ordinance sought to be reconsidered shall remain in full force and effect unless repealed by the Town Council or unless repealed by a majority vote on the referendum.

Section 6-7. Amendment and Repeal.

An ordinance adopted by the electorate may not be amended or repealed by the Town Council for a period of twenty-four (24) months after the date of the election at which it was adopted and an ordinance repealed by the electorate may not be reenacted by the Town Council for a period of twenty-four (24) months after the date of the election at which it was repealed, but such ordinances may be adopted, amended or repealed at any time by the voters.

Section 6-8. Additional Procedures.

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

ARTICLE 7 - MUNICIPAL COURT

Section 7-1. Municipal Court.

There shall be a Municipal Court which shall have jurisdiction to hear and try all alleged violations of the Town ordinances. The Municipal Court shall have all jurisdiction as is provided under State statutes and rules promulgated by the Colorado Supreme Court.

Section 7-2. Municipal Judge.

The Town Council shall appoint a Municipal Judge for a two-year term to serve at the pleasure of the Town Council. Said Judge may be removed with or without cause by the vote of four (4) members of the Town Council at any time. The Town Council may appoint additional assistant or acting municipal judges as deemed appropriate from time to time. Municipal Judges shall be licensed to practice law in Colorado. Municipal Judges shall be compensated on a basis established by the Town Council provided that compensation shall not be based directly on the number of cases handled or heard by the Judge.

Section 7-3. Municipal Court Clerk.

The Town Manager may designate a person to perform the duties of Municipal Court Clerk and provide for such compensation as deemed appropriate by the Town Council.

Section 7-4. Powers of Municipal Judge.

The Municipal Judge shall have all judicial powers relating to the operation of the Municipal Court to the extent not inconsistent with this Charter or Town ordinances.

Section 7-5. Penalties.

Penalties for violations of Town ordinances shall be established by ordinance. No fine or sentence for such violations shall exceed the maximum established by applicable laws for

municipal ordinance and/or code violations.

Section 7-6. Additional Procedures.

The Town Council may by ordinance prescribe additional procedures as necessary or appropriate for the municipal court or the municipal judge, as permitted by law.

ARTICLE 8 - BUDGET, FINANCE, INVESTMENTS AND TAXATION

Section 8-1. Fiscal Year.

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

Section 8-2. Contracts.

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

Section 8-3. Funds and Accounts.

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

Section 8-4. Proposed Budget and Message.

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

Section 8-5. Budget.

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

- (a) All proposed expenditures for administration, operation, maintenance, debt service, and capital projects to be undertaken or executed by any spending agency during the fiscal year;
- (b) Anticipated revenues for the fiscal years;
- (c) Estimated beginning and ending fund balances;
- (d) The corresponding actual figures for the prior fiscal year and estimated figures projected through the end of the current fiscal year, including disclosures of all beginning and ending fund balances, consistent with the basis of accounting used to prepare the budget;
- (e) A written budget message describing the important features of the proposed budget, including a statement of the budgetary basis of accounting used and description of the services to be delivered during the fiscal year;
- (f) Explanatory schedules or statements classifying the expenditures by object and the revenues

- by source;
- (g) An estimate of the amount required to be raised from an ad valorem property tax levy; and
 - (h) Such other information as the Town Council may require.

Section 8-6. Budget Hearing.

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

Section 8-7. Town Council Action on Budget.

- (a) Unless another date is provided by ordinance, the Town Council shall adopt the budget, by resolution, on or before the date provided by law for certification of the ad valorem property tax levy. If the Town Council fails to adopt the budget by the required date, the amounts appropriated for the current fiscal year, together with any additional amounts necessary for payments of principal and interest on securities and other payment obligations, shall be deemed appropriated for the next fiscal year on a month-to-month basis, with all items in it prorated accordingly, until such time as the Town Council adopts the budget for that fiscal year.
- (b) The total of the proposed expenditures in the adopted budget shall not exceed the total of estimated revenues, including unappropriated cash reserves.
- (c) Adoption of the budget shall constitute appropriations of the amounts specified therein as expenditures from the funds indicated, and shall constitute a levy of the ad valorem property tax therein provided. The Town Council shall cause the ad valorem property tax levy to be certified as provided by law.

Section 8-8. Contingencies.

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

Section 8-9. Amendments After Adoption.

- (a) **Supplemental Appropriations.** If, during the fiscal year, the Town Manager certifies there are available for appropriation revenues in excess of those estimated in the budget or revenues not previously appropriated, the Town Council by resolution following a public hearing may make supplemental appropriations for the year up to the amount of such excess or unappropriated revenues.
- (b) **Emergency Appropriations.** To meet a public emergency affecting life, health, property or the public peace, the Town Council may make emergency appropriations. Such appropriations may be made by emergency ordinance in accordance with provisions of this Charter. To the extent that there are no available unappropriated revenues to meet such appropriations, the Town Council may by emergency ordinance authorize the issuance of emergency securities as provided in this Charter.
- (c) **Reduction of Appropriations.** If, at any time during the fiscal year, it appears probable to the Town Manager that the revenues available will be insufficient to meet the amount appropriated, the Town Manager shall report to the Town Council without delay, indicating

the estimated amount of deficit and the Town Manager's recommendation as to any remedial steps to be taken. The Town Council shall then take such action as it deems necessary to prevent or minimize any deficit and for that purpose it may by resolution reduce one or more appropriations.

- (d) Transfer of Appropriations. Any time during the fiscal year, the Town Manager may, by written request, recommend the transfer of part or all of any unencumbered appropriation balance among programs within a fund, department, office or agency. The Town Council may by resolution transfer part or all of any unencumbered appropriation balance from one fund, department, office, agency or object to another.
- (e) Limitation - Effective Date. No appropriation for debt service may be reduced or transferred. The supplemental appropriations, emergency appropriations and reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption.

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

Except for securities issued and payment obligations incurred pursuant to Articles XI and XII of this Charter, no payment shall be made or obligation incurred except in accordance with appropriations made pursuant to this Charter and unless the Town Manager first certifies that sufficient funds are or are estimated to be available to meet the payment or obligation when it becomes due and payable. Any authorization of payment or incurring of obligation in violation of the provisions of this Charter shall be void at the Town Council's discretion.

Section 8-11. Adoption of Property Tax Levy.

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

Section 8-12. Budget Control.

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

Section 8-13. Audit.

The Town Council shall provide for an annual independent audit of the Town's financial condition and may provide for more frequent audits as determined appropriate. The annual audit

shall be made by a qualified, certified public accountant.

Section 8-14. Accounting Principles.

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

Section 8-15. Deposits and Investments.

The Town may deposit and invest its money until such time as it is required to be expended, in any bank, depository, savings and loan, financial institution, investment or security authorized by Colorado statutes for the state or local governments or any agency or political subdivision thereof. The Town or any fund, district or authority thereof may invest in the bonds or other securities of the Town or any fund, district or authority thereof. The Town Council may from time to time adopt additional policies as deemed appropriate or necessary by resolution.

Section 8-16. Municipal Taxation.

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

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

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

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

Section 8-18. Capital Improvements Plan.

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

Section 8-19. Forms of Borrowing.

The Town may, subject to any applicable limitations in the Colorado Constitution, borrow

money and issue securities or enter into other obligations to evidence such borrowing in any form and in any manner determined by the Town Council to be in the best interests of the Town.

Section 8-20. Review of Proceedings.

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

Section 8-21. Enterprise Funds.

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

Section 8-22. Competitive Bidding and Purchases.

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

ARTICLE 9 - UTILITY DISTRICTS, FRANCHISES AND SPECIAL DISTRICTS

Section 9-1. Authorization.

- (a) The Town shall have the power to create local improvement districts, general improvement districts, special taxing districts, urban renewal authorities, housing authorities and other special districts and authorities as authorized by Colorado statutes for municipalities within or without or partly within or without the Town.
- (b) The Town shall also have the power to create districts and authorities similar to those referred to in paragraph (a) above pursuant to provisions prescribed by ordinance subject to the provisions of this Charter, and to adopt policies by resolution regarding the establishment of any district.
- (c) The costs of constructing, installing or acquiring public, local or municipal improvements of every kind and character may be assessed in whole or in part upon the property benefitted by such improvements by the Town.
- (d) Money may be borrowed to finance the construction, installation or acquisition of such improvements by borrowing money as provided for in Article XI of this Charter, including securities secured by a pledge of assessments against the benefitted property in the District. Such obligations shall not require a vote of the electorate unless required by the Colorado constitution.
- (e) The Town may also pay for such improvements out of monies available therefore from any appropriate fund or source and provide for repayment to the appropriate fund from collection of the assessments.
- (f) The Town may also redeem or prepay improvement district securities at any time funds are available to do so and assign the assessments as collected to an appropriate fund of the Town.

remain in full force and effect according to their provisions and terms until the expiration date provided in such ordinance or until modified by another franchise.

Section 9-8. Town Utilities.

- (a) The Town shall have and exercise all the authority and powers provided by the Colorado Constitution, state statutes, and other applicable laws in any matter pertaining to Town-owned utilities, including water and water rights and acquisition thereof, and bonded indebtedness in connection therewith.
- (b) The Town Council shall from time to time fix, establish, maintain, and provide for the collection of rates, fees, and charges for water, sewer, and other utility services furnished by the Town.
- (c) Such rates, fees, and charges shall be sufficient in the Town Council's judgment to provide good service to the customers, pay all bonded indebtedness, pay legally required refunds, cover the cost of operation, maintenance, additions, extensions, betterments, and improvements, provide a reasonable return on the Town's investment in utility properties and capital investments, and reimburse the general fund for administrative services and overhead provided and incurred by the Town on behalf of each utility, as allowed by the Colorado Constitution and other applicable laws.
- (d) Any right, privilege, permit or contract granted by the Town giving any right, permission or privilege to use Town water, the Town water system or Town sewer system shall always be subject to the most comprehensive oversight, control and management by the Town and such control is retained and reserved by the Town to ensure that nothing can be done which would interfere with the successful long term operation of the Town's water or sewer systems or impair such systems for the benefit of the people of the Town.

Section 9-9. Enterprise Funds.

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

ARTICLE 10 - STREETS, ALLEYS AND PROPERTY

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

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

ARTICLE 11 - EXISTING BOARDS, COMMISSIONS, EMPLOYEES AND CONTRACTORS

Section 11-1. Town Council.

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

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

Section 11-2. Existing Boards and Commissions.

All existing Boards and Commissions shall continue as established, except as otherwise provided by ordinance or this Charter.

Section 11-3. General Provisions.

The Town Council may establish Boards and Commissions and provide for their powers and duties, and the Town Council may consolidate, merge, or abolish any Board or Commission. Further, the Town Council may establish temporary Advisory Commissions for advising the Town Council with regard to a specific matter or for accomplishing specific tasks. The establishment, consolidation, merger, or abolishment of any Boards or Commissions shall be accomplished by ordinance or resolution. The ordinance or resolution establishing a Board or Commission shall provide for any required qualifications of Board and Commission members, the terms of office for such members and the method of appointment. Members of Boards or Commissions shall be removable by a majority vote of the Town Council. The resolution creating a temporary Advisory Commission shall describe the advice to be provided to the Town Council or the task to be accomplished by the temporary Advisory Commission. Unless otherwise provided by the establishing ordinance or resolution, the Town Council shall make appointments to fill vacancies for unexpired terms. Unless otherwise provided by this Charter or the establishing ordinance or resolution, each Board and Commission shall choose its own chairperson from its members and adopt and follow its own rules of procedure. All meetings of Boards and Commissions shall be open to the public. Copies of all records of all meetings shall be kept and placed in the office of the Town Clerk for public inspection. Reports shall be made to the Town Council as the Town Council shall require. Members of Boards and Commissions may be paid, if such pay is established by ordinance, and they may be reimbursed for their reasonable expenses. A majority of any Board or Commission shall constitute a quorum. A vote of a majority of a quorum shall be a vote of the Board or Commission; provided, nothing herein shall preclude the Town Council or a Board or Commission from requiring a greater number of affirmative votes in certain instances.

Section 11-4. Employees and Independent Contractors.

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

ARTICLE 12 - EFFECTIVE DATE AND TRANSITION PROVISIONS

Section 12-1. Purpose of Transitional Provisions.

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

Section 12-2. Effective Date of Charter.

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

Section 12-3. Savings Clause.

The adoption of this Charter shall not be construed, except as specifically provided herein, to affect any offense or act committed, any penalty incurred or any contract, right or duty established or accruing before the effective date of this Charter. The adoption of this Charter shall not be interpreted to affect any contract previously entered into by the Town.

Section 12-4. Saturdays, Sundays, and Holidays.

Except where expressly provided to the contrary, whenever a date fixed by this Charter, or by ordinance, for which the doing or completion of any act falls on a Saturday, Sunday, or legal holiday, such act shall be done or completed on the next succeeding day that is not a Saturday, Sunday, or legal holiday.

Section 12-5. Emergency Powers and Line of Succession.

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

Section 12-6. Interpretation.

- (a) Except as otherwise specifically provided in or indicated by the context, all words used in this Charter indicating the present tense shall not be limited to the time of the adoption of this Charter, but shall extend to and include the time of the happening of any event or requirement for which provision is made in this Charter.
- (b) Except as otherwise specifically provided in or indicated by the context, the singular number shall include the plural, the plural shall include the singular, and the word "person" may extend and be applied to bodies politic and corporate, partnerships, individuals and other public or private entities.

ARTICLE 13 - MISCELLANEOUS PROVISIONS

Section 13-1. Revocable Permits or Licenses.

The Town may grant a permit or license at any time for the temporary use or occupation of any street, alley, other public way, or Town-owned place. Any such permit or license shall be revocable by the Town at any time and without cause, whether or not such right to revoke is expressly reserved in the permit, license or agreement.

Section 13-2. Disposition of Ordinances.

Copies of the original ordinances and the certificates of the publisher of notice of ordinance shall be kept and be available for public inspection in the office of the Town Clerk.

Section 13-3. Governmental Immunity.

The Town reserves to itself all rights under the Colorado Governmental Immunity Act, as now existing or hereafter amended.

Section 13-4. Titles and Headings.

The article titles and headings of sections are inserted for convenience and reference only and shall not be construed to limit, describe or control the scope or intent of any provision contained therein.

Section 13-5. Seal.

The Town Council shall provide for a Town seal.

Section 13-6 Technical Amendments.

The Council may, by ordinance, effect technical changes in the Charter which do not substantively change the provisions of this Charter, such as correction of spelling or grammatical errors.

Section 13-7 Effect of State Statutes.

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 Town, acting by ordinance, subject only to restrictions of the Colorado Constitution and subsequent amendments to this Charter and by ordinance. Unless otherwise provided by or as pre-empted or in conflict with this Charter or by ordinances adopted by the Council hereunder, the statutes of the State of Colorado shall be in effect.

Section 13-8 Land Use Administration.

The Council may adopt land use and development ordinances and approve or disapprove of any related land use decisions concerning these ordinances.

Section 13-9 Mineral Rights

- (a) The Town shall have the right and power to buy, appropriate, sell, condemn, exchange, lease, own, control and otherwise deal in mineral rights, including the right to compel the dedication and conveyance of all mineral rights associated with real property as a condition precedent to obtaining or maintaining use or development rights or other municipal services from the Town.
- (b) The Council may adopt procedures to identify, document, and permanently record the ownership of all mineral rights associated with all property located within the Town. Nothing contained in this section shall be construed as prohibiting the Council from adopting appropriate ordinances, which limit or prohibit the transfer or application of mineral rights associated with one parcel or development to another parcel or development.
- (c) No franchise, right, or privilege shall be granted affecting the use of mineral rights belonging to the Town, without retaining ownership of such property in the Town. No such franchise right or privilege shall allow or create an encumbrance on such property in favor of a third party, or be for a term exceeding ten (10) years. Any such franchise, right or privilege shall

terminate automatically if necessary to preserve or maintain the property or right of the Town's ownership.

Section 13-10 Water Rights Water Reserved to Town

- (a) The Town shall have the right and power to buy, appropriate, adjudicate, sell, condemn, exchange, lease, own, control and otherwise deal in water rights including the right to compel the dedication and conveyance of all water rights associated with real property as a condition precedent to obtaining or maintaining water or other municipal services from the Town.
- (b) The Council may adopt procedures to identify document, and permanently record the ownership of all water rights associated with all property located within the Town. Nothing contained in this section shall be construed as prohibiting the Council from adopting appropriate ordinances, which limit or prohibit the transfer or application of water associated with one parcel or development to another parcel or development.
- (c) No franchise, right, or privilege shall be granted affecting the use of water, water rights belonging to the Town, or affecting its water systems, without retaining ownership of such property in the Town. No such franchise right or privilege shall allow or create an encumbrance on such property in favor of a third party, or be for a term exceeding ten (10) years. Any such franchise, right, or privilege shall terminate automatically if necessary to preserve or maintain the property or right of the Town's ownership.

Section 13-11. Property Rights.

The Town shall have the power to acquire, own, sell, lease, exchange, dispose of, or otherwise deal with real or personal property by ordinance without the need for an election.

ARTICLE 14 - DEFINITIONS

Section 14-1. Definitions.

The following definitions shall apply as used in this Charter:

1. "**Ad valorem tax**" means only the general property tax levied annually on real or personal property listed with the assessor of Routt County, Colorado.
2. "**Administrator**" see "Manager".
3. "**Appropriation**" means the authorized amount of monetary funds designated for expenditure during a specified time for a specified purpose, usually as an appropriation of funds in the Town budget or amendment thereto.
4. "**Board or Commission**" or "**Board and Commission**" means the boards and commissions established by this Charter or ordinances.
5. "**Clerk**" means the Town Clerk of the Town of Hayden or such office designation as may be used in place of the office of Town Clerk.
6. "**Councilor**" means each member of the Town Council, except as provided otherwise in this Charter.
7. "**Elected Official**" means each Councilor, whether elected or appointed.
8. "**Emergency ordinance**" means an ordinance which, in the opinion of the Town Council is necessary for the immediate preservation of the public property, health, welfare, peace and safety.
9. "**Employee**" means each compensated person in the service of the Town who is designated as an employee in the personnel code or applicable rules and regulations of the Town.
10. "**Entire Council**" means all of the members of the Town Council, including the Council

President, provided for in Article 2.

11. **"Finance Director"** means the Finance Director of the Town of Hayden, or such office designation as may be used in place of the office of Finance Director.
12. **"Franchise"** means a right conferred by the Town (such as to a public utility) to use public property for public use but for private profit.
13. **"General election" or "Statewide general election"** means the statewide election held on the Tuesday succeeding the first Monday of November in each even-numbered year.
14. **"Initiative"** means the power of the registered electors of the Town of Hayden to propose to the Town Council, in accordance with the provisions of this Charter, certain ordinances for adoption by the Town Council which, if not adopted by the Council, shall be submitted to a vote of the registered electors of the Town for acceptance or rejection, in accordance with the provisions of this Charter.
15. **"Manager"** means the Town Manager of the Town of Hayden appointed by the Town Council.
16. **"Newspaper"** means a newspaper of general circulation in the Town which meets the requirements for a legal newspaper as established in the State statutes.
17. **"Notice"** means that notice may be provided to the public as prescribed by this Charter and/or by ordinance by any or all means and methods of communication.
18. **"Officer"** means each Councilor.
19. **"Ordinance"** means a permanent law or regulation adopted by legislative action of the Town Council pursuant to the procedures set forth in this Charter or by ordinances.
20. **"President"** means the President of the Town Council of the Town.
21. **"Publication or Posting"** means:
 - a. Publication in a newspaper of general circulation; or
 - b. Publication by electronic means and methods; or
 - c. In the event of an emergency, or when no such newspaper is available, posting. Anything published by such posting because of an emergency shall subsequently be published in a newspaper of general circulation or published electronically; or
 - d. Posting shall be achieved by providing written or printed notice in various locations throughout the Town as provided by ordinance.
22. **"Referendum"** means the power of the registered electors of the Town of Hayden to request that the Town Council reconsider certain ordinances adopted by the Council as provided in this Charter; and, if the Council fails to repeal such ordinances, to require that the Council submit the referred ordinances to a vote of the registered electors of the Town for approval or rejection, in accordance with the provisions of this Charter.
23. **"Registered Elector"** means an elector who has registered in compliance with the provisions for registration to vote as provided in the State statutes.
24. **"Regular Election" or "Regular Municipal Election"** means a Town election held pursuant to Article 5.
25. **"Resolution"** means an expression of an administrative or a ministerial act of the Town Council without any required form or procedure, as distinguished from legislative acts embodied in Town ordinances.
26. **"Special Election" or "Special Town Election"** means a Town election held at a time other than a regular election.
27. **"State Constitution" or "Colorado Constitution"** means the Constitution of the State of Colorado, as amended from time to time.
28. **"State Statutes"** means the statutes of the State of Colorado, as amended or repealed from time to time.
29. **"Town Board"** see "Town Council".
30. **"Town Council"** means the governing body constituting the Town Council of the Town of Hayden, including the Council President. This may also be referred to as the Town Board.

31. **“Treasurer”** means the Treasurer of the Town of Hayden, or such office designation as may be used in place of the office of Treasurer.
32. **“United States Constitution”** means the Constitution of the United States of America, as amended from time to time.

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