

**CHARTER**

**FOR THE TOWN OF CARBONDALE, COLORADO**

as proposed by the

**CARBONDALE HOME RULE CHARTER COMMISSION**

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## **PREFATORY SYNOPSIS**

The Carbondale Home Rule Charter Commission was created on November 5, 2002, by the vote of the people of Carbondale, reflecting the belief that government closest to the people is the most likely to govern the best and be the most responsive to its citizens. Therefore, the Commission has drafted this Charter with the intent to establish for the Town of Carbondale the greatest scope of home rule power and freedom from state mandates allowable under the Constitution.

The Charter is intended to safeguard the well-being of all inhabitants of the Town, to maintain a community that sustains livability and places the highest value on the good of the entire community, and to set forth a framework for the future growth and development of the Town while protecting both its fundamental identity and its future economic vitality.

The Commission has provided for a seven (7) member Board of Trustees to assume the powers of the Town with the belief that the representative form of government is the most likely to be able to efficiently and effectively govern the Town in the coming years. As a result, the Charter has vested broad powers in the Board of Trustees, but insures accountability to the people of the Town by providing procedures for initiative, referendum, and recall of elected officials.

The Charter provides for the Board of Trustees-Manager form of Town government. The policy-making and legislative powers are vested in a Board of Trustees composed of seven (7) members, including the Mayor. The Board members and Mayor shall be elected from the Town at large every four (4) years, and the terms shall be staggered so as to permit a continuity of government. The Town Manager shall be the chief administrative official of the Town and shall be appointed by, and serve at the pleasure of, the Board of Trustees.

The regular municipal election will remain in April of even-numbered years, as it has been previously. The Charter provides that all elections are to be nonpartisan and conducted in accordance with Colorado Municipal Election Law.

The Commission has tried to avoid imposing needless restrictions and "red tape" and has provided for maximum flexibility in the administration and government of the Town to allow for as efficient an operation as reasonably possible. The Commission has not mandated wholesale changes in existing ordinances in order to avoid unnecessary costs.

The Commission is aware of the pressures for growth and development which currently exist in this area and has chosen to give the Board of Trustees broad flexibility and power to properly deal with issues related to growth and development. The Charter requires the adoption and updating of a Master Plan to insure that growth and development issues are given careful consideration.

The Commission hopes that the Charter will meet the needs of the Town, now and well into the future. The Commission believes that this Charter guarantees and vests the ultimate power of the Town in the people of the Town of Carbondale, Colorado.

## **PREAMBLE**

We, the People of the Town of Carbondale, Colorado, under authority granted by the Colorado Constitution, do adopt and establish this Home Rule Charter.

## ARTICLE I

### GENERAL PROVISIONS

**Section 1-1. Name .** The municipal corporation now existing and known as the Town of Carbondale, Colorado, shall remain and continue to be a body politic and corporate, and a municipal corporation under the same name.

**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, 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. Master Plan .** The Board of Trustees shall adopt a Master Plan for the Town and update it from time to time as the Board of Trustees deems appropriate. The Carbondale Comprehensive Plan dated January, 1999, shall be considered a Master Plan for the purposes of this Section.

**Section 1-4. Eminent Domain .** In carrying out its powers and authorities, the Town shall have the power to acquire within or without its corporate limits all property, real, personal or otherwise, and any interest therein, including water rights and appurtenant structures, by the exercise of the power of eminent domain for any purpose determined by the Board of Trustees to be in the best interest of the Town to preserve or promote the health, safety or welfare of the Town and its citizens.

**Section 1-5. Rights and Liabilities .** By the name of the Town of Carbondale, 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 Carbondale, 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 Carbondale, and may sue, defend, plead and be impleaded in all courts and places and in all matters.

**Section 1-6. Seal .** The Board of Trustees shall provide for a Town seal.

**Section 1-7. Intergovernmental Relations .** The Town shall have full power and authority to cooperate and contract with the United States of America, the State of Colorado, and any agency, board,

commission or political subdivision thereof, including the power to accept gifts and grants from such governmental entities for any public purpose.

**Section 1-8. 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 Board of Trustees 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 1-9. 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 1-10. Construction of Words .** Except as otherwise specifically provided or indicated by the context, all words shall be construed so that the present tense shall include the past tense, and the past tense shall include the present tense, a singular number shall include the plural and the plural shall include the singular, masculine shall include the feminine and the feminine shall include the masculine, and "person" shall include any legal entity.

**Section 1-11. Severability .** If any provision of this Charter or the application thereof to any person or circumstance is adjudged by any court of competent jurisdiction to be unconstitutional, unenforceable or invalid, such adjudication shall not affect, impair, invalidate the Charter as a whole or any remaining provision thereof which can be given effect without the invalid portion or application and to this end, the provisions of this Charter are declared to be severable.

**Section 1-12. 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 1-13. Conflict of Interest .** Neither the Mayor nor any Trustee 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 Mayor or any Trustee has such an interest, he or she shall declare such interest. Whether or not such a declaration is made, the remaining Trustees 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 Mayor or Trustee affected shall not vote on the matter, and the remaining Trustees 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 Board of Trustees, the remaining members of the Board of Trustees 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 1-14. Boundaries .** The Town shall have the right to change its boundaries as provided by law.

## ARTICLE II

### BOARD OF TRUSTEES

**Section 2-1. Board of Trustees .** There shall be a Board of Trustees consisting of six (6) Trustees and one (1) Mayor, who shall act as and be considered as a full member of the Board of Trustees. The Board of Trustees shall be the governing body of the Town and shall have all policy-making

and legislative powers and other powers possessed by the Town not otherwise limited or conferred upon others by this Charter.

**Section 2-2. Terms of Office .** Each Trustee and the Mayor shall be elected for a term of four (4) years. Three (3) Trustees shall be elected at the general election in April of 2004 and every four (4) years thereafter. Three (3) Trustees and the Mayor shall be elected at the general election in April of 2006 and every four (4) years thereafter, subject to the provisions of Section 2-6 of this Article. The provisions of Article XVIII, Section 11, of the Colorado Constitution, as the same may be amended from time to time, regarding limitation on terms of office shall apply.

**Section 2-3. Qualifications for Elected Office .** Each Trustee and the Mayor shall be a qualified elector of the Town and shall be a resident for at least twelve (12) months of an area that is within the Town as of the date of election and during his or her entire tenure in office. Neither any Trustee nor the Mayor shall be a paid employee of the Town, nor shall they apply for any employment position with the Town while in office. The term of any Trustee or the Mayor shall terminate when he or she no longer resides in the boundaries of the Town of Carbondale.

**Section 2-4. Duties of the Mayor .** The Mayor shall preside at all regular and special meetings of the Board of Trustees and shall be required to vote on matters being considered by the Board of Trustees, except as otherwise provided herein. The Mayor shall act as the ceremonial head of government of the Town. The Mayor shall execute and authenticate legal instruments, contracts, and documents requiring a signature on behalf of the Town. The Board of Trustees may, for specific and limited purposes, delegate certain non-legislative duties of the Mayor to the Town Manager or other employees of the Town.

**Section 2-5. Mayor Pro Tem .** As set forth in Section 2-7 below, the Board of Trustees shall appoint one (1) of its Trustees as Mayor Pro Tem, who shall act as Mayor during the absence of the Mayor with all powers herein granted to the Mayor. Such appointment shall be made by a majority of the Trustees present constituting a quorum. If the office of Mayor Pro Tem becomes vacant, then the Board of Trustees shall appoint a new Mayor Pro Tem at its next regular meeting.

**Section 2-6. Vacancies .**

(a) Occurrence of a Vacancy . A vacancy shall occur whenever a Trustee or the Mayor 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 Board of Trustees misses more than three consecutive regular meetings, he may be removed from his position by a vote of at least five (5) members of the Board of Trustees, after notice and hearing. If a Trustee has a reasonable basis for missing meetings acceptable to other Board of Trustees 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 Trustee Other Than the Mayor . Whenever a vacancy occurs more than ninety (90) days prior to the next regular Town election, the Board of Trustees shall solicit the general public for applications to fill the vacancy. Within sixty (60) days following the occurrence of a vacancy, the Board of Trustees shall either appoint a replacement or call a special election to replace such person. If the Board of Trustees fails to appoint a replacement within sixty (60) days following the occurrence of a vacancy, then the Board of Trustees shall 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 Board of Trustees may leave the office vacant and provide for a replacement to be elected at such general election.

(d) Procedure to Fill Vacancy for Office of the Mayor . If the office of Mayor becomes vacant within six (6) months of a general election, then the office shall remain vacant, and the Mayor Pro Tem shall assume the duties of the Mayor until such general election, at which time a new Mayor shall be elected. If the office of Mayor becomes vacant more than six (6) months before a general election, then the Board of Trustees shall schedule a special election to elect a new Mayor within ninety (90) days of the occurrence of the vacancy.

(e) Multiple Vacancies . If three (3) or more vacancies exist on the Board of Trustees at any given time, then the Board of Trustees 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.

(f) Terms of Persons Filling Vacancies . Any person appointed or elected to the Board of Trustees to fill a vacancy shall hold office until the next regular election and until a successor is elected and qualified. If a current Trustee is elected as Mayor, that Trustee's former seat shall become vacant upon the effective date of the election, and a replacement shall be appointed or elected in accordance with this Section.

### **Section 2-7. Meetings of Board of Trustees .**

(a) Regular Meetings . The Board of Trustees 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 Board of Trustees shall be called by the Town Clerk on the request of the Mayor or the Town Manager with the informal consent of at least a quorum of the Board of Trustees. At least twenty-four (24) hours prior to such meeting, the Town Clerk shall post a notice of the meeting in at least one (1) public place within the Town and shall provide reasonable notice to all Trustees of the meeting. Trustees 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 Board of Trustees and with less than twenty-four (24) hour advance posting of notice if a quorum of the Board of Trustees consents at the beginning of such meeting.

(c) Organizational Meeting . At the first regular meeting following a regular election, and before the Board of Trustees 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 Board of Trustees, and they shall assume office at that time. The Board of Trustees shall then proceed at such meeting or at a subsequent meeting, if approved by a majority of the Trustees present and voting, to appoint the Mayor Pro Tem and conduct such other organizational business as it sees fit.

(d) Place of Meetings . Meetings of the Board of Trustees shall be held in Town Hall. When Town Hall facilities are not available or inadequate, or if approved by a majority of the Board of Trustees for special reasons, the Board of Trustees 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 Board of Trustees shall be open to the public. Executive sessions may be conducted during regular or special meetings of the Board of Trustees 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 Board of Trustees in office at the time shall be a quorum for the transaction of business at all Board of Trustees meetings.

**Section 2-8. 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 Carbondale, and to perform faithfully the duties of the office.

**Section 2-9. Compensation of Elected Officials .** The compensation for the Mayor and other Trustees shall be as established by ordinance from time to time; provided, however, that any change or increase passed during a Trustee's or the Mayor's current term of office shall not take effect with respect to that official until a subsequent term, if any.

**Section 2-10. Board of Trustees/Administration Relations .** Except for informal inquiry, Trustees and the Mayor shall deal with Town administrative personnel and employees solely through the Town Manager and shall not give orders directly to Town employees.

**Section 2-11. Independent Annual Audit and Report .** An independent audit shall be made annually of all financial affairs of the Town, and more frequent audits may be made if deemed necessary by the Board of Trustees. Such audits shall be made by certified public accountants experienced in municipal accounting selected by the Board of Trustees. Copies of such audits shall be made available for public inspection at the office of the Town Clerk.

### ARTICLE III

#### BOARD OF TRUSTEES PROCEDURE

**Section 3-1. Ordinances, Resolutions and Motions .** All actions of the Board of Trustees shall be by ordinance, resolution, or motion. In addition to such Board of Trustees 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 IX 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 Board of Trustees by resolution or motion.

**Section 3-2. Voting .** A roll call vote shall be taken upon the passage of all ordinances and upon the passage of any resolution making an appropriation or levying a tax and shall be entered upon the minutes of the Board of Trustees 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 Board of Trustees may abstain from any vote in his or her discretion, including without limitation, "line item" abstentions from specific items that are part of a general payment or budgeting authorization. If an abstention is for the stated reason that the vote concerns a matter involving the consideration of his or her own official conduct or that his or her personal or financial interest is involved, then such member of the Board of Trustees shall not be counted in determining whether a quorum is present for that vote. Otherwise, an abstaining member of the Board of Trustees who is entitled to vote shall still be considered present. Nothing herein shall preclude the Board of Trustees from requiring by ordinance a greater number of votes in certain instances.

**Section 3-3. Procedure for Ordinances .** Except for emergency ordinances, ordinances making general codification of existing ordinances, and ordinances adopting standard codes, the following procedure for enactment of ordinances shall be followed:

(a) The ordinance shall be introduced at any regular or special meeting of the Board of Trustees and shall either be available in written form for the Board of Trustees to review or shall be read in full.

(b) The Board of Trustees may amend, adopt, defeat or continue action on the ordinance.

(c) Except as otherwise provided in Section 3-7 of this Article, the adoption of any ordinance shall require the affirmative vote of a majority of the members of the Board of Trustees present and voting but in no event less than three (3) members of the Board of Trustees.

(d) Copies of any proposed ordinance shall be posted at Town Hall from the day after introduction before the Board of Trustees until the ordinance becomes effective or is withdrawn from consideration.

(e) The ordinance shall take effect thirty (30) days following publication of the notice provided for in Section 3-3(g), except for emergency ordinances which shall take effect immediately upon adoption.

(f) All ordinances shall be appropriately numbered and preserved in the official records of the Town. The adoption of the ordinance shall be authenticated by the signature of the Mayor or Mayor Pro Tem, the attestation of the Town Clerk, and placing the Town Seal on the ordinance.

(g) After final passage, the ordinance shall be posted in a public place within the Town Hall and, whenever technologically feasible, on the internet, for thirty (30) days after passage. A notice shall be published in a newspaper of general circulation within the Town 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.

**Section 3-4. 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 BOARD OF TRUSTEES OF THE TOWN OF CARBONDALE, COLORADO." Failure of the enacting clause to comply with this Section shall not invalidate the ordinance.

**Section 3-5. 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 3-6. Codes Enacted by Reference .**

(a) Any ordinance may enact 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 of Sections 3-3 and 3-7.

(f) Copies of such codes in published form, duly certified by the Clerk and Mayor, 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 3-7. Emergency Ordinances .**

(a) An ordinance that is immediately necessary for the preservation of public peace, health, or safety may be enacted as an "emergency ordinance" at any regular or special meeting of the Board of

Trustees by the affirmative vote of every member of the Board of Trustees 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 above in Section 3-3(g) as soon as reasonably possible.

(b) No ordinance granting any special privilege, levying taxes, approving the sale of real property, or incurring general obligation indebtedness shall be passed as an emergency ordinance.

**Section 3-8. Severability of Ordinance .** Unless an ordinance shall expressly provide to the contrary, if any portion of an ordinance or the application thereof to any person or circumstances shall be found to be invalid by a court of competent jurisdiction, such invalidity shall not affect the remaining portions or applications of the ordinance that can be given effect without the invalid portion or application; provided such remaining portions or applications are not determined by the court to be inoperable, and to this end ordinances are declared to be severable.

## ARTICLE IV

### TOWN ADMINISTRATION

**Section 4-1. Town Manager .** The Board of Trustees 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 Board of Trustees shall appoint either a temporary or permanent replacement as soon as reasonably possible. The Board of Trustees 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 Board of Trustees and may be removed by the Board of Trustees at any time with or without cause upon the affirmative vote of a majority of the Board of Trustees.

**Section 4-2. Town Clerk .** The Town Manager shall appoint a Town Clerk. The Town Clerk shall be the custodian of the Town Seal and shall keep records of Board of Trustees 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 Board of Trustees.

**Section 4-3. Police Chief .** The Town Manager shall appoint a Police Chief with the approval of the Board of Trustees. 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 4-4. Finance Director .** The Town Manager shall appoint a Finance Director. 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 4-5. Multiple Positions .** Unless otherwise prohibited by this Charter or by ordinance, any one person may be appointed to multiple positions.

## ARTICLE V

### BOARDS AND COMMISSIONS

**Section 5-1. Existing Boards and Commissions .** All existing Boards and Commissions shall continue as established, except as otherwise provided by ordinance or this Charter.

**Section 5-2. General Provisions .** The Board of Trustees may establish Boards and Commissions and provide for their powers and duties, and the Board of Trustees may consolidate, merge, or abolish any Board or Commission. Further, the Board of Trustees may establish temporary Advisory Commissions for advising the Board of Trustees 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 Board of Trustees. The resolution creating a temporary Advisory Commission shall describe the advice to be provided to the Board of Trustees or the task to be accomplished by the temporary Advisory Commission. Unless otherwise provided by the establishing ordinance or resolution, the Board of Trustees 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 Board of Trustees as the Board of Trustees shall require. Members of Boards and Commissions shall not be paid, but 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 Board of Trustees or a Board or Commission from requiring a greater number of affirmative votes in certain instances.

## ARTICLE VI

### ELECTIONS

**Section 6-1. Colorado Municipal Election Laws Adopted .** All Town elections shall be governed by the Colorado Municipal Election Code of 1965, as now existing or hereafter amended or modified, except as otherwise provided in this Charter, or by ordinance.

**Section 6-2. 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 Garfield 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 6-3. Time of Elections .** All regular elections of the Town shall be held on the first Tuesday of April 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 6-4. 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 6-5. Elective Officers .** The elective officers of the Town shall be six (6) Trustees and one (1) Mayor, 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 Carbondale 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 6-6. Election Precincts .** The Town shall consist of three (3) voting precincts, provided that the Board of Trustees 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 6-7. 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 6-8. Instant Runoff Voting for Mayor .** For election of the Mayor, if more than two (2) candidates are running for that office, the Town shall use a procedure for instant runoff voting. The ballot shall provide a means for voters to rank all of the candidates for Mayor in order of preference. If any candidate receives a majority of all first-choice votes cast, then that individual shall be elected as Mayor. If no candidate receives a majority of first-choice votes, then the candidate receiving the fewest first-choice votes shall be declared defeated. For each ballot that listed the defeated candidate as a first choice, the second choice shall then be counted as a first choice for that ballot. If one candidate has still not received a majority of first-choice votes, then the candidate with the next-fewest first-choice votes shall be declared defeated, and the ballots for that candidate shall again be recounted based on the next choice in order on such ballots. This process shall continue until one candidate has received the majority of votes cast and counted as provided herein, and that person shall be elected Mayor.

**Section 6-9. Recall .**

(a) Members of the Board of Trustees may be recalled in accordance with the provisions and limitations of this Section.

(b) No recall petition shall be accepted against any Trustee until the Trustee 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 the entire vote cast at the last preceding regular election for all candidates to the office which the incumbent sought to be recalled occupies.

(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 Board of Trustees. Consistent with the Constitution and this Charter, the Board of Trustees may provide by ordinance for further recall procedures.

**ARTICLE VII**

**INITIATIVE, REFERENDUM, AND REFERRED MEASURES**

**Section 7-1. General Authority .**

(a) Initiative . The registered electors of the Town shall have power to propose any ordinance to the Board of Trustees, 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 Board of Trustees 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 Board of Trustees may refer a matter to the registered electors of the Town.

**Section 7-2. 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 7-3. 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 7-4. Petitions .**

(a) **Number of Signatures .** Initiative petitions or referendum petitions must be signed by registered electors of the Town equal in number to at least five percent (5%) of the total number of registered electors in Town as of the date the affidavit referred to in Section 7-3 is filed.

(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 or indelible pencil 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 .** A referendum petition complying with the requirements of this Article must be filed within thirty (30) days following publication of the notice provided for in Section 3-3(g) or it shall be of no effect.

**Section 7-5. Review of Petition .** Within fifteen (15) working days after the petition is filed, The Town Clerk shall issue a decision as to its sufficiency, specifying, if it is insufficient, the particulars wherein it is defective and shall promptly send a copy of the decision by U.S. mail to the petitioner's committee and return the petition.

**Section 7-6. 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 7-7. Suspension of Ordinance .** When a referendum petition is filed with the Town Clerk, the ordinance sought to be reconsidered shall be suspended from taking effect. Such suspension shall terminate upon the occurrence of any of the following events: (1) a determination of insufficiency of the petition; (2) a withdrawal of the petition by the petitioner's committee; (3) repeal of the ordinance by the Board of Trustees; or (4) upon certification of a favorable vote on the ordinance.

**Section 7-8. Amendment and Repeal .** An ordinance adopted by the electorate may not be amended or repealed by the Board of Trustees for a period of six (6) 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 Board

of Trustees for a period of six (6) 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 7-9. Additional Procedures .** The Board of Trustees may by ordinance prescribe additional procedures as necessary or appropriate for the initiative or referendum process.

## ARTICLE VIII

### TOWN ATTORNEY AND MUNICIPAL COURT

**Section 8-1. Town Attorney .** The Board of Trustees shall appoint a Town Attorney, who shall be the legal representative of the Town and shall advise the Board of Trustees 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. The Board of Trustees shall establish the compensation to be paid to the Town Attorney, and the Board of Trustees may remove the Town Attorney at any time with or without cause. The Town Attorney may use associated counsel. The Board of Trustees may also retain the services of special counsel for any matter and may, in its discretion, delegate any duty of the Town Attorney to such special counsel.

**Section 8-2. 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. The Municipal Court shall be a qualified Municipal Court of Record and shall keep a verbatim record of all proceedings and evidence at trials by either electronic or stenographic means.

**Section 8-3. Municipal Judge .** The Board of Trustees shall appoint a Municipal Judge for an indefinite term to serve at the pleasure of the Board of Trustees. Said Judge may be removed with or without cause by the vote of four (4) members of the Board of Trustees at any time. The Board of Trustees 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 Board of Trustees provided that compensation shall not be based directly on the number of cases handled or heard by the Judge.

**Section 8-4. 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 Board of Trustees.

**Section 8-5. 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 8-6. Penalties .** The Board of Trustees shall prescribe by ordinance fines, jail sentences and other penalties for violation of Town ordinances and regulations. Except as necessary to comply with federal or state law or as otherwise established by ordinance, a fine for a single violation shall not exceed One Thousand Dollars (\$1,000.00) and a jail sentence for a single violation shall not exceed one (1) year.

## ARTICLE IX

### UTILITIES, FRANCHISES, TOWN PROPERTY

**Section 9-1. 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, in-

cluding but not limited to, all power and authority to regulate, operate, use, maintain, establish, repair, replace, vacate, purchase, sell and lease such property.

**Section 9-2. Public Utility Franchises .**

(a) No public utility, including but not limited to, those providing water, sewer, cable TV, electrical power, telephone, telegraph, telecommunications or natural gas, may use or occupy the streets, alleys and other property of the Town without obtaining a utility franchise or permit authorized by an ordinance adopted by the Board of Trustees.

(b) All franchise and utility permits shall be non-exclusive and shall not have a term longer than fifteen (15) years.

(c) The Town shall have the power and authority within or without the Town to construct, condemn, purchase, acquire, lease, operate and maintain its own utilities, assets, equipment and everything in relation or in connection therewith and every utility franchise or permit granted by the Town shall be subject to the reserved right of the Town to acquire such utility by eminent domain.

(d) All public utilities shall remain subject to the police power of the Town notwithstanding anything to the contrary in the franchise or permit.

**Section 9-3. Control of Water Reserved to Town .** No franchise, right, or privilege shall be granted affecting the use of water or water rights belonging to the Town, or affecting its water systems, without retaining complete and absolute control for the Town.

**Section 9-4. Franchise Records .** The Board of Trustees shall cause to be kept in the office of the Town Clerk a franchise record in which shall be transcribed copies of all franchises granted by the Town. The record shall be a complete history of all such franchises and shall include a comprehensive and convenient reference to all actions at law affecting the same, and copies of all annual and inspection reports, and such other information as the Board of Trustees may require.

**Section 9-5. Existing Franchises .** All franchise ordinances of the Town in effect at the time that this Charter is adopted shall remain in full force and effect according to their provisions and terms until the expiration date provided in such ordinance or until modified by another franchise.

**Section 9-6. 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 Board of Trustees 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 Board of Trustee'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 insure 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 9-7. Enterprise Funds .**

(a) The Board of Trustees 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 under ten percent (10%) of its annual revenue in grants from all Colorado state and local governments combined.

**ARTICLE X**

**FINANCE**

**Section 10-1. Fiscal Year .** The fiscal year of the Town shall be the calendar year.

**Section 10-2. Contracts .** Except as otherwise prescribed by the Board of Trustees, the Board of Trustees shall approve all contracts for the Town. All employment or personal service contracts shall either terminate in one (1) year or less or be terminable for the Town's convenience, with or without cause.

**Section 10-3. Funds and Accounts .** The Board of Trustees 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 10-4. Proposed Budget and Message .** Prior to October 15, or such other time as the Board of Trustees may provide by ordinance, the Town Manager shall cause to be prepared and submitted to the Board of Trustees 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 10-5. Budget .**

(a) The Board of Trustees 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:

(1) 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;

(2) Anticipated revenues for the fiscal year;

(3) Estimated beginning and ending fund balances;

(4) 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;

(5) 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;

(6) Explanatory schedules or statements classifying the expenditures by object and the revenues by source;

(7) An estimate of the amount required to be raised from an ad valorem property tax levy; and

(8) Such other information as the Board of Trustees may require.

**Section 10-6. Budget Hearing .** A public hearing on the proposed budget and capital program shall be held by the Board of Trustees 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 10-7. Board of Trustees Action on Budget .**

(a) Unless another date is provided by ordinance, the Board of Trustees 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 Board of Trustees 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 Board of Trustees 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 Board of Trustees shall cause the ad valorem property tax levy to be certified as provided by law.

**Section 10-8. 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 10-9. 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 Board of Trustees 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 Board of Trustees 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 Board of Trustees 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 Board of Trustees without delay, indicating the estimated amount of deficit and the Town Manager's recommendation as to any remedial steps to be taken. The Board of Trustees 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 recommend the transfer of part or all of any unencumbered appropriation balance among programs within a fund, department, office or agency and, upon written request of the Town Manager. The Board of Trustees 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 10-10. 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 voidable at the Board of Trustees's discretion.

**Section 10-11. Adoption of Property Tax Levy** . The Board of Trustees shall adopt the property tax levy each year in time to have it certified to Garfield County for collection. The property tax levy may be adopted by resolution or by ordinance. If the Board of Trustees 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 10-12. Budget Control** .

(a) The Board of Trustees shall require quarterly reports to be prepared for review by the Board of Trustees 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 Board of Trustees may reduce appropriations and amend the budget as necessary to avoid expenditures exceeding revenues.

(c) During the year, the Board of Trustees 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 Board of Trustees 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 or the Town Board of Trustees.

(f) Annual expenditures shall not exceed appropriations on a fund basis.

**Section 10-13. Audit** . The Board of Trustees 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 10-14. Accounting Principles** . Except as otherwise provided by this Charter or Town ordinances, the Town shall comply with generally accepted accounting principles for municipalities.

**Section 10-15. 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.

**Section 10-16. Municipal Taxation .** Except for ad valorem taxes which may be adopted by resolution as set forth in Section 3-1 and 10-11 of this Charter, the Board of Trustees 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 10-17. 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 10-18. Capital Improvements Plan .**

(a) The Board of Trustees 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 Board of Trustees 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.

**ARTICLE XI**

**BORROWING**

**Section 11-1. 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 Board of Trustees to be in the best interests of the Town.

**Section 11-2. 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.

**ARTICLE XII**

**IMPROVEMENT DISTRICTS, AUTHORITIES AND ASSESSMENTS**

**Section 12-1. 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.

(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 therefor from any appropriate fund or source and provide for repayment to the appropriate fund from collection of the assessments.

(f) The Town may also redeem or prepay improvement district securities at any time funds are available to do so and assign the assessments as collected to an appropriate fund of the Town.

**Section 12-2. Public Hearing .** Prior to the creation of any district with separate taxing powers or which is intended to assess the costs of improvements against the property within the district, a hearing shall be held with notice pursuant to Chapter 1.20, Public Hearings, Carbondale Municipal Code, as may be amended from time to time, or as otherwise provided by ordinance, to the owners of record subject to the proposed assessments or within the district.

**Section 12-3. Review of Improvement District Proceedings .** No action or proceeding at law or in equity to review or question the validity of any acts or proceedings, to enjoin the issuance or payment of any securities or levy or collection of assessments authorized by this Article or for any relief against any acts or proceedings of the Town done under this Article shall be maintained against the Town unless commenced within thirty (30) days after the performance of such act or the effective date of the ordinance or resolution complained of, or else be thereafter forever barred.

**ARTICLE XIII**

**EFFECTIVE DATE AND TRANSITION PROVISIONS**

**Section 13-1. Effective Date .** This Charter shall be effective on July 1, 2003, if adopted by the voters.

**Section 13-2. 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 Board of Trustees 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 13-3. 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.

**Section 13-4. Board of Trustees - Board of Trustees .** The Mayor and Trustees of the Board of Trustees in office upon the effective date of this Charter shall thereafter become the Mayor and Trustees of the Board of Trustees and shall serve as such for the remainder of the term for which they were elected. Upon the expiration of those terms, Trustees 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 Board of Trustees after the effective date of this Charter.

**Section 13-5. Contracts .** The adoption of this Charter shall not be interpreted to affect any contract previously entered into by the Town.

**Section 13-6. Board of Trustees Compensation .** Subject to the provisions of Section 2-10 hereof, the compensation paid to the Mayor and members of the Board of Trustees shall remain the same for the Mayor and Trustees after the effective date of this Charter.

**Section 13-7. 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.

## ARTICLE XIV

### MISCELLANEOUS LEGAL PROVISIONS

**Section 14-1. Governmental Immunity .** The Town reserves to itself all rights under the Colorado Governmental Immunity Act, as now existing or hereafter amended.

**Section 14-2. Emergency Powers and Line of Succession .** The Board of Trustees may, by ordinance, provide for emergency powers and a line of succession in case of riot, insurrection, disaster, or extraordinary emergency.

**Section 14-3. Saturdays, Sundays, and Holidays .** Except where expressly provided to the contrary, whenever a date fixed by this Charter, or by ordinance, for 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.

**CERTIFICATE OF ADOPTION**

We, the undersigned, present members of the Town of Carbondale Home Rule Charter Commission, duly elected by the people of Carbondale, Colorado, at a general election held on November 5, 2002, under authorization of Article XX, Constitution of the State of Colorado, do hereby certify that the foregoing is the Proposed Charter as finally approved and adopted by the members of the Commission on the \_\_\_\_ day of \_\_\_\_\_, for submission to the people of Carbondale at the general election to be held on \_\_\_\_\_.

Done in triplicate at Carbondale, Colorado, this \_\_\_\_ day of \_\_\_\_\_.

\_\_\_\_\_  
Fred Williams

\_\_\_\_\_  
Gene Schilling

\_\_\_\_\_  
David Rippe

\_\_\_\_\_  
Russ Criswell

\_\_\_\_\_  
Ro Mead

\_\_\_\_\_  
John Hoffman

\_\_\_\_\_  
John Foulkrod

\_\_\_\_\_  
Leslie Lamont

\_\_\_\_\_  
Debbie Quinn

I certify that the above and foregoing document is the Charter adopted at a general election in the Town of Carbondale, Colorado, held \_\_\_\_\_, and duly filed by me with the Secretary of State of the State of Colorado.

\_\_\_\_\_  
Suzanne Cerise  
Town Clerk of Carbondale, Colorado