

CHARTER

PREAMBLE

We, the people of Burlington, Colorado, under the authority of the Constitution of the State of Colorado, and the Municipal Home Rule Act, do ordain, establish and adopt this Home Rule Charter for the City of Burlington.

PREFATORY SYNOPSIS

Pursuant to the adoption of the Charter Commission by the citizens of the Town of Burlington, Colorado, on January 16, 1973, the Charter Commissioners were elected at a special election on January 16, 1973, under the authority and method provided in Article XX of the Constitution of the State of Colorado, as amended, and pursuant to the Municipal Home Rule Act of 1971. In accordance with the responsibility placed upon them, the Commissioners respectfully submitted this Charter to the Board of Trustees of the City of Burlington, who respectfully present this Charter to the registered electors of the City of Burlington for their consideration at a special election to be held on the 12th day of June, 1973.

The Charter Commissioners have viewed their task as one of great responsibility. They have not limited their goals for the City government of Burlington to a consideration of the present, but have extensively considered the future needs of the City and envision continued growth and progress for the City.

In their effort to submit the best possible Charter to the people of Burlington, the Charter Commissioners have studied the Charters of several other Colorado cities, have invited suggestions and advice from the citizens of Burlington, and have employed legal counsel in evolving the final draft of this Charter.

Two objectives of the Charter Commissioners have been most predominant throughout the Convention:

1. That the Charter must reserve to the people of Burlington absolute right and power of self-government under the Home Rule provisions of the Constitution of the State of Colorado, and the Municipal Home Rule Act of 1971.

2. That the Charter must insure the orderly and economical management of the City government, guided and

controlled by the people through their elected representatives.

To accomplish these objectives, this Charter authorizes the City to have great latitude and freedom in exercising its governmental functions.

The organization of the City government has been drawn to assure maximum flexibility in organizational arrangements so that it will be possible for the government of the City to readily adjust to new demands and changing circumstances as our City grows and prospers.

In keeping with this principle of government the Charter provides for the Mayor-Council form of City government.

The policy-making and legislative powers are vested in a City Council composed of six (6) members, plus the Mayor. The Mayor shall be elected from the City at large every four (4) years. Six (6) Councilmen shall be elected from the City at large. Their terms shall be for four (4) years and shall be staggered so as to permit a continuity of government. In addition to its other powers, the Council shall appoint the City Clerk, City Treasurer, City Attorney, Municipal Judge and members of boards and commissions.

The democratic techniques of initiative and referendum and recall have been included in the Charter.

The Charter Commissioners sincerely feel that the City of Burlington will, under this Charter, have a sound and progressive government and, therefor, it is unanimously recommended that this Charter be approved by the registered electors of the City of Burlington at the election on June 12, 1973.

ARTICLE I

GENERAL PROVISIONS

Section 1.1 Name and Boundaries:

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

Section 1.2 Powers:

The City shall have all the power of local self-government and home rule and all power possible for a city to have under the Constitution and laws of the State of Colorado. The enumeration of particular powers in this Charter is not exclusive of others.

Section 1.3 Rights and Liabilities:

By the name of the City of Burlington, 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, and does assume and shall manage and dispose of all trusts in any way connected therewith; shall succeed to all rights and liabilities of the town; shall acquire all benefits and does assume and shall pay all bonds, obligations, and indebtedness of the town; may sue and defend, purchase, lease, receive, hold and enjoy, or sell and dispose of real and personal property; may continue to own, and establish municipal electric generation and distribution systems, municipal water systems, municipal sewage disposal systems; shall have a common seal and alter the same at pleasure.

Section 1.4 Present Ordinances in Force:

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

ARTICLE II

ELECTIONS

Section 2.1 Colorado Municipal Election Laws Adopted:

City elections shall be governed by the Colorado Municipal Election Laws as now existing or hereafter amended or modified, except as otherwise provided in this Charter, or by ordinance hereafter enacted.

Section 2.2 Registration, Judges, Clerks and Election Commission:

The Council may by ordinance establish the method for the registration of electors, the qualifications and compensation of election judges and clerks, and the boundaries of election

precincts. The council may by ordinance establish an election commission consisting of the Clerk, as chairman, and two additional members to be appointed by the Council, with such powers, duties, terms and qualifications as provided by such ordinance.

Section 2.3 Election Day:

A regular City election shall be held on the Tuesday following the first Monday in April commencing in the year 1974 and in each even numbered year thereafter.

Section 2.4 Hours of Voting:

Polling places for all City elections shall be open from 7:00 a.m. to 7:00 p.m. on election day.

Section 2.5 Elective Officers:

The elective officers shall be a Mayor and six Councilmen, each of whom shall be qualified electors residing within the limits of the corporation.

Section 2.6 Mayor and City Councilmen's Terms of Office:

At the April, 1976, election, and at the regular election every four years thereafter, a Mayor shall be elected to serve a four-year term. Commencing at the first regular election after the adoption of the Charter and at each regular election thereafter, three Councilmen shall be elected to serve for a term of four years.

Section 2.7 Nominating Petitions - Required Signatures:

The nominating petition for each candidate for Mayor and Councilman shall be signed by not fewer than 25 electors. Petitions shall be filed not earlier than 60 days and not later than 25 days before the regular City election.

Section 2.8 Vacancies:

The Mayor's office and a Councilman's office shall become vacant whenever he resigns, dies, or becomes a nonresident of the City. A vacancy which occurs shall be filled by a majority vote of the membership of the entire Council within 30 days after such vacancy occurs for the full then unexpired term of the office which has become vacant.

Section 2.9 Special Elections:

Any special City election may be called by resolution of the Council at least 30 days in advance of such election. The resolution calling a special City election shall set forth the purpose or purposes of such election.

Section 2.10 Compensation for Election Judge:

Compensation for each election judge shall be one hundred dollars (\$100.00) for services rendered during each municipal election. (Ord. 837 §1, 2006)

ARTICLE III

CITY COUNCIL

Section 3.1 City Council:

All powers of the City not otherwise limited or conferred upon others by this Charter shall be vested in a Council consisting of six members. It shall have the power to enact and provide for the enforcement of all ordinances necessary to protect life, health and property; to declare, prevent and summarily abate and remove nuisances; to preserve and enforce good government, general welfare, order and security of the City and the inhabitants thereof; to enforce ordinances and regulations by ordaining fine and/or imprisonment nor exceeding the limitations imposed by the State of Colorado for each and every offense; to provide for the granting of probation and the conditional suspension of sentences by the Municipal Court; and to delegate to boards and commissions, within limitations of the Constitution and this Charter, such functions, powers, and authority of the City as it deems proper and advisable. No enumeration of particular powers granted to the Council shall be construed to impair any general grant of power herein contained or granted by the State Constitution, nor to limit any such grant to powers of the same class or classes as those so enumerated.

Section 3.2 Qualifications of Councilmen:

Each Councilman when nominated and elected shall be a qualified elector of the City and shall be a resident of the City at the date of nomination and during the tenure of his office. The Council shall be the judge of the election and qualifications of its own members, subject to judicial review.

Section 3.3 Mayor Pro Tem:

A Mayor Pro Tem shall be elected by the Council from its own membership at the first meeting following each biennial election or an adjournment thereof. The Mayor Pro Tem shall serve until the council meeting following the next regular City election, and shall act as Mayor during the absence or disability of the Mayor. In the event of absence or disability of both the Mayor and the Mayor Pro Tem, the Council shall designate another of its members to serve as Acting Mayor during such absence or disability. Any Mayor Pro Tem or Acting Mayor, while serving as such, shall retain all powers granted herein to Councilmen.

Section 3.4 Oath of Office:

The Mayor and each Councilman shall take an oath or affirmation before entering upon the duties of his office, that he will support the Constitution of the United States and of the State of Colorado, and the Charter and ordinances of the City of Burlington, and faithfully perform the duties of his office.

Section 3.5 Council Meetings:

The Council shall meet regularly at least once each month at a day and hour and place to be fixed by the rules and proceedings of each Council. The Council shall prescribe the rules of procedure governing meetings. All regular and special meetings of the Council shall be open to the public, and citizens and employees shall have a reasonable opportunity to be heard. An organizational meeting shall be held on the Monday following each regular City election. Four members of the Council shall constitute a quorum. Written minutes of the proceedings of each meeting shall be kept by the Clerk and signed by the Mayor.

Section 3.6 Special Meetings:

Special meetings of the Council shall be called by the Clerk on the oral request of the Mayor, or of any two members of the Council, on at least 24 hours notice to each member of the Council; but a special meeting may be held on shorter notice if all members of the Council are present or those absent waive notice thereof.

Section 3.7 Audit of Accounts:

An independent audit shall be made annually of all financial affairs of the City, and more frequent audits may be

made if deemed necessary by the Council. Such audits shall be made by a certified public accountant, experienced in municipal accounting, selected by the Council.

Section 3.8 Parks and Recreation Programs:

The Council may provide by ordinance for the planning, financing and supervision of community parks and recreation programs. The Council may provide for equipping, financing and maintaining City-owned or controlled parks, recreation areas, and facilities, by ordinance, both in and outside the corporate limits of the City. The City may cooperate with other public authorities, special districts, organizations or individuals in or outside the City to implement the operation of these programs.

Section 3.9 Municipal Utilities:

The Council shall forever have the power to establish and administer municipal electric generation and distribution systems; municipal water systems; and municipal sewage disposal systems; and shall regulate the rates for such municipal services and utilities.

ARTICLE IV

ORDINANCES

Section 4.1 Ordinances, Resolutions and Motions:

The Council shall act only by ordinance, resolution or motion. All legislative enactments shall be in the form of ordinances; all other actions except as herein provided, may be in the form of resolutions or motions.

Section 4.2 Voting:

A roll call vote by "Yes" and "No" shall be taken upon the passage of all ordinances, resolutions and motions, and entered upon the minutes of the Council proceedings. Every ordinance shall require the affirmative vote of the majority of the members present. Every member, when present, shall vote upon ordinances, resolutions and motions unless he shall have a personal interest therein.

Section 4.3 Action by Ordinance Required:

In addition to such acts of the Council as are required by other provisions of this Charter to be by ordinance, every act making an appropriation, creating an indebtedness, authorizing borrowing of money, levying a tax, establishing any rule or regulation for the violation of which a penalty is imposed, or placing any burden upon or limiting the use

of private property without the consent of the owner, shall be by ordinance.

Section 4.4 Form of Ordinance:

The enacting clause of all ordinances shall be: "THE COUNCIL OF THE CITY OF BURLINGTON, COLORADO, ORDAINS".

Section 4.5 Procedure of Passage:

Only one reading of an ordinance by the Council shall be required and an ordinance may be passed and adopted on the date it is introduced. Codes may be adopted by reference as provided by state law.

Section 4.6 (As amended at election April 2, 2002)
Record and publication of Ordinances:

All ordinances, as soon as may be after their passage, shall be recorded in a book kept for that purpose, and authenticated by the signature of the Mayor and Clerk. All ordinances of a general or permanent nature, and those imposing any fine, penalty or forfeiture, shall be published in a newspaper published within the City of Burlington. Such ordinances shall not take effect until thirty days after such publication, except for ordinances calling for special elections or necessary to the immediate preservation of the public health or safety. The excepted ordinances shall take effect in five days, provided that they shall have been passed by an affirmative vote of two-thirds of the members of the City Council.

Section 4.7 Severability of Ordinances:

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

ARTICLE V

CITY ADMINISTRATION

Section 5.1 Mayor:

The Mayor shall be the presiding officer of the Council and the recognized head of the City Government for all legal and ceremonial purposes. He shall have no vote upon any question except in the case of a tie-vote, when he shall be

allowed to vote. All contracts in writing binding the City, all conveyances of interests in land by the City, and any other documents requiring his signature shall be signed by the Mayor (or person acting as Mayor as provided in Section 3.3) and attested by the Clerk under the seal of the City.

Section 5.2 Mayor as Chief Executive Officer:

The Mayor shall be the chief executive officer of the City and as such shall have the powers and duties prescribed in Section 5.3.

Section 5.3 Powers and Duties of Mayor:

The Mayor shall be responsible for the efficient administration of all affairs of the City placed in his charge, and to that end shall have the power and duty to:

- a. Enforce the laws and ordinances of the City.
- b. Appoint, suspend, transfer and remove all employees of the City, except as otherwise provided herein, subject to the personal regulation of the City, if any, adopted by the Council.
- c. Make appointments on the basis of executive and administrative ability, and of the training and experience of such appointees in the work which they are to perform.
- d. Prepare a proposed budget annually and submit it to the Council, and be responsible for the administration of the budget after its adoption.
- e. Prepare and submit to the Council as of the end of the fiscal year a complete report on finances and administrative activities of the City for the preceding year, and upon request of the Council make written or verbal reports at any time concerning the affairs of the City under his supervision.
- f. Keep the Council advised of the financial condition and future needs of the City, and make such recommendations to the Council as he may deem necessary or expedient.
- g. Exercise supervision and control over all executive and administrative departments, and recommend to the Council any proposal he thinks advisable to establish, consolidate or abolish administrative departments.
- h. Enforce all terms and conditions imposed in favor of the City or its inhabitants in any contract or public utility franchise, and upon knowledge of any violation thereof, report same to the Council for such action and proceedings as may be necessary to enforce the same.
- i. Attend and preside at Council meetings and participate in discussions with the Council.

j. Establish a system of accounting and auditing for the City.

k. Act as a purchasing agent for the City.

l. Obtain engineering, architectural, maintenance, construction and work equipment services required by the City.

m. Perform such other duties as may be prescribed by this Charter, by ordinance, or by the Council.

Section 5.4 Delegation of Duties:

The Mayor, with the consent of the Council, may delegate to various members of the Council any of the powers and duties enumerated in Section 5.3.

Section 5.5 Departments Created:

The administrative functions of the City may be performed by the following departments: Electrical Distribution and Generation; Water and Sanitation; Streets; Police; Parks and Recreation; Finance; Executive; and such other departments as are or may be established by this Charter or by ordinances of the City. Upon recommendation of the Mayor, the Council may by ordinance consolidate or merge any of the said departments whether set forth in the Charter or created by ordinance in order to achieve more efficient operation or administration. All departments of the City, except as otherwise provided in this Charter, shall be under the supervision and control of the Mayor.

ARTICLE VI

APPOINTED OFFICIALS

Section 6.1 Time of Appointment:

At its first meeting after each regular City election, the Council shall appoint the officials hereinafter enumerated in this Article with the powers and duties herein specified. Such appointments shall be at the pleasure of the Council, at such compensation as the Council may by resolution from time to time establish.

Section 6.2 City Administrator - Functions and Duties:

The City Administrator shall devote his entire time to the discharge of his official duties. He shall be the chief administrative office of the City and shall be responsible to the Mayor for the proper administration of all affairs of the

City, and shall perform such duties as may be delegated to him by the Mayor.

Section 6.3 City Clerk - Functions and Duties:

a. Before entering upon the duties of the office, the Clerk shall take an oath of office and furnish a surety bond in an amount as required by the City Council, conditioned upon the faithful discharge of his duties as City Clerk.

b. The Clerk shall be the Clerk of the Council and shall attend all meetings of the Council and shall keep a permanent journal of its proceedings.

c. The Clerk shall be the custodian of the City seal and shall affix it to all documents and instruments requiring the seal and shall attest the same. He shall also be custodian of all papers, documents and records pertaining to the City, the custody of which is not otherwise provided for.

d. The Clerk shall certify by his signature all ordinances and resolutions enacted or passed by the Council.

e. The Clerk shall provide and maintain in his office a supply of forms for all petitions required to be filed for any purpose by the provisions of this Charter or by ordinances enacted hereunder.

f. The Clerk shall have power to administer oaths of office.

g. The Clerk shall perform such other duties as may be prescribed for him by this Charter, by the Council or by the Mayor.

Section 6.4 City Treasurer - Functions and Duties:

a. Before entering upon the duties of the office, the Treasurer shall take an oath of office and furnish a surety bond in an amount as required by the City Council, to be approved by the City Council, conditioned upon the faithful performance of his duties as City Treasurer and that when he shall vacate such office he will turn over and deliver to his successor all monies, books, papers, property or thing belonging to the City of Burlington and remaining in his charge as such Treasurer.

b. The Treasurer shall have the custody of all monies of the City, all bonds pertaining to officials or employees, and all evidences of indebtedness belonging to the City or held in trust by the City.

c. The Treasurer shall collect all monies for the City, the collection of which is not provided for elsewhere by

Charter or ordinance. He shall receive from other officers and employees of the City all monies belonging to and receivable by the City and collected by such officers and employees, including fines, license fees, taxes, assessments, and all other charges. All monies shall be turned over to the Treasurer after collection or receipt.

d. The Treasurer shall keep and deposit all monies or funds in such manner and only in such places as the Council may determine.

e. The Treasurer shall disburse all City funds in accordance with the provisions of statute, this Charter and procedures established by the Council or by the Mayor.

f. The Treasurer shall perform such other duties as may be prescribed for him by this Charter or by the Council.

Section 6.5 City Attorney - Functions and Duties:

It shall be the duty of the City Attorney to attend Council meetings, to render such legal advice as may be required, and to draw all ordinances, contracts, and other instruments when requested so to do. He shall also defend all suits brought against the City, prosecute all suits brought by the City and perform other services when requested by the Council, and in addition to his salary, he shall receive other and further compensation from time to time for special services as the Council may determine and allow.

ARTICLE VII

ENFORCEMENT OF LAWS AND ORDINANCES

Section 7.1 Municipal Court:

a. There shall be a Municipal Court which shall have jurisdiction to hear and determine all cases arising under this Charter or the ordinances of the City. The powers of and the procedure in such Municipal Court and the manner of enforcement of its orders and judgments shall be such as is provided for under the Statutes of the State of Colorado, and the present ordinances of the City with respect to police magistrates, except as may be otherwise provided in this Charter or by ordinance hereafter enacted. The Council shall have the power to provide for juries for service in the Municipal Court. The Council shall provide a suitable place

and all supplies and personnel necessary for the proper functioning of the Court.

b. The Municipal Court shall be presided over and its functions exercised by one or more Municipal Judges, appointed by the Council for a term to be at the pleasure of the Council. A Municipal Judge shall receive a fixed salary or compensation, not dependent upon the outcome of the matters to be decided by him and to be fixed by the Council from time to time. If a Municipal Judge is absent or unable to act in any manner or case, the Mayor shall call any eligible person to act and serve temporarily, and if he fails to, or cannot call in a substitute, the Council shall appoint a substitute. Qualifications for Municipal Judges shall be established by ordinance.

c. The Council shall provide for the enforcement of its ordinances by fine, or imprisonment, or both; but for any one offense no fine or imprisonment shall exceed the limitations established by the Statutes of the State of Colorado.

Section 7.2 Department of Police:

a. There is hereby created a Department of Police, the director of which shall be the Chief of Police who shall be appointed by the Council for a term to be at the pleasure of the Council.

b. The Chief of Police shall be in direct command of the Department of Police. He shall assign all members of the Department to their respective posts, shifts, details and duties. He shall make rules and regulations affecting his Department in conformity with the ordinances and resolutions of the City, concerning the operation of the Department and conduct of all employees. He shall be responsible for the efficiency, discipline and good conduct of the Department and for the care and custody of all property used by the Department.

c. The Department of Police shall be responsible for the preservation of public peace, prevention of crime, apprehension of criminals, protection of the rights of persons and property, the enforcement of the laws of the State and of the ordinances of the City as provided by this Charter and all rules and regulations made in accordance therewith, and such other functions as the Mayor and Council may pre-scribe for public safety. All members of the Department shall have all powers with respect to the service of criminal process and the enforcement of criminal laws as are vested in police officers.

ARTICLE VIII

BOARDS AND COMMISSIONS

Section 8.1 (As amended at election April 2, 2002)
General Provisions for Boards and Commissions:

Unless otherwise provided by this Charter, all boards and commissions shall be appointed by the Council and shall have such powers and perform such duties as are provided by this Charter or by ordinance; and members of such boards and commissions shall be appointed to serve without compensation, but shall be paid their authorized expenses actually incurred in the discharge of their official duties. Initial appointments by the Council shall specify the term of office of each individual in order to achieve overlapping tenure, and thereafter all appointments shall be for the full term specified. All members shall be subject to removal by a two-thirds majority vote of the entire Council. The Council shall make appointments to fill vacancies for the unexpired terms. Each board and commission shall choose its own chairman and vice-chairman, and shall adopt its own rules of procedure for the proper conduct of its business.

Section 8.2 Board of Adjustment and Appeals:

There is hereby created and established a Board of Adjustment and Appeals consisting of the number of members from time to time specified by the Council. Such members shall be appointed by the Council for overlapping terms of three years. Each member shall be a taxpaying elector and in addition shall reside in the area comprising the City at the time of his appointment.

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

The board shall keep minutes of its proceedings, show the vote taken, keep records of its examinations and other official actions. Every order, requirement, decision or determination of the board shall be filed in the office of the Clerk.

The board shall exercise the functions and powers and perform the duties assigned to it by this Charter and the ordinances of the City; and where not otherwise provided by ordinance or Charter, the board shall have the powers, perform the functions, and follow the procedures set forth in the Statutes of the State of Colorado.

Section 8.3 Planning and Zoning Commission:

There is hereby created and established a Planning and Zoning Commission consisting of the number of members from time to time specified by the Council. Such members shall be appointed by the Council for overlapping terms of three years. Each member shall be a taxpaying elector and in addition shall reside in the area comprising the City at the time of the appointment. The Planning and Zoning Commission shall exercise the functions and powers and perform the duties assigned to it by this Charter and the ordinances of the City. It may prepare and submit to the Council for its approval a master plan for the physical development of the City and areas adjacent thereto. All plats of proposed subdivisions shall be submitted to it for its recommendations and approval before being presented to the Council for its approval; it may hold hearings relative to zoning and changes in the zoning ordinance, and may make recommendations thereon to the Council. Where not otherwise provided by Charter or ordinance, the Planning and Zoning Commission shall have the powers, perform the functions, and follow the procedures set forth in the Statutes of the State of Colorado.

ARTICLE IX

CITY FINANCES

Section 9.1 Fiscal Year:

The fiscal year of the City and of all its agencies shall be established by Ordinance of the City Council.

Section 9.2 Annual Budget:

A proposed budget for the ensuing fiscal year shall be presented to the Council at least 60 days prior to the end of the fiscal year.

Section 9.3 Budget Hearing:

The Council shall hold a public hearing on the proposed budget at least 30 days prior to the end of the fiscal year. Notice of the time and place of such hearing shall be published at least once prior to such hearing, and copies of the proposed budget shall be made available to the public by depositing them in the office of the Clerk.

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

Section 9.4 Scope of Annual Budget:

The City Council shall adopt an annual budget for each fiscal year in accordance with the procedure set forth in The Local Government Budget Law of Colorado.

Section 9.5 Adoption of Budget and Appropriation:

The City Council shall pass an ordinance within the last quarter of each fiscal year, to be termed the annual appropriation ordinance for the next fiscal year. In such ordinance the Council shall appropriate such sums of money as are necessary to cover the items in its budget and to defray all necessary expenses and liabilities of the town, specifying the objects and purposes for which such appropriations are made and the amount appropriated for each object or purpose. The total amount appropriated shall not exceed the probable amount of revenue that will be collected during the fiscal year.

Section 9.6 Certification of Tax Levy:

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

Section 9.7 General Fund:

There is hereby established a fund to be known as the general fund. All revenues not specifically allocated to any other fund shall be placed in the general fund. All general functions of the City shall be financed by expenditures from the general fund.

Section 9.8 Contingencies:

The general fund may contain an item for contingencies.

Section 9.9 Special Funds:

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

Section 9.10 Transfer of Funds:

The Council may by resolution transfer any unencumbered appropriation balance or portion thereof from one department, office or agency to another.

Section 9.11 Additional Appropriations:

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

Section 9.12 Departmental Appropriations Revert:

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

Section 9.13 Publication of Expenditures:

A statement of financial expenditures of the City shall be published in the designated legal newspaper of the City of Burlington.

ARTICLE X

MUNICIPAL SECURITIES

Section 10.1 Forms of Borrowing:

The City may borrow money for any municipal purpose as provided herein and issue the following securities to evidence such indebtedness:

- a. Short term notes
- b. General obligation bonds and other like securities
- c. Revenue bonds and other like securities
- d. Special or local improvement bonds and other like securities

Section 10.2 Short-term Notes:

The City, upon the affirmative vote of the majority of the entire Council in office at the time the vote is taken, is hereby authorized to borrow money without an election in anticipation of the collection of taxes or other revenues and to issue short-term notes to evidence the amount so borrowed. Any such short-term notes shall mature before the close of the fiscal year in which the money is so borrowed except as is permitted in Section 9.11.

Section 10.3 General Obligation Securities:

No bonds or other evidences of borrowing by the City, payable in whole or in part from the proceeds of ad valorem taxes or to which the full faith and credit of the City are pledged, shall be issued until the question of their issuance shall, at a special or regular election, be submitted to a vote of the electors of the City and approved by a majority of those voting on the question, except as otherwise provided in this Chapter. The aggregate amount of such bonds or other evidences of borrowing, as are described above in this Section, shall not exceed ten per cent (10%) of the assessed valuation of the taxable property within the City as shown by the last preceding assessment for City purposes, but bonds issued for water, sewer or drainage purposes may be issued without an election and are excepted from the limitations of this Section.

Section 10.4 Revenue Securities:

The City, pursuant to ordinance, and without an election, may borrow money, issue bonds, or otherwise extend its credit, if such bonds or other obligations are made payable from revenues other than the proceeds of ad valorem taxes, including, without limiting the generality of the foregoing, revenues derived from the operation of the project or capital improvement acquired with the bond proceeds, from the

available proceeds of a City sales and use tax which may be imposed pursuant to Section 13.2 or from any part or combination of such sources.

Section 10.5 Refunding Securities:

Subject to contractual obligations, the Council may authorize, by ordinance, without an election, issuance of refunding bonds or other like securities for the purpose of refunding and providing for the payment of the outstanding bonds or other like securities of the City as the same mature, or in advance of maturity by means of an escrow or otherwise. Any refunding bonds or other like securities issued for the purpose of refunding revenue bonds or other revenue securities, if issued without an election, shall be payable from substantially the same sources as the bonds refunded.

Section 10.6 Terms and Disposal of Securities:

a. The terms and maximum interest rate of general obligation or revenue bonds or other like securities shall be fixed by the authorizing ordinance and such securities shall be sold to the best advantage of the City.

b. Any refunding bond may be exchanged dollar for dollar for a bond refunded.

c. All bonds may contain provisions for calling the same at designated periods prior to the final due date, with or without the payment of a prior redemption premium.

Section 10.7 Assumption of Indebtedness:

Nothing herein shall be construed to limit the power of the City, by ordinance and without an election, to assume the indebtedness of special taxing districts if the boundaries thereof lie wholly within the City and if such indebtedness was incurred prior to the adoption of this Charter.

Section 10.8 No Additional Limitations:

Except as provided by this Charter, there shall be no limitations on the authority of the City to incur indebtedness or to issue bonds.

ARTICLE XI

IMPROVEMENT DISTRICTS

Section 11.1 Power to Create Special or Local Improvement Districts:

a. The City shall have the power to create Special or Local Improvement Districts within designated districts in the City, to contract for, construct or install special or local improvements of every character within the said designated districts, to assess the cost thereof, wholly or in part upon the property benefited in such district, and to issue special improvement bonds therefor.

b. The Council shall, by ordinance, prescribe the method and manner of creating such improvements, of letting contracts therefor, issuing and paying bonds for construction or installation of such improvements, including the cost incidental thereto, for assessing the costs thereof and for all things in relation to the authority herein created.

c. Except as otherwise provided by Charter or by ordinance, the Statutes of the State of Colorado shall govern the creation and organization of Special or Local Improvement Districts, the assessment of costs, the issuance of bonds therefor and all things in relation thereto.

Section 11.2 Creation of Special or Local Improvement Districts:

Special or Local Improvement Districts created pursuant to this Chapter may be so created by:

a. Ordinance; or,

b. On a petition by the owners of not less than fifty per cent (50%) of the area of the proposed district, provided that such majority shall include not less than fifty per cent (50%) of the assessed valuation of the real property in the proposed district.

Section 11.3 Improvement District Bonds; Levy for General Benefit to Special Fund; Pledge of Credit:

a. In consideration of general benefits conferred on the City at large from the construction or installation of improvements in Special or Local Improvement Districts, the City Council may contract by ordinance prior to the issuance of any bonds of any Special or Local Improvement District, that the payment of such bonds, both as the principal interest and costs appertaining thereto become due, as additionally secured by a Special Fund herein created, and pursuant thereto may levy annual taxes on all taxable property within the City at a rate not exceeding two mills in any one year, to be

disbursed as determined by the Council, for the purpose of paying for such improvements, pursuant to Section 11.5, for the payment of any assessment, levied against the City itself in connection with said bonds issued for Special or Local Improvement Districts, for the purpose of advancing money to maintain current payments of interest and equal annual payments of the principal amount of said bonds or for any prior redemption premium appertaining to such bonds.

b. The proceeds of such taxes shall be placed in a Special Fund and shall be disbursed only for the purposes specified in this Section, provided, however, that in lieu of such tax levies, the Council may annually transfer to such Special Fund any available money of the City, but in no event shall the amount transferred in any one year exceed the amount which would result from a tax levied in such year as herein limited.

1. As long as any bonds issued for Special or Local Improvement hereafter organized, remain outstanding, the tax levy or equivalent transfer of money to the Special Fund created for the payment of said bonds shall not be diminished in any succeeding year until all of said bonds and the interest thereon shall be paid in full, unless other available funds are on hand therefor, or such bonds and interest are paid by the City as provided in Section 11.5 of this Article.

c. After the bonds have been retired in full, any monies remaining in such Special Funds shall be transferred as provided in Section 11.4.

d. Bonds of any Special or Local Improvement District payable from special assessments, which payment may be additionally secured as provided in this Section, shall not be subject to any debt limitation nor affect the City's debt incurring power, nor shall such bonds be required to be authorized at any election; and such bonds shall not be held to constitute a prohibited lending of credit or donation, nor to contravene any constitutional, statutory or Charter limitation or restriction.

Section 11.4 Transfers from Unencumbered Special or Local Improvement District Funds:

Where all outstanding bonds of a Special or Local Improvement District have been paid and money remains to the credit of the district or in a Special Fund created pursuant to Section 11.3 for the said bond issue, it may be transferred, in whole or in part, by ordinance, to a Surplus

or Deficiency Fund, and whenever there is a deficiency in any Special or Local Improvement District Fund to meet the payment of outstanding bonds and interest due thereon, the deficiency shall be paid out of the said fund; or in the alternative, Council may by ordinance, transfer all or part of any unencumbered balance from a Special or Local Improvement District Fund or a Special Fund created pursuant to Section 11.3 for the said bond issued to any other City fund.

Section 11.5 Payment of Bonds by City:

Whenever a Special or Local Improvement District has paid and cancelled three-fourths (3/4) of its bonds issued and for any reason the remaining assessments are not paid in time to redeem the final bonds of the district, the City shall pay the bonds when due from funds created pursuant to this Chapter and reimburse itself by collecting the unpaid assessments due the district.

Section 11.6 Review of Improvement District Proceedings:

No action or proceeding, at law or in equity, to review any acts of proceedings, or to question the validity of, or enjoin the performance of the issue or collection of any bonds, or the levy or collection of any assessments authorized by this Chapter, or for any other relief against any acts or proceedings of the City done or under this Chapter, shall be maintained against the City, unless commenced within thirty days after the performance of the act or the effective date of the resolution or ordinance complained of, or else be thereafter perpetually barred.

ARTICLE XII

UTILITIES AND FRANCHISES

Section 12.1 City Powers, Functions and Authority:

a. The Council shall have, with regard to all public utilities and cable television, all Home Rule municipal powers, functions, and authority now existing and which may be hereafter provided by the Constitution and the Statutes of the State of Colorado.

b. Subject to the laws of the State of Colorado applicable to Home Rule Cities and the Constitution of the State of Colorado, the Council, upon obtaining a majority vote of the registered taxpaying electors of the City, subject to

Section 12.1, subsection c., shall have the power and authority within or without the territorial limits of the City, to construct, condemn, purchase, acquire, and lease public utilities and cable television assets, equipment and everything in relation to or in connection therewith, in whole or in part, for the use of the City and its inhabitants.

1. The term "public utility" or "public utility corporation" when used in this Charter shall mean any person, firm or corporation operating a heat, power, gas or light system, a communication system, or a water, sewer or scheduled transportation system, and serving or supplying the public. It shall not include any person, firm or corporation owning or operating sidetracks or switches for the accommodation of manufacturing plants and business houses, or private telephone lines, and shall not include City owned utilities.

c. In the event that it is established by law applicable to Home Rule Cities, that the qualifications for voting on any issue provided for in this Article are otherwise than as prescribed in this Article, then such law shall govern said qualifications.

d. The Council shall further have the power to buy, sell, exchange, lease, own, control, and otherwise deal in water rights.

e. Any exercise of authority pursuant to this Article, subsequent to acquisition of facilities hereunder, shall be administered through a regular department of the City government under the management and supervision of the Council.

f. Council, by ordinance, may authorize the extension of any City service or City owned facilities, provided under authority of this Chapter, to consumers outside the corporate limits of the City, under such terms and conditions as may be agreed upon, subject to laws applicable to Home Rule Cities.

Section 12.2 Use of Public Places by Utilities:

a. Every public utility, whether it has a franchise or not, may use the City streets, alleys, bridges, and other public places upon such terms, conditions or requirements as are provided by Council, and such public utility shall pay that part of the cost of improvement or maintenance of City streets, alleys, bridges, and other public places as shall arise from its use thereof and shall protect and save the City harmless from all damages arising from said use.

b. Every such public utility may be required by the City to permit joint use by the City and other public utilities of its property and appurtenances located in the City streets, alleys or other public places insofar as such joint use may be reasonably practicable and upon payment of reasonable rental therefor.

c. In the absence of agreement and upon application by any public utility or by the City, the Council shall provide for arbitration of the terms and conditions of such joint use and the compensation to be paid therefor, and the arbitration award shall be final.

Section 12.3 Utility Rates:

The Council shall, by ordinance, establish rates, rules and regulations and extension policies for services provided by City owned utilities, both within and outside the corporate limits of the City.

Section 12.4 Present Franchises:

All franchise ordinances and agreements of the City in effect at the time this Charter is effective shall remain in full force and effect in accordance with their respective terms and conditions unless modified by another franchise.

Section 12.5 Grant to Public Utility Franchises:

a. Grants of public utility franchises and all extensions, and amendments shall be granted only by ordinance, and no public utility franchise shall be granted except upon the majority vote of the registered taxpaying electors of the City, subject, however, to Section 12.1, subsection c.

1. No such franchise ordinance shall be approved by the Council for referral to the electorate in less than thirty days after application therefor has been filed with Council nor until the grantee named therein has filed with the Clerk his unconditional acceptance of all terms of such franchise.

2. With respect to any franchise, after mutual agreement with the holder of the franchise, the Council may, by ordinance, extend the area served by the franchise including streets, alleys, public places and property not originally embraced in such franchise, when public convenience and necessity required, subject to the terms and conditions of such original franchise, and co-extensive with the terms thereof, without a vote of the registered taxpaying electors of the City, or without a vote of any other electors of the

City, if the provisions of Section 12.1, subsection c. should apply. Provided, however that if provision is made for such extension of facilities in the original franchise agreement, Council need not act by ordinance to permit such extension, and the holder of the franchise may proceed to extend facilities in accordance with the terms and conditions of the original franchise.

3. For the purposes of this Charter, cable television and garbage, trash or rubbish disposal shall not be deemed to be public utilities and permits or licenses for cable television or garbage, trash or rubbish disposal may be granted to one or more companies without a vote of the registered taxpaying electors of the City, or without a vote of any other electors of the City if the provisions of Section 12.1, subsection c. should apply.

b. No franchise election shall be held until the applicant deposits the cost thereof with the City Treasurer in an amount determined by the City Treasurer as approved by the Council.

c. No franchise shall be granted without reserving to the City such fair fee arising from the use thereof as shall be fixed in the grant of such franchise.

Section 12.6 Compensation for Franchises:

Every grant of a franchise shall fix the amount and manner of payment of the compensation to be paid by the grantee for the use of the franchise and no other compensation shall be exacted for such use during the life of the franchise. This provision shall not exempt the grantee from any lawful taxation upon his or its property, nor from any license, charge, or other impositions levied by the Council, not levied on account of the use granted by the franchise.

Section 12.7 Conditions of Franchises:

All public utility franchises granted after the effective date of this Charter, whether it be so provided in the granting ordinance or not, shall be subject to the following rights of the City, except as otherwise provided by the Statutes of Colorado applicable to Home Rule Cities and the Constitution of the State of Colorado; but this enumeration shall not be exclusive or impair the right of the Council to insert in such franchise any provision within the power of the City to impose or require:

a. To repeal the same for inadequate service, for misuse, nonuse or failure to comply with the provisions thereof.

b. To require proper and adequate extension of plant facilities and service and maintenance thereof at the highest practicable standard of efficiency.

c. To establish reasonable standards of service and quality of products and prevent unjust discrimination in service or rates.

d. To require continuous and uninterrupted service to the public in accordance with the terms of the franchise throughout the entire period thereof.

e. To use, control, and regulate the use of its streets, alleys, bridges, and other public places and the space above and beneath them.

f. To permit the City as provided in Section 12.1, subsection b., upon the payment thereof of fair valuation, to purchase and take over the property and plant of the grantee in whole or in part. Such valuation shall be made as provided in the franchise grant or otherwise as provided by law.

g. To impose such other regulations as may be determined by the Council to be conducive to the health, safety, and welfare of the public.

Section 12.8 Assignment and Leasing of Franchises:

a. No franchise granted by the City shall be leased, assigned, or otherwise alienated without the approval of Council given by ordinance and no negotiation with the lessee or assignee on the part of the City to require the performance of any act or the payment of any compensation by the lessee or assignee shall be deemed to operate as such consent. Any assignment, lease or sale of such franchise without the consent of the City shall, at the option of the Council, operate as a forfeiture of such franchise.

b. The right of Council to deny any assignment, lease or sale of a franchise is reserved.

c. Council, upon approving any such assignment, lease or sale of franchise, may impose such reasonable conditions and terms deemed necessary.

Section 12.9 Revocable Permits:

The Council may grant a permit at any time for the temporary use or occupation of any street, alley, or City owned place, provided such permit shall be revocable by the

Council at its pleasure, regardless of whether or not such right to revoke be expressly reserved in such permit.

Section 12.10 Franchise Records:

a. The Council shall cause to be kept in the office of the City Clerk an indexed franchise record which shall contain copies of all public utility franchises granted by the City.

b. The index shall give the name of the grantee and any assignees. The record shall be a complete history of all such franchises, shall include a convenient reference to all actions at law affecting the same, copies of all annual reports, and such other information as the Council may require.

ARTICLE XIII

MISCELLANEOUS PROVISIONS

Section 13.1 Disconnection:

Anything to the contrary notwithstanding under the Statutes of the State of Colorado now existing or as they may hereafter be amended, no territory may be disconnected from the City without first submitting the question of any such disconnection for approval of the taxpaying electors.

Section 13.2 Taxes for Municipal Purposes:

The Council shall have the power by ordinance to levy all forms of taxation for municipal purposes as are now or may hereafter be permitted to home rule cities under the Constitution of the State of Colorado, except that no use or sales tax shall be imposed by the Council without having first been approved by a vote of the taxpaying electors of the City at a general or special election.

Section 13.3 Fidelity Bonds:

Before any officer or employee of the City who handles City funds shall be permitted to enter upon the duties of his office or employment, he shall obtain and file with the Clerk a fidelity bond from a bonding company authorized to do business in the State of Colorado, in any amount to be fixed by the Council. The cost of such bonds shall be borne by the City.

Section 13.4 Right of Eminent Domain:

The City shall have the right of eminent domain for all municipal purposes whatever either within or without the limits of the City as may be permitted to towns or cities by the Constitution and the Statutes of the State of Colorado.

Section 13.5 Contracts with Other Governmental Units:

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

Section 13.6 Bequests, Gifts and Donations:

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

Section 13.7 Contracts for Purchases, Leases and Construction of Public Works:

The Council may establish by ordinance procedure for entering into contracts for purchases, contracts for leases, and contracts for construction of public works.

Section 13.8 Initiative and Referendum:

The power of initiative and referendum is reserved to the voters of the City in accordance with the provisions of Article V, Section 1 of the Constitution of the State of Colorado insofar as such provisions are applicable.

Section 13.9 Recall:

The power of recall is reserved to the voters of the City in accordance with the provisions of Article XXI, Section 1 of the Constitution of the State of Colorado insofar as such provisions are applicable.

Section 13.10 Amendment:

This Charter may be amended at any general election or special election called for such purpose upon questions which may be submitted to the electors by a majority of the Council, or upon questions which may be submitted by the electors by

initiative as provided for in Article V, Section 1 of the Constitution of the State of Colorado.

Section 13.11 Retirement Plans:

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

Section 13.12 Effect of State Statutes:

Unless otherwise provided by this Charter or by ordinances adopted by the Council hereunder, the Statutes of the State of Colorado governing municipalities now classified as cities shall remain in effect.

Section 13.13 Severability:

If any provision, article, section, sentence, clause or part of this Charter, or the application thereof to any person or circumstances adjudged by any court of competent jurisdiction to be unconstitutional or invalid, such adjudication shall not affect, impair or invalidate the Charter as a whole or any part hereof other than the part so adjudged to be invalid, and to this end the provisions of this Charter are declared to be severable.

ARTICLE XIV

TRANSITIONAL PROVISIONS

Section 14.1 Purpose of Transitional Provisions:

The purpose of this Article is to provide for an orderly transition from the present Town government of Burlington to a government under provisions of this Charter. The provisions of this Chapter shall constitute a part of this Charter only to the extent necessary to accomplish that purpose.

Section 14.2 Continuation of Appointed Officers, Employees, City Clerk, and City Treasurer:

a. After the effective date of this Charter, all appointive officers and all employees of the City shall continue in that office or employment which corresponds to the City office or employment which they held prior to the effective date of this Charter as though they had been appointed or employed in the manner provided in this Charter,

except that an officer or employee who holds a position which this Charter provides be held at the pleasure of the Council or appointing officer shall hold such position only at such pleasure regardless of his original term of office, subject however, to provisions of Section 14.2, subsection b.

b. The City Clerk and City Treasurer in office on the effective date of this Charter are excepted from the provisions of Section 14.2, subsection a, so far as the same relate to holding office at the pleasure of the appointing Council in that these said officers shall hold their respective offices with those functions and duties as provided in Article VI until the expiration of their present terms, and in the event either or both of the said respective offices become vacant prior to the expiration of their terms appointment shall be made as is provided in Article VI.

Section 14.3 Prior City Legislation:

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

b. If any such by-law, ordinance, resolution, rule or regulation provides for the appointment of any officers or any members of any board or commission by the Mayor or Council, such officers or members of any board or commission shall after the effective date of this Charter, be appointed as provided in this Charter.

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

Section 14.4 Present Council and Mayor to Continue in Office:

The City Council and the Mayor in office on the effective date of this Charter shall continue in office and shall perform the functions, powers and duties of their offices pursuant to this Charter until their terms expire, or until their offices become vacant, in which event, a successor shall be appointed as provided in this Charter.