

# **HOME RULE CHARTER**

**for the**

**CITY OF ASPEN, COLORADO**

**June 16, 1970**

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**CITY OF ASPEN CHARTER\***

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## **PREFATORY SYNOPSIS**

The Charter Convention of the City of Aspen, Colorado, herewith submit[s] to the voters of the City the Home Rule Charter which we have framed in conformity with Article XX of the Colorado Constitution.

Since its organizational meeting of March 26, 1970, the Convention has worked long and hard to achieve a simple and direct form of local government based on sound principles of public administration and tailored to the political needs of the electorate of the City of Aspen.

Under provisions of this Charter, a basic council-manager form of government is established. The council is composed of seven (7) members which include the mayor who is elected at large for a two-year term. The mayor also presides at council meetings and possess[es] full voting powers of a councilman. The other six (6) councilmen are elected at large for four-year over-lapping terms. A majority of the council (three (3) councilmen and the mayor) are elected every two (2) years, thereby ensuring continuity of government with maximum political responsiveness to the voters.

The council is the policy-determining body of the municipal government and vested with full legislative powers. The executive power is vested in the city manager who is appointed by and serves at the pleasure of the council.

The biennial municipal election is set on the first Tuesday after the first Monday in May with the first election under this Charter to be held on May 4, 1971. The Charter provides that all elections are to be non-partisan. An Election Commission is established to insure that fair elections are conducted in accordance with the Colorado Municipal Election Law.

Additional matters covered in this Charter for the future framework of Aspen municipal government relate to general council procedures, initiative and referendum powers of the people, city administration guidelines, legal and judiciary appointments, municipal boards and commissions, city finances, municipal borrowing procedures, public utilities, taxation powers, miscellaneous legal provisions and transition procedures.

The Charter vests the people of Aspen with every political power permitted to any home rule community under the Constitution of the State of Colorado. We believe this Charter provides a structure for quality government in Aspen which will endure for many years to come.

## **PREAMBLE**

We, the people of the City of Aspen, Colorado, under the authority of the Constitution of the State of Colorado and in order to exercise the rights, privileges and responsibilities of self-government granted to us by the said constitution, do ordain and establish this Home Rule Charter for the City of Aspen, Colorado.

## **ARTICLE I**

### **GENERAL PROVISIONS**

#### **Section 1.1. Name and boundaries.**

The municipal corporation heretofore existing as a city in the County of Pitkin, State of Colorado, and known as the City of Aspen, shall remain and continue as a body politic and corporate under this Charter with the same name and boundaries until changed in a manner authorized by law.

## **Section 1.2. Rights and liabilities.**

By the name of the City of Aspen, the municipal corporation shall have perpetual succession; shall own, possess and hold all property, real and personal heretofore owned, possessed and held by said City of Aspen, 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 said City of Aspen; by the name of the City of Aspen, may sue and defend, plead and be impleaded, in all courts and places, and in all matters and proceedings; may have and use a common seal and alter the same at pleasure.

## **Section 1.3. Form of government.**

The municipal government provided by this Charter shall be known as the "Council-Manager Government." Pursuant to its provisions and subject only to limitations imposed by the State Constitution and by this Charter, all powers of the City shall be vested in an elective mayor and council, hereafter referred to as "the council," which shall enact local legislation, adopt budgets, determine policies and appoint the city manager, who shall execute the laws and administer the City government. All powers of the City shall be exercised in the manner prescribed by this Charter, or if the manner be not so prescribed then in such manner as may be prescribed by ordinance.

## **Section 1.4. Powers.**

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

## **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 by this Charter, or by ordinance hereafter enacted.

#### **Section 2.2. Municipal elections.**

A general municipal election shall be held on the first Tuesday after the first Monday in May of 1971, and biennially thereafter. Any special municipal election may be called by resolution or ordinance of the council at least sixty (60) days in advance of such election. The resolution or ordinance calling a special municipal election shall set forth the purpose or purposes of such election. Polling places for all municipal elections shall be open from 7:00 a.m. to 7:00 p.m. on election day.

### **Section 2.3. Election precincts.**

The City shall constitute one voting precinct, provided that the council may for the convenience of voters, establish three (3) or more precincts forty-five (45) days or more prior to any election, by ordinance. The precincts so established by ordinance shall remain for subsequent elections until otherwise provided by ordinance. The council shall determine the maximum number of electors for each precinct, and each precinct shall be substantially equal in the number of electors.

### **Section 2.4. Election commission.**

An election commission is hereby created, consisting of the city clerk and two (2) qualified and registered electors of the city, who during their term of office shall not be city officers or employees or candidates or nominees for elective city office. These two (2) members shall be appointed by the council in the first July following a regular city election for a term of two (2) years, and shall serve without compensation. The city clerk shall be chairman. The election commission shall have charge of all activities and duties required of it by statute and this Charter relating to the conduct of elections in the city. In any case where election procedure is in doubt, the election commission shall prescribe the procedure to be followed.

The commission shall provide procedures to establish proof of residency qualification where residency is in question. Upon a showing for good cause, the commission may require proof of residency by any person registered to vote or attempting to register to vote in the City of Aspen. Said person shall not be qualified to vote in any municipal election until the commission is satisfied that he has presented sufficient proof of residency as required by law or by ordinance adopted pursuant to this Charter.

The election commission shall provide for ballots and sample ballots or voting machines, for determination of the winner in the event of a tie vote, for canvass of returns, and for issuance of appropriate certificates.

### **Section 2.5. Recall.**

Any elected officer of the City may be recalled at any time after six (6) months in office by the electors entitled to vote for a successor of such incumbent through the procedure and in the manner provided for in Article XXI of the Constitution and Part 5, Article 4 of Title 31 of Colorado Revised Code, as may be amended from time to time. Any five (5) qualified electors may commence recall proceedings by filing with the clerk an affidavit stating that they will constitute the petitioner's committee and be responsible for circulating the petition and filing it in proper form, and stating the name and address of one person to which all notices to the committee are to be sent. (Ord. No. 42-2003, § 1)

### **Section 2.6. Non-partisan elections.**

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

### **Section 2.7. Instant Runoff voting procedures.**

The City Council shall, by ordinance, establish instant run-off voting procedures to be used for the election of Mayor and members of Council when run-off elections are required by this Charter. (Ord. 38-2008; Ord No. 39-2000, § 1 (part))

## ARTICLE III

### COUNCIL

#### **Section 3.1. The council.**

The City shall be governed by a council of four (4) councilmen and a mayor. All councilmen and mayor shall be nominated and elected at large from the entire City. (Ord. No. 46-1980, § 1)

#### **Section 3.2. Terms of office.**

At all municipal elections thereafter, the two (2) candidates receiving the highest number of votes shall be elected for a four year term, provided that the candidate receives fifty percent (50%) plus one vote or more of the votes cast. (Ord. No. 46-1980, § 1; Ord. No. 39-2000, § 1 (part); Ord. No. 38-2007))

#### **Section 3.3. Mayor.**

The mayor shall be elected at large from the entire city for a term of two (2) years. The candidate receiving a majority of the votes cast for the office shall be elected mayor. In the event that no candidate shall have received a majority of the votes cast for the office, then a run-off election shall be held in accordance with Section 2.7.

The mayor shall preside at meetings of the council and shall exercise such powers and perform such other duties as are or may be conferred and imposed upon him by this Charter or the ordinances of the City. He shall have all of the powers, rights, privileges and obligations of a council member. He shall be recognized as the head of the city government for all ceremonial and legal purposes and he shall execute and authenticate legal instruments requiring his signature as such official. (Ord. 39-2000, § 1 (part))

#### **Section 3.4. Powers of council.**

The council shall be the legislative and governing body of the City and shall exercise, except as otherwise provided in this Charter, all powers conferred upon or possessed by the City and shall adopt such laws, ordinances and resolutions as it shall deem proper.

#### **Section 3.5. Qualifications.**

Each councilman and the mayor when nominated and elected shall be an elector of the City and a citizen of the United States for at least one (1) year and shall have resided in the City of Aspen for at least one (1) year. No councilman or the mayor shall be a salaried employee of the City during his term of office, perform personal services for the City for which he is compensated other than as provided in Section 3.6. The council shall be the judge of election and qualifications of its own members.

#### **Section 3.6. Compensation.**

The members of the council shall receive such compensation, and the mayor such additional compensation, as the council shall prescribe by ordinance; provided, however, that the compensation of any member during his term of office shall not be increased or decreased. The mayor and councilmen may, upon order of the council, be paid their actual and necessary expenses incurred in the performance of their duties of office.

#### **Section 3.7. Mayor pro-tem.**

The mayor pro-tem shall be elected by council from its own membership. Said election shall take place at the organizational meeting following each general municipal election. The mayor pro-tem shall serve until the next organizational meeting unless sooner removed by a majority vote of the entire council. In the

absence or disability of the mayor, the mayor pro-tem shall perform all duties and have all powers of the mayor. In the event of a vacancy in the office of mayor pro-tem, the council shall choose his successor.

**Section 3.8. Vacancies.**

(An elected officer shall continue to hold his office until his successor is duly qualified. An elective office shall become vacant whenever any officer is recalled, dies, becomes incapacitated, resigns, or ceases to be a resident of the City, or is convicted of a felony. Within thirty (30) days after a vacancy occurs, the remaining councilmembers shall choose by majority vote a duly qualified person to fill such vacancy until the next general municipal election after such vacancy occurs, when such vacancy shall be filled by election. If three (3) or more vacancies exist simultaneously or a vacancy occurs because of the recall of a councilmember or mayor, the remaining members of the council shall, at the next regular meeting of the council, call a special election to fill such vacancies, provided there shall not be a general municipal election within ninety (90) days or that their successors have not previously been elected. Provided, further that the city council may, by ordinance, adopt special procedures for the election of the successor to a recalled councilmember or the mayor, such election to be held simultaneously with the recall election. (Ord. No. 48-1974; Ord. No. 18-1979)

**Section 3.9. Oath of office.**

Before entering upon the duties of his office, every councilman, the mayor and other city officers shall take, subscribe before, and file with the city clerk, an oath or affirmation that he will support the Constitution of the United States, the Constitution of the State of Colorado, this Charter and the ordinances of the City and will faithfully perform the duties of the office.

**ARTICLE IV**

**COUNCIL PROCEDURE**

**Section 4.1. Regular meetings.**

The council shall meet regularly at least twice each month at a day and hour to be fixed by the rules of council. The council shall determine the rules of procedure governing meetings. The first regular meeting in the month of June following each general municipal election shall be known as the organizational meeting of the council.

**Section 4.2. Special meetings.**

Special meetings shall be called by the city clerk on the written request of the mayor or of any two (2) members of the council, on at least twenty-four (24) hours written notice to each member of the council, served personally or left at his usual place of residence; a special meeting, however, may be held on shorter notice if all members of the council are present or have waived notice thereof in writing.

**Section 4.3. Business at special meetings.**

No business shall be transacted at any special meeting of the council unless it has been stated in the notice of such meeting. Any business which may lawfully come before a regular meeting may be transacted at a special meeting if all the members of the council present consent and all the members absent file their written consent.

#### **Section 4.4. Quorum: Adjournment of meeting.**

A majority of the members of the council in office at the time shall be a quorum for the transaction of business at all council meetings, but in the absence of a quorum a lesser number may adjourn any meeting to a later time or date, and in the absence of all members the city clerk may adjourn any meeting for not longer than one week.

#### **Section 4.5. Meetings to be public.**

All regular and special meetings of the council shall be open to the public and citizens shall have a reasonable opportunity to be heard under such rules and regulations as the council may prescribe.

#### **Section 4.6. Council acts.**

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. A true copy of every resolution as hereafter adopted shall be numbered and recorded in the official records of the city.

#### **Section 4.7. Voting.**

The vote by "Yes" and "No" shall be taken upon the pass age of all ordinances and resolutions, and entered upon the minutes of the council proceedings. Every ordinance shall require the affirmative vote of a majority of the entire council for final passage. Resolution and motions shall require the affirmative vote of a majority of the members present. No member of the council shall vote on any question in which he has a substantial personal or financial interest, other than the common public interest, or on any question concerning his own conduct, and in said instances the member shall disclose this interest to the council. On all other questions each member who is present shall vote when his name is called. Any member refusing to vote except when not so required by this paragraph shall be guilty of misconduct in office.

#### **Section 4.8. 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, shall be by ordinance; provided, however, that this section shall not apply to the budget adoption in Section 9.8. Ordinances making appropriations shall be confined to the subject of appropriation.

#### **Section 4.9. Form of ordinance.**

Every ordinance shall be introduced in written or printed form. The enacting clause of all ordinances shall be BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ASPEN, COLORADO. Except as otherwise provided in this article, all ordinances shall take effect thirty days after final passage or a later date as specified in the ordinance. (Ord. No. 42-2003, § 2)

#### **Section 4.10. Procedure.**

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 meeting of the council by any member thereof.

(b) The ordinance shall be read in full or, in cases where copies of the ordinance are available to the council and to those persons in attendance at said council meeting, said ordinance may be read by title only.

(c) After the first reading of the ordinance, the same shall be approved or rejected by a vote of the council.

(d) If the ordinance is approved on first reading, it shall be published in full unless otherwise provided herein. The council shall set a day, hour, and place at which council shall hold a public hearing on the ordinance and notice of said day, hour and place shall be included in the first publication.

(e) The ordinance shall be introduced at council a second time, at a meeting not earlier than seven (7) days after first publication, for final approval, rejection, or other action as may be taken by vote of the council. This meeting may be the same meeting at which the public hearing on the ordinance is held. The ordinance may be amended before final approval by vote of the council.

(f) Except as otherwise provided herein, an ordinance, if amended, shall be published in full after final passage, but if not amended, it shall be published either by title or in full as the council may determine.

(g) Whenever an ordinance shall be published by reference or by title, the publication shall contain a summary of the subject matter of said ordinance and shall contain a notice to the public that copies of the proposed ordinance are available at the office of the city clerk. The publication of any ordinance by reference or by title as provided herein must set forth in full any penalty clause contained in said ordinance.

#### **Section 4.11. Emergency ordinances.**

Emergency ordinances for the preservation of public property, health, peace, or safety shall be approved only by the unanimous vote of council members present or a vote of four (4) council members, whichever is less. The facts, showing such urgency and need shall be specifically stated in the measure itself. No ordinance making a grant of any special privilege, levying taxes, or fixing rates charged by any city-owned utility shall ever be passed as an emergency measure. An emergency ordinance shall require passage at two (2) meetings of the council. However, neither a public hearing nor a first publication as provided in Section 4.10 shall be required. An emergency ordinance shall take effect upon final passage. Publication shall be within ten (10) days after final passage, or as soon thereafter as possible. (Ref. of 5-5-87)

#### **Section 4.12. Codification.**

The council shall cause the ordinances to be codified and thereafter maintained in current form. Revisions to the codes may be accomplished by reference as provided in Section 4.13.

#### **Section 4.13. Codes.**

Standard codes, promulgated by the Federal Government, the State of Colorado, or by any agency of either of them, or by any municipality within the state of Colorado, or by recognized trade or professional organizations, or amendments or revisions thereof, may be adopted by reference; provided the publication of the ordinance adopting any said code shall advise that copies are available for inspection at the office of the city clerk, and provided that any penalty clause may be adopted only if set forth in full and published in the adopting ordinance.

#### **Section 4.14. Disposition of ordinances.**

A true copy of every ordinance, as adopted by council shall be numbered and recorded in the official records of the City. Its adoption and publication shall be authenticated by the signature of the mayor, or mayor pro-tem, and the city clerk, and by the certificate of publication. A true copy of every ordinance, as adopted by the vote of the electors of the City, shall be separately numbered and recorded commencing with Peoples' Ordinance No. 1.

#### **Section 4.15. Public records.**

All public records of the City of Aspen shall be open for inspection by any person at reasonable times in accordance with state statutes existing at the present time or hereafter enacted.

### **ARTICLE V**

#### **INITIATIVE AND REFERENDUM**

##### **Sec. 5.1. General authority.**

(a) Initiative. The registered electors of the City may initiate a proposed ordinance, pursuant to the initiative power reserved by Article V, Section 1(9) of the State Constitution, as to any legislative matter which is subject to said legislative power.

(b) Referendum. The registered electors of the City may require an adopted ordinance to be referred to them at an election, pursuant to the referendum power reserved by Article V, Section 1(9) of the State Constitution, to the extent the ordinance constitutes a legislative matter that is subject to said referendum power. (Ord. No. 42-2003, § 3)

##### **Section 5.2. Manner and procedure for exercising the powers of initiative and referendum.**

The manner and procedure for exercising the powers of initiative and referendum shall be as set forth in Article 11 of Title 31 of the Colorado Revised Statutes, as may be amended from time to time by the state legislature; except as otherwise provide in this Charter. (Ord No. 42-2003, § 3)

##### **Section 5.3. Exceptions to state statutes.**

Notwithstanding any language to the contrary contained in Article 11 of Title 31 of the Colorado Revised Statutes, as amended, the following manner and procedure shall apply for exercising the powers of initiative and referendum in the City:

(a) Number of signatures. Initiative petitions must be signed by electors of the City in number to at least fifteen (15) percent of the total number of electors registered to vote at the last general municipal election. Referendum petitions must be signed by electors of the City equal in number to at least ten (10) percent of the total number of electors registered to vote at the last general municipal election.

(b) Supplementing petitions. An original petition certified insufficient for lack of the required number of valid signatures may be amended once if all persons designated in the original petition as representing the signers on matters affecting the petition file a notice of intent to amend it with the city clerk within two (2) days after receiving the copy of the certificate and file a supplementary petition upon additional forms within ten (10) days after receiving the copy of such certificate. Such supplementary petition shall comply with the requirements of state statutes for the form of the original petitions, and five (5) days after it is filed, the city clerk shall complete a certificate as to the sufficiency of the petition as amended and promptly send a copy of such certificate to all persons designated in the petition as representing the signers on matters affecting the

petition as in the case of an original petition. Upon the filing of a notice of intent to amend, the ordinance shall be suspended from taking effect as provided by state statute upon the filing of an original petition. (Ord. No. 42-2003, § 3)

**Section 5.4. Amendments or repeal of adopted or repealed ordinances.**

An ordinance adopted by the electorate may not be amended or repealed 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 re-enacted for a period of six (6) months after the date of the election at which it was repealed; provided, however, that any ordinance may be adopted, amended or repealed at any time by appropriate referendum or initiatory procedure in accordance with the foregoing provisions of this article, or if submitted to the electorate by the council on its own motion. (Ord. No. 42-2003, § 3)

**Section 5.5. Submission by council.**

The council on its own motion, shall have the power to submit at a general or special election any proposed ordinance or question to a vote of the people in a manner as in this article provided. (Ord. No. 42-2003, § 3)

**Section 5.6. Action on petitions.**

(a) Action by council. When an initiative or referendum petition has been finally determined sufficient, the council shall promptly consider the proposed initiative ordinance in the manner provided in Article IV or reconsider the referred ordinance by voting its repeal; provided, however, that the council shall have power to change the detailed language of any proposed initiative ordinance so long as the general character of the measure will not be substantially altered; and provided further, that repeal of any referred ordinance may be effected only by a three-fourths majority vote of the entire council.

(b) Submission to voters. The vote of the City on a proposed or referred ordinance shall be held not less than thirty (30) days and not later than ninety (90) days from the date of the final council vote thereon. If no regular city election is to be held within the period prescribed in this subsection, the council shall provide for a special election; otherwise, the vote shall be held at the same time as such regular election, except that the council may in its discretion provide for a special election at an earlier date within the prescribed period. Copies of the proposed or referred ordinance shall be made available to the public within a reasonable time before the election and also at the polls at the time of the election.

(c) Withdrawal of petitions. An initiative or referendum petition may be withdrawn at any time prior to the fifteenth day preceding the day scheduled for a vote of the City by filing with the city clerk a request for withdrawal signed by at least three (3) members of the petitioners' committee. Upon the filing of such request the petition shall have no further force or effect and all proceedings thereon shall be terminated.

**Section 5.7. Submission by council.**

The council on its own motion, shall have the power to submit at a general or special election any proposed ordinance or question to a vote of the people in a manner as in this article provided.

**Section 5.8. Results of election.**

(a) Initiative. If a majority of the electors voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification of the election results. If conflicting ordinances are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

(b) Referendum. If a majority of the electors voting on a referred ordinance vote against it, it shall be considered repealed upon certification of the election results.

(c) An ordinance adopted by the electorate may not be amended or repealed 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 re-enacted for a period of six (6) months after the date of the election at which it was repealed; provided, however, that any ordinance may be adopted, amended or repealed at any time by appropriate referendum or initiatory procedure in accordance with the foregoing provisions of this article, or if submitted to the electorate by the council on its own motion.

## ARTICLE VI

### CITY ADMINISTRATION

#### **Section 6.1. Manager.**

The city manager shall be the chief administrative officer of the City. The council, by a majority vote, shall appoint a city manager within a reasonable time whenever a vacancy exists in such position. Such appointment shall be without definite term and shall be at a salary to be fixed by council. The manager shall be appointed without regard to any consideration other than his fitness, competency, training and experience as a manager. At the time of his appointment, he need not be a resident of the City or State, but during tenure of office he shall reside within the City except at the discretion of the council. No member of the council shall be appointed manager during the term for which he shall have been elected, nor within one year after the expiration of his term.

#### **Section 6.2. Acting manager.**

The council may appoint an acting city manager during the period of vacancy in the office, or during the absence or disability of the city manager. Such acting city manager shall, while he is in such office, have all the responsibilities, duties, functions and authority of the city manager.

#### **Section 6.3. Powers and duties.**

The manager shall be responsible to the council for the proper administration of all affairs of the City placed in his charge, and to that end he shall have the power and duty and be required to:

- (a) Be responsible for the enforcement of the laws and ordinances of the City;
- (b) Hire, suspend, transfer and remove city employees;
- (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) Cause a proposed budget to be prepared 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 for adoption 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) Be responsible for the enforcement of all terms and conditions imposed in favor of the City in any contract or public utility franchise, and upon knowledge of any violation thereof, report the same to the council for such action and proceedings as may be necessary to enforce the same;

(i) Attend council meetings and participate in discussions with the council in an advisory capacity;

(j) Establish a system of accounting and auditing for the City which shall reflect, in accordance with generally accepted accounting principles, the financial condition and financial operation of the City;

(k) Provide for engineering, architectural, maintenance and construction services required by the City; and

(l) Perform such other duties as may be prescribed by this Charter, or by ordinance, or required of him by council which are not inconsistent with this Charter.

#### **Section 6.4. Removal of manager.**

The council at a regular or special meeting may, upon the vote of the majority of the entire council, remove the city manager from office. Upon such termination the council may in its discretion provide termination pay.

#### **Section 6.5. Relationship of council to administrative service.**

Neither the council, its members, the mayor, nor any council committee shall dictate the appointment of any person to office by the city manager except as otherwise provided in this Charter or in any way interfere with the city manager or other city officer to prevent him from exercising his judgment in the appointment or employment of officers and employees in the administrative service. Except for the purpose of inquiry, the council, its members, the mayor, and any council committee shall deal with the administrative service solely through the city manager and neither the council, its members, the mayor, nor any council committee thereof shall give orders to any of the subordinates of the city manager.

#### **Section 6.6. City clerk.**

The manager with the approval of council shall appoint a city clerk, who shall be custodian of the city seal and who shall keep a journal of council proceedings and record in full all ordinances, motions and resolutions. He shall have power to administer oaths and take acknowledgments under seal of the City, and shall perform such other duties as required by this Charter, the council, or the manager.

#### **Section 6.7. Director of finance.**

There shall be a director of finance who shall be appointed by the city manager with approval of council, to serve at the pleasure of the city manager. The city manager may also appoint a deputy or deputies to serve under the supervision of the director of finance who shall have authority to act in the absence of the director of finance.

**Section 6.8. Duties and powers of director of finance.**

The director of finance shall also be the city treasurer. He shall keep and supervise all accounts; receive and have custody of all monies of the City; collect special city taxes, electric and water fees and charges; issue licenses and collect fees therefor; make and keep public records of the City not specifically entrusted to any other department by this Charter or by ordinance; and perform such other duties pertaining to the department of finance as required by this Charter, the council or the manager.

**Section 6.9. Departments created.**

The administrative functions of the City shall be performed by the departments existing at the time this Charter is adopted and such other departments as may be hereafter established by ordinance. Upon recommendation of the city manager, the council may, by ordinance, consolidate or merge any of the said departments, whether set forth in this Charter or created by ordinance.

**Section 6.10. Bonding of employees.**

All city officials and employees dealing directly with municipal funds shall post bond in an amount and under such conditions as required by council.

**ARTICLE VII**

**LEGAL AND JUDICIARY**

**Section 7.1. City attorney.**

The council shall appoint a city attorney to serve at the pleasure of council. He shall be an attorney-at-law admitted to practice in Colorado. The city attorney shall be the legal representative of the City and he shall advise the council and city officials in matters relating to their official powers and duties and perform such other duties as council may prescribe by ordinance or resolution. The council may provide the city attorney such assistants as council may deem necessary, and may on its own motion or upon request of the city attorney in special cases employ special counsel to serve under the direction of the city attorney. Council shall establish compensation for the city attorney, his assistants and special counsel.

**Section 7.2. Judiciary.**

(a) Municipal judge. There shall be a municipal court vested with exclusive original jurisdiction of all criminal and traffic causes arising under the ordinances of the city and as may be conferred by law. The municipal court shall be presided over and its functions exercised by a judge appointed by the council for a specified term of no less than two (2) years. The council may re-appoint the municipal judge for a subsequent term or terms, except that the initial appointment may be for a term of office, which expires on the date of the organizational meeting of the council after the next general election. Any vacancy in the office of the municipal judge shall be filled by appointment by the council for the remainder of the unexpired term. The municipal judge shall be an attorney-at-law admitted to practice in the State of Colorado.

(b) Deputy judges. Council may appoint one or more deputy judges as it deems necessary. The deputy municipal judges shall all have the powers of the municipal judge when called upon to act by the municipal judge or the council. In the event that more than one municipal judge is appointed, the council shall designate a presiding municipal judge, who shall serve in his capacity during the terms for which he was appointed. The deputy municipal judges shall be attorneys admitted to practice in the State of Colorado and serve at the pleasure of the council.

(c) Compensation. The municipal judge shall receive a fixed salary or compensation set by the council which salary or compensation shall not be dependent upon the outcome of the matters to be decided by the municipal judge. The deputy municipal judge may receive such compensation for services rendered as council may determine.

(d) Removal. Any municipal judge may be removed during his term of office only for cause. A judge may be removed for cause if:

- (1) He is found guilty of a felony or any other crime involving moral turpitude;
- (2) He has a disability which interferes with the performance of his duties, and which is, or is likely to become, of a permanent character;
- (3) He has willfully or persistently failed to perform his duties; or
- (4) He is habitually intemperate. (Ord No. 14-2005)

## **ARTICLE VIII**

### **BOARDS AND COMMISSIONS**

#### **Section 8.1. Existing boards and commissions.**

All existing boards and commissions, including the city planning commission, board of zoning adjustment and board of examiners and appeals, shall continue as established by ordinance, except as otherwise provided by ordinance or this Charter.

#### **Section 8.2. Composition of boards and commissions.**

No member of the city council, the mayor, any city employee, nor any appointed city official shall serve on any permanent board or commission heretofore established or hereafter established by council during his or her tenure as councilman, mayor, city employee or appointed official. Every member of a permanent board or commission established by this Charter and appointed by council shall be a resident of the City of Aspen for at least one (1) year and shall be a qualified elector, with the exception of the board of appeals and examiners which shall be composed of members who are either residents of the City of Aspen or of the Pitkin County for at least two (2) years. Terms of appointment to such boards and commissions shall not exceed four (4) years. There shall be no limitation on the number of terms a member may serve on any permanent board or commission. (Ord. No. 49-1980, § 1; Ord. No. 35-2001, § 1)

#### **Section 8.3. Vacancies.**

Whenever a vacancy occurs on any board or commission, the council shall cause public notice of such vacancy to be made and encourage volunteers to seek appointment to such board or commission.

#### **Section 8.4. Right to establish.**

In addition to those boards and commissions heretofore created by ordinance, council shall have the power and authority to create boards and commissions including advisory and appeal boards. All permanent boards and commissions including advisory and appeal boards shall be created by ordinance, which shall set forth the powers and duties delegated to such boards and commissions. Initial appointments by the council to any board or commission shall specify the terms of office of each individual in order to achieve over-lapping tenure. All members, however, shall be subject to removal by the council. The council shall also make appointments to fill vacancies for the unexpired terms. Each board and commission shall elect its own

chairman and vice-chairman from among its members. Each board and commission shall operate in accordance with its own rules of procedure except as otherwise directed by the council. All meetings of any board or commission shall be open to the public. Any board or commission created under this article which is not required by statute or this Charter may be abolished by the council.

## **ARTICLE IX**

### **CITY FINANCES**

#### **Section 9.1. Fiscal year.**

The fiscal year of the City shall begin on the first day of January and end on the last day of December.

#### **Section 9.2. Submission of budget and budget message.**

The city manager, prior to the beginning of each fiscal year, shall submit to the council the budget for said ensuing fiscal year and an accompanying message.

#### **Section 9.3. Budget message.**

The manager's message shall explain the budget both in fiscal terms and in terms of the work programs. It shall outline the proposed financial policies of the City for the ensuing fiscal year, describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures, and revenues, together with the reasons for such changes, summarize the City's debt position, and include such other material as the manager deems desirable or which the council may require.

#### **Section 9.4. Budget content.**

The budget shall provide a complete financial plan of all municipal funds and activities for the ensuing fiscal year and, except as required by law or this Charter, shall be in such form as the manager deems desirable or the council may require. In organizing the budget, the manager shall utilize the most feasible combination of expenditure classification by fund, organization unit, program, purpose or activity, and object. It shall begin with a clear general summary of its contents and shall be so arranged as to show comparative figures for actual and estimated income and expenditures of the preceding fiscal year. It shall indicate in separate sections:

- (a) Anticipated revenues classified as cash surplus, miscellaneous revenues, and amount to be received from property tax; cash surplus being defined for purposes of this article as the amount by which cash is expected to exceed current liabilities and encumbrances at the beginning of the ensuing fiscal year;
- (b) Proposed expenditures for current operations during the ensuing fiscal year, detailed by offices, departments and agencies in terms of their respective work programs, and the method of financing such expenditures;
- (c) A reasonable provision for contingencies;
- (d) A capital depreciation fund;
- (e) Required expenditures for debt service, judgments, cash deficient recovery and statutory expenditures;

(f) Proposed capital expenditures during the ensuing fiscal year, detailed by offices, departments and agencies when practicable, and the proposed method of financing each such capital expenditure;

(g) Anticipated net surplus or deficit for the ensuing fiscal year for each utility owned or operated by the City and the proposed method of its disposition; subsidiary budgets for each such utility giving detailed income and expenditure information shall be attached as appendices to the budget;

(h) The total of proposed expenditures and provision for contingencies shall not exceed the total of estimated revenue.

#### **Section 9.5. Capital program.**

(a) Submission. The manager, with such assistance as the council may direct, shall prepare and submit to the council a long-range capital program, simultaneously with his recommended budget.

(b) Contents. The capital program shall include:

(1) A clear general summary of its contents;

(2) A list of all capital improvements which are proposed to be undertaken during the following fiscal years, with appropriate supporting information as to the necessity for the improvement;

(3) Cost estimates, method of financing and recommended schedules for each such improvement; and

(4) The estimated annual cost of operating and maintaining the facilities to be constructed or acquired.

This information may be revised or extended each year with regard to capital improvements still pending or in process of construction or acquisition.

#### **Section 9.6. Budget hearing.**

A public hearing on the proposed budget and proposed capital program shall be held by the council on any date at least fifteen (15) days prior to the final day established by law for the certification of the ensuing year's tax levy to the county. Notice of the time and place of such hearing shall be published one time at least seven (7) days prior to the hearing.

#### **Section 9.7. Council amendments.**

After the public hearing, the council may adopt the budget with or without amendment. In amending the budget, it may add or increase programs or amounts and may delete or decrease any programs or amounts, except expenditures required by law or for debt service or for estimated cash deficit.

#### **Section 9.8. Council adoption.**

The council shall adopt the budget by resolution on or before the final day established by law for the certification of the ensuing year's tax levy to the county. If it fails to adopt the budget by this date, the amounts appropriated for the current operation for the current fiscal year shall be deemed adopted for the ensuing fiscal year on a month-to-month basis, with all items in it pro-rated accordingly, until such time as the council adopts the budget for the ensuing fiscal year.

### **Section 9.9. Property tax levy.**

Adoption of the budget by council shall constitute appropriations of the amounts specified therein as expenditures from the funds indicated and shall constitute a levy of the property tax therein proposed. Council shall cause the same to be certified to the county as required by law.

### **Section 9.10. Contingencies.**

The budget may include an item for contingencies. Except in those cases where there is no logical account to which an expenditure can be charged, expenditures shall not be charged directly to contingencies; but instead, the necessary part of the appropriation for contingencies shall be transferred to the logical account, and the expenditure charged to such account. No such transfer shall be made without the express approval of the council, and then only for expenditures which could not readily be foreseen at the time the budget was adopted.

### **Section 9.11. Public records.**

Copies of the budget and the capital program as adopted shall be public records and shall be made available to the public in the municipal building.

### **Section 9.12. Amendments after adoption.**

(a) Supplemental appropriations. If during the fiscal year the manager certifies that there are available for appropriation revenues in excess of those estimated in the budget, the council by ordinance may make supplemental appropriations for the year up to the amount of such excess.

(b) Emergency appropriations. To meet a public emergency affecting life, health, property or the public peace, the council may make emergency appropriations. Such appropriations may be made by emergency ordinance in accordance with provisions of Section 4.11. To the extent that there are no available unappropriated revenues to meet such appropriations, the council may by emergency ordinance authorize the issuance of emergency notes, which may be renewed from time to time, but the emergency notes and renewals of any fiscal year shall be paid not later than the last day of the fiscal year next succeeding that in which the emergency appropriation was made.

(c) Reduction of appropriations. If at any time during the fiscal year it appears probable to the manager that the revenues available will be insufficient to meet the amount appropriated, he shall report to the council without delay, indicating the estimated amount of the deficit, any remedial action taken by him and his recommendation as to any other steps to be taken. The council shall then take such further action as it deems necessary to prevent or minimize any deficit and for that purpose it may by ordinance reduce one or more appropriations.

(d) Transfer of appropriations. Any time during the fiscal year the manager may transfer part or all of any unencumbered appropriation balance among programs within a department, office or agency and, upon written request by the manager, the council may by resolution transfer part or all of any unencumbered appropriation balance from one department, office, agency, or object to another.

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

**Section 9.13. Administration of budget.**

(a) Work programs and allotments. The manager may require each department, office or agency to submit work programs for the ensuing fiscal year showing the requested allotment of its appropriation by periods within the year. The manager shall review and authorize such allotments with or without revision as early as possible in the fiscal year. He may revise such allotments during the year if he deems it desirable and shall revise them to accord with any supplemental, emergency, reduced or transferred appropriation made pursuant to Section 9.12.

(b) Payments and obligations prohibited. No payments shall be made or obligation incurred against any allotment or appropriation except in accordance with appropriations duly made and unless the manager first certifies that there is a sufficient unencumbered balance in such allotment or appropriation and that sufficient funds therefrom are or will be available to cover the claim or meet the obligation when it becomes due and payable. Any authorization of payment or incurring of obligation in violation of the provisions of this Charter shall be void and any payment so made illegal; such action shall be cause for removal of any officer who knowingly authorized or made such payment or incurred such obligation, and he shall also be liable to the city for any amount so paid. However, except where prohibited by law, nothing in this Charter shall be construed to prevent the making or authorizing of payments or making of contracts for capital improvements to be financed wholly or partly by the issuance of bonds, or to prevent the making of any contract or lease providing for payments beyond the end of the fiscal year, provided that such act was made or approved by ordinance.

(c) Monthly budget report. The city manager shall submit to the council a list of budget accounts, bank reconciliations, the status of each budget account, and such other budgetary information as may be required by council in the form of a monthly budget report.

**Section 9.14. Independent audit.**

An independent audit shall be made of all city accounts at least annually, and more frequently if deemed necessary by the council. Such audit shall be made by certified or registered public accountants, experienced in municipal accounting, selected by the council. Copies of such audit shall be made available for public inspection at the municipal building.

**ARTICLE X**

**MUNICIPAL BORROWING**

**Section 10.1. Forms of borrowing.**

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

- (a) Short-term notes,
- (b) General obligation bonds and other like securities,
- (c) Revenue bonds and other like securities,
- (d) Local improvement bonds and other like securities.

**Section 10.2. Short-term notes.**

The municipal government, upon the affirmative vote of the majority of the entire council, may 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 borrowed.

### **Section 10.3. General obligation bonds.**

No bonds or other evidence of indebtedness payable in whole or in part from the proceeds of general property taxes or to which the full faith and credit of the City are pledged, shall be issued, except in pursuance of an ordinance, nor until the question of their issuance shall, at a special or general election, be submitted to a vote of the electors and approved by a majority of those voting on the question; qualified electors of the City shall mean those duly qualified to vote at a general or special election in the City of Aspen unless the city council for sufficient reason shall by ordinance calling the election, restrict or limit such classification of electors to taxpaying electors as may be defined by ordinance adopted by the city council, provided, however, that such securities issued for acquiring utilities and rights thereto, or acquiring improving or extending any municipal utility system, or any combination of such purposes, may be so issued without an election.

### **Section 10.4. Limitation of indebtedness.**

The City shall not become indebted for any purpose or in any manner in an amount which, including existing indebtedness, shall exceed twenty (20) percent of the assessed valuation of the taxable property within the City, as shown by the last preceding assessment for City purposes; provided, however, that in determining the limitation of the City's power to incur indebtedness there shall not be included bonds issued for the acquisition or extension of a water system or public utilities; or bonds or other obligations issued for the acquisition or extension of enterprises, works or ways from which the City will derive a revenue in accordance with Section 10.5 of this article.

### **Section 10.5. Revenue bonds.**

The City may borrow money, issue bonds, or otherwise extend its credit for purchasing, constructing, condemning, otherwise acquiring, extending, or improving a water, electric, gas or sewer system, or other public utility or income-producing project provided that the bonds or other obligations shall be made payable from the net revenues derived from the operation of such system, utility or project, and providing further that any two (2) or more of such systems, utilities, and projects may be combined, operated, and maintained as joint municipal systems, utilities, or projects in which case such bonds or other obligations shall be made payable out of the net revenue derived from the operation of such joint systems, utilities or projects. Such bonds shall not be considered a debt or general obligation of the City for the purposes of determining any debt limitation thereof.

The City shall, in addition, have the authority to issue revenue bonds payable from the revenue or income of the system, utility or project to be constructed or installed with the proceeds of the bond issue, or payable in whole or in part from the proceeds received by the City from the imposition of a sales or use tax by the State of Colorado, or any agency thereof.

Such bonds shall not be considered a debt or general obligation of the City, and shall not be included as part of the indebtedness of the City for the purposes of determining any debt limitation thereof. The City shall further have the opportunity to issue revenue bonds for such purpose or purposes as may be more particularly set forth by an ordinance or ordinances of the City, the bonds to be payable in whole or in part from the proceeds of the Real Estate Transfer Tax imposed by the City. Such bonds shall not be considered a debt or a general obligation of the City, and shall not be included as part of the indebtedness of the City for purposes of determining any debt limitation thereof. Such Real Estate Transfer Tax shall not be considered a sales or use tax within the meaning of any provisions of this Charter relating to sales and use tax revenue bonds.

No revenue bonds shall be issued until the question of their issuance shall have been approved by a majority of the electors voting on the question at a regular or special election; provided, however, that revenue bonds payable solely from the proceeds of the Real Estate Transfer Tax may be issued without an election; and provided further, however, that industrial development revenue bonds may be issued pursuant to the provisions of the County and Municipal Development Revenue Bond Act and without an election. (Referendum of 4-6-71; Ord. No. 48-1980)

**Section 10.6. Refunding bonds.**

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 of the same nature, or in advance of maturity by means of an escrow or otherwise.

**Section 10.7. Special or local improvement district bonds.**

The City shall have the power to create local improvement districts and to assess the cost of the construction or installation of special or local improvements of every character against benefited property within designated districts in the City by:

(a) Order of council, subject, however, to protest by the owners of a majority of all property benefited and constituting the basis of assessment as the council may determine.

(b) On a petition by the owners of more than fifty (50) percent of the area of the proposed district, provided that such majority shall include not less than fifty (50) percent of the landowners residing in the territory.

In either event, a public hearing shall be held at which all interested parties may appear and be heard. Right to protest and notice of public hearing shall be given as provided by council by ordinance. Such improvements shall confer special benefits to the real property within said district and general benefits to the City at large. The council shall have the power by ordinance without an election to prescribe the method of making such improvements, of assessing the cost thereof, and of issuing bonds for cost of constructing or installing such improvements including the costs incidental thereto.

Where all outstanding bonds of a special or local improvement district have been paid and any monies remain to the credit of the district, they shall be transferred to a special surplus and deficiency fund and whenever there is a deficiency in any special or local improvement district fund to meet the payments of outstanding bonds and interest due thereon, the deficiency shall be paid out of said surplus and deficiency fund. Whenever a special or local improvement district has paid and cancelled three-fourths of its bonds issued, and for any reason the remaining assessments are not paid in time to take up the remaining bonds of the district and the interest due thereon, and there is not sufficient monies in the special surplus and deficiency fund, then the City shall pay said bonds when due and the interest due thereon, and reimburse itself by collecting the unpaid assessments due said district.

In consideration of general benefits conferred on the City at large from the construction or installation of improvements in improvement districts, the Council may levy annual taxes on all taxable property within the City at a rate not exceeding four (4) mills in any one year, to be disbursed as determined by the Council for the purpose of paying for such benefits, for the payment of any assessment levied against the City itself in connection with bonds issued for improvement districts, or for the purpose of advancing monies to maintain current payments of interest and equal annual payments of the principal amount of bonds issued for any improvement district hereinafter created. The proceeds of such taxes shall be placed in a special fund and shall be disbursed only for the purposes specified herein, provided that in lieu of such tax levies, the Council may annually transfer to such special fund any available monies 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.

**Section 10.8. Long term installment contracts, rentals and leaseholds.**

In order to provide necessary land, buildings, equipment and other property for governmental or proprietary purposes, the City is hereby authorized to enter into long term installment purchase contracts and rental or leasehold agreements. Such agreements may include an option or options to purchase and acquire title to such property within a period not exceeding the useful life of such property, and in no case exceeding forty (40) years. Each such agreement and the terms thereof shall be approved by an ordinance duly enacted by the City. The city council is authorized and empowered to provide for the payment of said payments or rentals from a general levy imposed upon both personal and real property included within the boundaries of the City, or by imposing rates, tolls and service charges for the use of such property or any part thereof by others, or from any other available municipal income, or from any one or more of the above sources. Provided, that nothing herein shall be construed to eliminate the necessity of voter approval of a tax or levy if otherwise required by this Charter. The obligation to make any payments or pay any rentals shall constitute an indebtedness of the City within the meaning of the Charter limitation on indebtedness. Property acquired or occupied pursuant to this Charter shall be exempt from taxation so long as used for authorized governmental or proprietary functions of the City. (Ord. No. 12-1975)

**ARTICLE XI**

**PUBLIC UTILITIES AND FRANCHISES**

**Section 11.1. General powers.**

The City shall have and exercise with regard to all utilities and franchises, all municipal powers, including without limitation, all powers now existing and which may be hereafter provided by the constitution and statutes. The right of the City to construct, purchase, or condemn any public utility, work or way, is expressly reserved. Except as otherwise provided by constitution, or this Charter, all powers concerning the granting, amending, revoking, or otherwise dealing in franchises shall be exercised by the council.

**Section 11.2. Water rights.**

The City shall have the power to buy, exchange, lease, own and control water rights.

**Section 11.3. Utility rates and service areas.**

The council shall by ordinance establish rates for services provided by municipality-owned utilities. All newly-annexed territory shall be served by municipal utilities within a reasonable period of time after annexation. If the council desires to extend the municipal water utility transmission lines beyond city boundaries, it shall do so by ordinance.

**Section 11.4. Granting of franchises.**

No franchise shall be granted except upon approval by a majority of the electors voting thereon.

**Section 11.5. Franchise records.**

The council shall cause to be kept in the office of the city clerk an indexed franchise record in which shall be transcribed copies of all franchises heretofore and hereafter granted. The index shall give the name of the grantee and any assignees. The record, a complete history of all such franchises, shall include a compre-

hensive and convenient reference to all actions at law affecting the same, and copies of all annual reports and such other matters of information and public interest as the council may from time to time require.

**Section 11.6. Existing franchises.**

All franchise ordinances of the City 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 as provided in Section 11.4.

**ARTICLE XII**

**TAXATION**

**Section 12.1. Authority to levy taxes.**

The council may levy and collect taxes for municipal purposes including, without limitation general ad valorem property taxes, and it may levy and collect special assessments for local improvements as provided in this Charter; provided, however, that no income tax, sales tax or excise tax shall be levied after the adoption of this Charter until such tax shall have been approved by majority of the electors voting at a regular or special election.

**ARTICLE XIII**

**MISCELLANEOUS LEGAL PROVISIONS**

**Section 13.1. Eminent domain.**

The City shall have the right to eminent domain as provided by the constitution and the statutes.

**Section 13.2. Reservation of power.**

The power to supersede any law of this state now or hereafter in force, insofar as it applies to local or municipal affairs shall be reserved to the City, acting by ordinance, subject only to restrictions of Article XX of the state constitution.

**Section 13.3. Liability of City.**

All claims and actions for the recovery of compensation for personal injury, death, or property damage against the City on account of its negligence shall be governed by the Colorado Governmental Immunity Act as now existing or as hereafter modified or amended. (Ord. 46-1992 §3, Election August 11, 1992)

**Section 13.4. Restrictions on the sale or change in use of property.**

Council shall not sell, exchange or dispose of public building, utilities or real property in use for public purposes, including real property acquired for open space purposes, without first obtaining the approval of a majority of the electors voting thereon. Additionally, the city council shall not cause or permit the change in use of the real property acquired for open space purposes, other than for recreational, agricultural or underground easement purposes, without first obtaining the approval of a majority of the electors voting thereon. No real property acquired for open space purposes shall be sold, exchanged, disposed of, or converted to other uses other than for recreational, agricultural or underground easement purposes, unless such open space is replaced with other open space property of equivalent or greater value as of the date of sale or conversion as determined by the City Council by resolution following a public hearing taking into consideration monetary, environmental, and aesthetic values. (Ord. No. 14-1982; election 11/2/1999)

### **Section 13.5. Co-operative contracts.**

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

### **Section 13.6. Grants to regional service authorities.**

In the interest of governmental services provided on a regional or area-wide basis and the benefits realized by the City of Aspen from said service, the council may by ordinance provide grants of municipal funds and services to regional service authorities existing at the time this Charter becomes effective or thereafter created.

### **Section 13.7. Bequests, gifts and donations.**

Council, on behalf of the City, may receive or refuse 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 purpose of such gifts, bequests, and donations with power to manage, sell, lease, or otherwise dispose of the same in accordance with the terms of the gift, bequest, or trust.

### **Section 13.8. Emergency powers.**

In case of riot, insurrection or extra-ordinary emergency, the mayor, or in his absence, the manager, shall assume general control of the city government and all branches and be responsible for the suppression of disorders and the restoration of normal conditions. At any time of threatened or actual civil insurrection, the mayor shall:

- (a) Proclaim the existence and termination of a threatened or actual civil insurrection;
- (b) Request the governor's proclamation at his discretion if he believes that the resources and ability of the community are inadequate to cope with the peril;
- (c) Convene the council within two (2) days if it appears that the state of civil insurrection will continue for more than two (2) days;
- (d) Execute all his normal powers and all his special powers lawfully conferred upon him including, but not limited to, establishing written rules and regulations governing conduct and activities reasonably related to the protection of life and property and to the suppression of the civil insurrection.

### **Section 13.9. Severability of Charter provisions.**

If any provision, section, article or clause of this Charter or the application thereof to any person or circumstance shall be found to be invalid by a court, such invalidity shall not affect any remaining portion or application of the Charter which can be given effect without the invalid portion or application, provided such remaining portions or applications are not determined by the court to be inoperable, and to this end this charter is declared to be severable.

### **Section 13.10. Charter amendments.**

This Charter may be amended at any time in the manner provided by the constitution. 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 (2) or more proposed amendments adopted or approved at the same election conflict, the amendment receiving the highest affirmative vote shall become effective.

### **Section 13.11. Interpretations.**

Except as otherwise specifically provided or indicated by the context hereof, all words used in this Charter indicating the present tense shall not be limited to the time of the adoption of this Charter but shall extend to and include the time of the happening of any event or requirement for which provision is made herein. The singular number shall include the plural, the plural shall include the singular and the masculine gender shall extend to and include the feminine gender and neuter, and the word "person" may extend and be applied to bodies politic and corporate and to partnerships as well as to individuals.

### **Section 13.12. Definitions.**

As used in this Charter the following words and phrases shall have the following meanings:

- (a) *Appropriation.* The authorized amount of monies set aside for expenditures during a specified time for a specific purpose.
- (b) *City.* City of Aspen, Colorado, a municipal corporation.
- (c) *Council.* The city council of the City of Aspen, including the mayor, unless provided otherwise.
- (d) *Manager.* The city manager of the City of Aspen appointed pursuant to Section 6.1.
- (e) *Franchise.* An irrevocable privilege granted by the City permitting a specified use of public property for a specified length of time.
- (f) *Employee.* A person employed by the City of Aspen.
- (g) *General municipal election.* A municipal election held every two (2) years at which candidates for elective offices of the City are voted upon in accordance with this Charter.
- (h) *Public utility.* Any person, firm, or corporation operating heat, power, or light systems, communication systems, water, sewer or scheduled transportation systems, and serving or supplying the public under a franchise granted by the City.
- (i) *Officer.* Any person elected to office or appointed by council, including appointees to boards and commissions.
- (j) *Constitution.* The Constitution of the State of Colorado.
- (k) *Statutes.* The applicable laws of the State of Colorado as they now exist or as they may be amended, changed, repealed or otherwise modified by legislative procedure.
- (l) *Elector.* A person qualified to vote under the Constitution and Statutes of the State of Colorado.
- (m) *Permanent board or commission.* A board or commission intended by council to be a part of the permanent governmental structure of the City of Aspen as established by ordinance.

### **Section 13.13 Specially Designated Spaces.**

(a) Specially Designated Spaces. The following City-owned properties are hereby identified as Specially Designated Spaces:

- (1) The Ute Cemetery.

(2) The John Denver Sanctuary at the Rio Grande Park.

(b) Uses of Specially Designated Spaces. Notwithstanding any portion of the Municipal Code to the contrary, changes in the authorized uses of Specially Designated Spaces shall be by resolution approved by the unanimous vote of all council members. (Ord. No. 34-2001, § 1)

## **ARTICLE XIV**

### **TRANSITION PERIOD**

#### **Section 14.1. Effective date of Charter.**

This Charter shall become effective immediately upon voter approval except that those provisions of Article IX relating to the preparation and submission of the budget and capital program shall become effective for the 1971 annual budget, and those provisions in Article III relating to the election of mayor and councilmen shall become effective at the first general election scheduled under this Charter to be held on May 4, 1971.

#### **Section 14.2. Prior city legislation.**

All bylaws, ordinances, resolutions, rules and regulations of the City which are not inconsistent with this Charter and which are in force and effect at the effective date of this Charter shall continue in full force and effect until repealed or amended. Those provisions of any effective bylaw, ordinance, resolution, rule or regulation which are inconsistent with this Charter are hereby repealed.

#### **Section 14.3. Present elected officials to continue in office.**

The present city council and mayor in office at the time of the adoption of this Charter shall continue at their present salaries, to serve and carry out the functions, powers and duties of their offices until their successors assume the duties of their offices.

The present city clerk and city treasurer in office at the time of the adoption of this Charter, shall continue at their present salaries to serve and carry out the functions, powers, and duties of their offices until the next general municipal election.

#### **Section 14.4. Continuation of present boards and commissions.**

All boards and commissions in office at the time of adoption of this Charter shall continue to function with their present powers and duties as provided in the respective ordinances.

#### **Section 14.5. Continuation of appointed officers and employees.**

Except as otherwise provided herein, after the effective date of this Charter, all appointive officers and all employees of the City shall continue in that city 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; and they shall in all respects be subject to the provisions of this Charter, except that any officer or employee who holds a position which this Charter provides be held at the pleasure of the appointing officer or body, shall hold such position only at such pleasure regardless of the term for which originally appointed.

**Section 14.6. Saving clause.**

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

**CERTIFICATE OF FINAL ADOPTION**

We, the undersigned, present members of the Aspen Charter Convention, duly elected by the people of Aspen, Colorado at a special election held on March 24, 1970, or duly appointed according to law, under authorization of Article XX, Constitution of the State of Colorado, to frame a Home Rule Charter for the City of Aspen, do hereby certify that the foregoing is the Proposed Charter as finally approved and adopted by the members of the Convention on the 14th day of May, 1970, for submission to the people of Aspen at a special election to be held on June 16, 1970.

Executed in triplicate at Aspen, Colorado, this 14th day of May, 1970.

Dr. William Comcowich, President  
Ramona Markalunas, Secretary  
James Adams  
Curtis Baar  
Neil Beck  
Fritz Benedict  
Albert Bishop  
Alfred Braun  
Michael Garrish  
Victor Goodhard  
Charles B. Howe, Attorney at Law  
Charter Convention Advisor

Eve Homeyer, Vice President  
Wayne Habermann  
Francise Kalmes  
Werner Kuster  
Ralph Melville  
Robin Molny  
William McEachern  
Bernard Popish  
William Shaw  
Jack Walls  
Francis Whitaker

STATE OF COLORADO    )  
                                  ) ss.  
COUNTY OF PITKIN    )

Subscribed and sworn to before me this 14th day of May, 1970.

My Commission expires 12-20-73.

Lorraine E. Graves

/s/ \_\_\_\_\_  
Notary Public

I hereby certify that the above and foregoing document is the Charter adopted at the Special Election for the City of Aspen, Colorado, held Tuesday, June 16, 1970, and duly filed by me with the Secretary of State of the State of Colorado.

Lorraine E. Graves

/s/ \_\_\_\_\_  
City Clerk

SEAL

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