

**HOME RULE CHARTER
FOR THE TOWN OF JOHNSTOWN, COLORADO
as proposed by the
JOHNSTOWN HOME RULE CHARTER COMMISSION
APPROVED AND ADOPTED BY THE COMMISSION ON JULY 11, 2006
SUBMITTED TO THE TOWN BOARD OF TRUSTEES OF JOHNSTOWN ON
JULY 17, 2006
PREFATORY SYNOPSIS**

The following Charter document has been prepared by the nine elected members of the Town of Johnstown's Home Rule Charter Commission and is to be submitted to the Board of Trustees and to the registered electors of Johnstown for their approval. This document has been carefully prepared and drafted in conformity with Article 20 of the Colorado Constitution and the Municipal Home Rule Act of 1971, as amended. The Charter placed high priority on the right of the citizens of the Town of Johnstown to participate in their local government. The Charter holds the Town's elected and appointed officials to the highest ethical standards through existing and future ordinances. The Charter provides that:

- a. The current seven members of the Board of Trustees will become members of the Town Council.
- b. The Mayor will continue to be elected at large.
- c. At present, the six members of the Town Council will be elected at large.
- d. The Charter provides for the establishment of wards/districts in the future based on the population of the Town.
- e. The Town Administrator will be appointed by the Town Council and will be the Chief Administrator of the Town.
- f. No current Town employee's job will be affected by this Charter.
- g. This Charter in no way changes existing Town ordinances.
- h. The Town Council may only take actions at regularly scheduled meetings that are open to the Public.
- i. No new taxes, tax increases, or tax changes may be made without voter approval.
- j. The Town has authority to collect its own taxes, thereby saving money and time in the acquisition of the Town's revenues.

The Commission members are aware that the home rule powers applicable to the Town and its citizens in no way supercede Federal and State Constitutions which govern all citizens of the United States and the State of Colorado. However, the Charter provisions grants its citizens full rights to participate in city government through power of initiative, referendum and recall as provided by the Constitution of the State of Colorado. The desire of the members of the Commission is that this document will help enlighten all citizens of the Town of Johnstown on their rights under the Home Rule Charter and

will encourage voters to participate in elections and voice their opinions on all matters of local government.

PREAMBLE

We the people of the Town of Johnstown, Colorado, have come together and have agreed that it is time we exercise our right of self rule to the extent that applicable Federal and State laws permit. We anticipate our future is one of growth and prosperity. As such, the time has come for all citizens to actively participate in matters of government that will affect the future. It is the responsibility of each and every one of us to have a diplomatic and respectful voice in elections, creation of laws governing our local government and financial matters regarding the operation of our local government.

PREFATORY SYNOPSIS 1

ARTICLE 1 5

GENERAL PROVISIONS 5

 Section 1.1. Name and Boundaries. 5

 Section 1.2. Purpose of Charter 5

 Section 1.3. Form of Government..... 5

 Section 1.4. Powers of the Town. 5

 Section 1.5. Eminent Domain. 5

 Section 1.6. Rights and Liabilities. 6

 Section 1.7. Present Ordinances in Effect..... 6

 Section 1.8. Amendments to the Charter. 6

ARTICLE 2 6

TOWN COUNCIL..... 6

 Section 2.1. Town Council..... 6

 Section 2.2. Mayor, Mayor Pro Tem. 6

 Section 2.3. Mayor and Councilmembers – Qualifications. 7

 Section 2.4. Term of Office; Time of Taking Office; Oath 7

 Section 2.5. Compensation. 8

 Section 2.6. Vacancies. 8

ARTICLE 3..... 8

COUNCIL PROCEDURE 8

 Section 3.1. Meetings..... 8

 Section 3.2. Special Meetings and Business at Special Meetings. 9

 Section 3.3. Quorum. 9

 Section 3.4. Public Meetings; Executive Sessions..... 9

ARTICLE 4..... 9

COUNCIL ACTIONS 9

 Section 4.1. Council Acts..... 9

 Section 4.2. Voting. 10

 Section 4.3. Actions by Ordinance Required..... 10

 Section 4.4. Form of Ordinance..... 10

 Section 4.5. Severability of Ordinances..... 10

 Section 4.6. Adoption Procedure for Ordinances. 10

 Section 4.7. Emergency Ordinances. 11

 Section 4.8. Codification..... 11

Section 4.9.	Adoption of Codes by Reference.....	11
Section 4.10.	Public Records.	12
Section 4.11.	Fines and Penalties for Ordinance Violations.....	12
ARTICLE 5.....		12
ETHICS.....		12
Purpose.....		12
ARTICLE 6.....		12
ELECTIONS.....		12
Section 6.1.	State Election Laws Adopted.....	12
Section 6.2.	General Municipal Elections.....	13
Section 6.3.	Special Municipal Elections.	13
Section 6.4.	Conduct of Elections.....	13
ARTICLE 7.....		13
INITIATIVE, REFERENDUM, AND RECALL.....		13
Section 7.1.	Initiative.....	13
Section 7.2.	Referendum.....	13
Section 7.3.	Exceptions.....	14
Section 7.4.	Recall.	14
Section 7.5.	Council Referral.....	15
Section 7.6.	Prohibited Action By Council.....	15
Section 7.7.	Withdrawal of Petition.....	15
ARTICLE 8.....		15
TOWN ADMINISTRATION.....		15
Section 8.1.	Town Manager.....	15
Section 8.2.	Exclusive Service to Town.	15
Section 8.3.	Powers and Duties of Manager.....	16
Section 8.4.	Town Clerk.	17
Section 8.5.	Administrative Departments.....	17
Section 8.6.	Relationship of Council to Administration.....	17
ARTICLE 9.....		17
TOWN ATTORNEY.....		17
ARTICLE 10.....		17
MUNICIPAL COURT; MUNICIPAL JUDGE.....		17
ARTICLE 11.....		18
BOARDS AND COMMISSIONS.....		18
Section 11.1.	Existing Boards and Commissions.	18
Section 11.2.	Boards and Commissions – General.....	18
ARTICLE 12.....		18
BUDGET AND FINANCE.....		18
Section 12.1.	Fiscal Year.....	18
Section 12.2.	Proposed Budget and Message.	18
Section 12.3.	Contents of Proposed Budget.....	18
Section 12.4.	Capital Program.....	19
Section 12.5.	Budget Hearing.....	19
Section 12.6.	Council Amendments.....	20
Section 12.7.	Town Council Adoption.....	20

Section 12.8.	Appropriations.	20
Section 12.9.	Property Tax Levy.	20
Section 12.10.	Public Records.	20
Section 12.11.	Contingencies.....	20
Section 12.12.	Amendments After Adoption.....	20
Section 12.13.	Payments and Obligations Provided.....	21
Section 12.14.	Multiple Year Obligations.	21
Section 12.15.	Enterprises.....	21
Section 12.16.	Independent Audit.....	21
ARTICLE 13.....		22
MUNICIPAL BORROWING AND PAYMENT OBLIGATIONS.....		22
Section 13.1.	Forms of Borrowing and Obligations.	22
Section 13.2.	Short-term Securities and Financial Obligations.	22
Section 13.3.	General Obligation Securities and Obligations.....	22
Section 13.4.	Revenue Securities and Obligations.	22
Section 13.5.	Refunding Securities.....	22
Section 13.6.	Limitations.....	23
Section 13.7.	Sale of Securities.....	23
Section 13.8.	Other Contracts and Agreements.....	23
Section 13.9.	Limitation of Actions.....	23
ARTICLE 14.....		23
MUNICIPAL TAXATION AND FEES.....		23
ARTICLE 15.....		24
MUNICIPAL INVESTMENTS.....		24
ARTICLE 16.....		24
TOWN UTILITIES.....		24
Section 16.1.	Authority and Powers.	24
Section 16.2.	Utility Rates and Finances.	24
Section 16.3.	Separate Utility Accounting.....	24
ARTICLE 17.....		25
FRANCHISES AND PERMITS.....		25
Section 17.1.	Franchises.	25
Section 17.2.	Granting of Franchises.....	25
Section 17.3.	Terms of Franchises.....	25
Section 17.4.	Revocable Permits or Licenses.	25
ARTICLE 18.....		25
IMPROVEMENT DISTRICTS.....		25
ARTICLE 19.....		25
GENERAL LEGAL PROVISIONS.....		25
Section 19.1.	Interpretation.....	25
Section 19.2.	Severability of Charter Provisions.....	25
Section 19.3.	Bonding.....	25
Section 19.4.	Bequests, Gifts and Donations.....	26
Section 19.5.	Saturdays, Sundays and Holidays.....	26
Section 19.6.	Penalty for Violation of Charter.	26
Section 19.7.	Intergovernmental Agreements.....	26

Section 19.8.	Bidding.....	26
Section 19.9.	Emergency Acquisitions.	26
ARTICLE 20.....		26
TRANSITIONAL PROVISIONS.....		26
Section 20.1.	Effective Date of Charter.....	26
Section 20.2.	Prior Town Legislation.	26
Section 20.3.	Continuation of Appointed Officers and Employees.....	26
Section 20.4.	Continuation of Terms of Office – Mayor, Councilmembers and....	27
	Board and Commission Members.....	27
Section 20.5.	Saving Clause.....	27
ARTICLE 21.....		27
DEFINITIONS.....		27

**ARTICLE 1
GENERAL PROVISIONS**

Section 1.1. Name and Boundaries.

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

Section 1.2. Purpose of Charter.

It is the purpose of this Charter to establish a basic governmental structure that will provide for the effective and efficient conduct of the business of the Town. It is intended that the Charter shall provide for full participation in the affairs of the Town by all members of the community.

Section 1.3. Form of Government.

The municipal government provided in this Charter shall be known as a Council-Manager government.

Section 1.4. Powers of the Town.

A. The Town shall have all the powers of local self-government and home rule, and all powers possible for the Town under the Colorado Constitution and all applicable laws. All such powers shall be exercised in a manner consistent with the United States Constitution, the Colorado Constitution, this Charter and laws enacted by the Town Council. The Town shall not enact any laws infringing upon the constitutional rights of any persons.

B. Except as otherwise provided in this Charter, the Town shall also have all powers granted to cities, towns, and municipalities by the state statutes.

C. The enumeration of specific powers in this Charter shall not be considered as limiting or excluding any other powers under the Colorado Constitution or any applicable laws. All powers shall be exercised in the manner set forth in this Charter or, if not provided for in this Charter, in such manner as shall be provided by Town ordinances, codes or other applicable powers and laws.

Section 1.5. Eminent Domain.

The Town shall have the right and power of eminent domain within and outside its corporate limits for all public purposes and/or public uses, as provided by the

Colorado Constitution, state statutes, all applicable laws, and ordinances enacted by Town Council.

Section 1.6. Rights and Liabilities.

By the name “Town of Johnstown”, 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 the rights and liabilities; shall acquire all benefits and does assume and shall pay all bonds, financial obligations, and indebtedness of the Town; may, by the name of the Town of Johnstown, sue and defend, purchase, acquire, receive, hold and enjoy, or sell, lease and dispose of real and/or personal property; and shall have a common seal and alter the same at its pleasure.

Section 1.7. Present Ordinances in Effect.

All ordinances and codes of the Town in effect at the time this Charter becomes effective shall continue in effect, except as they may conflict with the provisions of this Charter or shall be amended or repealed by ordinances enacted under authority of this Charter.

Section 1.8. Amendments to the Charter.

This Charter may be amended in the manner provided in the Colorado Constitution and the state statutes pertaining to home rule charter amendments. Proceedings to amend the Charter may be initiated by the filing of a petition meeting the requirements of the state statutes or by the adoption of an ordinance by the Town Council submitting the proposed amendment to a vote of the registered electors of the Town.

**ARTICLE 2
TOWN COUNCIL**

Section 2.1. Town Council.

A. The Town Council shall be the governing body of the Town, and shall have such powers as are possessed by the Town and not conferred by this Charter on others. All such powers shall be exercised in the manner prescribed in this Charter or, if not provided for herein, in such manner as shall be provided by ordinances, codes and other applicable laws.

B. The Town Council shall consist of six (6) Councilmembers nominated and elected from the Town at large, and a Mayor, who shall be nominated and elected from the Town at large. The Town Council may enact by ordinance for the nomination and election of six (6) Councilmembers from wards and districts; provided, however, the Mayor shall be elected at large. If and/or when the population of the Town reaches twenty thousand (20,000), the Town Council shall provide by ordinance, to be effective at the next general municipal election, for the election of six (6) Councilmembers to be nominated and elected by wards and districts, and a Mayor, who shall be nominated and elected from the Town at large.

Section 2.2. Mayor, Mayor Pro Tem.

A. The Mayor shall be a member of the Town Council and shall have the same voting powers as any Councilmember.

B. The Mayor shall preside over meetings of the Town Council and shall be recognized as the head of the Town government for ceremonial and political purposes.

C. Subject to and consistent with this Charter, the Mayor's powers and duties may be prescribed by ordinance.

D. By the affirmative vote of a majority of the entire Council, a Councilmember shall be appointed as Mayor Pro Tem for the term as prescribed by ordinance to perform the responsibilities and duties of the Mayor when the Mayor is absent or is otherwise unable to perform the responsibilities and duties of the Mayor.

Section 2.3. Mayor and Councilmembers – Qualifications.

A. Each Councilmember and the Mayor shall be a citizen of the United States.

B. Each Councilmember shall be a registered elector of the Town who has resided in the Town or his/her respective ward or district, as the case may be with reference to Section 2.1.B of this Charter, for a period of at least twelve (12) consecutive months immediately preceding the election. However, in case the boundaries of the ward or district are changed or as a result of annexation the residence period is less than the prescribed time period of twelve (12) months within territory added to the ward or district, such shorter residency time period shall be deemed to meet the residency requirements for the ward or district to which the territory was added.

C. The Mayor shall be a registered elector of the Town who has resided within the limits of the Town for a period of at least twelve (12) consecutive months immediately preceding the election. However, in the case of annexation, residence within the annexed territory for the prescribed time period shall be deemed to meet the residency requirements of this Paragraph C.

D. No person who has been convicted of a felony or a willful violation of this Charter shall be qualified to serve as Mayor or Councilmember.

E. Town Council may, by ordinance, enact requirements and procedures to govern the Council-related activities of Councilmembers and the Mayor while in office, which ordinance may prescribe disciplinary procedures and consequences for violations of such requirements and procedures.

F. Except as provided in this Paragraph F, no person who is an employee of the Town, or a Town board or commission member, may serve as Mayor or Councilmember. Any Town employee who becomes a candidate for Mayor or Councilmember shall be deemed to have resigned from the position of Town employee on the date of announcing his/her candidacy for such office. Nothing in this Paragraph F shall prohibit the Council from appointing the Mayor or a Councilmember, after taking office, to a Town board or commission if the person is eligible to be so appointed pursuant to the ordinance establishing the board or commission.

G. No person may be a candidate for both Mayor and Councilmember at the same election or hold both positions simultaneously. The Mayor or any Councilmember shall not hold any other elected public office.

Section 2.4. Term of Office; Time of Taking Office; Oath

A. Each Councilmember shall be elected for a four (4) year term. Councilmembers' terms shall be staggered, as provided by ordinance. The Mayor shall be elected for a four (4) year term.

B. The Mayor and each Councilmember shall take office at the first regular or special meeting of the Council following certification of their election and shall

continue in office until their successors have been elected and take office or a vacancy occurs.

C. Before taking office, the Mayor and each Councilmember shall take and file with the Town Clerk an oath or affirmation to support the United States Constitution, the Colorado Constitution, the Charter, ordinances and codes of the Town and to faithfully perform the duties of the office.

Section 2.5. Compensation.

The Mayor and each Councilmember shall receive such salary and benefits as prescribed by ordinance. The salary of the Mayor or of any Councilmember shall not be increased or diminished during the term for which the Mayor or Councilmember has been elected. Subject to the Council's approval, the Mayor and Councilmembers may be reimbursed for the actual and necessary expenses incurred in the performance of the duties of office.

Section 2.6. Vacancies.

A Councilmember's office, and the office of the Mayor, shall become vacant whenever he/she is recalled, dies, is declared legally incompetent, resigns, is removed from office, moves from or becomes a non-resident of the Town, ward or district, as the case may be with reference to Section 2.1.B. of this Charter. A Councilmember's office, and the office of the Mayor, may become vacant under Section 2.3 E of this Charter regarding discipline for violations of Council requirements and procedures. Vacancies shall be filled in the following manner:

A. Appointment by Council if the vacancy occurs more than ninety (90) days before the next general municipal election. The appointee shall be selected by a majority vote of the remaining members of the Council and such appointment shall be made within thirty (30) days after such vacancy occurs. All such appointments shall continue until a successor is elected and qualified at the next general municipal election. In the event that a vacancy occurs in the office of Mayor, the Mayor Pro Tem shall assume the office of Mayor and the appointment shall be for the office of the Councilmember, who was the Mayor Pro Tem, only; or

B. By election at the next general municipal election if the vacancy occurs within ninety (90) days immediately preceding said election; or

C. By election at a special municipal election if three or more vacancies exist at any one time and there will not be a regular municipal election within the ninety (90) days immediately after the date that the third vacancy occurred. In the event of such multiple vacancies, Council shall call a special municipal election to be held within sixty (60) days from the occurrence of the third vacancy to elect a Councilmember to fill each vacated office.

All Councilmembers elected to fill vacancies as provided in Paragraphs B. and C. of this Section 2.6 and those elected subsequent to the filling of a vacancy by appointment as provided in Paragraph A. of this Section 2.6 shall be elected to fill only the unexpired terms of the offices so vacant.

**ARTICLE 3
COUNCIL PROCEDURE**

Section 3.1. Meetings.

A. The Council shall meet at least once a month or more often as prescribed by ordinance, with such meetings to be designated as general meetings. The Council

shall prescribe the day and hour of its general meetings and the procedures governing meetings. The first meeting following each regular municipal election shall be the organizational meeting of Council.

B. The Council shall cause minutes of its regular and special meetings to be taken and retained in the records of the Town.

C. Council may meet in workshops, work sessions, retreats or other sessions as it deems necessary or as it may prescribe by procedures adopted by Council.

Section 3.2. Special Meetings and Business at Special Meetings.

A. Special meetings shall be called by the Town Clerk at the request of the Mayor and two Councilmembers or at the request of three Councilmembers.

B. A special meeting shall be held on notice to each Councilmember and Mayor, either personally, in writing or by electronic or telephonic means. The notice need not be made if the member has waived same.

C. The Council shall not take action on any item of business at any special meeting of the Council unless it has been stated in the advance notice of the meeting or authorized by unanimous vote of all Councilmembers and the Mayor present at such special meeting.

Section 3.3. Quorum.

A majority of the Councilmembers holding office at the time shall be a quorum for the transaction of business at all Council meetings.

Section 3.4. Public Meetings; Executive Sessions.

A. Except as provided in Section 3.4.D, all regular meetings, special meetings, workshops, retreats and work sessions of the Council shall be open to the public and all persons shall have a reasonable opportunity to be heard under such procedures as the Council shall prescribe.

B. Notice of Council meetings, and work sessions shall be made available to the public in advance of the meetings. The notice shall include agenda information to the extent reasonably available.

C. No formal action, final policy decision, rule, regulation, resolution, ordinance or action approving a contract or calling for the payment of money shall be adopted or approved except at a regular or special meeting.

D. Executive sessions may be held in compliance with Town ordinances and applicable law related to such sessions.

E. Except as authorized by majority vote of the entire Town Council, as required or permitted by judicial order or as otherwise required or permitted by law, no participant in any executive session shall reveal any information presented in the session. In addition to any other means available by law, a participant who is in doubt about the application of this provision may seek a judicial order by requesting an in camera hearing in the District Court of Weld County at his/her expense. For purposes of this Paragraph E, "in camera" means in the judge's private chambers or in the courtroom with all spectators and the public excluded.

**ARTICLE 4
COUNCIL ACTIONS**

Section 4.1. 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 provided in

this Charter, may be in the form of resolutions or motions. A copy of every ordinance and resolution adopted shall be numbered and recorded in the records of the Town.

Section 4.2. Voting.

A. The vote shall be recorded upon the adoption or failure to adopt, of all ordinances, resolutions and motions and entered in the minutes of the Council meetings.

B. Except where a greater number is required in this Charter, the final adoption of any ordinance shall require the affirmative vote of a majority, which is four (4) of the Council, and resolutions and motions shall require the affirmative vote of a majority of the Councilmembers present at the meeting adopting such resolutions and motions.

C. Neither the Mayor nor any Councilmember shall vote on any matter concerning such person's own conduct.

D. Neither the Mayor nor any Councilmember shall vote on any matter in which such person has a conflict of interest, as prescribed by ordinance or applicable law.

E. Except as provided by Paragraphs C. and D. of this Section 4.2, each Councilmember and the Mayor who is present shall vote on each matter.

Section 4.3. Actions by Ordinance Required.

In addition to such acts of the Council that are required by other provisions of this Charter to be done by ordinance, every act creating indebtedness, authorizing borrowing of money, levying a tax or tax increase, 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.

Section 4.4. Form of Ordinance.

Every ordinance shall be introduced in a written, printed or electronic format. The enacting clause of all ordinances shall be: BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF JOHNSTOWN, COLORADO. Except as otherwise provided in this Article 4, all ordinances shall take effect seven (7) days after publication or notice by any other method provided in this Charter, following final approval.

Section 4.5. Severability of Ordinances.

Unless an ordinance shall expressly provide to the contrary, if any portion of an ordinance or the application of the ordinance to any person or circumstance 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 affect without the invalid portion or application; provided such remaining portions or applications are not determined by a court to be inoperable. To this end all ordinances are declared to be severable.

Section 4.6. Adoption Procedure for Ordinances.

A. Each ordinance shall be presented to Council at least twice, and the following procedure shall be followed in adopting any ordinance, except an emergency ordinance:

1. The ordinance shall be introduced by motion at a regular or special meeting of the Council.

2. The ordinance shall be read in full or by title with a brief description of the ordinance if copies of the entire ordinance are available to the public. Notwithstanding the foregoing, the ordinance may be introduced on first reading by inclusion by title only as a consent item within the Council agenda, as provided by ordinance or Council's procedures.

3. If the ordinance is approved by Council upon its initial introduction, either as presented or as amended, it shall be published in full.

4. The ordinance shall be introduced by motion and title a second time at a regular or special meeting of the Council held after the publication.

5. Prior to taking final action on the ordinance, the Council shall permit public comments on the ordinance.

6. Upon final approval, the ordinance shall be published or notice provided by any other method provided by this Charter by title, with a brief description of the ordinance and amendments, if any, provided copies of the entire ordinance, as finally approved, are available to the public.

7. The ordinance shall be signed by the Mayor and attested by the Town Clerk and affidavits of publication shall be retained in the Town's records.

B. Every ordinance published, or notice provided as described in this Charter by title and brief description, shall contain a provision that copies of the entire ordinance are available at the office of the Town Clerk or are available by other means of communication with or to the public.

C. The Council may enact ordinances providing details of these procedures regarding consideration and adoption of ordinances consistent with this Charter.

Section 4.7. Emergency Ordinances.

A. An emergency ordinance necessary for the immediate preservation of public property or assets, health, welfare, peace, or safety shall require the affirmative vote of five (5) Councilmembers. The facts determining the emergency shall be stated in the ordinance. Determination by the Council as to the existence of an emergency shall be final and conclusive.

B. An emergency ordinance may be introduced and finally adopted at any regular or special meeting, shall require only one (1) reading and shall not require publication or notice prior to final adoption. An emergency ordinance shall take effect upon final adoption or on such later date as specified in the ordinance. Following final adoption, an emergency ordinance shall be published or notice provided by any other method provided by this Charter, in full, or by title with a summary description of the ordinance, as provided by the Council by ordinance.

Section 4.8. Codification.

The Council shall cause the ordinances to be codified and thereafter maintained in codified form. Revisions to the code(s) may be accomplished by reference as provided in Section 4.9 of this Charter.

Section 4.9. Adoption of Codes by Reference.

The Council may adopt, by ordinance, any code by reference. The procedure of adoption of a code by reference shall be as provided in the state statutes, or by laws applicable to the adoption of a code by reference, or such other procedure as the Council may provide by ordinance. Every ordinance adopting a code by reference shall contain a notice that copies of the code are available at the office of the Town Clerk or are available by other means of communication with/to the public. Any penalty clause in such a code may be adopted only if set forth in full in the adopting ordinance.

Section 4.10. Public Records.

All public records of the Town of Johnstown shall be open for inspection by any person at reasonable times in accordance with applicable laws and/or as provided by ordinances or Town procedures.

Section 4.11. Fines and Penalties for Ordinance Violations.

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

ARTICLE 5

ETHICS

Purpose. The Town Council shall enact a code of ethics to establish requirements for the ethical standards of conduct for Town officials and Town employees. For purposes of this Article 5, “Town officials” are defined to include elected and appointed officials and volunteers. Town officials and Town employees are to act in the best interest of the Town. Town officials and Town employees are to disclose any personal, financial or other interests in matters affecting the Town that come before them for action. Town officials and Town employees are to recuse themselves from decision making if they have a conflict of interest or the appearance of a conflict of interest. Town officials and Town employees are to be independent, impartial, and responsible to the citizens for their actions. Public offices and public positions in the Town will not be used for personal gain. It is important that the public has confidence in the integrity of its municipal government and that Town officials and Town employees have an opportunity to maintain their personal integrity and reputations. The ethics code is to establish a process by which one understands and functions under requirements and directions regarding ethical issues. The code is to establish a course of action for resolving disputes in a manner that is fair to all the parties involved. The code is also to provide for the consequences for violations of its requirements.

ARTICLE 6

ELECTIONS

Section 6.1. State Election Laws Adopted.

Town elections shall be governed by the state statutes except as otherwise provided by this Charter or by ordinance. All general and special municipal elections shall be nonpartisan.

Section 6.2. **General Municipal Elections.**

General municipal elections shall be held on the first Tuesday in April of each even-numbered year, commencing in 2008.

Section 6.3. Special Municipal Elections.

Special municipal elections shall be called by a Council resolution adopted not less than thirty (30) days before the election. The resolution calling a special election shall describe the purpose of the election.

Section 6.4. Conduct of Elections.

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

ARTICLE 7

INITIATIVE, REFERENDUM, AND RECALL

Section 7.1. Initiative.

A. The initiative power, reserved by Article 5, Section 1(9) of the Colorado Constitution, is hereby extended to the registered electors of the Town as to Town legislation which is subject to the initiative power. Any initiated measure shall be in the form of an ordinance. The measure shall be initiated pursuant to the state statutes, ordinances or applicable laws which establish procedures for a municipal initiative, except as otherwise provided in this Charter and in ordinances consistent with this Charter.

B. The initiative petition shall be signed by registered electors of the Town equal in number to at least fifteen (15) percent of the total number of electors of the Town registered to vote at the last general municipal election.

C. The Town Clerk shall not count as valid any signature on an initiative petition if the date of the signature is prior to the date the form of the petition was approved by the Town Clerk.

D. The Town Clerk shall not count as valid any signature on an initiative petition if more than ninety (90) days have elapsed between the date the form of the petition was approved by the Town Clerk and the date of the signature.

Section 7.2. Referendum.

A. The referendum power, reserved by Article 5, Section 1(9) of the Colorado Constitution, is hereby extended to the registered electors of the Town as to Town legislation which is subject to the referendum power. Such legislation shall be referred pursuant to the state statutes, ordinances or applicable laws which establish procedures for a municipal referendum, except as otherwise provided in this Charter and in ordinances consistent with this Charter.

B. A referendum petition shall be signed by registered electors of the Town equal in number to at least ten (10) percent of the total number of electors of the Town registered to vote at the last regular municipal election.

C. The Town Clerk shall not count as valid any signature on a referendum petition if the date of the signature is prior to the date the form of the petition was approved by the Town Clerk.

Section 7.3. Exceptions.

Notwithstanding these provisions for initiative and referendum, the following ordinances or resolutions shall not be subject to initiative and referendum:

A. Ordinances or resolutions addressing budgets, capital programs, appropriations, levies of taxes, economic development and salaries of Town officials or Town employees shall not be subject to initiative.

B. Ordinances or resolutions addressing budgets, capital programs, appropriations, levies of taxes, economic development, salaries of Town officials or Town employees, special elections, emergencies, authorization of issuance of improvement district bonds payable in part from special assessments, levying special assessments or contractual obligations of the Town shall not be subject to referendum.

Section 7.4. Recall.

A. The Mayor and/or any Councilmember may be recalled at any time after six (6) months in office, pursuant to the state statutes or applicable laws which establish procedures for the recall of municipal elected officials, except as otherwise provided in this Charter and in ordinances.

B. A petition to recall a Councilmember shall be signed by registered electors of the Town or of the ward or district, as the case may be with reference to Section 2.1.B., from which the Councilmember was elected and a petition to recall the Mayor shall be signed by registered electors of the Town.

C. The signers shall number at least twenty-five (25) percent of the entire votes cast in the Town, ward or district, as the case may be with reference to Section 2.1.B., for all the candidates for that particular office at the last preceding election in which the person sought to be recalled was elected to office.

D. For the recall of a person appointed to fill a vacancy, signers shall number at least twenty-five (25) percent of the entire vote cast for all candidates for the vacated office in the Town, ward or district, as the case may be with reference to Section 2.1. B., at the last preceding general municipal election at which a person was elected to that office.

E. If a general municipal election or statewide general election is scheduled to be held within ninety (90) days after submission of a recall petition, although that election is not the one at which the office held by the person sought to be recalled would otherwise be filled, the recall election shall be held at the same time as that general municipal or statewide general election provided that the recall petition is submitted at least forty five (45) days before such election.

F. After one (1) recall petition and election, no further petition shall be filed against the same person during the term for which such person was elected or appointed unless the number of petitioners signing said petition are equal to or exceed fifty (50) percent of all the votes cast in the Town, ward or district, as the case may be with reference to Section 2.1 B., for all the candidates for that particular office at the last preceding general municipal election.

G. Except as to requirements contained in this Charter, state statutes, ordinances or other applicable laws regarding the recall of the Mayor or Councilmembers, the form, content, approval, and other petition requirements in the state statutes, ordinances or laws applicable to municipal initiatives shall apply as nearly as practicable to recall petitions.

Section 7.5. Council Referral.

The Council shall have the power to submit to a vote of the registered electors of the Town, without receipt of any petition, any proposed or adopted ordinance or any issue or question.

Section 7.6. Prohibited Action By Council.

A. No initiated ordinance adopted by the registered electors of the Town may be substantively amended or repealed by the Council during a period of one (1) year after the date of the election on the initiated ordinance, unless the amendment or repeal is approved by a majority of the registered electors of the Town.

B. No referred ordinance repealed by the registered electors of the Town may be re-adopted by the Council during a period of one (1) year after the date of the election on the referred ordinance, unless the re-adoption is approved by a majority of the registered electors of the Town.

Section 7.7. Withdrawal of Petition.

A. An initiative, referendum, or recall petition may be withdrawn at any time prior to thirty (30) days before the day scheduled for a vote by filing with the Town Clerk a written request for withdrawal.

B. The written request for withdrawal shall be signed by a majority of persons who are designated in the petition as representing the signers on matters affecting the petition.

C. Upon the filing of such request the petition shall have no further force or effect and all proceedings thereon shall be terminated.

**ARTICLE 8
TOWN ADMINISTRATION**

Section 8.1. Town Manager.

A. The Council shall appoint a Town Manager. The appointment shall provide for compensation to be fixed from time to time by Council. The Town Manager shall serve at the pleasure of the Town Council. The appointment or removal of the Town Manager shall require the affirmative vote of a majority of the entire Council, which is four (4).

B. The Town Manager shall be appointed without regard to any consideration other than fitness, competency, training, and experience in professional administration.

C. Neither any Councilmember nor the Mayor shall be appointed Town Manager during the term for which the person was elected or appointed nor within one (1) year after the term.

D. The Town Manager, with approval of Council, shall designate a Town employee to serve as acting Manager in his/her temporary absence or temporary disability. The Town Council may appoint an interim Manager until a permanent replacement for the Manager is selected.

E. The Council and Manager may agree by contract to terms of employment and termination consistent with this Charter.

Section 8.2. Exclusive Service to Town.

During the period of the appointment, the Town Manager shall not be an employee of, or perform any services for compensation from, any person or entity other than the Town, unless the Manager has first obtained the approval of a majority of the Council.

Section 8.3. Powers and Duties of Manager.

The Town Manager shall be the administrative officer of the Town. The Town Manager shall have the following powers and duties:

A. Be responsible for the enforcement of the ordinances, resolutions, franchises, contracts, requirements, regulations, policies, directives and enactments of the Council and the Town.

B. Establish and implement personnel rules and regulations for Town employees. Such rules and regulations shall provide, but not be limited to the selection, promotion and retention of Town employees on the basis of ability, training, experience and performance.

C. Cause a proposed budget, including a capital budget, to be prepared and submitted to the Council biannually, annually or as provided by Council ordinance, and be responsible for the administration of the budget adopted by Council.

D. Cause to be prepared and submitted to Council a report of all finances and financial activities of the Town as often as directed by Council, and keep the Council advised of the financial condition and existing and future financial needs of the Town.

E. Cause to be prepared and submitted to the Town Council, as of the end of the fiscal year, a complete report on finances and administrative activities of the Town for that year and make other reports as requested by the Council concerning the activities of the Town which are within the Manager's responsibility.

F. Except as to the Municipal Court and the office of the Town Attorney, including the Town Prosecutor, exercise supervision and control over all Town departments and employees and make recommendations to the Town Council concerning the establishment, alteration, consolidation or abolition of Town departments and employee positions.

G. Attend Town Council meetings and participate in discussions with the Council in an advisory capacity.

H. Make recommendations and offer advice to Council regarding administrative matters.

I. Be responsible for informing the public on Town functions and activities.

J. Perform such other duties as prescribed by this Charter or as required by the Council consistent with this Charter and Town codes, ordinances and laws.

Section 8.4. Town Clerk.

The Town Manager shall appoint a Town Clerk to perform such duties required by this Charter, applicable laws, ordinances, rules, regulations and policies and such other duties as directed by the Town Manager.

Section 8.5. Administrative Departments.

The administrative functions of the Town will be performed within the administrative departments that exist on the effective date of this Charter, subject to Section 8.3 F. of this Charter. The Council may, by ordinance, establish, alter, reduce, consolidate, or abolish administrative departments and/or employee positions.

Section 8.6. Relationship of Council to Administration.

The Council shall have authority to direct the Town Manager with respect to the performance of his duties and responsibilities. Although individual Councilmembers and the Mayor shall be authorized to discuss all matters relating to Town operations and administrative services with employees, officers, contractors and consultants of the Town, including the Town Manager, they shall not give any direct orders specifically to Town employees. The Mayor and Town Council are authorized to direct the Town Manager regarding the administration and operations of Town codes, ordinances, resolutions, policies, procedures and directives to be carried out by the administration.

ARTICLE 9

TOWN ATTORNEY

- A. The Town Council, by majority vote of the entire Council, shall appoint a Town Attorney to serve at the pleasure of the Council.
- B. The Council shall establish the Town Attorney's compensation.
- C. The Town Attorney shall be, at all times while serving as Town Attorney, an attorney admitted to practice in Colorado.
- D. The removal of the Town Attorney shall require the majority vote of the entire Council.
- E. The Town Attorney shall serve as the chief legal officer and advisor of the Town, supervise the drafting of all ordinances, resolutions and legal documents, attend Council meetings, represent the Town in all legal matters and proceedings, advise the Council and all Town employees and officials in legal matters relating to their functions, powers and duties and perform all other duties designated by the Council.
- F. The Council may employ such Special Counsel or Town Prosecutor as may be recommended by the Town Attorney, the Town Manager, or as determined by Council. The Town Attorney and the Town Prosecutor may be the same person.

ARTICLE 10

MUNICIPAL COURT; MUNICIPAL JUDGE

- A. There shall be a Municipal Court vested with jurisdiction over matters related to the Charter, ordinances and other enactments of the Town. The Municipal Court may be a court of record by enactment of Council ordinance. The Court shall have such powers and jurisdiction over all local, municipal matters and/or mixed local and statewide matters as provided by Council ordinances and applicable laws.
- B. The Town Council shall appoint, by the majority vote of the entire Council, a presiding municipal judge and such deputy municipal judges as the Council deems necessary. Each municipal judge shall be appointed for a two (2) year term.

C. The Council shall establish the compensation for the presiding municipal judge and each deputy municipal judge. The compensation shall not be dependent upon the outcome of the matters to be decided by the judge.

D. The presiding municipal judge and each deputy municipal judge shall be, at all times while serving as judge, an attorney admitted to practice in Colorado.

E. The removal of any judge during the term of office shall require the majority vote of the entire Council. Any such removal shall only be for cause as specified in the state statutes applicable to the removal of municipal judges, and for any other conduct which would constitute a violation of the Colorado Code of Judicial Conduct, as from time to time amended, if committed by a judge subject to such Code.

ARTICLE 11

BOARDS AND COMMISSIONS

Section 11.1. Existing Boards and Commissions.

Each board and commission existing at the time this Charter is adopted shall continue, except as otherwise provided by ordinance. The Town Council may, by ordinance, establish, consolidate or abolish any board or commission.

Section 11.2. Boards and Commissions – General.

A. The Council may, by ordinance, provide that boards and commissions shall be advisory or decision making in character and/or purpose. The selection, removal, terms, responsibilities, duties and policies concerning each board and commission shall be established by ordinance.

B. The appointment or removal of any board or commission member who is required by ordinance to be appointed by the Town Council shall require the affirmative vote of a majority of the entire Council. A member appointed by the Town Council shall serve at the pleasure of the Council.

C. The members of each board and commission shall serve without compensation, but may be paid authorized expenses actually incurred in the performance of the duties of office.

ARTICLE 12

BUDGET AND FINANCE

Section 12.1. Fiscal Year.

Unless otherwise provided by ordinance, the fiscal year of the Town shall begin on the first day of January and end on the last day of December of each year.

Section 12.2. Proposed Budget and Message.

At such time as the Council may provide by ordinance, the Town Manager shall cause to be prepared and submitted to the Council a proposed budget and accompanying message. The proposed budget shall provide a financial plan for all Town funds and activities for the next fiscal year and, if the Council provides by ordinance, shall provide such a financial plan for the subsequent fiscal year or years, and except as required by this Charter, shall be in such form as the Council may require. The proposed budget shall contain a general summary of its contents and, if the Council provides by ordinance, shall include comparative figures for revenues and expenditures for the current and prior fiscal year or years.

Section 12.3. Contents of Proposed Budget.

The proposed budget shall include, but not be limited to, in separate sections the following information:

- A. An estimate of anticipated revenues classified by source;
- B. An estimate of cash available, if any, as of December 31 of the current fiscal year;
- C. Proposed expenditures for the operation of the Town, by fund, department, office and agency, and the methods of financing such expenditures;
- D. Provisions for reserves and contingencies;
- E. Proposed capital expenditures, by fund, department, office and agency, and the proposed methods of financing such expenditures;
- F. Anticipated net surplus or deficit for each municipal utility system and the proposed method of its disposition;
- G. Anticipated net surplus or deficit for each municipal enterprise and the proposed method of its disposition;
- H. An estimate of the amount required to be raised from an ad valorem property tax levy;
- I. A statement of the outstanding securities and other debt and payment obligations of the Town, showing the debt redemption and interest requirements, the debt authorized and outstanding and the condition of sinking funds, if any; and
- J. Such other information as the Council may require.

Section 12.4. Capital Program.

A. Concurrently with the date of submission of the proposed budget to the Council, or at such other time as the Council may require by ordinance, the Town Manager shall cause to be prepared and submitted to the Council a recommended capital program for the next fiscal year and for such subsequent fiscal years as provided by the Council by ordinance.

B. The recommended capital program shall include, but not be limited to, the following information:

- 1. A general summary of its contents;
- 2. A list of all capital improvements which are recommended to be undertaken, continued or completed;
- 3. Cost estimates and methods and timing of financing the improvements;
- 4. The estimated annual cost of operating and maintaining the improvements; and
- 5. Such other information as the Council may require.

C. The recommended capital program, following adoption, shall serve as a guide for the planning of capital improvements.

Section 12.5. Budget Hearing.

A public hearing on the proposed budget and capital program shall be held by the Council after receipt of the proposed budget. Notice of the time and place of such hearing shall be published or notice provided by such methods as described in this Charter at least one (1) time not less than ten (10) days prior to the hearing and shall state that copies of the proposed budget and the proposed capital program are available for public review or inspection at the Town.

Section 12.6. Council Amendments.

After the public hearing the Council may adopt the budget as presented or amended. In amending the budget, the Council may add or increase programs or amounts and may delete or decrease programs or amounts except those expenditures required by law, for debt service or for estimated cash deficits. Such amendments shall not increase the total expenditures for the overall budget as presented at the public hearing. If such amendment does increase the total expenditures, then another public hearing shall be held prior to adoption of the budget, subject to notice as described in Section 12.5.

Section 12.7. Town Council Adoption.

The Council shall adopt the budget for the next fiscal year by ordinance or resolution on or before the final day of the current fiscal year. If it fails to adopt the budget for the next fiscal year by this date, the amounts appropriated for the current operations for the current fiscal year shall be deemed adopted for the next fiscal year on a month-to-month basis, with all items in it prorated accordingly, until such time as the Council adopts the budget for the next fiscal year.

Section 12.8. Appropriations.

A. Adoption of the budget by the Council shall constitute appropriations of the amounts specified therein for expenditure from the funds indicated.

B. The proceeds of any municipal borrowing shall not be subject to any requirement of prior budgeting or appropriation as a condition of their expenditures.

C. The amount necessary to repay any such municipal borrowing, including interest, need not be budgeted or appropriated in full in the year in which the borrowing occurs. However, such amounts necessary to pay debt service shall be budgeted and appropriated on an annual basis, provided that no failure to budget and appropriate such annual debt service amounts shall affect the enforceability of any covenant of the Town to make such payments.

Section 12.9. Property Tax Levy.

The Council shall cause the property tax to be certified to the county for collection as required by law.

Section 12.10. Public Records.

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

Section 12.11. Contingencies.

A. The budget may include an item for contingencies.

B. Expenditures shall not be charged directly to contingencies except if there is no logical account to which such expenditures may be charged.

Section 12.12. Amendments After Adoption.

A. Supplemental Appropriations: If during the fiscal year the Town Manager certifies to the Council that there are revenues available for appropriation in excess of those estimated in the budget, the Council may by resolution make supplemental appropriations for the year not to exceed the amount of such excess, provided that such additional spending is not in conflict with the Colorado Constitution.

B. Emergency Appropriations: To meet a public emergency affecting life, health, property or the public good or peace, the Council may make emergency appropriations. To the extent that there are no available unappropriated revenues to meet such appropriations, the Council may authorize the issuance of emergency notes.

C. Reduction of Appropriations: If during the fiscal year it appears probable to the Town Manager that the revenues available will be insufficient to meet the amount appropriated, it shall be reported to the Council without delay, indicating the estimated amount of deficit, any remedial action taken and recommendations as to any other steps to be taken. The Council shall take such further action it deems necessary to prevent any deficit. For that purpose, it may, by resolution, reduce one or more appropriations.

D. Transfer of Appropriations: The Town Council may, by resolution, authorize a maximum amount which the Town Manager may transfer from any unused balance of any general fund appropriation or portion thereof from one (1) department or other spending unit to another. Except as otherwise provided in this Charter, the transfer of monies from one (1) fund to another shall only be made by a resolution amending the budget as adopted.

E. Reports: As often as required by the Council, the Town Manager shall submit to the Council data showing the relation between the estimated and actual revenues and expenditures to date.

F. Administrative Fiscal Responsibilities: Each department head shall have the responsibility to advise the Town Manager, who shall then advise the Council, of any financial irregularities in the department.

G. Limitation, Effective Date: No appropriation for debt service may be reduced or transferred. 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 appropriations, emergency appropriations, and reduction or transfer of appropriations authorized by this Section 12.12 may be made effective immediately upon adoption.

Section 12.13. Payments and Obligations Provided.

During the fiscal year no Town official, employee, or spending agency shall expend any money, incur any liability, or enter into any contract which, by its terms, involves the expenditures of money in excess of the amounts appropriated. Any liability or contract, verbal or written, made in violation of this Section 12.13, shall be void and no monies belonging to the Town shall be paid on such liability or contract.

Section 12.14. Multiple Year Obligations.

Nothing in this Article 12 shall prevent the Town from entering into multiple fiscal year contracts in the manner provided by law.

Section 12.15. Enterprises.

The Council may adopt ordinances or resolutions providing for the establishment and operation of municipal enterprises.

Section 12.16. Independent Audit.

The Council shall provide for an independent annual audit of all Town funds and accounts by a certified public accountant selected by the Council and may provide for more frequent audits as it deems necessary. The accountant selected shall have no direct personal interest in the fiscal affairs of the Town, of any member of the Council, or of any other official of the Town. Unless another date is provided by ordinance, the audit shall be completed within six (6) months after the close of the fiscal year. Copies of the audit shall be available for public inspection or review.

ARTICLE 13

MUNICIPAL BORROWING AND PAYMENT OBLIGATIONS

Section 13.1. Forms of Borrowing and Obligations.

The Town may borrow money and issue bonds, securities, documents and instruments of indebtedness or enter into other obligations to evidence such borrowing and may otherwise incur payment obligations in such form and manner as the Council determines to be advantageous to the Town.

Section 13.2. Short-term Securities and Financial Obligations.

The Council may, by ordinance and without any election, borrow money, and may, without any election, otherwise incur payment obligations in anticipation of the collection of taxes or other revenues in the same fiscal year. The Council may issue short-term securities or otherwise evidence the amount so borrowed or the payment obligation so incurred. Short-term securities may be secured in any manner determined by the Council, including a pledge of the full faith and credit of the Town. Any such short-term securities or obligations shall mature or become payable on or before the end of the same fiscal year.

Section 13.3. General Obligation Securities and Obligations.

A. Except as otherwise provided in this Charter, no securities or other financial obligations, which the Town is obligated to pay in whole or in part from the proceeds of general ad valorem property taxes, shall be issued or otherwise incurred until the question of their issuance has been approved by a majority of the registered electors voting thereon at an election.

B. Paragraph A. of this Section 13.3 shall not apply to any securities issued or other financial obligations incurred for the purpose of acquiring, constructing, improving, or extending any municipal utility system or for the purpose of acquiring water or water rights, nor shall it apply to other long-term financial obligations or contracts for municipal utility system properties, services or operations.

Section 13.4. Revenue Securities and Obligations.

A. The Council may, by ordinance and without any election and indebtedness, issue securities, and may, without any election, otherwise incur financial obligations for any public purpose payable in whole or in part from any source of revenues other than general ad valorem property taxes or sales and use taxes.

B. Notwithstanding the provisions of Paragraph A in this Section 13.4 the Council may, by ordinance and without any election and indebtedness, utilize property, sales or use tax incentives for economic development or public purpose incentives as determined by Council.

Section 13.5. Refunding Securities.

A. The Council may, by ordinance and without any election, issue securities for the purpose of refunding outstanding securities or other payment obligations to accomplish any refunding purpose determined by the Council to be advantageous to the Town. Any refunding securities which are revenue securities may be payable in whole or in part from any source of revenue or any combination of sources of revenues other than general ad valorem property taxes.

B. Refunding securities may be issued in such principal amount and otherwise on such terms as the Council may determine to be necessary or appropriate to accomplish the refunding purpose.

Section 13.6. Limitations.

Except as provided in this Charter, there shall be no limitation on the total amounts or other terms of securities the Town may issue or on the incurring of other debts or payment obligations by the Town.

Section 13.7. Sale of Securities.

All securities issued pursuant to this Charter shall be sold in such manner and pursuant to such terms as determined by the Council to be to the best advantage of the Town.

Section 13.8. Other Contracts and Agreements.

The Town may, without any election, enter into lease-purchase and installment-purchase agreements, construction contracts, contracts for the purchase, installation or acquisition of any real or personal property for public purposes and/or public uses and any executory contracts or agreements and may, without any election, commit to pay such obligations in whole or in part from the proceeds of general ad valorem property taxes. The Council may pledge the full faith and credit and the general taxing power of the Town to the payment of its obligations under any such agreement and may enter into such covenants regarding the rights of the lessor-vendor in the property upon default, as the Council may deem necessary or appropriate.

Section 13.9. Limitation of Actions.

- A. No action of any nature whatsoever against any act, proceeding, or election of the Town pursuant to this Article 13 shall be maintained unless commenced within thirty (30) days after the election or performance of the act or proceeding or effective date of any ordinance or resolution complained of to:
1. Question the validity or enforceability of or enjoin the performance of any act;
 2. Question the validity or enforceability of or enjoin the issuance or payment of any securities;
 3. Question the validity or enforceability of or enjoin the incurring of any other payment obligation;
 4. Question the validity or enforceability of or enjoin the imposition or collection of any taxes, fees, charges or revenues; or
 5. Obtain any other review of or relief against any act, proceeding or election of the Town pursuant to this Article 13.
- B. Any action not commenced within the time limits provided in paragraph A. of this Section 13.9 shall be thereafter perpetually barred.
- C. The limitations of this Section 13.9 shall be in addition to any limitations or restrictions provided by ordinance.

ARTICLE 14

MUNICIPAL TAXATION AND FEES

A. The Council shall have the authority to adopt and levy, by ordinance, all taxes which are not prohibited for home rule municipalities by the Colorado Constitution, subject to any applicable limitations in that Constitution. Prior to the institution of any new tax or tax increase, the Council shall comply with applicable voter approval requirements in the Colorado Constitution.

B. The Council shall have the authority to enact, establish and enforce, by ordinance and resolution, the imposition of fees and /or charges for all municipal and/or public services, facilities and improvements and fees and/or charges for impacts upon such municipal and/or public services, facilities and improvements it deems in the best interests of the Town.

ARTICLE 15 MUNICIPAL INVESTMENTS

The Council may, by ordinance or resolution, initiate and adopt policies for municipal investments, subject to compliance with the following conditions:

A. Such polices are subject to any applicable limitations in the Colorado Constitution; and

B. Such policies are determined by Council to be in the best interest of the Town.

ARTICLE 16 TOWN UTILITIES

Section 16.1. Authority and Powers.

The Town shall have and exercise all the authority and powers provided by the Colorado Constitution, state statutes and other applicable laws in any matter pertaining to Town utilities, including without limitation, water and water rights and acquisition thereof, sanitary sewer and storm and water drainage and bonded indebtedness in connection therewith.

Section 16.2. Utility Rates and Finances.

A. The Council shall from time to time by resolution fix, establish, maintain, enforce and provide for the collection of rates, fees and charges for water, sanitary sewer, storm and water drainage, gas and/or electric, any power sources, and all other utilities and services furnished by the Town.

B. Such rates, fees and charges shall be sufficient in the Council's judgment to provide services to customers; pay all securities and bonded indebtedness; pay legally required refunds; cover the cost of operations, maintenance, additions, extensions, betterments, and improvements; provide a reasonable return on the Town's investment in utility properties and capital investments, including by illustration only, reimbursement to the Town for the utilities' use of the Town's rights-of-way and reimburse the Town for administrative services and overhead provided and incurred by the Town on behalf of all utilities; and any other consideration reasonably determined by the Council to be in the best interest of the Town.

Section 16.3. Separate Utility Accounting.

A. All monies derived from Town utilities shall be accounted for separately from other monies of the Town.

B. Any loan of money derived from Town utilities to any other Town utility, or to any other Town fund, shall be approved by ordinance.

ARTICLE 17
FRANCHISES AND PERMITS

Section 17.1. Franchises.

All franchises in effect upon enactment of the Charter shall remain in full force and effect in accordance with their respective terms and conditions and the applicable laws.

Section 17.2. Granting of Franchises.

Any franchise and all renewals, extensions or amendments thereof shall be granted only by ordinance.

Section 17.3. Terms of Franchises.

Every grant of a franchise shall specify its duration, terms, fees, compensation, conditions, record keeping and other provisions and requirements as reasonably determined by the Council.

Section 17.4. Revocable Permits or Licenses.

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

ARTICLE 18
IMPROVEMENT DISTRICTS

The Council, subject to applicable restrictions in the Colorado Constitution, shall have authority to create, by ordinance, improvement districts within the Town.

ARTICLE 19
GENERAL LEGAL PROVISIONS

Section 19.1. Interpretation.

A. Except as otherwise specifically provided in or indicated by the context, all words used in this Charter indicating the present tense shall not be limited to the time of the adoption of this Charter, but shall extend to and include the time of the happening of any event or requirement for which provision is made in this Charter.

B. Except as otherwise specifically provided in or indicated by the context, the singular number shall include the plural and the plural shall include the singular. The word “person” may extend and be applied to bodies politic and corporate, partnerships, individuals and other public or private entities. Words in the masculine gender include the feminine and the neuter, and when the sense so indicates, words of the neuter gender refer to any gender.

Section 19.2. Severability of Charter Provisions.

If any part of this Charter or the application of any part of this Charter to any person or circumstance is found to be invalid, such invalidity shall not affect the validity of any remaining part of this Charter, and to this end this Charter is declared to be severable.

Section 19.3. Bonding.

Before permitting any Town official or Town employee to perform any function or duty involving the handling of Town funds, the Council may require, by ordinance, that such person obtain a fidelity bond or insurance coverage in an amount prescribed by Council.

Section 19.4. Bequests, Gifts and Donations.

Except as otherwise provided in this Charter, the Town may receive bequests, gifts, and donations of all kinds of property with power to manage, sell, lease, or otherwise dispose or provide for the disposition of same.

Section 19.5. Saturdays, Sundays and Holidays.

If the last day of any period required to be computed under this Charter is a Saturday, Sunday, Town, state or national holiday, the period shall be extended to include the next day which is not a Saturday, Sunday or holiday.

Section 19.6. Penalty for Violation of Charter.

Any willful violation of a provision of this Charter shall be deemed a misdemeanor and may be prosecuted in the Municipal Court. Any person convicted of such a violation may be punished by imprisonment for a term not to exceed the maximum term of imprisonment that the Municipal Court is authorized to impose, by a fine in an amount not to exceed the maximum fine that the Municipal Court is authorized to impose, or by both such fine and imprisonment.

Section 19.7. Intergovernmental Agreements.

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

Section 19.8. Bidding.

Purchases of/or contracts for supplies, material, equipment or improvements shall be made under such requirements regarding bidding procedures, as prescribed by ordinance.

Section 19.9. Emergency Acquisitions.

In case of an emergency affecting the public peace, well-being, health, or safety, the Council may waive all provisions for competitive bidding and direct the Town Manager, acting as purchasing agent for the Town, to purchase, use, acquire and/or lease equipment, goods, supplies, services and materials.

ARTICLE 20

TRANSITIONAL PROVISIONS

Section 20.1. Effective Date of Charter.

This Charter shall become effective immediately upon filing and recording the Charter with the Secretary of State of Colorado following approval of the registered electors of the Town.

Section 20.2. Prior Town Legislation.

All ordinances, resolutions, rules, regulations, policies and procedures of the Town which are consistent with this Charter and which are in force and effect on the effective date of this Charter, shall continue in force and effect until repealed or amended. Any ordinances, resolutions, rules or regulations, policies and procedures which are inconsistent with this Charter are hereby repealed.

Section 20.3. Continuation of Appointed Officers and Employees.

Except as otherwise provided herein, after the effective date of this Charter, all appointed officials and all employees of the Town shall continue in those Town offices or employment, which corresponds to the Town offices 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. In all respects, they shall be subject to the provisions of this Charter, except that any official 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 20.4. Continuation of Terms of Office – Mayor, Councilmembers and Board and Commission Members.

Notwithstanding any other provision of this Charter, the terms of office of the Mayor and each Councilmember and of the members of each Town board and commission, serving prior to the effective date of this Charter, shall continue.

Section 20.5. Saving Clause.

Neither the adoption of this Charter nor the amendment or repeal of any ordinance, resolution, rule, regulation, policy or procedure, or portion thereof, inconsistent with this Charter, shall be construed to destroy any property right, contract right or right of action of any nature or kind, civil or criminal, vested in or against the Town by virtue of any such ordinance, resolution, rule, or regulation, policy or procedure, or portion thereof, or any other provision of law theretofore existing or otherwise accruing to the Town. All such rights shall vest in and inure to the Town or to any persons asserting any such claims against the Town as fully and as completely as though this Charter had not been adopted and as though there had been no amendment or repeal of any ordinance, resolution, rule, regulation, policy, contract or procedure, or portion thereof. Such rights shall include but not be limited to:

- A. Any contractual relationships between the Town and any employees related to any retirement and pension plans in effect on the effective date of this Charter; and
- B. Any franchise ordinances and agreements of the Town in effect on the effective date of this Charter; and
- C. Any contracts between any persons, companies, individuals, entities, governments or corporations.

**ARTICLE 21
DEFINITIONS**

The following definitions shall apply as used in this Charter:

- 1. **“Ad valorem tax”** means the general property tax levied annually on the value of real or personal property listed with the county assessors of Weld and Larimer Counties, Colorado.
- 2. **“Adoption” or Approved”** means the same thing, such as to authorize the passage of an ordinance.
- 3. **“Appropriation”** means the authorized amount of money designated for an expenditure during a specified time for a specified purpose, usually as an appropriation of funds in the Town budget or amendment to the budget.
- 4. **“Board or Commission”** or **“Board and Commission”** means the boards and commissions authorized by this Charter or established by ordinances of the Town Council.
- 5. **“Clerk”** means the Town Clerk of the Town of Johnstown or such office designation as may be used in place of the office of Town Clerk.

6. **“Colorado Constitution”** means the Constitution of the State of Colorado, as amended from time to time.
7. **“Council” or “Town Council”** means the elected or appointed governing body constituting the Town Council of Johnstown, including the Mayor.
8. **“Councilmember”** means each member of the Town Council, except the Mayor. Councilmember may also be referred to as “Councilor”, “Councilwoman” or “Councilman”.
9. **“Elected Town Official” or “Elected Official”** means the Mayor and each Councilmember, whether elected or appointed.
10. **“Electronic”** is the means, methods or systems of communication or communicating which may be related to devices such as computers, video or visual devices, televisions, audio facilities or other technological devices which serve to communicate with and/or convey information to persons, and particularly the public.
11. **“Emergency ordinance”** means an ordinance which, in the opinion of the Town Council is necessary for the immediate preservation of the public property, health, welfare, peace, safety and well being.
12. **“Employee”** means each compensated person in the service of the Town who is designated as an employee in the personnel code or applicable rules and regulations of the Town.
13. **“Entire Council”** means all of the members of the Council, including the Mayor.
14. **“External”** means the electronic communication system that is not within or used exclusively by and within the Town government or Town properties. It is the electronic communication system which may be used by and available to the general public such as, but not limited to, cable television, the internet, web sites, computers, and other such systems or facilities as exist or which may be developed in the future.
15. **“Franchise”** means a right conferred by the Town (such as to a public utility) to use public property for public use but for private profit.
16. **“General Municipal Election”** means the Town election held on the first Tuesday in April of each-even numbered year beginning in 2008.
17. **“Initiative”** means the power of the registered electors of the Town of Johnstown to propose to the Town Council, in accordance with the provisions of this Charter, certain ordinances for adoption by the Town Council which, if not adopted by the Council, shall be submitted to a vote of the registered electors of the Town for acceptance or rejection.
18. **“Manager”** means the Town Manager of the Town of Johnstown appointed by the Town Council.
19. **“Mayor”** means the Mayor of the Town.
20. **“Newspaper”** means a newspaper of general circulation in the Town which meets the requirements for a legal newspaper as established in the state statutes.
21. **“Notice”** means that notice may be provided to the public as prescribed by this Charter and/or by ordinance by any or all means and methods of communication.
22. **“Ordinance”** means a permanent law or regulation adopted by legislative action of the Town Council pursuant to the procedures set forth in this Charter or by ordinances.
23. **“Publication or Posting”** means:

- A. Publication in a newspaper of general circulation; or
- B. Publication by external electronic means and methods; or
- C. In the event of an emergency, or when no such newspaper is available, posting as provided in Paragraph D below. Anything published by such posting because of an emergency shall subsequently be published in a newspaper of general circulation or published electronically; or
- D. Posting shall be effected by providing written or printed notice in locations throughout the Town as provided by ordinance or resolution.

24. **“Referendum”** means the power of the registered electors of the Town of Johnstown to request that Town Council reconsider certain ordinances adopted by the Council; and, if Council fails to repeal such ordinances, to require that Council submit the referred ordinances to a vote of the registered electors of the Town for approval or rejection.

25. **“Registered Elector”** means an elector who has registered in compliance with the provisions for registration to vote as provided in the state statutes.

26. **“Resolution”** means an expression of an administrative or a ministerial act of Council without any required form or procedure, as distinguished from legislative acts embodied in Town ordinances.

27. **“Securities”** means evidence or legal documents of debt, borrowing money, or financial obligations such as bonds, certificates, notes or mortgages.

28. **“Shall” and “May”** as used in this Charter are differentiated as: “shall” is to mean mandatory, required, non-discretionary; and “may” is to mean permissive, discretionary.

29. **“Special Election”** means a Town election held at a time other than a general municipal election.

30. **“State statutes”** means the statutes of the State of Colorado, as amended or repealed from time to time, and are known as the Colorado Revised Statutes (C.R.S.).

31. **“Statewide general election”** means the statewide election held on the Tuesday succeeding the first Monday of November in each even-numbered year.

32. **“Town”** means the Town of Johnstown, Colorado.

33. **“Town Officials”, “Officials”, or “Public Officials”** shall mean persons elected or appointed to the Council, including the Mayor; boards or commissions; appointed positions in the Town government; volunteers; and Town employees.

34. **“United States Constitution”** means the Constitution of the United States of America, as amended from time to time.

**TOWN OF JOHNSTOWN, COLORADO
HOME RULE CHARTER COMMISSION
CERTIFICATE OF FINAL ADOPTION**

We, the undersigned, representing the members of the Town of Johnstown Home Rule Charter Commission, duly elected by the voters of Johnstown, Colorado, at a special election held on April 4, 2006 to prepare a Home Rule Charter for the Town of Johnstown, do hereby certify that the foregoing is the Proposed Home Rule Charter as

finally approved and adopted by the members of the Commission on the 11th day of July 2006 for submission to the Town Board of Trustee and to the registered electors of the Town of Johnstown.

Signed at Johnstown, Colorado, the 11th day of July 2006.

Clyde Briggs, Chair

Paul B. Kingsolver, Vice-Chair

Russ McConnell, Treasurer

Steve Ramsey, Secretary

Bernie Coffin, Commissioner

Jim Dowling, Commissioner

Chet Hays, Commissioner

Shirley Newsom-Gamez, Commissioner

Brian Wells, Commissioner

State of Colorado)
)ss.

County of Weld)

Subscribed and sworn to before me the _____ day of July 2006.

Diana Seele, Town Clerk
Town of Johnstown, Colorado

Certificate of Receipt by the Town Clerk

State of Colorado)
)ss.

County of Weld)

I hereby certify that the above and foregoing document is the Proposed Home Rule Charter, delivered to me by the Johnstown Home Rule Charter Commission on the _____ day of July 2006.

Diana Seele, Town Clerk
Town of Johnstown, Colorado

