



# **FRUITA HOME RULE CITY CHARTER**

**Draft Revisions - Redline  
August 29, 2023**

## **PREFATORY SYNOPSIS**

Population growth and the change in legal status from a town to a city were primary motivations for creating and adopting the City of Fruita's first charter in 1981. Since that time, charter provisions have been reviewed and modifications offered for public consideration in 1984, 1986, 1988, and 1998.

In November of 2002 the City Council adopted Resolution 2002-59 appointing a Charter Review Commission in accordance with Article 11.5 of the Fruita City Charter, a provision that requires that the Charter be reviewed every six years. The Mayor and City Council charged the Commission with the task of reviewing the charter in full and then make suggestions that would bring clarity to the document. The goal of the 1981 commission was to create a charter which would guide the City of Fruita to be progressive as a community and responsive to its inhabitants. The 2002-2003 Charter Commission kept that goal as the primary focus and took steps to ensure that the document as proposed could meet the ever changing needs and desires of the community.

After reviewing and discussing the document thoroughly, there were no pivotal or dynamic recommendations for change made. The Commission continued to embrace the Council-manager form of government created in the original 1981 Charter and continued to embrace an independently elected mayor with veto authority. The Commission has offered a number of changes for consideration that are designed to improve citizen participation, clearly define the responsibilities of staff and the policy makers and increase the level of accountability to the elected officials by clarifying a commitment to the City Council-Manager form of government. The resulting clarity will help to better serve the citizens of Fruita.

The goal of 2002-2003 Charter Commission was to re-evaluate the Charter and provide recommended changes that will ensure that the document provide the necessary framework to keep Fruita a progressive and well managed community. The Charter Commission believes the recommended changes will help meet that goal.

## **CHARTER COMMISSION MEMBERS - 1981**

James Adams  
William Baird  
John Barcus  
Robert Burdett  
Craig Caldwell  
Barbara Cowley  
James Garcia  
Bert Harrison  
Henry (Pat) Kelly  
Carol Lage  
Jean Lutz  
Robert Orr  
Florence Orr  
Rick Pell  
Judy Saunders  
Thomas Saunders  
Bernie Shaw  
Donna Shaw  
Ivol Tufly  
Viola Ward  
Charles Webster

## **CHARTER REVIEW COMMISSION - 2003**

Jim Adams  
Fred Espinosa  
Clint Kreutzer  
Darline Merling  
Jim Morris  
Viola Sis  
Wanda Valencia

**FRUITA CITY CHARTER  
TABLE OF CONTENTS**

**ARTICLE I: NAME, BOUNDARIES AND POWER OF THE CITY OF FRUITA**

1.01 Name, Boundaries.....	1
1.02 Powers of the City.....	1
1.03 Form of Government.....	1

**ARTICLE II: THE CITY COUNCIL**

2.01 Composition.....	2
2.02 Eligibility .....	2
2.03 Salary .....	2
2.04 Vacancies .....	2
2.05 Power and Duties of the Council .....	3
2.06 Prohibitions.....	3
2.07 Procedure for Meetings.....	3
2.08 Rules and Record .....	4
Voting Shall be by Roll Call.....	4
2.10 Ordinances, Resolutions and Motions .....	4
2.11 When Ordinances are Required .....	4
2.12 Enacting Clause .....	5
2.13 Procedure for Enactment of an Ordinance.....	5
2.14 Emergency Ordinances .....	6

**ARTICLE III: MAYOR**

3.01 How Chosen.....	7
3.02 Eligibility .....	7
3.03 Vacancies .....	7
3.04 Mayor Pro-tem.....	7
3.05 Powers and Duties of the Mayor.....	8
3.06 Prohibitions.....	8

**ARTICLE IV: ADMINISTRATIVE STAFF**

4.01 City Manager .....	9
4.02 Removal of Manager.....	9
4.03 Annual Evaluation of Manager.....	9
4.04 Acting City Manager.....	9
4.05 Powers and Duties of the City Manager .....	9
4.06 City Attorney .....	10
4.07 City Clerk.....	10
4.08 Chief of Police .....	10

**ARTICLE V: MUNICIPAL COURT**

5.00 Municipal Court.....	11
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**ARTICLE VI: BOARDS OF COMMISSIONS**

6.01 Boards and Commissions, Appointment and Compensation.....	12
--	----

6.02 Meeting Procedures .....	12
6.03 Established Boards and Commissions .....	12
6.03.01 Board of Adjustments.....	12
6.03.02 Election Commission .....	12
6.03.03 Planning and Zoning Commission.....	12
6.03.04 Police Commission.....	13
6.03.05 Parks and Recreation Commission.....	13
6.04 Additional Boards and Commissions.....	13
6.05 Advisory Capacity .....	13
6.06 Membership Requirements .....	13
6.07 Reasons for Removal of any Member .....	13

## **ARTICLE VII: ADMINISTRATIVE DEPARTMENTS**

7.01 Creation of Departments .....	14
7.02 Department of Police .....	14

## **ARTICLE VIII: FINANCIAL PROCEDURES**

8.01 Fiscal Year .....	15
8.02 Budget .....	15
8.03 Contents of the Budget.....	15
8.04 Long Term Financing .....	15
8.05 Budget Hearing .....	15
8.06 Council Amendments.....	16
8.07 Council Adoption.....	16
8.08 Taxes .....	16
8.09 Public Record.....	16
8.10 Amendments to the Budget after Adoption .....	16
8.11 Special Reserve Funds .....	17
8.12 Accounting Records.....	17
8.13 Annual Audit.....	17
8.14 Purchasing.....	17
8.15 Depository .....	17
8.16 Investments .....	17
8.17 Forms of Borrowing.....	18
8.18 Limitations .....	18
8.19 Short Term Notes.....	18
8.20 General Obligation Bonds.....	18
8.21 Revenue Securities.....	19
8.22 Industrial Revenue Bonds .....	19
8.23 Bonds for Special or Local Improvement Districts .....	19
8.24 Refunding Securities .....	19
8.25 Long Term Lease Agreements.....	20

**ARTICLE IX: FRANCHISES**

9.01 Granting of Franchises .....	21
9.02 Right of Purchase .....	21
9.03 Powers and Regulations .....	21
9.04 Review .....	21

**ARTICLE X: INITIATIVE, REFERENDUM AND RECALL**

10.01 Definition of Initiative and Referendum .....	22
10.02 Scope of Ordinances .....	22
10.03 Recall .....	22
10.04 Commencement of Proceedings .....	22
10.05 Duty of Clerk .....	22
10.06 Petitions .....	23
10.07 Submission of Petitions .....	23
10.08 Examination by Clerk .....	23
10.09 Certification to the Council .....	24
10.10 Publication and Form of Ballot .....	24
10.11 Effect of Election on Recall .....	25
10.12 Submission by Council .....	25
10.13 Implementation .....	25

**ARTICLE XI: GENERAL AND MISCELLANEOUS PROVISIONS**

11.01 Present form of Government Continues .....	26
11.02 Responsibility of Transition .....	26
11.03 Present Ordinances Continued In Force .....	26
11.04 Continuing Bonds .....	26
11.05 Charter Amendments .....	26
11.06 Publicity and Legal Advertising .....	26
11.07 Boards and Commissions .....	26
11.08 Severability .....	26
11.09 Codification .....	26
11.10 Employment .....	26
11.11 Effective Date .....	27

**ARTICLE I**  
**NAME, BOUNDARIES AND**  
**POWER OF THE CITY OF FRUITA**

1.01 Name, Boundaries: The Municipal Corporation previously existing as the Town of Fruita shall continue under the name City of Fruita and with the same boundaries. The City shall have power and authority to change boundaries in a manner authorized by law.

1.02 Powers of the City: The City shall have all powers possible for a City to have under the Constitution and Laws of this State.

1.03 Form of Government: The form of government of the City of Fruita shall be the Council Manager plan. All powers of the City shall be exercised by direction of a City Council which shall be elected as provided by this Charter. The Mayor shall have separate powers and duties as established by this Charter. The City Manager shall be the chief administrative officer of the city.

## ARTICLE II THE CITY COUNCIL

2.01 Composition: There shall be a City Council of six (6) members elected at large by the registered voters of the City. The terms of all Council members shall be four (4) years, and until their successors are elected and assume office. Three (3) Council members shall be elected at a regular election; three (3) at the next succeeding regular election. A quorum shall consist of at least four (4) City Council members.

2.02 Eligibility: Only registered voters residing in the City which are twenty one years (21) of age or older shall be eligible to hold the office of Council member.

2.03 Salary: The Council members shall receive such compensation as may be fixed by ordinance. No salary increases shall be effective during the current term of the Council members enacting such ordinance. The Council members shall also receive reasonable actual and necessary expenses incurred in the performance of their official duties.

2.04 Vacancies:

- A. When Existing: A vacancy in the office of a Council member shall exist when a Council member
1. Dies;
  2. Resigns;
  3. Moves from the City;
  4. Fails to attend two (2) consecutive regular meetings of the Council, unless excused by the Council;
  5. Is recalled;
  6. Is convicted of a felony or after a due process hearing, is found to have willfully engaged in unethical conduct as defined by ordinance;
  7. Is judicially declared incompetent.
- B. Procedures: When there is a vacancy in the Council, the Council shall have sixty (60) days from the date of that vacancy to appoint a qualified person to fill the vacancy until the next general municipal election. All appointments shall be approved upon a majority vote of the Council as then constituted at a public meeting. If the Council fails to fill the vacancy within the sixty (60) days provided by this Charter, a special election shall be



held not less than ninety (90) days from the date of the vacancy unless a regular municipal election shall occur within 90 days.

- C. **Loss of Quorum: If there are three or more concurrent Council vacancies, the Mayor shall call a special election in compliance with state law.**

2.05 Powers and Duties of the Council: The Council is responsible for policy making. The Council shall have the power to:

- A. Adopt the budget and determine the City tax levy;
- B. Adopt ordinances, resolutions, and motions necessary for the orderly conduct of City affairs;
- C. Review and ratify appointments made by the Mayor;
- D. Appoint a City Manager and evaluate ~~his~~their performance;
- E. Enact necessary legislation required for the operation of the City.

2.06 Prohibitions. Individual members of the City Council shall not, in any manner, control or demand the appointment or removal of any city administrative officer or employee whom the City Manager or any subordinate of the City Manager is empowered to appoint, nor shall individual members of the City Council give orders to any such officer or employee, either publicly, or privately but shall deal with city officers and employees who are subject to the direction and supervision of the City Manager solely through the City Manager. The City Council may express its view and fully and freely discuss with the City Manager anything pertaining to appointment and removal of such officers and employees.

2.07 Procedure for Meetings:

- A. Meetings: The Council shall prescribe by ordinance the time and place of all regular Council meetings. There shall be at least one (1) Council meeting per month. Special meetings may be held on the call of the Mayor or of four or more members of the Council. Notice of meetings shall be given to the public pursuant to Colorado Revised Statutes.
- B. Council meetings shall be open to the public, except that the Council and Mayor may recess for the purpose of discussing in a closed session the items stipulated in C.R.S. 24-6-402 (4). A summary of those items that may be discussed in executive session include:
  - 1. Matters required to be kept confidential by federal or state law or consideration of documents protected by the Open Records Act.

2. The purchase or sale of any real property;
  3. Personnel matters;
  4. Matters subject to negotiation.
  5. Conferences with an attorney for the purpose of receiving legal advice on specific legal questions.
  6. Specialized details of security arrangements or investigations
- C. Before a closed session, the Council shall state the subject of the closed session in a motion calling for the closed session. Voting on matters which have been discussed in a closed session shall occur in open session and shall be recorded publicly.

2.08 Rules and Record: The Council shall make its own rules and order of business. A public record of its proceedings shall be kept.

2.09 Voting Shall be by Roll Call: The order of roll call shall be rotated for each succeeding vote, and the ayes and nays shall be recorded. **Final approval of an ordinance, shall be by the affirmative vote of a majority of the quorum present.** Every member present must vote, except that Council members shall be excused from voting on matters involving ~~a his~~their own conduct or when ~~his~~their direct financial interest is involved.

2.10 Ordinances, Resolutions and Motions: The Council shall act only by ordinance, resolution or motion. All legislative enactments must be in the form of an ordinance; all other procedures may be in the form of resolutions or motions. Each ordinance or resolution shall be confined to one subject, except in the case of repealing ordinances.

2.11 When Ordinances are Required: In addition to other acts required by law or by specific provision of this Charter, acts of the Council shall be by ordinance which:

- A. Adopt or amends an administrative code or establishes alters, or abolishes any department, office or agency;
- B. Provide for a fine or other penalty or establishes a rule or regulations, for violation of which a fine or other penalty may be imposed;
- C. Levy Taxes;
- D. Conveys or authorizes the conveyance of any real property of the City and the lease of any real estate for a period of more than one year.
- E. Granting of a franchise.

2.12 Enacting Clause: Every proposed ordinance shall be introduced in writing, and in the form for final adoption. No ordinance shall contain more than one subject which shall be clearly expressed in its title. The enacting clause shall be, “BE IT HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF FRUITA, COLORADO”. The Council shall adopt a resolution prescribing the form by which repeals and amendments to existing ordinances shall be presented for discussion.

2.13 Procedure for Enactment of an Ordinance: Procedure for enactment of an ordinance by the Council shall be as follows:

- A. Any person, including a Council member, may present a proposed ordinance to the Council. A member of the Council may introduce a proposed ordinance or request that a public hearing be set concerning the subject matter of the proposed ordinance;
- B. Upon introduction of a proposed ordinance or a request for a public hearing, the Council shall set a date for a public hearing;
- C. The clerk will publish a notice setting forth the time and place of the public hearing, and summarizing the subject matter of the proposed ordinance by title, or at the direction of the Council, may publish the entire ordinance. Where ordinances relate to real property the simplest, clear description of the location of the property shall be used. The public notice shall state that copies of the proposed ordinance are available for inspection at the office of the Clerk. The Mayor, Council members, and the City Manager shall each receive a copy of the proposed ordinance prior to the public hearing;
- D. All interested persons shall have an opportunity to be heard at the public hearing;
- E. Following the public hearing, the Council and Mayor shall discuss the proposed ordinance. The Council may adopt, defeat, or postpone the decision on the ordinance;
- F. If the ordinance is passed and adopted:
  - 1. For planning and zoning ordinances, publish again the title noted above, and adding that copies of the ordinance (containing the legal description) are available for inspection at City Hall;
  - 2. Publish other Ordinances by title or, at the direction of the Council, in full.
- G. Ordinances other than emergency ordinances shall become effective thirty (30) days after their adoption by the Council;
- H. All ordinances which are the subject of an election shall, if approved by a majority of those voting, become effective upon such approval and the procedures of this section

shall not apply.

2.14 Emergency Ordinances: To meet a public emergency affecting life, health, property, or the public peace, the Council may adopt one or more emergency ordinances. These ordinances may not regulate taxes or authorize the borrowing of money, except as otherwise provided by this Charter.

An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms.

The Council must, prior to the enactment of an emergency ordinance, receive evidence in support of the declaration that an emergency exists, and must make a specific finding of fact that a public emergency affecting life, health, property, or the public peace exists. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced.

A summary of every emergency ordinance shall be published. It shall become effective upon adoption or at a specified time. Every emergency ordinance shall automatically stand repealed on the 61st day following the date on which it was adopted. This shall not prevent reenactment of the ordinance in accordance with the provisions set forth in Section 13 of this Article.

## **ARTICLE III MAYOR**

3.01 How Chosen: The Mayor shall be chosen by a regular election. If there are more than two candidates, a plurality is required to elect. The Mayor shall serve a two (2) year term.

3.02 SALARY: The Mayor shall be paid as determined by ordinance, except that no increase in salary shall take effect until after the next regular City election. The Mayor shall also receive reasonable actual and necessary expenses incurred in the performance of the Mayor's official duties.

3.03 Eligibility: Only registered voters residing in the City which are twenty one years (21) of age or older shall be eligible to hold the office of Mayor.

3.04 Vacancies:

- A. When existing: A vacancy in the office of the Mayor shall exist when the Mayor
1. Dies;
  2. Resigns;
  3. Moves from the City;
  4. Fails to attend two (2) consecutive regular meetings of the Council, unless excused by the Council;
  5. Is recalled;
  6. Is convicted of a felony or after a due process hearing, is found to have wilfully engaged in unethical conduct as defined by ordinance.
  7. Is judicially declared incompetent.
- B. Procedures: When there is a vacancy in the office of Mayor, the Mayor Pro-tem shall assume the office of Mayor until the next regular election.

3.05 Mayor Pro tem: The Council shall elect from its membership a Mayor Pro-tem who shall act as Mayor during the absence or disability of the Mayor. The Mayor Pro tem shall serve a two (2) year term. If there is a vacancy in the office of Mayor, the Mayor Pro tem shall resign ~~his/her~~their council seat and assume the office of Mayor until the next regular election. If there is a vacancy in the office of Mayor Pro tem, a Mayor Pro-tem shall be elected by the Council to fill the unexpired term.

3.06 Powers and Duties of the Mayor: The Mayor is the recognized political leader and represents the City at official, civic and social functions. The Mayor shall have the power to:

- A. Preside over Council meetings;
- B. Call special meetings;
- C. Subject to Council review and approval, appoint members of boards and commissions;
- D. Recommend ordinances, resolutions, and motions;
- E. Vote in the event of a tie vote of the Council;
- F. Be recognized as the political head of the city government;
- G. The Mayor shall approve or disapprove ordinances in accordance with Colorado Revised Statutes 1973 31 16 104, and any amendments, revisions and renumbering of that statute.
- H. Other powers and duties as designated by the City Council.

3.07 Prohibitions. The Mayor shall not, in any manner, control or demand the appointment or removal of any city administrative officer or employee whom the City Manager or any subordinate of the City Manager is empowered to appoint, nor shall the Mayor give orders to any such officer or employee, either publicly or privately, but shall deal with city officers and employees who are subject to the direction and supervision of the City Manager solely through the City Manager. The Mayor, acting with the City Council may express ~~his~~their views and fully and freely discuss with the City Manager anything pertaining to appointment and removal of such officers and employees.

## ARTICLE IV ADMINISTRATIVE STAFF

### 4.01 City Manager:

- A. Appointment, Qualifications, Compensation: The Council shall appoint a City Manager, by a majority of the entire Council, for an indefinite term and fix ~~his~~their compensation. The manager shall be appointed solely on the basis of ~~his~~their qualifications.

4.02 Removal of Manager: The Council may remove the manager from office by a majority vote of the entire Council.

4.03 Annual Evaluation of the Manager: The Council and Mayor shall, annually, evaluate the performance of the City Manager to determine if ~~he~~they should be retained. The procedure for such evaluation shall be as follows:

- A. Not less than thirty (30) days prior to the date of the evaluation, the Council shall publish notice to the public, inviting comment on the performance of the City Manager;
- B. At the time of publication of the notice, the form to be used by the Council in evaluating the City Manager shall be made available to the public;
- C. The actual contents of the evaluation of the City Manager shall not be made public;
- D. The determination of the Council, after reviewing the evaluation of the City Manager, shall be announced at a regular Council meeting.

4.04 Acting City Manager: By letter filed with the City Clerk, the City Manager shall designate an acting City Manager to exercise the powers and duties of the City Manager if ~~he is~~they are temporarily absent or disabled. During the absence or disability of the City Manager, the Council may revoke the designation of the acting City Manager, and appoint another person to serve until the Manager shall return or ~~their~~his disability shall cease.

4.05 Powers and Duties of the City Manager: The City Manager shall be the Chief Administrative Officer of the City and is responsible for the management of the City. ~~He~~The City Manager shall be responsible to the Council for all City affairs placed in ~~his~~their charge by this Charter, the Council, or by law. ~~He~~The City Manager shall have the following powers and duties:

- A. To appoint, with the approval of the Council, all heads of departments, offices and agencies.
- B. To appoint acting department heads to act in case of temporary absence or disability of a department head.

- C. To suspend or remove any City employee or administrative officer except as otherwise provided by personnel rules of the City. Removal of department heads must be reviewed and approved by the Council;
- D. To direct and supervise the administration of all departments, offices and agencies of the City;
- E. To attend all Council meetings unless excused by the Council and shall have the right to take part in discussions, but shall not vote;
- F. To see that all laws, provisions of this Charter and acts of the Council, subject to enforcement by the City Manager or by officers subject to his-their direction and supervision, are properly performed.
- G. To recommend to the Council personnel rules and policies in addition to the current personnel manual which is hereby adopted subject to revision and amendment by the Council.
- H. To keep the Council and Mayor fully advised of the financial condition of the city.
- I. To direct the preparation of the annual budget.
- J. To make such other reports and perform such other duties as may be required by the Council.
- K. Make recommendations to the City Council and Mayor concerning the affairs of the city.

4.06 City Attorney: The Council shall appoint for the City, an attorney (or firm of attorneys) licensed to practice law in the State of Colorado. He-The City Attorney shall serve at the pleasure of the Council and perform duties determined by the Council. Compensation of the City Attorney shall be fixed by the Council.

4.07 City Clerk: The City Manager shall appoint a City Clerk, with the approval of the Council, who shall be custodian of the Seal of the City, and shall perform such other duties as required by this charter, the Council or the City Manager.

4.08 Chief of Police. The City Manager shall appoint a Chief of Police, with the approval of the Council, who shall be in direct command of the Police Department, and shall perform such other duties as required by this Charter, the Council or the City Manager.



## ARTICLE V MUNICIPAL COURT

The Council shall appoint a ~~M~~municipal ~~J~~judge who is licensed to practice law in the State of Colorado, who shall serve at the pleasure of the Council, subject to annual review. Compensation of the municipal judge shall be fixed by the Council.

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## **ARTICLE VI BOARDS AND COMMISSIONS**

**6.01 Boards and Commissions, Appointment and Compensation:** Members of Boards and Commissions shall be appointed by the Mayor, with approval of the Council for a period of three (3) years, with overlapping terms, and shall serve without compensation. First appointments shall be for one (1), two (2), and three (3) year terms.

**6.02 Meeting Procedures:** Each Board and Commission shall operate under established rules of procedure at public meetings as approved by the City Council and in accordance with the state open meetings law. A record of each meeting shall be kept.

**6.03 Established Boards and Commissions:** The following Boards and Commissions are hereby established:

6.03.01 Board of Adjustment: A Board of Adjustment as established by ordinance.

6.03.02 Election Commission:

- A. Colorado Municipal Election Law Adopted: Elections shall be governed by the Colorado Municipal Election Law in effect at the time of the election, except as the Council may prescribe by ordinance.
- B. An Election Commission is hereby created consisting of the Clerk, who shall be Chairman, and two other members at large, who, shall not be the City officers, employees, candidates, or nominees for elective City office. These two (2) members shall be appointed by the Mayor for a term of two (2) years.
- C. Powers and Duties of Commission: The Election Commission shall establish precincts and appoint election judges and clerks for each precinct. The Election Commission shall have the power to adopt reasonable rules and regulations not in conflict with the Constitution and Statutes of the State of Colorado, this Charter, and ordinances of the City of Fruita. In the event of a tie vote, the Election Commission shall determine by lot the person or persons who shall be elected. No member of the Election Commission shall serve as a municipal election judge or clerk.
- D. Municipal Elections: A general municipal election shall be held on the first Tuesday of April 1982, and on the first Tuesday of April of every second year thereafter.

6.03.03 Planning and Zoning Commission: A Planning and Zoning Commission as established by ordinance.

#### 6.03.04 Police Commission:

- A. The Police Commission shall consist of one (1) Council member, and four (4) members at large.
- B. The Police Commission shall recommend policies, standards, procedures, and limitations for the Police Department to the Council.
- C. Upon the direction of the City Council the Police Commission may receive public comment on the operations and management of the Police Department.
- D. Upon the direction of the City Council the Police Commission may provide input to the City Manager on the appointment of the Chief of Police.
- E. Upon the direction of the City Council the Police Commission may provide assistance to the Chief of Police in selecting members of the department.

#### 6.03.05 Parks and Recreation Commission:

- A. The parks and Recreation Commission shall consist of one Council member and six (6) members at large.
- B. It shall recommend to the Council plans for acquisitions, development and operation of parks, recreation areas, and recreation facilities owned and operated by the City.
- C. It shall recommend to the Council Recreation programs.

6.04 Additional Boards and Commissions: The Council shall have the authority to create or abolish other Boards and Commissions.

6.05 Advisory Capacity: Except for the Election Commission and Board of Adjustment, Boards and Commissions serve in an advisory capacity.

6.06 Membership Requirements: Eligibility requirements for members of all Boards and Commissions shall be as set forth in ordinance or resolution.

#### 6.07 Reasons for Removal of any Member:

- A. Being found guilty of committing a felony:
- B. Having failed to attend two (2) consecutive regular meetings, unless excused.
- C. Is found to have wilfully engaged in unethical conduct as defined by ordinance.

## ARTICLE VII ADMINISTRATIVE DEPARTMENTS

7.01 Creation of Departments. The City Council may establish or abolish city departments, offices or agencies and may prescribe the functions of all departments, offices and agencies.

7.02 Department of Police:

- A. There is hereby created a Department of Police, the director of which shall be the Chief of Police, who shall be appointed and may be removed in the same manner as other department heads.
- B. The Chief of Police shall be in direct command of the Department of Police, and shall be assisted by the Police Commission in selecting members of the Department. ~~He~~The Chief of Police shall assign all members of the department to their respective posts, shifts, details and duties. ~~He~~They shall make rules and regulations affecting the department in conformity with the ordinances and resolutions of the City, concerning the operation of the department and the conduct of the department. ~~He~~The Chief of Police shall further provide for the care and custody of all property used by the department.

## **ARTICLE VIII FINANCIAL PROCEDURES**

**8.01 Fiscal Year:** The fiscal year shall be the calendar year or as determined by the Council by ordinance.

**8.02 Budget:** The City Manager shall direct the preparation of an annual budget, and shall submit the Annual Budget to the City (90) days prior to the end of the current fiscal year or at such time as directed by the Council.

**8.03 Contents of the Budget:** The year's proposed budget shall contain:

- A. A list of anticipated revenues, and of any surplus funds from the preceding year;
- B. A statement of the proposed expenditures for each department. This statement shall include a breakdown of the expenditures for personnel, operations, other expenses and capital outlays;
- C. Subsidiary budgets shall be prepared for all city owned utilities in conformance with Generally Accepted Accounting Principles;
- D. An estimate of the amount of surplus funds which may exist at the end of the budget year;
- E. An itemized comparison with the previous year's budget.
- F. Any other supporting information that the Council may request.

**8.04 Long Term Financing:** The proposed budget shall also include:

- A. A statement of all known capital construction projects to begin or continue during the budget year. The statement shall contain an estimate of the cost and necessary revenue measures to accomplish the completion of each project, and an estimate of the annual cost of operating each project.
- B. A statement of bonded indebtedness, and of other long term obligations, with retirement schedules, interest requirements, and special reserve funds provided for those obligations.

**8.05 Budget Hearing:** A public hearing on the proposed budget shall be held before its final adoption. Notice of public hearing shall be published at least two weeks prior to the hearing. The complete proposed budget shall be available for public inspection for a period of not less than two weeks before the date of the hearing. Copies shall be made upon request for purchase at cost.

8.06 Council Amendments: After the public hearing the Council may adopt the budget with or without amendment. If the total proposed expenditures are increased or decreased by more than five percent (5%) of the original amount, another public hearing shall be held.

8.07 Council Adoption: If the Council fails to adopt a budget by the first day of the fiscal year, the amounts appropriated for the prior fiscal year shall be pro rated on a month to month basis until the Council adopts the budget.

8.08 Taxes: The right is reserved to impose any tax not specifically denied to cities by the statutes of the State of Colorado. Any new tax or increase in existing tax, except the general property tax and taxes on special improvement districts, must be approved by a majority of the voters in a special or regular election.

- A. Property Tax Levy: Adoption of the budget constitutes appropriation of the amounts specified. The Council shall cause the property tax to be certified to the county for collection.
- B. Taxes imposed on special improvement districts shall be exempt from the general election requirement. However, a majority of the voters in such a district must approve the special improvement bond issue.

8.09 Public Record: The budget is a public record, and copies may be purchased at cost.

8.10 Amendments to the Budget after Adoption:

- A. SUPPLEMENTAL APPROPRIATIONS: If the City Manager certifies there are excess revenues, the Council by resolution and after notice of public hearing published five days prior to the public hearing, may make supplemental appropriations up to the amount of the excess. This section shall not limit emergency appropriations under the provisions of Section 10B.
- B. EMERGENCY APPROPRIATIONS: To meet a public emergency the Council may make emergency appropriations. Such appropriations shall be made by emergency ordinance. If there are no available revenues to meet such an appropriation, the Council may, by emergency ordinance, authorize the issuance of short term notes. The 61 days time limit for emergency ordinances shall not apply to these short term notes.
- C. REDUCTIONS OF APPROPRIATIONS: If during the year it appears probable to the City Manager that revenues will be insufficient, ~~he~~ the City Manager shall report to the Council without delay, indicating the estimated amount of deficit, any remedial action taken by the City Manager ~~him~~, and ~~his~~ their recommendation as to any other steps to be taken. The Council shall then take action to prevent or minimize any deficit, and for that purpose it may reduce one or more appropriations.

D. **TRANSFER OF APPROPRIATIONS:** The City Manager may transfer part or all of any unencumbered appropriations within a department. The Council may transfer by resolution, part or all of any unencumbered appropriations from one department to another.

E. **LIMITATION:** No appropriation for debt service may be reduced or transferred.

8.11 Special Reserve Funds: The Council, may, by ordinance, provide reserve funds for debt service, future improvements, or other projects. Such funds are to be held in trust for each specified purpose.

8.12 Accounting Records: The City Manager shall use an accounting system guided by current Generally Accepted Accounting Principles. This system shall include:

- A. An itemized method for handling of receipts and disbursements;
- B. A monthly statement of receipts and expenditures from which the Council can determine compliance with the budget. This statement shall be made available for public inspection;
- C. An annual report of all funds and financial operations.

8.13 Annual Audit: An audit shall be made annually by a certified public accountant (or accounting firm) licensed to practice in the State of Colorado. The accountant shall not be used for more than eight (8) years consecutively. The Council shall select the accountant and may call for more frequent or special audits. Audits shall be available for public inspection.

8.14 Purchasing: The City Manager, with the approval of the Council, may direct a central purchasing operation. The City may enter into a joint purchasing agreement with any other governmental entity.

8.15 Depository: The Council shall designate depositories for City funds.

8.16 Investments: Funds not needed for current operations may be invested by the City Manager pursuant to Colorado Revised Statutes with approval of the Council. Such investments shall take into account the time when the funds will be needed. The City Manager shall present a review of the investment program to the Council quarterly or more frequently if requested.

8.17 Forms of Borrowing: The City may borrow money and issue securities as follows:

- A. Short term notes;
- B. General obligation bonds;

- C. Revenue bonds;
- D. Industrial development revenue bonds;
- E. Bonds for special or local improvement districts;
- F. Any other like securities.

8.18 Limitations: Taking into consideration that the provisions of Article VIII, Section 20 of this Charter, which requires an election and disclosure of the current assessed valuation and outstanding general obligation bonded indebtedness of the City prior to the issuance of general obligation bonds, there shall be no limitation on the amount of bonds or other securities the City may issue except as may be stated in the documents pertaining thereto. All bonds or other securities issued pursuant to the provisions of this Charter shall be sold at public or private sale to the best advantage of the City at, above or below par. Bonds may contain provisions for redemption prior to maturity with or without the payment of a premium. The maximum premium payable on prior redemption of any general obligation bonds may, but need not, be specified in the bond question approved by the qualified electors. No action or proceeding concerning the issuance of bonds shall be maintained against the City unless commenced within 30 days after the date of passage of the contested resolution or ordinance.

8.19 Short Term Notes: The Council may, by resolution without an election, issue short term notes maturing within twelve (12) months of the date of their issuance. The resolution shall include provisions for re payment.

8.20 General Obligation Bonds: All general obligation bonds to which the full faith and credit of the City is pledged or which are payable in whole or in part from the proceeds of general property taxes shall only be issued after approval at a regular or special election. Such election shall be called pursuant to the requirements of Article X, Section 20 of the Colorado State Constitution and an ordinance, which shall include:

- A. The bond question to be submitted;
- B. The amount of the total current assessed valuation of the taxable property within the City;
- C. The amount of the City's total general obligation bonded indebtedness as of the date of the ordinance and the total amount if the proposed bonds are issued.
- D. The maximum premium payable on prior redemption of any general obligation bond may be specified in the bond question.

8.21 Revenue Securities: The Council may, by ordinance, issue securities made payable solely from revenues other than property taxes. These securities include, but are not limited to, those



payable from revenues derived from:

- A. The operation of the project or capital improvement acquired or bettered with the proceeds;
- B. Any other projects or improvements;
- C. The available proceeds of any sales tax, use tax, or other excise tax, or;
- D. Any part or combination of such sources.

8.22 Industrial Revenue Bonds: Industrial revenue bonds may be issued as provided by Colorado Statute.

8.23 Bonds for Special or Local Improvements Districts: Subject to the approval of the owners of more than half of the property in the area concerned the Council may, by ordinance, contract for or construct special or local improvements within specified districts of the City. The Council shall determine the methods of assessing the cost of these improvements. The Council may provide a special surplus and deficiency fund. This fund shall provide separate accounting for any surplus or deficiency after the bonds for a district are completely paid. Any surplus may be applied to any other special improvements.

In addition, in consideration of general benefits conferred on the City at large from construction or installation of improvements in special or local improvements districts, for the purpose of paying assessments against any property owned by the City and as additional security for improvement bonds, the Council may provide for an annual tax levy, and annually transfer to such special fund any available money of the City.

Whenever 80% of the principal amount of the outstanding bonds of a special or local improvement district have been paid and canceled, and for any reason the remaining bonds of the district and the interest due thereon, and there are 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 unpaid assessments due said district.

8.24 Refunding Securities: Any bonds or other securities may be refunded as provided by Colorado Statute.

8.25 Long term Lease Agreement: The Council may by ordinance enter into long term rental or leasehold agreements. Payment may be made by general appropriations, by imposition of usage fees on the rental of leasehold property, or a combination of both general appropriations and usage fees.

## **ARTICLE IX FRANCHISES**

**9.01 Granting of Franchises:** Franchises ordinances relating to any street, alley or public place of the City must be approved by a majority of all the members of the City Council.

Any franchise relating to any street, alley or public place is subject to the initiative and referendum powers reserved to the people pursuant to Article XX, Section 4 of the Colorado Constitution.

**9.02 Right of Purchase:** Every grant of a franchise or right for public utility within the City shall provide that the City may purchase and take over the property and plant of the grantee, upon payment of its fair value, and in the manner to be specifically set forth in the ordinance granting such franchise. The Council shall have the power to extend or enlarge existing franchises by ordinance.

**9.03 Powers and Regulations:** The City reserves the right to make all regulations which may be necessary to insure safety and welfare, and to protect the public from danger or inconvenience in the operation of any franchise.

**9.04 Review:** Franchises shall be granted for a period not to exceed 25 years.

## **ARTICLE X INITIATIVE, REFERENDUM AND RECALL**

### **10.01 Definition of Initiative and Referendum:**

- A. Initiative: The registered voters of the City shall have the power to propose ordinances to the Council. If the Council fails to adopt such an ordinance without any change in substance, the voters may adopt or reject it at an election.
- B. Referendum: The registered voters of the City shall have the power to require reconsideration by the Council of any adopted ordinance.

**10.02 Scope of Ordinances:** Any proposed, initiated, or referred ordinance may be submitted to the Council by petition, signed by the registered voters of the City equal to the number required (Section 10.7). Power of initiative or referendum shall not extend to the budget or capital programs or to any ordinance relating to the appropriation of money, authorizing the issuance of bonds, the levy of special assessments, or salaries of City officers and employees.

**10.03 Recall:** Any Council member or the Mayor may be recalled after holding office for six months.

**10.04 Commencement of Proceedings:** Petitioners Committee Affidavit: Any five (5) registered voters may commence initiative, referendum or recall proceedings by filing with the Clerk an affidavit stating they constitute the Petitioners Committee. They will be responsible for circulating the petitions, and filing them in proper form, and stating their names and street addresses, and specifying the address to which all notices to the committee are to be sent.

- A. In the case of an initiative, the affidavit shall set forth the proposed ordinance in full.
- B. In the case of a referendum ordinance, the affidavit shall set forth the referred ordinance.
- C. In the case of a recall, the affidavit shall demand the recall of the Council member named in said affidavit, and shall contain a general statement, in not more than 100 words, of the ground or grounds for which the recall is sought.

**10.05 Duty of Clerk:** Upon the filing of the necessary affidavits by the Petitioners Committee, the Clerk shall prepare the appropriate petition blanks for the initiative, referendum, or recall, and shall designate the number of signatures necessary for each such proceeding.

### **10.06 Petitions:**

- A. Form and Content: All papers of a petition shall be uniform in size and style, and shall be assembled as one instrument for filing. Each signature shall be executed in ink and shall be followed by the street address of the person signing. Petitions for initiative or

referendum shall contain or have attached, throughout their circulation, the full text of the ordinance proposed or to be reconsidered. In the case of a recall, the petition shall contain the name of the individual and the reasons for recall. All petitions shall be headed by this statement, "ONLY REGISTERED VOTERS RESIDING WITHIN THE FRUITA CITY LIMITS MAY SIGN".

- B. Affidavit of Circulation: Each paper of a petition shall have attached to it when filed, an affidavit executed by the circulator thereof, stating:
1. The person personally circulated the petition;
  2. The number of signatures;
  3. That all the signatures were affirmed in ~~his~~their presence;
  4. That ~~he~~they believes them to be genuine;
  5. That each signer had an opportunity before signing to read the full text of the initiated ordinance proposed, the recall petition, or the ordinance to be reconsidered.

10.07 Submission of Petitions: After obtaining the necessary signatures, the petitions shall be returned to the Clerk not more than thirty (30) days after their issuance. The petitions shall be sufficient when submitted as follows:

- A. Initiative: The petition shall be signed by the registered voters of the City, no fewer than fifteen percent of the total vote cast in the last regular municipal election.
- B. Referendum: The petition shall be signed by registered voters of the City, no fewer than ten percent of the total vote cast in the last municipal election;
- C. Recall: The petition shall be signed by registered voters of the City, no fewer than twenty percent of the total vote cast at the last municipal election.

10.08 Examination by Clerk: Within ten days from the filing of any petition, the Clerk shall determine whether the petition is signed by the correct number of registered voters and if sufficient, shall attach a certificate of sufficiency. If the petition is insufficient, the Clerk shall immediately notify the Petitioners Committee by certified mail, at the address designated by the Petitioners Committee. The petitioner may then be amended within ten days of receipt of notification of the certificate of insufficiency. Upon filing of the amended petition, the clerk shall, within five days, examine the amended petition, and shall attach a certificate. If still insufficient, the Clerk shall notify the Petitioners Committee of the insufficiency of the petitions and the proceedings shall terminate. Petitioners shall be retained only for a period of one year. The termination of any proceeding due to insufficiency of petition shall preclude the initiation of

any proceeding pertaining to the same subject matter or same elected City official for one year.

10.09 Certification to the Council: If the petitions are certified as sufficient by the Clerk, the Clerk shall at the next regular Council meeting, present the petitions to the Council which shall act as follows:

- A. In the case of an initiative ordinance, the Council shall, within thirty (30) days after the attachment of the Clerk's certificate of sufficiency, either:
  - 1. Pass said ordinance without any change in substance;
  - 2. Call a special election to be held not less than thirty (30) nor more than ninety (90) days, unless a regular election shall occur within 90 days, after certification to the Council.
- B. In the case of a referred ordinance, the ordinance shall be suspended upon certification to the Council of the sufficiency of the petition, and the Council shall first reconsider the ordinance. If the ordinance is not entirely repealed by the Council, the proposed referendum ordinance shall be submitted, without alteration, the vote of the registered voters of the City. The elections shall not be held less than thirty (30) nor more than ninety (90) days after certification to the Council unless a regular election shall occur within 90 days.
- C. In the case of recall, the Council shall set a date for a recall election. The election shall be held not less than 30 nor more than 90 days after certification to the Council.

10.10 Publication and Form of Ballot: The publication and form of ballot shall be as follows:

- A. Initiative: The ordinance shall be published in full, not less than ten days prior to the date of the election. The ballot heading upon which the proposed ordinance is submitted shall contain a brief summary and the ballot shall contain the words, "FOR THE ORDINANCE" and "AGAINST THE ORDINANCE".
- B. Referendum: Referred ordinances shall be published, and the ballot shall follow the same form as provided for initiated ordinances.
- C. Recall: The ballot shall be published in full, not less than ten days prior to the date of the recall election. It shall contain the reasons set forth in the petition for recall, and there shall also be printed the words "SHALL (name of person upon whom the recall is filed) BE RECALLED FROM OFFICE?"

10.11 Effect of Election on Recall: If a majority of the registered voters favor an initiative, the proposed ordinance shall become effective immediately. If a majority of the registered voters favor a referred ordinance, the ordinance shall immediately go into effect. If the referred

ordinance shall be rejected by the voters, the ordinance shall be repealed. If a majority of persons voting recall approve the recall, the office shall be declared vacant immediately. The vacancy shall be filled as provided in Article II of this Charter. The completion of any proceeding under this Article shall preclude the initiation of any subsequent proceedings pertaining to the same topic or same person for one year.

10.12 Submission by Council: The Council shall have the power to submit any proposed ordinance to the vote of the people.

10.13 Implementation: The Election Commission shall make such additional rules and regulations as are necessary to implement the procedures of this Article.

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## **ARTICLE XI GENERAL AND MISCELLANEOUS PROVISIONS**

11.01 Present Form of Government Continues: Except as otherwise provided by this Charter, the form of government existing in the City of Fruita at the time of the adoption of this charter, shall continue unaltered, and all officers and other persons in the service of the City at the time this Charter takes effect, shall continue to serve and their compensation shall not be modified by the adoption of this Charter.

11.02 Responsibility of Transition: It shall be the duty of the Council in office when the proposed charter takes effect, to implement all the requirements of this Charter.

11.03 Present Ordinances Continued in Force: All laws, ordinances, resolutions, by laws, orders, rules or regulations in force in the City of Fruita at the time this charter takes effect which are not inconsistent with the charter, shall continue in full force and effect until the Council otherwise provides.

11.04 Continuing Bonds: All official bonds, recognizances, obligations, contracts, and all other instruments entered into, or executed by or to the City before this charter takes effect, and all taxers, fines, penalties and forfeitures due or owing to the City, and all writs, prosecutions, actions, and causes of action, except as herein otherwise provided, shall continue to remain unaffected by this Charter.

11.05 Charter Amendments: This charter may be amended as provided by Article XX of the Constitution of the State of Colorado. More than one charter amendment or measure may be submitted at an election. The Charter shall be reviewed by the City Council at least once every 6 years.

11.06 Publicity and Legal Advertising: All legal notices of City business of general interest to the citizens of Fruita shall be publicized as required by law or by the Council.

11.07 Boards and Commissions: All Boards and Commissions now in existence shall continue as constituted.

11.08 Severability: If any provision of this charter is held invalid, the other provisions of the charter shall not be affected. If the application of this charter, or any of its provisions to any person or circumstance is held invalid, the application of the charter and its provisions to other persons or circumstances shall not be affected. Every ordinance introduced shall be deemed to contain a severability clause.

11.09 Codification: All ordinances shall be codified.

11.10 Employment: Where qualifications are equal, preference in hiring shall be given to Fruita

residents.

11.11 Effective Date: This charter shall be effective when filed with the Secretary of State following approval by the voters.

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