



# CHARTER

  

## OF THE CITY OF

  

# MONTROSE, COLORADO

As approved by voters on April 1, 2014

# **CHARTER**

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# ARTICLE I

## GOVERNMENTAL POWERS AND LEGISLATIVE OFFICIALS

**SECTION 1. NAME. BOUNDARIES.** The Municipal corporation now existing and known as the City of Montrose, Colorado, shall remain and continue to be a body politic and corporate under the same name and with the same boundaries, with power and authority to change its boundaries in manner authorized by law.

**SECTION 2. MUNICIPAL POWERS.** The City shall have all powers which are necessary, requisite or proper for the government and administration of its local municipal matters, and all powers which are granted to Home Rule Cities by the Constitution and the Statutes of the State of Colorado. The enumeration herein of certain powers shall not be construed to deny to the City and the people thereof any right or power granted to them by the Constitution of the State of Colorado.

**SECTION 3. INTERGOVERNMENTAL RELATIONS.** The City may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any one or more states, or civil divisions or agencies thereof, or the United States or agency thereof.

**SECTION 4. RIGHTS AND LIABILITIES.** By the name of the City of Montrose, Colorado, the City shall have perpetual succession, and shall own, possess and hold all property, real and personal, theretofore owned, possessed or held by the said City of Montrose, Colorado, and shall assume, manage and dispose of all trusts in any way connected therewith.

Shall succeed to all the rights and liabilities, and shall acquire all benefits, and shall assume and pay all bonds, obligations and indebtedness of said City of Montrose, Colorado; by that name may sue and defend, plead and be impeded, in all courts and places, and in all matters and proceedings; may have and use a common seal and alter the same at pleasure; may purchase, receive, hold and enjoy, or sell and dispose of real and personal property.

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

Shall have the power, within or without its territorial limits, to construct, condemn and purchase, acquire, lease, and to maintain, conduct and operate waterworks, light plants, communication

systems, broadband, power plants, transportation systems, heating plants, and any other public utilities or works or ways, in whole or in part, and everything required therefore, for the use of said City and the inhabitants thereof, and any such systems, plants or works or ways, or any contracts in relation or connection therewith that may exist and which said City may desire to purchase, in whole or in part, the same or any part thereof may be purchased by said City which may enforce such purchase by proceedings at law by eminent domain.

**SECTION 5. EMINENT DOMAIN.** In carrying out the powers and duties imposed upon it by this Charter, the Colorado Constitution, or by the general Statutes, the City shall have the power to acquire, within or without its corporate limits, lands, building, water, water rights and water storage rights, and other properties and in any interest in land and air rights over land, and may take the same upon paying just compensation to the owner as provided by law.

**SECTION 6. ELECTIVE OFFICERS.** The elective officers of the City shall consist of five Councilors who shall constitute the City Council. Each Councilor shall be elected by the electors of the entire City. Each of the four Council Districts provided for in Section 13 of this Article shall be represented by a resident thereof. The fifth Councilor may reside anywhere within the City. (Art. I, Section 6 amd. (Ord. 1084, 7-3-80)

**SECTION 7. QUALIFICATIONS.** Every elector may be a candidate for the office of Councilor, if he or she has never been convicted of a felony, and has resided within the City, and in the case of the four Councilors to be elected from Council Districts, within the City and the District from which he or she is to be elected, for a period of at least 12 consecutive months immediately preceding the date of election or of appointment in the case of a vacancy. Residency within territory annexed to the City or within territory changed from one district to another shall count towards the residency requirements in the City and the district in which such territory is included. (Art. I, Section 7 amd. (Ord. 1084, 7-3-80)

**SECTION 8. TERM OF OFFICE.** The term of office of the council members shall commence at the first regular council meeting following the certification of their election and shall be for a period of 2 and 4 years as hereinafter provided and until their successors are duly elected and qualified. They shall qualify to take office by the first regular council meeting following the certification of their election. Art. I, Section 8 amd. (Ord. 1486, 1-2-94)

**SECTION 9. COMPENSATION.** The members of the Council shall receive such compensation, and the Mayor such additional compensation as the Council shall by ordinance prescribe; provided, however, that they shall neither increase or decrease the compensation of any member during his or her term of office, except members of the Council whose terms do not expire at the next regular City election, who shall receive the same salary as that provided for

incoming members or the remainder of their term of office. The Mayor and Councilors may, upon order of the Council, be paid such necessary bona fide expenses incurred in service on behalf of the City as are authorized and itemized.

**SECTION 10. MAYOR.** The Mayor and Mayor Pro-tem shall be elected by Council at the first meeting upon taking office, and shall serve at the pleasure of the Council. The Mayor shall preside at meetings of the Council and shall exercise such powers and perform such other duties as are or may be conferred and imposed upon him or her by this Charter or the ordinances of the City. He or she shall have all of the powers, rights and privileges of a Council member. He or she shall be recognized as the head of the City Government for all ceremonial purposes, by the courts for serving civil process and by the government for purposes of military law. In case of a vacancy in the office of Mayor, the Council shall choose his or her successor. In the absence of the Mayor, the Mayor Pro-tem shall perform all duties and have all powers of Mayor.

**SECTION 11. VACANCIES.** An elective office shall become vacant whenever any Councilor is recalled, dies, becomes incapacitated, resigns, ceases to be a resident of the City, ceases to be a resident of the District for which he or she is elected, or is convicted of a felony. In addition, any member of the Council or other officer, when notified of a request for his or her attendance fails to attend 3 consecutive council meetings without being excused by the Council, shall forfeit his or her office. Such request for attendance shall be made by not less than a majority of the members of the Council. In case of a vacancy, the remaining Councilors shall choose by a majority vote, and within 30 days after such vacancy occurs, a duly qualified person to fill such vacancy. He or she shall serve until a successor is elected at the next ensuing special or general municipal election, whichever first occurs, and has been duly qualified and takes office. If three or more vacancies exist simultaneously, the remaining Councilors shall, at the next regular meeting of the Council, call for a special election to fill such vacancies, provided that there will not be a general election within 90 days. (Art. I, Sec. 11, amd. Ord. 1084, 7-3-80)

**SECTION 12. LEGISLATIVE POWERS.** All powers of the City shall be vested in the Council except as otherwise provided by law or this Charter, and the Council shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the City by law.

**SECTION 13. COUNCIL DISTRICTS.** The City Council shall divide the City by ordinance into 4 Council Districts of approximately equal population, to be numbered 1 through 4, prior to May 1, 1981. The district boundaries shall be adjusted from time to time by the City Council as required to maintain approximately equal populations, and such an adjustment shall be made within 1 year following the publication of the results of each United States Decennial Census. Changes in district boundaries shall not be effective for any election unless adopted prior to the time petitions for nominations may be circulated for that election. Petitions for nomination for all

Councilors shall be signed by at least 25 registered electors residing anywhere within the City.  
(Ord. 1084, 7-3-80)

**SECTION 14. OATHS.** The elected officials, the City Manager, Assistant City Manager, City Attorney, Assistant City Attorney, Police Chief and Officers, the Municipal Judge and Assistant Municipal Judge, shall take an oath or affirmation to support the Constitution of the United States, the Constitution of the State of Colorado, the charter and ordinances of the City and faithfully perform the duties of the office upon which they are about to enter.

# ARTICLE II

## COUNCIL PROCEDURE

**SECTION 1. RULES.** The City Council shall determine its own rules of procedure may impose sanctions on fellow councilors for disorderly conduct and compel their attendance at its meetings.

**SECTION 2. MEETINGS.** All meetings of the City Council may be held in the Council Chambers, except that when said Council Chambers facilities are not available or are inadequate Council may designate a suitable place for such meetings within the City and shall post notice thereof at or near the front door of the City Hall and if time permits shall publish notice of same in the newspaper in which other official City publications are made. Regular meetings of the City Council may be held twice monthly during the first and third weeks on the day of the week to be designated by Council by ordinance. The City Council shall prescribe the time of its meetings, and the manner in which special meetings shall be called, providing all Council members shall be notified thereof. A majority of all the members shall constitute a quorum to do business, but a less number may adjourn to a definite date. All regular and special meetings of the City Council shall be open to the public and a journal shall be kept of its proceedings which shall be a public record.

**SECTION 3. COUNCIL ACTS.** The Council shall act only by ordinance, resolution or motion. All legislative enactments must be in the form of ordinances; all other actions, except as herein provided, may be in the form of resolutions or motions. Ordinances making appropriations shall be confined to the subject of appropriation.

**SECTION 4. VOTING.** The vote by “yes” and “no” shall be taken upon the passage of all ordinances and resolutions and entered upon the minutes of the Council proceedings. Every ordinance shall require the affirmative vote of the majority of the membership of the entire Council for final passage. Resolutions and motions shall require the affirmative vote of a majority of the members present. Council members may be present physically or electronically as allowed by Colorado statute. No member of the Council shall vote on any question in which he or she has a financial interest, other than the common public interest, or any question concerning his or her own conduct, but on all other questions, each member who is present shall vote when his or her name is called unless excused by the unanimous consent of the remaining members present. Council members may recuse themselves to avoid any appearance of impropriety.

**SECTION 5. ACTION BY ORDINANCE REQUIRED.** In addition to such acts of the

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

**SECTION 6. FORM OF ORDINANCE.** Every ordinance shall be introduced in writing or printed form. The enacting clause of all ordinances shall be, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MONTROSE, COLORADO. Except as otherwise provided in this Article, all ordinances shall take effect 5 days after publication following final passage.

**SECTION 7. PROCEDURE.** Except for an emergency ordinance, an ordinance making general codification of ordinances, or ordinances adopting standard codes, the following procedure shall be followed:

- (a) Introduction at any regular meeting by any member of the Council.
- (b) Reading in full or by title where copies are available to the Council and those in attendance.
- (c) Approval or rejection on first reading by a roll call vote of the Council.
- (d) If passed on the first reading, it shall be published in full unless otherwise provided in this Charter. Council shall set a day, hour, and place at which Council shall hold a public hearing thereon, which shall be included in the publication.
- (e) Introduction a second time, at a meeting not earlier than 7 days after publication, for the final passage, rejection, or other action by a roll call vote of the Council. Such meeting may be the same meeting at which the public hearing on the bill is held.
- (f) An ordinance may be amended before final passage by a roll call vote of the Council.
- (g) Unless otherwise provided in this Charter, an ordinance, may be published in the newspaper either by summary and title or in full as the Council may determine. An ordinance will be published in full on the City website or comparable future platform.
- (h) The Council shall hold a public hearing at the first reading of any ordinance, except as provided for in emergency ordinances. This does not preclude a public hearing at the second reading.

Any publication by reference shall contain a summary of the subject matter of the ordinance and

a notice that copies of the ordinance are available at the office of the City Clerk.

**SECTION 8. EMERGENCY ORDINANCES.** Emergency ordinances for the preservation of public property, health, peace, or safety shall be approved only by the unanimous vote of Councilors present. The facts showing such urgency and need shall be specifically stated in the measure itself. No ordinance making a grant of any special privilege, levying taxes, or fixing rates charged by any City owned utility shall ever be passed as an emergency measure. Neither a public hearing, nor a first publication as provided in sub-section (d) of Section 7, shall be required. An emergency ordinance shall take effect immediately upon passage without respect to the time of its publication, and may be passed at the same meeting in which the same is introduced. Publication of the emergency ordinance in full or on the City website or comparable future platform shall be within 10 days, or as soon thereafter as possible, and may be published in full or in summary in the newspaper.

**SECTION 9. DISPOSITION OF ORDINANCES.** A true copy of every ordinance, as adopted by Council shall be numbered and recorded in the official records of the City. Its adoption and publication shall be authenticated by the signature of the Mayor, or Mayor Pro-tem, and the City Clerk, and by the certificate of publication. A true copy of every ordinance, as adopted by the vote of the qualified electors of the City, shall be separately numbered and recorded commencing with Peoples' Ordinance No. 1.

**SECTION 10. ENACTMENT OF CODES BY REFERENCE.** In accordance with the Statutes now or hereafter in effect, the Council may enact technical codes by any recognized trade or professional organization, any appropriate Colorado Statute or any detailed technical regulations promulgated or enacted by any municipality, state or federal agency, by reference thereto in an enacting ordinance, and without publishing such codes in full.

**SECTION 11. SEVERABILITY OF ORDINANCE.** Unless an ordinance shall expressly provide to the contrary, if any portion of an ordinance or application thereof to any person or circumstances shall be found to be invalid by a court, such invalidity shall not affect the remaining portions or applications of the ordinance which can be given effect without the invalid portion or application, provided such remaining portions or applications are not determined by the court to be inoperable, and to this end ordinances are declared to be severable.

# ARTICLE III

## ELECTIONS

**SECTION 1. TERM OF OFFICE.** Council members whose terms are to expire following the general municipal elections which would have been scheduled for November of 1995 and 1997 shall serve until their successors are qualified and take office following the general municipal elections of April, 1996 and 1998 respectively. At the general municipal election of April, 1996 and at each general municipal election thereafter, two council members shall be elected to 4 year terms and one council member shall be elected to a 2 year term.

\*The council members resident in Council Districts 3 and 4 shall be elected in 1996 and each 4 years thereafter. Council members resident in District 1 and 2 shall be elected in 1998 and each 4 years thereafter. The council member without a district residence requirement shall serve a 2 year term. (Art. III, Section 1. Amd. (Ord. 1484, 1 1-93)

**SECTION 2. GENERAL MUNICIPAL ELECTIONS.** General municipal elections shall be held on the first Tuesday of April in even numbered years. Art. III, Section 2 Amd. (Ord. 1084, 1-2-94)

**SECTION 3. SPECIAL MUNICIPAL ELECTIONS.** Special Municipal Elections shall be held when called by resolution of the Council, or by ordinance, at least 40 days in advance of such election, or when required by this Charter or Statutes. The resolution or ordinance calling a special election shall set forth the purpose of such election. Any Councilor elected at a special municipal election shall take office at the next regular Council meeting following certification of the election after qualifying for same, and shall serve until the next general municipal election.

**SECTION 4. LAWS GOVERNING ELECTIONS.** Special and general municipal elections shall be governed by Statutes of the State of Colorado as now existing or hereafter amended or modified, except as otherwise provided in this Charter or as Council may prescribe by ordinance. The Council may, by ordinance, establish the method for the registration of electors; the number qualifications and compensation for election judges and clerks; and the boundaries of election precincts. The Council may, by ordinance, establish an election commission with such powers, duties, terms and qualifications as provided by ordinance.

\*Editor's Note: Ordinance 1486 incorrectly states "The council members resident in Council Districts I and 2 shall be elected in 1996 and each 4 years thereafter. Council members resident in District I and 2 shall be elected in 1998 and each 4 years thereafter."

**SECTION 5. NON -PARTISAN ELECTIONS.** All special and general municipal elections for elective office of the City shall be non-partisan.

**SECTION 6. RECALL.** Any elected officer of the City of Montrose, Colorado, may be recalled from office at any time after holding office for 6 months by the qualified electors of the City in the manner herein provided.

**SECTION 7. PROCEDURE.** The procedure hereunder to effect the recall of any elective officer, or appointive officer subject to recall, shall be as follows: One or more qualified electors shall file with the City Clerk an affidavit of not more than 200 words, stating the reasons for the recall of the officer sought to be removed. The City Clerk shall within 48 hours after the filing of said affidavit, mail a copy by registered mail to the officer sought to be recalled, who may file with the City Clerk a sworn statement in defense of the charges made against him or her. After the affidavit has been filed the City Clerk shall issue a petition for recall of the officers and said petition may be circulated and must be signed by a number of qualified electors equal to at least 15% of the total number of qualified electors voting in the last general municipal election.

The recall petition shall be filed with the requisite information and signatures with the City Clerk within 60 days after issuance. If said petition is filed within the time specified, and is proper in all respects, the Council shall set a date for a recall election to be held within 60 days, unless a general municipal election or a special municipal election will be held within 120 days following the filing of the petition. The ballot upon which such proposed recall is submitted shall set forth the following question:

Shall (name of person against whom the recall petition is filed) be recalled from the office of (title of office)?

Following such question shall be the words “yes” or “no”.

In the event that an officer is recalled by a majority vote of those voting on the question, the office shall be deemed vacant and shall be filled as provided in this Charter for the filling of vacancies. The Council shall make such additional rules and regulations as are necessary to implement the above procedures.

**SECTION 8. JUDGES OF THEIR ELECTION.** The City Council shall be the judge of the election and qualification of its own members, subject to review by the courts in case of contest, as by Statutes of Colorado in such case provided.

# ARTICLE IV

## FRANCHISES, PUBLIC UTILITIES AND CONTRACTS

**SECTION 1. GRANT.** No franchise to construct and operate a public utility in any street, avenue, alley, or public place of the said City shall be granted except upon the majority vote of the electors of said City voting at such election. The question of its being granted shall be submitted to such vote only upon deposit with the City Council of the expense (to be estimated by the City Council) of such submission, by the applicant for said franchise.

**SECTION 2. LIMITATIONS.** The granting of franchises by the City shall be limited only by the provisions of the Constitution and applicable Statutes of the State of Colorado as now in effect or as hereafter amended or enacted, and shall be submitted to the vote of the electors when required by constitutional provision.

**SECTION 3. NO EXCLUSIVE GRANT.** No franchise or privilege shall be granted for a longer period than 20 years. No exclusive franchise or renewal shall ever be granted and no franchise shall be renewed before 1 year prior to its expiration.

**SECTION 4. NO ASSIGNMENT.** No franchise or privilege granted by the City shall ever be leased, assigned or transferred except by majority vote of the electors voting on the question, to be submitted to a general or special municipal election thereon, at the expense of the owners, to be deposited as in Section 1.

**SECTION 5. CONDITIONS.** All franchises or privileges hereafter granted to construct and operate a public utility shall prescribe the kind of quality of service or product to be furnished, the maximum rate or rates to be charged therefor, shall specify on which particular streets, avenues, alleys, or public grounds, the same shall apply, and the manner in which the streets, avenues, alleys and public grounds shall be used and occupied, and any other terms and conditions conducive to the public interest, except as otherwise regulated by the laws of the State of Colorado.

**SECTION 6. TERMINATION.** All such grants and renewals thereof shall reserve to the City the right to terminate the same and to purchase all the property of the utility in the streets, avenues, alleys and public places in the City and elsewhere, as may be provided in the franchise making the grant or renewal, used in or useful for the operation of the utility at the price fixed in the franchise. Nothing in such franchise shall prevent the City from acquiring the property of any such utility by condemnation proceedings or in any other lawful mode; but all such methods of acquisition shall be alternative to the power of purchase, reserved in the franchise or renewal as

herein before provided. Upon the acquisition by the City of the property of any utility, by purchase, condemnation, or otherwise, such franchise or renewals shall at once terminate.

**SECTION 7. PURCHASE PRICE.** No franchise making such grant or renewal shall be valid unless it shall expressly provide therein a method for ascertaining the price to be paid by the City for the property that may be acquired by it from such utility, by purchase, condemnation or otherwise, and such price shall exclude all value of such grant or renewal.

**SECTION 8. EXTENSIONS.** The City may, as provided in Section 1, grant to any individual, company or corporation operating a public utility, the right to extend the appliances and service of such utility. All such extensions shall become a part of the aggregate property of the utility, and shall be subject to all the obligations and reserved rights in favor of the City applicable to the property of the utility by virtue of the franchise providing for its construction and operation. The right to use and maintain any such extension shall expire with the original franchise of the utility to which the extension was made or any renewal thereof.

**SECTION 9. CONSENTS.** No consent of the owner of property abutting on any highway or public ground shall be required for the construction, extension, maintenance or operation, of any public utility or by original grant or renewal, unless such public utility is of such a character that its construction operation is an additional burden upon the rights of such property owner in such highways or public grounds.

**SECTION 10. RIGHT TO INSERT ADDITIONAL MATTER.** The enumeration and specification of particular matters in this Charter which must be included in every franchise or grant, shall never be constructed as impairing the right of the City to insert in such franchise or grant, such other and further conditions, covenants, terms, restrictions, limitations, burdens, taxes, assessments, rates, fares, rental, charges, control, forfeitures, or any other provisions whatever, as the City shall deem proper to protect the interests of the people.

**SECTION 11. REGULATIONS.** The City Council shall at all times control the distribution of space, in, over, under and across all streets or public grounds occupied by public utility fixtures. All rights granted for the construction and operation of public utilities shall be subject to the continuing right of the City Council to require such reconstruction, relocation, change, or discontinuance of the appliances used by the utility in the streets, avenues, alleys and public places of the City, as shall in the opinion of the City Council be necessary in the public interest.

**SECTION 12. POWER TO REGULATE RATES AND FARES.** All power to regulate the rates, fares, rentals and charges for service by public utility corporations is hereby reserved to the people to be exercised by them by the ordinance of the City Council, or in the manner herein provided for initiating or referring an ordinance. Any right of regulation shall further include the

right to require uniform, convenient and adequate service to the public and reasonable extensions of such service and of such public utility works. The granting of a franchise shall not be deemed to confer any right to include in the charge for service any return upon the value of the franchise or grant itself.

**SECTION 13. ORDINANCE IN PLAIN TERMS.** No franchise, right, privilege, or license shall be considered as granted by any ordinance except when granted therein in plain and unambiguous terms, and any and every ambiguity therein shall be construed in favor of the City and against the claimant under said ordinance.

**SECTION 14. STREET SPRINKLING. CLEANING AND PAVING.** Every grant of any franchise or privilege in, over, under or along any street, avenue, alley or public place in the City shall be subject to the conditions that the person, firm or corporation exercising or enjoying the same shall, unless otherwise provided by ordinance, sprinkle, clean, keep in repair, and pave and repave so much of said street, highway, or other public place as is occupied by such franchise holder.

**SECTION 15. FRANCHISE PROVIDED FOR SAFETY. ETC.** The grant of every franchise or privilege shall be subject to the right of the City, whether in terms reserved or not, to make any regulations for the safety, welfare and accommodation of the public, including among other things, the right to require proper and adequate extensions of the service of such grant, the right to require any or all wire, cable conduits, and other appliances, to be placed underground, and the right to protect the public from danger or inconvenience in the operation of any work or business authorized by the grant of the franchise.

**SECTION 16. CITY MAINTAINS GENERAL SUPERVISION, REPORTS, AND INSPECTION.** The City shall maintain general supervision and police control over all public utility companies insofar as they are subject to municipal control. It shall cause to be instituted such actions or proceedings as may be necessary to prosecute public utility companies for violation of law.

It shall require every person or corporation operating under a franchise or grant from the City, to submit to the City Council a report of such information as they shall specify at any time and within a time specified by City Council, verified by the oath of the president, the treasurer, or the City Manager thereof.

Such reports shall be in the form, contain such detailed information, and cover the period prescribed by the City Council by ordinance; and the City Council shall have the power, either through its members or by experts or employees duly authorized by it, to examine the books and affairs of any such person, persons or corporation, and to compel the production before them of

books and papers pertaining to such report or other matters.

Any person, persons, or corporation who shall fail to make any such report shall be liable to a penalty of \$1000.00 and an additional penalty of \$1000.00 for each and every day thereafter during which he or she or it shall fail to file such report, to be sued for and recovered in any court of record having jurisdiction.

**SECTION 17. EXISTING FRANCHISES.** All franchise ordinances of the City in effect at the time that this Charter is adopted shall remain in full force and effect according to their provisions and terms until the expiration date provided in such ordinance.

**SECTION 18. FRANCHISE RECORDS.** The Council shall cause to be kept in the office of the City Clerk an indexed franchise record in which shall be transcribed copies of all public utility franchises heretofore and hereafter granted. The index shall give the name of the grantee and any assignees. The record shall be a complete history of all such franchises and shall include a comprehensive and convenient reference to all actions of law affecting the same, and copies of all annual reports, and such other matters of information and public interest as the Council may from time to time require.

**SECTION 19. WATER RIGHTS.** The City shall have the power to own and control water rights and to exchange water rights owned by it for water rights from any source and to purchase, obtain or acquire water and water rights from any source including such existing water rights as may be used upon any land which is annexed to the City from time to time, together with the right to sell or lease water rights.

**SECTION 20. RATES.** The Council shall by ordinance establish rates for services provided by City-owned utilities.

**SECTION 21. REVOCABLE LICENSE.** After a public hearing, Council by ordinance may grant a license, revocable for cause, to lay sidetracks and switches along, or across any public thoroughfare, in accordance with standards and procedures to be adopted by Council.

**SECTION 22. REVOCABLE PERMITS.** Council may grant permits for the temporary use or occupation of any street, alley or public place. Such permits shall be revocable by Council at any time whether or not the right is expressly reserved in the permit.

**SECTION 23. BOOKS OF ACCOUNT.** The City, when owning any public utility, shall keep the books of account for such public utility distinct from other City accounts and such manner to show the true and complete financial result of such City ownership, or ownership and operation, as the case may be. Such accounts shall be so kept as to show the actual cost to the City of the

public utility owned; all costs of maintenance, extension and improvements, all operating expenses of every description, in case of such City operation; if water or other service shall be furnished for the use of any department of the City without charge, the accounts shall show as nearly as possible, the value of such service; such accounts shall also show reasonable allowance for interest, depreciation and insurance, and also estimates of the amount of taxes that would be chargeable against such property if owned by a private corporation. The City Council shall cause to be printed annually for distribution, a report showing the financial results, in form as aforesaid, of such City ownership, or ownership and operation.

# ARTICLE V

## FINANCE, APPROPRIATIONS AND TAXATION

**SECTION 1. FISCAL YEAR.** The fiscal year of the City shall commence on the first day of January and end on the last day of December of each year.

**SECTION 2. CLAIMS.** No demand for money against the City shall be approved, allowed, audited, or paid unless it shall be in writing, dated and verified as hereinafter provided and sufficiently itemized as to identify the expenditure and shall first be audited by the City Manager.

**SECTION 3. PURCHASING AGENT.** The City Manager shall be responsible for the purchase and sale of all City property. Detailed purchasing and sales contract procedures shall be established by ordinance.

**SECTION 4. FUNDS.** The City shall have as many funds as may be administratively necessary for the efficient operation of the City. However, funds shall be established only by ordinance or formal resolution of the City Council.

**SECTION 5. BUDGET PROCEDURE.** The City Manager shall prepare and submit to the Council on or before the 15th of October of each year a recommended budget covering the next fiscal year, and shall include therein at least the following information:

- (a) Detailed estimates with his or her supporting explanations of all proposed expenditures for legal and judiciary, for each department, office, and agency of the City, showing the expenditures for corresponding items for the last preceding fiscal year in full, and for the current fiscal year to June 30<sup>th</sup> and estimated expenditures for the balance of the current year;
- (b) Statements of the bonded and other indebtedness of the City, showing the debt redemption and interest requirements, the debt authorized and unissued, and the condition of reserve funds, if any;
- (c) Detailed estimates of all anticipated revenues of the City from all sources other than taxes with a comparative statement of the amounts received by the City from each of the same similar sources for the last preceding fiscal year in full, and estimated revenues for the current fiscal year;
- (d) A statement of the estimated balance or deficit for the end of the current fiscal year;

- (e) An estimate of revenues necessary to meet proposed expenditures;
- (f) As a part of the budget message, the City Manager shall present a program of proposed capital improvement projects and shall recommend to Council those projects to be undertaken during the ensuing year or years and the method of financing same;
- (g) Such other supporting information as the Council may request.

**SECTION 6. PUBLIC HEARING.** A public hearing on the proposed budget shall be held by the Council on or before November 15<sup>th</sup>. Notice of the time and place of such hearing shall be published one time at least 5 days prior to the hearing, and copies of the proposed budget shall be on file for public inspection at the office of the Clerk during normal office hours.

**SECTION 7. REVISION BY COUNCIL.** Prior to adoption of the final budget, the council may insert new items of expenditure or may increase, decrease, or strike out items of expenditures, except that no item budgeted for debt service shall be reduced. If Council shall decrease the total proposed expenditures, such decrease shall be reflected in the full proposed revenue. If Council shall increase the total proposed expenditures, such increase shall be reflected in the tax levy or by appropriate changes in other revenues.

**SECTION 8. ADOPTION OF BUDGET AND APPROPRIATION.** Not less than 30 days prior to the first day of the next fiscal year, Council shall adopt the budget by resolution, and an ordinance for the annual appropriation.

**SECTION 9. PUBLIC RECORD.** The budget shall be a public record in the office of the City Clerk and shall be open to public inspection during normal business hours.

**SECTION 10. CERTIFICATION OF TAX LEVY.** No later than October 31st, or such date as may be required by state law, the Council shall fix the amount of tax levy which shall be assessed upon each dollar of assessed valuation of all taxable property within the corporate limits of the City, and shall cause the same to be certified to the counties as required by law. If Council should fail in any year to make such levy as above provided, the rate last fixed shall be the rate of the ensuing fiscal year, which rate shall be levied as by law provided. Any excess monies remaining in the Surplus and Deficiency Fund, once specific obligations have been met, may be deposited into the City's Capital Improvement Fund.

**SECTION 11. BUDGET CONTROL.** At the beginning of each quarterly period during the fiscal year, and more often if required by the Council, the City Manager shall submit to the Council data showing the relation between the estimated and/or actual revenue and expenditures

to date; and if it shall appear that the revenues are less than anticipated, the Council may reduce appropriations, except amounts required for debt and interest charges, to such degree as may be necessary to avoid expenditures exceeding revenues.

- (a) The Council may make additional appropriations by ordinance during the fiscal year for unanticipated expenditures required of the City, but such additional expenses shall not exceed the amount by which actual and anticipated revenues of the year are exceeding the revenues as anticipated in the budget, unless the Council determines appropriations are necessary to revive an emergency endangering the public health, peace or safety.
- (b) The Council may by resolution transfer any unencumbered appropriation balance or any portion thereof from one account, department, office, fund or agency to another in accordance with recommendations of the City Manager.
- (c) The City Budget is adopted by City Council on a Fund Basis and therefore the City Manager may authorize changes on a line item basis throughout the budget year.

**SECTION 12. AUDIT.** The Council shall provide for an independent annual audit of all City accounts, as now or hereafter provided by state law, and more frequent audits as may be determined necessary by the Council. Such audits shall be made by a certified public accountant or firm of certified public accountants, selected by the Council.

**SECTION 13. TAX PAYMENTS TO CITY.** Payments to the City of Montrose, by the Treasurer of Montrose County shall be made in accordance with the Statutes of the State of Colorado as now or hereafter enacted.

**SECTION 14. REVENUE AND EXPENDITURE STATEMENT.** Within 60 days after the close of business on the last day of each fiscal year, the City Manager shall compile and publish a complete report of business of the City for the fiscal year, showing revenues and expenditures and balances on hand in each fund, also a statement of all bonds outstanding on each and every fund, together with interest the same bears; and such statement shall be so compiled as to plainly disclose to the electors the complete financial status of the City. Such statement shall be made under the sworn signature of the City Manager, attested by the City Clerk.

**SECTION 15. ACCOUNTING PRINCIPLES.** The City shall keep the accounting books and records of the City in accordance with generally accepted accounting principles for governmental entities.

**SECTION 16. DEPOSITORY.** The Council shall designate depositories for City funds and

shall provide for the regular deposit of all City monies. The Council shall provide for such security for the City deposits as is authorized or permitted by statute.

**SECTION 17. INVESTMENTS.** Monies remaining in any fund which the Council may by resolution at any time determine will not be required to be disbursed for a period of 90 days or more thereafter, may in the discretion of the Council be invested in one or more of the securities permitted by the Statutes of Colorado as now or hereafter enacted governing investment of public funds, or in bonds payable out of the revenues of any service or facility furnished by the City; or in general obligation bonds of the City. Interest on such investments shall be credited to the fund to which the invested money belongs, if such can be determined, otherwise to the general fund of the City. City funds may be placed in any savings account that is guaranteed by the Federal Deposit Insurance Corporation or Federal Savings and Loan Insurance Corporation, for no greater amount than is guaranteed in each institution or in no amount greater than each institution shall guarantee by pledge of securities on assets of the institution in accordance with the state statutes as now or hereafter enacted.

**SECTION 18. COLLECTION OF TAXES.** Until the Council shall otherwise provide by ordinance, the county treasurer shall collect City and valorem taxes in the same manner and at the same time as county ad valorem taxes are collected. In like manner, the Council may provide for collection of special improvement assessments by said treasurer. All laws of this State for the assessment of property and the levy and collection of general taxes, sale of property for taxes and the redemption of the same, shall apply and have as full effect in respect to taxes for the City as of such general taxes, except as modified by this Charter. The county treasurer shall report and pay to the City the amount of tax collections of the City for the preceding month. The estimated costs of tax collections and losses shall be included in the budget.

**SECTION 19. LIMITATION ON TAX POWERS OF CITY.** No income tax, sales tax or cigarette tax hereinafter enacted shall become effective or parking meters installed on property owned by the City, until the ordinance authorizing the same shall have been approved by a majority of the qualified electors of the City voting on the question at a regular or special election. After the effective date of any such ordinance, any subsequent amendment to that ordinance, need not be again approved by a majority of the qualified electors voting on the question at a regular or special election, unless the amendatory ordinance imposes an increase in the rate of the income tax, sales tax or cigarette tax. Nothing contained in this section shall be constructed as prohibiting the imposition of any occupation tax, hotel room tax, or any other type of use or excise tax without the approval of a majority of the qualified electors as provided in this section.

# ARTICLE VI

## MUNICIPAL BORROWING

**SECTION 1. FORMS OF BORROWING.** The City may borrow money and issue the following securities to evidence borrowing:

- Short-term notes;
- General Obligation Bonds and other like securities;
- Revenue Bonds and other like securities; and
- Local Improvement Bonds and other like securities;

**SECTION 2. SHORT-TERM NOTES.** The municipal government upon the affirmative vote of 3 members of the City Council, is hereby authorized to borrow money without an election in anticipation of the collection of taxes or other revenues and to issue short-term notes to evidence the amount so borrowed. Such short-term notes shall mature before the close of the fiscal year in which money is so borrowed, and shall not be extended or funded except in compliance with Section 3 “General Obligation Bonds” of this Article.

**SECTION 3. GENERAL OBLIGATION BONDS.** No bonds or other evidences of indebtedness payable in whole or in part from the proceeds of general (ad valorem) property taxes or to which the full faith and credit of the City are pledged (sometimes referred to in this Article as “General Obligation Bonds”) shall be issued, except in pursuance of an ordinance, or until the question of their issuance shall at a special or general election be submitted to a vote of the electors and approved by a majority of those voting on the question except as provided in Sections 6, 9, 10 and 11; provided that such General Obligation Bonds issued for acquiring water and rights thereto, or acquiring, improving or extending a municipal water system, or any combination of such purposes (sometimes referred to in this Article as “Water Purposes”), may be so issued without an election. The payment of such General Obligation Bonds may be additionally secured by a pledge of all or a portion of the proceeds to be derived from any sales tax, cigarette tax, occupation tax, hotel room tax or other specified revenues which are not derived from general (ad valorem) taxes or any combination of the foregoing (which may be sometimes referred to in this Article as “Additional Security”). No election shall be necessary to authorize general obligation bonds for Water Purposes, either with or without Additional Security, unless a petition requesting that an election be held is filed with the City Clerk within 20 days of the date of publication on final passage of the ordinance authorizing the issuance of said bonds, and signed by electors at least equal in number to ten per cent of the total number of qualified electors voting at the last preceding general municipal election. When the City Council receives such a petition and finds it to be valid in the manner provided by Article IX of

this Charter, and all laws thereunto enabling, the City Council shall submit the question of issuing such General Obligation Bonds for the specific Water Purposes to the electors at the next general municipal election, or at a special election called for that or any other purpose. In the event a petition is so filed, the General Obligation Bonds for the specified Water Purpose shall not be issued unless approved by a majority of the electors voting on the question.

**SECTION 4. LIMITATION ON INDEBTEDNESS.** The aggregate amount of bonds or other evidences of indebtedness shall not exceed five percent of the assessed valuation of the taxable property within the City as shown by the last preceding assessment for City purposes, provided, however, that in determining the amount of indebtedness there shall not be included within the computation, General Obligation Bonds outstanding or authorized to be issued for Water Purpose or for the acquisition, extension or improvement of the municipal storm sewer, sanitary sewer; combined storm and sanitary sewers, or sewage disposal systems, short-term notes, local improvement securities, local improvement securities additionally secured by the Surplus and Deficiency Fund authorized by Section 10 or by the Special Fund authorized by Section 11, or by both, or revenue bonds authorized by Section 5, or bonds and other securities refunding said bonds, notes and securities enumerated in this sentence. But provided that the above limitation shall not apply to the categories of indebtedness specifically excluded from the computation contained herein.

**SECTION 5. REVENUE BONDS.** The City in pursuance of an ordinance may borrow money, issue bonds or otherwise extend its credit for the purpose of purchasing, constructing, condemning, otherwise acquiring, extending, or improving a water, communications, broadband, electric, gas or sewer system or other public utility or income producing project; provided that the bonds or other obligations shall be made payable solely out of the net revenues derived from the operation of such system, utility or other such project (said bonds or other securities being sometimes referred to herein as "Utility Revenue Bonds"; and provided, further, that any two or more such systems, utilities or projects may be combined, operated and maintained as joint municipal systems, utilities or projects, in which case such bonds or other obligations may be made payable solely out of the net revenues derived from the operation of such joint systems utilities or projects. The net revenues of any such system, utility or project may be cross-pledged to pay any Utility Revenue Bonds payable primarily from another system, utility or project without combining, operating and maintaining them as a single joint system, utility or project. The City may additionally borrow money, issue bonds or otherwise extend its credit for any municipal purpose and may make them payable solely from the gross or net revenues received from any municipal occupation tax, sales tax, cigarette tax or any other excise or use tax. The proceeds of any such municipal occupation tax, sales tax, cigarette tax or any other excise tax or use tax may also be pledged as additional security for the payment of the aforesaid Utility Revenue Bonds. No election shall be necessary to authorize the bonds under this Section unless a petition requesting that an election be held is filed with the City Clerk within 20 days of

the date of publication of the ordinance on final passage authorizing the issuance of the bonds, and signed by qualified electors at least equal in number to ten percent of the number of qualified electors voting at the last preceding general municipal election. When the City Council receives such a petition and finds it to be valid in the manner provided by Article IX of this Charter and all laws thereunto enabling, the City Council shall submit the question of issuing such revenue bonds to the qualified electors at the next general municipal election, or at a special election called for that or any purpose. In the event a petition is so filed, the revenue bonds shall not be issued unless approved by a majority of the qualified electors voting on the question. No revenue bonds shall be issued for the acquisition of such system, utility or income producing project unless the acquisition thereof has been authorized as provided in Article IV of this Charter.

**SECTION 6. REFUNDING BONDS.** The City pursuant to ordinance, may issue its bonds or other securities without an election for the purpose of refunding outstanding general obligation or revenue bonds or local improvement bonds or other such securities, as the same shall mature, or for the purpose of refunding any such bonds or securities in advance of maturity by means of an escrow or otherwise in accordance with the laws of the State of Colorado, and it shall be the duty of the Council to refund such bonds or securities whenever it determines it is advantageous and favorable to the City to do so. Any such refunding revenue bonds or other revenue securities shall be payable solely from any of the sources permitted under Section 5 (i.e. Revenue Bonds). Refunding bonds shall not extend beyond the period of usefulness of the facilities or improvements estimated at the time of original financing thereof and in no case for a longer term than 30 years from the date thereof.

**SECTION 7. BONDS LIMITED TO LIFE OF THE PROJECT.** The ordinance authorizing the issuance of general obligation or revenue bonds or other such securities shall state the estimated period of usefulness of the property or improvements for which issued and the term of any such bonds shall not exceed such estimated period. No bonds shall be issued for a term longer than 30 years from the date thereof.

**SECTION 8. BONDS, INTEREST, SALE.** The terms and maximum interest rate of general obligation or revenue bonds or other like securities shall be fixed by the authorizing ordinance and such securities shall be sold at public or private sale for cash and in all cases to the best advantage of the City; provided that any refunding bond may be exchanged dollar for dollar for a bond refunded. All bonds may contain provisions for calling the same at designated interest periods prior to the final due date.

**SECTION 9. LOCAL IMPROVEMENTS.** The power to create local improvement districts, to assess the cost of the construction of public improvements of a local and municipal character or any part thereof against benefited property therein, and to issue local improvement bonds, is

vested in the City Council to be exercised by ordinance. The cost of that part of local improvement which is of special benefit to particular real property shall be assessed against the real property so benefited. The procedure governing the creation of local improvement districts, the assessment of the cost against the benefited property and the issuance of local improvement bonds shall be governed by general law relating to local improvements in cities and towns, unless prior to the initiation thereof the City Council by ordinance has prescribed a different procedure therefore, and except insofar as general law has been superseded by this Charter or by ordinance. The City Council may prescribe the procedure to be followed in the construction of local improvements, assessment of the cost thereof, issuance of local improvement bonds, and all things in relation thereto, except that, no local improvement other than streets, curb and gutter, paving, sidewalks, water mains, sewers, and their appurtenances shall be ordered in event a majority in area or majority in frontage, as the case may be, of the lands to be assessed with the cost thereof shall be written petition protest against such local improvements, said petition to be filed with the City Clerk within 20 days after final passage of the ordinance authorizing said improvements. Local improvement bonds may be authorized without an election.

**SECTION 10. SURPLUS AND DEFICIENCY FUND.** Where all outstanding bonds have been paid in a local improvement district and any money remains to the credit of the district, it shall be transferred to a special surplus and deficiency fund and whenever there is a deficiency in any improvement district to meet the payment of outstanding bonds, the deficiency shall be paid out of the fund. Whenever a public improvement district has paid and cancelled four-fifths of its bonds outstanding, and for any reason the remaining assessments are not paid in time to take up the final bonds of the district, and there is not sufficient money in the special surplus and deficiency fund, then the City shall pay the bonds when due and reimburse itself by collecting the unpaid assessments due the district. Any funds in the surplus and deficiency fund may be pledged to the payment of any local improvement district bonds as herein provided without first being authorized at any election.

**SECTION 11. SPECIAL FUND.** In addition to the provisions of Section 10 of this Charter, and not in limitation thereof, and in consideration of general benefits conferred on the City at large from the acquisition by construction, or otherwise, of local improvements, the City prior to the issuance hereafter of any bonds of any local improvement districts therein, may contract by ordinance with the holder or holders thereof that the payment of any or all of the bonds of such district, both as principle and interest, as the same become due, is additionally secured by a pledge of moneys in a special fund created therefor into which the City covenants to deposit the proceeds of general (ad valorem) property taxes to be levied not earlier than the date of the bonds of any such series nor later than two years after the maturity date thereof or last maturity date of any serial bond of any issue, not exceeding one million in any one year in the aggregate for all districts. After the issuance of any such bonds, the City shall levy such general (ad valorem) taxes pursuant to such contract; provided, however, that any such levy shall be diminished to the

extent other funds of the City available therefor are appropriated to and deposited in such fund. Prior to the redemption of all such bonds, both principle and interest, the proceeds of such taxes and any moneys deposited therein in lieu of such taxes shall be disbursed from such fund only for the payment of the principal of and interest on the bonds, and any prior redemption premium appertaining thereto. After the bonds have redeemed in full, any moneys remaining in such fund shall be deposited in the surplus and deficiency fund. Bonds of any local improvement district payable from special assessments, which payment may be additionally secured as provided in this section, shall not be subject to any debt limitation nor exhaust the City's debt incurring power, nor shall such bonds be required to be authorized at any election; and such bonds shall not be held to constitute a prohibited lending of credit or donation, nor to contravene any constitutional, statutory or charter limitation or restriction.

# ARTICLE VII

## COURTS AND LEGAL SERVICES

### SECTION 1. MUNICIPAL COURT.

- (a) There is hereby established a municipal court vested with original jurisdiction of all causes arising under the Charter, ordinances of the City of Montrose, Colorado, and as may be conferred by law.
- (b) The municipal court shall have the right to compel the attendance of witnesses by subpoena and to enforce this power by contempt of court.
- (c) The City Council shall appoint a Municipal Judge who shall hold office during the pleasure of the City Council and shall serve until his or her successor is appointed and qualified, subject, however, to the recall provisions of this Charter. Each judge or assistant judge of the municipal court shall be a resident of the County of Montrose, and shall be an attorney-at-law licensed to practice in the State of Colorado.
- (d) The Municipal Judge may appoint one or more assistant municipal judges who shall serve in the absence of the Municipal Judge, and who shall hold their office during the pleasure of the City Council. Municipal Judge shall provide for the authority and responsibility of the Municipal Court, including the annual budget, court personnel and regulations.
- (e) Neither the Council nor any of its committees or members shall direct the appointment of any person to, or his or her removal from, or employment by the Municipal Judge, or in any manner take part in the appointment or removal of employees in the administrative service of the Court, except as otherwise provided in this Charter. The Council and its members, except for the purpose of inquiry, shall deal with that portion of the administrative service for which the Municipal Judge is responsible, solely through the Municipal Judge, and neither the Council nor any member thereof shall give orders to any employee of the Court either publicly or privately.
- (f) Each Municipal Judge shall receive a fixed salary or compensation not dependent upon the outcome of the matters to be decided by him or her and to be fixed by resolution of City Council from time to time.
- (g) The Council at its pleasure at a regular meeting or a special meeting, may, upon a vote of

the majority of the entire Council, remove the Municipal Judge from office.

- (h) Neither the Council nor any of its Members or Committees shall attempt to influence the Municipal Judge in any case before the court with the exception that if a Councilor or member of a committee is directly involved in the case, they will be allowed to provide testimony. In the event the Municipal Judge requests testimony of council members, or committees, it shall be permitted.
- (i) All jurors serving in the municipal court shall be qualified electors of the City of Montrose, Colorado, and shall possess such other qualifications as may be provided by ordinance. Said jurors shall be chosen from a panel which shall be selected by some random method established by resolution of the City Council.

**SECTION 2. CITY ATTORNEY.** The Council shall appoint a City Attorney who shall hold office at the pleasure of the City Council and shall be an attorney-at-law licensed to practice in the State of Colorado. The City Attorney shall advise the Council and City Officials in matters relating to their official powers and duties, and perform such other duties as Council may prescribe by ordinance or resolution. The Council may provide the City Attorney such Assistant City Attorney as Council may deem necessary, and may on its own motion or upon request of the City Attorney in special cases employ special counsel to serve under the jurisdiction of the City Attorney. Council shall, by resolution, establish compensation for the City Attorney. Any agreement for compensation to special counsel shall be made only upon approval of Council and prior to the service being rendered.

**SECTION 3. REMOVAL OF.** The Council at its pleasure at a regular meeting or a special meeting, may, upon a vote of the majority of the entire Council, remove the City Attorney from office.

**SECTION 4. OATH OF OFFICE.** All elected officials of the City, the City Manager, Assistant City Manager, City Attorney, Assistant City Attorney, Police Chief and Officers, the Municipal Judge and Assistant Municipal Judge, shall take an oath or affirmation to support the Constitution of the United States, the Constitution of the State of Colorado, the charter and ordinances of the City and faithfully perform the duties of the office upon which they are about to enter.

**SECTION 5. PENALTY.** Except as to violation of this Charter for which a specific penalty is provided herein, the penalty for violation of any of the provisions of this Charter shall be as provided by ordinance.

# ARTICLE VIII

## ADMINISTRATIVE SUPERVISION AND DEPARTMENTS

**SECTION 1. CITY MANAGER.** The Council shall, within a reasonable time, whenever a vacancy occurs, upon a vote of the majority of the entire Council, appoint a City Manager who shall be the chief executive and administrative officer of the City. Such appointment shall be without definite term at salary to be fixed by Council. At the time of his or her appointment, the City Manager need not be a resident of City or State, but during his or her tenure of office he or she shall reside within the City. No Councilor shall be appointed City Manager during or within one year after the termination of his or her term as a member of the Council.

**SECTION 2. ABSENCE OF CITY MANAGER.** To perform the duties during his or her temporary absence or disability, the City Manager, with the approval of the Council, shall delegate a qualified city employee to serve in his or her absence. In event of failure or inability of the City Manager to make such a designation, the Council may by resolution appoint a qualified administrative City employee to perform the duties of the City Manager until he or she shall return, or his or her disability shall cease.

**SECTION 3. POWERS AND DUTIES.** The City Manager, with the approval of the Council, shall create and administer such departments as shall be deemed necessary to perform the functions of said City. The City Manager shall be responsible to the Council for the proper administration of all affairs of the City placed in his or her charge, and to that end he or she shall have the power and duty and be required to:

- (a) Be responsible for the enforcement of the laws and ordinances of the City;
- (b) Appoint, suspend, transfer and remove any employee of the City, except as otherwise provided herein, subject to the Personnel Regulations of the City, which shall be adopted by Council. (Art. VIII, Sec.3 [b] Amd. Ord. 1084, 7-3-80);
- (c) Make appointments on the basis of executive and administrative ability and of the training and experience of such appointees in the work which they are to perform;
- (d) Prepare a proposed budget annually and submit it to the Council, and be responsible for the administration of the budget after its adoption;
- (e) Prepare and submit to the Council as of the end of the fiscal year a complete report on finances and administrative activities of the City for the preceding year, and upon request

of the Council make written or verbal reports at any time concerning the affairs of the City under his or her supervision;

- (f) Keep the Council advised of the financial condition and future needs of the City and make such recommendations to the Council for adoption as he or she may deem necessary or expedient;
- (g) Exercise supervision and control over all executive and administrative departments and recommend to the Council any proposal he or she thinks advisable to establish, consolidate or abolish administrative departments;
- (h) Be responsible for the enforcement of all terms and conditions imposed in favor of the City in any contract or public utility franchise, and upon knowledge of any violation thereof, report the same to the Council for such action and proceedings as may be necessary to enforce the same;
- (i) Attend Council meetings and participate in discussions with the Council in an advisory capacity;
- (j) Inform the public concerning plans and activities of the Council and of the City administration;
- (k) Establish a system of accounting and auditing for the City which shall reflect the financial condition and financial operation of the City, and establish cost accounting system whenever practicable;
- (l) Provide for engineering, architectural, maintenance, construction, work, equipment, and services required by the City; and
- (m) Perform such other duties as may be prescribed by this Charter, or by ordinance, or required of him or her by Council and not inconsistent with this Charter.

**SECTION 4. REMOVAL OF.** The Council at its pleasure at a regular meeting or a special meeting, may, upon a vote of the majority of the entire Council, remove the City Manager from office.

**SECTION 5. COUNCIL NOT TO INTERFERE.** Neither the Council nor any of its committees or members shall direct the appointment of any person to, or his or her removal from, or employment by the City Manager, or in any manner take part in the appointment or removal of employees in the administrative service of the City, except as otherwise provided in

this Charter. The Council and its members, except for the purpose of inquiry, shall deal with that portion of the administrative service for which the City Manager is responsible, solely through the City Manager, and neither the Council nor any member thereof shall give orders to any employee of the City either publicly or privately.

**SECTION 6. CITY CLERK.** The City Manager shall appoint or remove the City Clerk, who shall be custodian of the City Seal. The Clerk shall keep a journal of Council proceedings, record all ordinances, motions and resolutions in full and shall perform such other duties as required by this Charter, the Council, and the City Manager.

The City Council shall cause to be furnished, at the expense of the City, a Notarial Commission for the City Clerk, who shall take all acknowledgments of all documents relating to any of the departments of the City without fee.

**SECTION 7. NO EXTRA COMPENSATION.** No City personnel, appointive, elective, salaried or unsalaried, shall receive any pay, commission, money, or thing of value, or derive any benefits, profit or advantage, directly or indirectly from or by reason of any dealings with or service for the City, by them or by others except his or her lawful compensation or salary as such.

**SECTION 8. POLICE CHIEF.** The City Manager shall appoint or remove the Police Chief.

# ARTICLE IX

## INITIATIVE AND REFERENDUM

### SECTION 1. INITIATIVE.

- (a) Any proposed ordinances may be submitted to the Council by petition attached thereto and circulated therewith to be filed with the City Clerk and signed by Registered Electors equal in numbers to at least 5% of the total number of electors of the City registered on the date the petition is filed. The Petition shall contain a request that said proposed ordinance be submitted to a vote of the people, if not passed by the Council. The full title and text of the initiated ordinance shall be attached to and circulated with the Petition. The Council shall, within thirty (30) days after the attachment of the Clerk's Certificate of Sufficiency, either pass said ordinance without alteration or place the ordinance on the ballot of the next general municipal election. At such general municipal election, said proposed ordinance shall be submitted without alteration to the vote of the registered electors of the City.
- (b) An initiated ordinance shall be published in like manner as other proposed ordinances if adopted by the City Council. If submitted to the electors, the ordinances shall be published in its entirety, once, at least twenty (20) days before election. The ballot upon which such proposed ordinance is submitted shall state briefly its nature and shall contain the words "For the Ordinance" and "Against the Ordinance". If a majority of the registered electors voting thereon shall vote in favor thereof, the same shall thereupon, without further publication, become an ordinance of the City. (Art. IX, Sec. 1 amd. Ord. 1202, 9-15-83)

**SECTION 2. REFERENDUM.** The Referendum shall apply to all ordinances passed by the Council except ordinances fixing the rate of taxation on property each year for municipal purposes, making the annual appropriation, calling a special election, authorizing the issuance of local improvement district bonds payable primarily from special assessment, levying special assessments, emergency ordinances and ordinances to meet contractual obligations of the City. If, at any time within thirty (30) days after final passage of an ordinance to which the referendum is applicable, a petition is filed with the City Clerk, signed by registered electors equal in number to at least 10% of the total number of electors of the City registered on the date such petition is filed, protesting against such ordinance taking effect, the same shall thereupon be suspended and Council shall consider such ordinance; and, if the same be not entirely repealed, shall submit the same to the vote of the registered Electors of the City in a manner as provided in respect to the initiative at the next general municipal election or at a special election called therefor. If a

majority of the registered electors voting on the question vote in favor of such ordinance, it shall go into effect without further publication. (Art. IX, Sec. 2 amd. Ord. 1202, 9-15-83)

**SECTION 3. REFERRAL ON COUNCIL MOTION.** The Council, on its own motion, shall have the power to submit at a general or special election any proposed ordinance or question to the vote of the qualified electors causing said proposed ordinance to be published once at least 20 days before such election and with the ballot on the question to be in conformity with the provisions of Section 2 of this Article.

**SECTION 4. CONFLICTING ORDINANCES.** If provisions of two or more proposed ordinances adopted or approved at the same election conflict, the ordinance receiving the highest affirmative vote shall become effective.

**SECTION 5. ADEQUACY AND AMENDMENT OF PETITION.** Within ten (10) days of the filing of any initiative or referendum petition, the City Clerk shall ascertain whether the petition is signed by the requisite number of registered electors and if it otherwise complies with the requirements of law for such a petition. If the petition is sufficient and complying, the Clerk shall attach a Certificate of Sufficiency showing the result of such examination and refer it to the City Council. If the petition is insufficient, the Clerk shall notify, in writing, the person filing the petition, if known, or one or more of the petitioners of such insufficiency and no further action shall be taken. If the only insufficiency was an insufficient number of signatures, the petition may be refiled with additional signatures, but the date of the refiling shall be controlling with respect to the requirement to file a referendum petition within thirty (30) days after final passage by the City Council. If the petition is insufficient for other reasons, new petitions for the same purpose may be recirculated and filed, but the date of the new filing shall be controlling. (Art. IX, Sec. 5 amd. Ord. 1202, 9-15-83)

**SECTION 6. LIMITATION ON AMENDMENT OF DIRECT LEGISLATION.** An ordinance adopted by the qualified electors may not be amended or repealed for a period of 6 months after the date of the election at which it was adopted, and an ordinance repealed by the qualified electors may not be re-enacted for a period of 6 months after the date of the election at which it was repealed, provided however, that any ordinance may be adopted, amended or repealed at any time by appropriate referendum or initiatory procedure in accordance with the foregoing provisions of this Charter, or if submitted to the qualified electors by the Council on its own motion.

**SECTION 7. FURTHER RULES AND REGULATIONS.** The Council shall make such additional rules and regulations as are necessary to implement these provisions.

# ARTICLE X

## MISCELLANEOUS PROVISIONS

**SECTION 1. DEFINITIONS.** As used in this Charter, the following words shall have the following meanings:

- (a) “Ad valorem tax” means only the general property tax levied annually on real and personal property listed with the Assessor of Montrose County, Colorado; it shall not include any one or more of the following taxes: income tax; sales tax, use tax, excise tax or specific ownership tax on a motor vehicle or trailer, or any other tax not described herein as an ad valorem tax.
- (b) “Appropriation” means the authorized amount of funds set aside or allocated for expenditure during a specific time for a specific purpose.
- (c) “City” is the City of Montrose, Colorado.
- (d) “Constitution” or “Constitution of the State of Colorado” means the Constitution of the State of Colorado in effect both at the time this Charter is adopted and at any time thereafter when the words defined are to be applied. Such terms mean the Constitution of the State of Colorado as it now exists or as it may hereafter be amended, revised or adopted.
- (e) “Council” means the City Council of the City of Montrose, Colorado.
- (f) “Elector” and “Qualified Elector” means any person who, under the Statutes of the State of Colorado, is entitled to vote for candidates for municipal office in municipalities within the State of Colorado.
- (g) “Employee” means any person in municipal service who is not an officer of the City.
- (h) “Franchise” means a special privilege granted by the City permitting occupation and use of public property within the City such as City streets.
- (i) “General Election” means the municipal election held every two years at which candidates for Montrose, Colorado, City Council are voted upon.
- (j) “May” shall be construed as permissive.

- (k) “Officer” means any person who is elected to office or appointed by council.
- (l) “Person” shall have broad application and shall include, but shall not be limited to the following: Individual, corporation, association, political subdivision, state agency, and shall include the plural of the entities named.
- (m) “Public Utility” means any person, firm, or corporation operating heat, power, water, communications, sewer or scheduled transportation systems serving or supplying the public. Such term shall not include such system or systems if municipally owned.
- (n) “Shall” is to be construed as mandatory.
- (o) “Statutes” or “Statutes of the State of Colorado” means the Statutes of the State of Colorado in effect both at the time this Charter is adopted and at any time thereafter when the words defined are to be applied. Such terms mean the Statutes of the State of Colorado as they now exist or as they may hereafter be amended, revised or adopted.

**SECTION 2. AMENDING THE CHARTER.** Amendments to this Charter may be framed and submitted to the electors through petitioning the Council or by the Council on its own initiative in accordance with the provisions of the Constitution of the State of Colorado. Nothing herein contained shall be construed as preventing the submission to the people of more than one Charter amendment at any one election. If there is any conflict or inconsistency between amendments voted upon at the same election and more than one be adopted, then the amendment receiving the largest number of votes shall prevail.

**SECTION 3. CLARIFYING THE CHARTER.** The City reserves the right to clarify charter provisions via city ordinance if deemed necessary for the efficient administration of the city government.

**SECTION 4. ACTIONS: NOTICE OF INJURY.** No action for the recovery of compensation for personal injury, death or property damage against the City on account of its negligence, shall be maintained unless written notice of the time, place and cause of injury, death, or property damage is given to the City Clerk by the person injured, his or her agent or attorney, within 90 days of the occurrence causing the injury, death or property damage. The notice given under provisions of this section shall not be deemed invalid or insufficient solely by reason of any inaccuracy in stating the time, place or cause of injury, if it is shown that there was no intent to mislead and that the City, in fact was not misled thereby. This provision shall not be construed as a waiver of any governmental immunity the City may have.

**SECTION 5. SALE OF WATER OUTSIDE THE CITY.** Whenever the water supply is, or becomes, greater than the needs of the City for fire and domestic purposes the City Council may dispose of such surplus water to consumers of water outside the City limits at such rate as in the opinion of the City Council is just and proper.

**SECTION 6. WATER RIGHTS ON LANDS ANNEXED.** The City shall have the power to obtain by purchasing or eminent domain such water rights as may be used upon or allotted to any land which is annexed to the City.

**SECTION 7. SEVERABILITY OF CHARTER PROVISIONS.** If any provisions, section, article or clause of this Charter or the application thereof to any person or circumstances shall be found to be invalid by a court, such invalidity shall not affect any remaining portion or application of the Charter which can be given effect without the invalid portion or application, provided such remaining portions or applications are not determined by the Court to be inoperable, and to this end this Charter is declared to be severable.