

HOME RULE CHARTER

for the

CITY OF BLACK HAWK, COLORADO

January 16, 2001

Prepared by the City of Black Hawk Home Rule Commission

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HOME RULE CHARTER

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HOME RULE CHARTER
OF THE
CITY OF BLACK HAWK

ARTICLE I

General Provisions

Section 1. Creation.

On March 11, 1864, the City of Black Hawk, Gilpin County, Territory of Colorado, consisting of the inhabitants of the designated city boundary, was created by the passage of an Act by the Council and House of Representatives of Colorado Territory. The City of Black Hawk has functioned as a Territorial Charter City since 1864 pursuant to said Charter, as subsequently amended by the Council and House of Representatives of Colorado Territory and the General Assembly of the State of Colorado, and as provided by Section 31-1-202, Colorado Revised Statutes. On January 16, 2001, the citizens of the City of Black Hawk voted to approve this Home Rule Charter for the City of Black Hawk.

With all good faith in the citizens and the future of the City of Black Hawk, the nine Charter Commission members, elected by the people, have drafted this Home Rule Charter (“Charter”) in conformity with Article XX of the Constitution of the State of Colorado and the Municipal Home Rule Act of 1971.

The Charter reflects the Commission's philosophy that the City belongs to the citizens thereof, not the state or federal government, and as such follows the American doctrine where the electors control the government rather than the government dictating to the citizens.

This document defines a form of government that is determined by the City Council by Ordinance. The Mayor and Council are elected every four (4) years on a rotating basis to ensure continuity of government. The Council is charged with the legislative responsibilities of policy making. The administration of these policies is determined in the manner provided by ordinance. The Mayor presides at Council meetings and is the chief executive officer of the City.

The democratic techniques of initiative and referendum and recall have been included in the Charter. These provisions provide the means by which the people can, if necessary, directly control the policies of their city government, enact or reject legislation as they see fit, and rid themselves of an elected official who fails to perform his duties properly. In addition, other safeguards have been included in the Charter to prevent abuse of any office in the City.

The members of the Charter Commission viewed their task as one of great responsibility. The Commission did not limit the goals for the city government of Black Hawk to a consideration of the present, but extensively considered the future needs of the City and envisioned continued growth and progress for the City.

In their effort to submit the best possible Charter to the people of Black Hawk, the Charter Commission studied the Charters of other Colorado cities and invited suggestions and advice from the citizens of Black Hawk in preparing the Home Rule Charter for the City of Black Hawk.

This Charter provides a simple, direct and responsible form of local government.

Section 2. Name, powers and interpretation.

The Territorial Charter City heretofore existing as the City of Black Hawk, Gilpin County, State of Colorado, shall remain and continue a body politic and corporate under this Home Rule Charter and shall be known as the City of Black Hawk. If there is a conflict between statutes governing municipalities generally and this Home Rule Charter, this Charter shall control.

Section 3. Boundaries.

The boundaries of the City of Black Hawk shall be the existing and presently established boundaries, as such boundaries may be amended in the future in accordance with Colorado law, which includes, but is not limited to annexation or by amendment of this Charter.

Section 4. Specific powers.

The City shall have all the power of the local self-government and home rule and all power possible for a municipality to have under the Constitution and laws of the State of Colorado. The enumeration of particular powers under this Charter is not exclusive of others. By the name of the City of Black Hawk, a municipal corporation, the City shall have perpetual succession; shall own, possess and hold all property, real and personal heretofore owned, possessed and held by the City, and does assume and shall manage and dispose of all trusts in any way connected therewith; shall succeed to all the rights and liabilities of the City; shall acquire all benefits and does assume and shall pay all bonds, obligations and indebtedness of the City; may sue and defend; may purchase, lease, receive, hold and enjoy, or sell and dispose of real and personal properties; may establish municipal water works, sewage disposal works, and water and sewer systems; shall have a common seal and alter the same at pleasure and to have all rights, powers, and liabilities applicable to Colorado home rule municipal corporations as set forth in Article XX of the Colorado Constitution and Title 31, Colorado Revised Statutes, as the same now exist or as they may either hereafter be amended.

All powers of the City shall be exercised as provided in this Charter, as provided by ordinance adopted by the City Council which does not conflict with this Charter, as provided by state statute which is not in conflict with this Charter, or as provided by an ordinance adopted in accordance with this Charter.

Section 5. Form of government.

The City of Black Hawk shall operate by a Council-Manager form of government as provided by ordinance. All powers of the City shall be vested in an elected City Council, which shall enact local legislation, adopt budgets, determine policies and appoint City officers, including, but not limited to the City Manager, the City Attorney and the Municipal Judge. The City Manager shall execute the laws and administer the City government as provided by ordinance adopted by the City Council.

Section 6. Recall.

The Mayor or any Alderman who has served at least six months of such Alderman's term of office may be recalled by the registered electors of the City in accordance with Article XXI of the Colorado Constitution. The Council may adopt procedures by ordinance for the exercise of the right to recall. The statutory procedures for exercise of the right to recall are hereby adopted; except that such procedures may be superseded or supplemented by ordinance adopted by the Council. A petition for recall must contain the signatures of registered electors equal to twenty-five percent of the entire vote cast at the last preceding election for all candidates for office which the incumbent sought to be recalled occupies; provided, if the incumbent has been subject to a recall petition and election during the incumbent's present term, no further recall petition shall be filed against the same officer during the term unless the recall petition contains the signatures of registered electors equal to fifty percent of the votes cast at the last preceding election for all of the candidates for the office held by the incumbent.

ARTICLE II

City Council

Section 1. City Council.

There shall be a City Council, to consist of a Mayor and Board of Aldermen, who shall be nominated and elected at large. The City Council may, by ordinance and approval by the electors of the City, divide the City into wards, alter the boundaries thereof, and erect additional wards as the occasion may require.

Section 2. Mayor.

The Mayor shall be the chief executive officer of the City as defined by ordinance, shall preside at all meetings of the City Council, and shall exercise such powers and perform such other duties as are or may be conferred and imposed upon the Mayor by this Charter, by ordinance or by other applicable law. The Mayor shall be recognized as the head of the City government for all ceremonial and legal purposes and shall execute and authenticate legal instruments requiring the Mayor's signature as such official. The Mayor shall have all of the powers, rights and privileges of an Alderman; except that the Mayor shall not vote except in the case of a tie vote. In case of nonattendance of the Mayor at any meeting, the Board of Aldermen shall appoint one of their own members as chairperson, who shall preside at the meeting and shall not thereby lose the right to vote on any question before the Board. The Mayor shall, from time to time, communicate to the Aldermen information and recommend all such measures as, in the Mayor's opinion, may tend to the improvement of the finances, police, health, security, comfort and ornament of the City.

Section 3. Number of Aldermen.

The Board of Aldermen shall consist of six members.

Section 4. Qualifications.

No person shall be eligible for City Council unless at the time of election such person has resided within the City one year immediately preceding such election, is a registered elector, and is a citizen

of the United States. No person shall be eligible for the office of Mayor unless at the time of election or appointment such person is at least twenty-five years of age. For purposes of this Section 4 and declaring a vacancy in the office of Mayor or Alderman or on any other board or commission of the City, residency shall mean the primary permanent domicile of a person as determined by the Board of Aldermen. The primary permanent domicile may be determined from activities of a person to establish domicile as evidenced by the residence at which such person spends a majority of the year, the location and use of other residences used by such person, the address used by such person for identification, car registration, driver's license, state and federal tax returns, regular mail and any other factors which the Board determines indicate such person's primary permanent domicile.

Section 5. Compensation.

Notwithstanding the provisions of Section 31-4-405, Colorado Revised Statutes, the emoluments of any member of the City Council, including the Mayor and Board of Aldermen, shall not be increased or diminished during the term for which he was elected or appointed, except by a majority vote of the registered electors of the City of Black Hawk. (Amended July 10, 2001 election)

Section 6. Quorum.

A majority of the City Council shall constitute a quorum to do business, but a smaller number may adjourn from day to day and compel the attendance of absent members under such penalties as may be prescribed by ordinance. A majority shall be four members of the City Council.

Section 7. Rules of procedure.

The City Council shall have the power to determine the rules of its proceedings, punish its members for disorderly conduct and, with the concurrence of two-thirds of the members elected, expel a member.

Section 8. Record of proceedings.

The City Council shall keep a written journal of its proceedings, and the yeas and nays, when demanded by any member present, shall be entered on the journal. It shall be the duty of the City Clerk to keep a true record of all the proceedings of the City Council, and such record shall be open in all business hours to the inspection of any citizen.

Section 9. Conflicts of interest.

(1) No member of the City Council, or other board or commission of the City with final decision-making authority shall be appointed to any office under the authority of the City, which shall have been created, or the emoluments of which shall have been increased during the time for which such member shall have been elected, except as provided in Article II, Section 5 of this Charter.

(2) No member of the Council, or other board or commission of the City shall be a compensated employee of the City under any of the categories of employment specified in the City of Black Hawk Personnel Manual, nor shall such member have any financial interest or substantial personal interest, direct or indirect, or any apparent conflict of interest with the City. In the event that any member of the Council, or any board or commission, or any person belonging to such member's family has or could potentially be construed as having a conflict of interest, such member shall declare such interest prior to participating in any discussion or voting on the issue or as soon

thereafter as the interest accrues. If any member of the Council, or board or commission fails to declare such interest, upon discovery of such interest, the remaining members of the Council, or board or commission shall determine whether said interest does in fact constitute a conflict of interest. If such conflict is established, the remaining members of the Council, board or commission shall take any prospective or retroactive action they deem to be in the best interest of the City, including prohibiting that person from voting on or participating in an issue. (Amended July 10, 2001 election)

Section 10. Oath of office.

The Mayor and each Alderman, before entering upon the duties of office, shall take and subscribe an oath, or make an affirmation that they will support and defend the Constitutions of the United States and the State of Colorado and the laws of the City, and will well and truly perform the duties of their office according to the best of their understanding, knowledge and ability.

Section 11. Meetings.

There shall be at least twelve stated meetings of the Council in each year, at such times and places as may be prescribed by the City Council. The City Council may set such other meetings as they deem appropriate. The Mayor or any two Aldermen may call special meetings of the City Council upon forty-eight hours' notice to all members of the Council. In the event of an emergency, a special meeting may be called with less than twenty-four hours' notice; except that any action taken at such emergency meeting shall be ratified at a regular or special meeting of the Council within thirty days, or such emergency action shall be null and void. All meetings, except executive sessions as defined by ordinance, shall be open to the public.

Section 12. Terms of office.

The Mayor and the Board of Aldermen serve for four-year terms which commenced at the regular biennial election in 1994. The terms for the Aldermen are staggered so that at each election which followed the biennial election in 1994, one-half of the Board members were elected to four-year terms at each election. To commence the staggering of terms, at the biennial election in 1994, the Board of Aldermen were voted on and the three candidates, receiving the highest number of votes were elected to four-year terms and the remaining members receiving the next highest number of votes were elected to two-year terms. At the biennial election in 1996, the successors to the Aldermen who received two-year terms in 1994 were elected to four-year terms. In the event that an Alderman or the Mayor has been appointed or elected at a special election to fill a vacancy, such Alderman's or the Mayor's successor shall be elected to a four-year term if the office vacated was to expire at the next regular biennial election and a two-year term if the term of the office vacated was to expire at the regular biennial election two years after the next regular biennial election. The Mayor and Aldermen shall hold office from the first meeting held at least ten days from the canvass of votes of the election at which the Mayor or Alderman was elected until a successor is elected or appointed and qualified.

Section 13. Vacancies - removal.

The Mayor and Aldermen shall hold their respective offices until the expiration of the terms for which they were respectively elected, and until their successors are elected and qualified. If any Alderman, after such Alderman's election, moves to a residence outside of the City, such Alderman's office shall be declared vacated. Any vacancies that may now or hereafter exist or occur in the

offices of Mayor or Alderman shall be filled by the Board of Aldermen by a vote of a majority of the quorum, within sixty days of the vacancy. If such vacancy is not filled by appointment by the Council within said sixty days and a regular election is not scheduled within one hundred eighty days of the vacancy, a special election shall be called to fill the vacancy. A vacancy may be declared by Council if a member has not attended Council meetings or resided within the City for four months, and such absence is not excused by a majority of the remainder of the Council, or for any other reasons determined by ordinance. A vacancy filled by appointment or election shall be until the next regular biennial election.

Section 14. Officers.

The City Council shall have the power to appoint all officers, except such as are elected or otherwise provided for in this Charter, and provide for their duties and compensation. The officers shall include, but not be limited to, the City Manager and the City Attorney, both of whom shall serve at the pleasure of the Council, and a Municipal Judge, who shall be appointed for a two-year term.

Section 15. Form of ordinance.

The style of the ordinance shall be "BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BLACK HAWK." An ordinance may be adopted at the same meeting at which it is introduced. Ordinances passed by the City Council shall be signed by the Mayor and attested by the City Clerk, and shall be published in some newspaper designated by ordinance, or posted in three public places in said City, and shall be effective upon publication or posting as aforesaid, except emergency ordinances which shall be effective within three days of passage by two-thirds of the Board of Aldermen present at the meeting at which such emergency ordinance is adopted.

Section 16. Codification of ordinances.

All ordinances of the City Council may be proven by the seal of the City, and when printed in book or pamphlet form and purporting to be printed and published by authority of the City, the same shall be received in evidence in all courts of law and equity without further proof.

ARTICLE III

Elections

Section 1. Dates of elections.

(1) The regular biennial elections of the City shall be held on the first Tuesday in April, in even-numbered years. Except for the issues specified in subsection (2) of this section, a special election may be called on any issue by resolution or ordinance of the Council at least forty-five days in advance of such election.

(2) Any election for a new tax, a tax rate increase, a valuation for assessment ratio increase for a property class, a mill levy increase from the previous year, a tax policy change directly causing a net tax revenue gain, approval of a multiple-fiscal year direct or indirect debt or other financial obligation without adequate cash reserves, approval of spending limit changes, and approval of emergency taxes, to the extent such issues are governed by Section 20 of Article X of the Colorado Constitution, shall be held at the regular biennial election of the City, the State general election on the first Tuesday

in November of odd-numbered years, or such other times as authorized by Section 20 of Article X of the Colorado Constitution.

Section 2. Municipal election code adopted.

The *Colorado Municipal Election Code of 1965*, Article 10 of Title 31, Colorado Revised Statutes, is hereby adopted by reference and as the same may be hereafter amended, and shall apply to all elections within the City, except as otherwise provided in this Charter or as otherwise provided by ordinance adopted in accordance with this Charter.

Section 3. Election issues.

The City Council shall judge the qualifications and election of its own members and shall determine all contested elections under this Charter. Whenever there shall be a tie in the election of an Alderman, the judges of election shall certify the facts to the Mayor, who shall order a run-off election to be held within forty-five (45) days of the date the tie is so certified to the Mayor. When two or more persons shall have an equal number of votes for Mayor, the judges of election shall certify the same to the Board of Aldermen, who shall order a run-off election to be held within forty-five (45) days of the date the tie is so certified to the Board of Aldermen. (Ord. 2008-3 §1)

ARTICLE IV

Initiative and Referendum

Section 1. General authority.

(1) Initiative. The electors of the City shall have the power to propose any ordinance to the Council, in accordance with the provisions of this Article, except for ordinances relating to budget, capital program, appropriation of any revenues, levy of taxes or salaries of City officers or employees. In the event Council fails to adopt the proposed ordinance without any change in substance, such ordinance shall be submitted to the electors at a City election for their acceptance or rejection.

(2) Referendum. The electors of the City shall have the power to require reconsideration by the Council of any ordinance, and if the Council fails to repeal an ordinance so reconsidered, to approve or reject it at a City election, in accordance with the provisions of this Article. However, this power of referendum shall not extend to ordinances relating to the City's budget, capital program, appropriation of funds, special assessments, payment of an existing contractual obligation, calling of a special election, the salaries of City officers or employees, the authorization of any municipal borrowing requiring an election pursuant to this Charter or the Colorado Constitution and any ordinance necessary for the immediate preservation of the public health, safety and welfare, which ordinance states in a separate section the reason why it is necessary and the ordinance is approved by an affirmative vote of four (4) Aldermen.

(3) Referral by Council. The Council shall have the power on its own motion to submit any proposed ordinance or question of any nature to a vote of the electors at a regular or a special election, which shall be a referendum under Section 1 of Article V of the Colorado Constitution.

Section 2. Commencement of proceedings, petitioner's committee; affidavit.

(1) Any five electors may commence initiative proceedings by filing with the City Clerk an affidavit stating that they will constitute the petitioner's committee. Any five electors may commence referendum proceedings by filing with the City Clerk, no later than ten days after final adoption of the ordinance, an affidavit stating they will constitute the petitioner's committee. The affidavit shall provide:

- (a) That the committee shall be responsible for circulating the petition and filing it in proper form;
- (b) The names and addresses of the committee members and specify the address to which all notices to the committee are to be sent; and
- (c) The full text of the proposed initiative ordinance or cite the ordinance sought to be reconsidered.

Section 3. Petitions.

(1) Number of signatures. Initiative petitions, on the date filed, must be signed by registered electors of the City in an amount equal to at least fifteen percent of the total number of electors registered to vote within the City thirty days prior to filing the petitioner's affidavit described in Section 2 of this Article. Referendum petitions, on the date filed, must be signed by registered electors of the City in an amount equal to at least ten percent of the total number of electors registered to vote within the City thirty days prior to filing the petitioner's affidavit described in Section 2 of this Article. The number of signatures required for initiative or referendum petitions may be reduced by ordinance.

(2) Form and content. All pages of a petition shall be uniform in style and shall be filed as one instrument. Each signature shall be executed in ink or indelible pencil and shall be followed by the printed name and address of the person signing. Petitions shall contain or have attached thereto throughout their circulation the full text of the ordinance proposed or sought to be reconsidered.

(3) Affidavit of circulator. Each page of a petition shall have attached to it when filed an affidavit executed by the circulator thereof stating:

- (a) That the affiant personally circulated the petition;
- (b) The number of signatures thereon;
- (c) That all signatures were affixed in the affiant's presence;
- (d) That the affiant believes that each signature thereon is the signature of the person whose name it purports to be;
- (e) That each signer is a registered elector of the City at the time they signed the petition; and
- (f) That each signer had an opportunity before signing to read the full text of the ordinance proposed or sought to be reconsidered.

(4) Time for circulation. Initiative petitions with the required number of signatures must be filed with the City Clerk within one hundred eighty days of filing of the petitioner's committee affidavit. Referendum petitions with the required number of signatures must be filed with the City Clerk within thirty days of the effective date of the ordinance sought to be repealed.

(5) Additional petition requirements. Consistent with the provisions of this Charter, the Council may prescribe by ordinance additional procedures for filing such petitions and the form of such petitions, which procedures are in accordance with Article 11 of Title 31 of the Colorado Revised Statutes, as amended.

Section 4. Action on petitions.

(1) Action by Council. When an initiative or referendum petition has been finally determined sufficient, the City Council, within forty-five days, shall consider the proposed initiative ordinance or reconsider the referred ordinance. The Council shall have the power to change the detailed language of any proposed initiative ordinance and to affix the title thereto, so long as the general character of the measure will not be substantially altered. Repeal of any referred ordinance may be effected only by a two-thirds vote of the entire Board of Aldermen.

(2) Submission to voters. If the Council does not adopt an initiated ordinance or repeal a referred ordinance, the election on a proposed initiative or referred ordinance shall be held not less than thirty days and not later than one hundred fifty days from the date of the final Council vote thereon. If no regular election is to be held within the period prescribed in this subsection (2), the Council shall provide for a special election; otherwise, the vote shall be held at the same time as such regular election. The Council may at its discretion provide for a special election at an earlier date within the period prescribed in this subsection (2). Copies of the proposed initiative or referred ordinance shall be made available to the public within a reasonable time before the election and also at the polls at the time of the election.

(3) Withdrawal of petitions. An initiative or referendum petition may be withdrawn at any time prior to the thirtieth day preceding the election set by the City. Withdrawal shall be effected by filing with the City Clerk a request for withdrawal signed by a majority of the petitioner's committee and the consent of the majority of the Council. Upon the filing of such request and Council approval, the petition shall have no further force or effect and all proceedings thereon shall be terminated.

Section 5. Results of election.

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

(2) An ordinance adopted by the electorate may not be amended or repealed for a period of six months after the date of the election at which it was adopted. An ordinance repealed by the electorate may not be reenacted for a period of six months after the date of the election at which it was repealed; except that any ordinance may be adopted, amended or repealed at any time by appropriate referendum or initiative procedure in accordance with the provisions of this Article, or, if submitted to the electors by the Council on its own motion.

ARTICLE V

City Administration

Section 1. City Manager.

Except as otherwise provided by ordinance, the City Manager shall be the chief administrative officer of the City and shall serve at the pleasure of the Council. The Council, by a majority vote, shall appoint a City Manager without definite term and at a salary to be fixed, from time to time, by the Council. The City Manager shall be responsible to the Council and perform such duties as provided by statute or ordinance.

Section 2. City Attorney.

The Council shall appoint a City Attorney to serve at the pleasure of the Council. The City Attorney shall be an attorney admitted to practice law in Colorado, who shall have at least five years experience, preferably with experience in Colorado municipal law. The City Attorney shall be the legal representative of the City, shall advise the Council and City officials in matters relating to their official powers and duties, and shall perform such other duties as Council may prescribe by ordinance or resolution.

Section 3. Municipal Judge.

The Council shall appoint a Municipal Judge to serve for a two-year term, which term may be renewed at the discretion of the Council. The Municipal Judge shall be an attorney admitted to practice law in Colorado, with five years experience, preferably with experience as a Municipal Judge. The Judge may be removed for cause as provided by the City Council. The present term of the office of Municipal Judge shall expire on July 14, 2001.

Section 4. Commissions of Aldermen.

The City Council may establish commissions, by ordinance, for the various administrative departments of the City that are created from time to time. The purpose of any commission that is established by ordinance is to create a forum of open communication between commission members, the City Manager and the administrative department that is the subject of a commission. The City Council shall establish by ordinance the duties, roles and responsibilities of each commission that is established under this Section. The members of each commission shall be appointed by the Mayor and the Board of Aldermen. Commission members shall be selected from among the City Council. The commissions may review with the City Manager, the director or other employees of the department that is the subject of the commission, matters of significance related to purposes of the commission and may advise and make recommendations of policy, procedure, budget and other matters as determined by ordinance to the Council and the City Manager. Except as otherwise provided in this Charter or by ordinance, neither the commissions nor the members thereof shall dictate the appointment or removal of any City employee, nor shall they interfere with or give direction on job related functions to City employees. The City Manager and the director of a department that is the subject of a commission, shall report to the commissions as provided by ordinance.

Section 5. Boards and commissions.

The Board of Aldermen may establish, by ordinance, other boards and commissions and the authority, duties, responsibility, membership and terms of membership of such boards and commissions.

ARTICLE VI

Powers and Authority

Section 1. Powers and authority.

(1) In addition to all of the powers expressly granted or granted by implication to home rule municipalities by the Colorado Constitution, statutes of the State of Colorado, this Charter, and ordinances adopted by the Council not in conflict with this Charter, the City shall have the following powers and authority and all powers necessary to implement such powers and authority:

(a) To levy general ad valorem taxes upon all the taxable property located within the limits of the City of Black Hawk, which is subject to taxation for state, county and other purposes under the laws of the State of Colorado, and in the manner prescribed therein;

(b) To impose and collect a sales, occupational, admissions, lodging, excise, transfer or use tax and other taxes on the performance of an act, the engaging in an occupation, the enjoyment of a privilege in the City of Black Hawk, or for any other purpose. Such taxes, including sales taxes, may be imposed at any rate approved by ordinance and may be collected by the City, and the City may perform audits of all persons, businesses, corporations or firms subject to such taxes;

(c) To establish, support and regulate common schools;

(d) To borrow money on the credit of the City;

(e) To appropriate money and provide for the payment of the debt and expenses of the City;

(f) To make regulations to prevent the introduction of contagious diseases in the City, to make quarantine laws for that purpose, and to enforce the same within five miles of the City;

(g) To establish hospitals and make regulations for the government of the same;

(h) To make regulations to secure the general health of the inhabitants, to declare what shall be a nuisance, and to prevent and remove the same and assess all direct, indirect and collection costs of removal against the real property which shall become a perpetual lien against the property as provided by ordinance;

(i) To provide the City with water and sanitary sewer service;

(j) To open, alter, abolish, widen, extend, establish, grade, pave or otherwise improve and keep in repair, streets, avenues, lanes, alleys, sidewalks, drains and sewers. The City Council shall have the power, by ordinance, to levy and collect a special tax or assessment on the holders of lots on any street, lane, avenue or alley according to their respective fronts or other reasonable basis, for the purpose of grading, paving, widening, improving, constructing or repairing streets, and lighting such streets, lanes, avenues or alleys, and performing such other improvements as may be

deemed necessary; except that such tax or assessment shall not exceed the actual costs of such improvements and shall be collected in the same manner as other City taxes;

(k) To license, restrain, regulate, prohibit and suppress tippling houses, gambling houses, bawdy houses and other disorderly houses, and the selling and giving away of any intoxicating or malt liquors by any person within the City, except by persons duly licensed;

(l) To form a special improvement district to pay for public improvements as provided by Colorado law;

(m) To regulate the policy of the City, to impose fines, forfeitures and penalties for the breach of any ordinance, and to provide for the recovery and appropriation of such fines and forfeitures and the enforcement of such penalties. All money collected under or by authority of any City ordinance shall be deemed and taken to belong to the City and disposed of by the Board of Aldermen, under the ordinances of the City, for the general use and benefit of the inhabitants thereof. The Board of Aldermen shall have the power to enforce obedience to City ordinances by fine or by imprisonment, or both;

(n) To make all ordinances which shall be necessary and proper for carrying into execution the powers specified in this home rule charter (Charter), such additional powers incident thereto, and such powers as are necessary to preserve and protect the health, safety and welfare of persons within the City concerning local and municipal matters so long as such ordinances are not repugnant to or inconsistent with the Constitution of the United States, the Colorado Constitution or this Charter;

(o) To determine the transfer of any real property held by the City;

(p) To acquire, construct, reconstruct, lease, improve or extend any income-producing facilities or projects, to impose and collect rates, fees or charges in connection with such facilities or projects, and to issue bonds payable solely from such rates, fees or charges to finance such facilities or projects;

(q) To acquire, construct, lease, sell, mortgage, manage or operate a utility, an enterprise or establish a separate entity for water, sewer, streets, power, parks, recreation, burial, historical, cultural, housing, development or promotion of the City, telephone, utilities, transportation, television relay, or any other public purpose, in the manner determined by ordinance;

(r) To acquire property within or without the boundaries of the City by condemnation for any public purpose as determined by the City Council;

(s) To include taxes and assessments on real property as a lien on the real property with the general property taxes as provided by ordinance, which property may be sold for any such taxes or assessments which became delinquent;

(t) To enter into contracts with public or private entities or persons which provide a benefit to the City;

(u) To impose fees, charges, land dedication requirements or any other requirement for any service, improvement or public benefit provided by the City either directly, indirectly or by agreement with another public or private person or entity; and

(v) To provide incentives to public or private persons or entities to acquire, construct, maintain, redevelop, refurbish or improve any real or personal property for historical, park and recreational, cultural, housing development or promotion of the City, telephone services, utilities, transportation or any other public purpose for the benefit of the City, by providing loans, grants or other assistance, monetary or otherwise, to such persons or entities.

ARTICLE VII

Additional Financial Powers

Section 1. Revenue bonds.

In addition to the authority to issue revenue bonds granted in this Charter and by state laws, any utility, enterprise or function of the City, which may be supported by revenues generated therefrom, including a mill levy dedicated for such purpose, may issue its own revenue bonds upon approval of the City Council.

Section 2. Bonds - generally.

The City may borrow money, pledge revenues and issue securities, in a form as authorized by ordinance, including but not limited to, short-term notes, emergency notes, anticipation warrants, general obligation bonds, revenue bonds, industrial-development revenue bonds, special assessment bonds, refunding bonds, lease-purchase agreements, long-term rental or lease agreements, installment purchase agreements, bond anticipation notes, tax anticipation notes, certificates of participation, and any other security authorized by statute for municipalities. Any of such securities may be refunded by the City. Terms, conditions and procedures for issuing or refunding such securities shall be in accordance with Colorado statutes applicable to municipalities unless otherwise provided in this Charter or by ordinance consistent with this Charter.

Section 3. Obligations of City - recital.

Notwithstanding any other provision of law or this Charter to the contrary, any ordinance or resolution authorizing or any trust indenture or other instrument pertaining to any bonds or similar instruments evidencing an obligation of the City of Black Hawk may provide that each bond or similar instrument therein authorized shall recite that it is issued under authority of this Charter. Such recital shall conclusively impart full compliance with all of the provisions of this Charter, and all bonds or similar instruments containing such recital shall be incontestable for any cause whatsoever after their delivery for value.

Section 4. Pledge of revenue.

(1) The City shall have the power to pledge irrevocably to the payment of or to secure any bonds or other obligations issued or incurred by the City the following revenues and receipts:

(a) Revenues or receipts derived from the taxes, assessments or fees imposed pursuant to this Charter; and

(b) Revenues or receipts derived from the taxes, fees or other charges imposed by the State of Colorado upon the activities of gaming and gambling occurring within the limits of the City of Black Hawk.

Section 5. Additional authority to issue bonds.

In addition to all statutory provisions granting municipalities the power to issue or refund bonds, or otherwise contract indebtedness, the City shall have the power to issue bonds payable wholly, or in part, from the revenues and receipts described in Section 4 of this Article or otherwise received by the City pursuant to procedures and upon terms and conditions which, as nearly as may be practicable, shall be substantially the same as those set forth in the provisions of Part 4 of Article 35 of Title 31, Colorado Revised Statutes, as amended, relating to water and sewer revenue bonds; except that the purposes for which the same may be issued shall not be so limited and the same shall be issued in accordance with the limitations of this Charter and any state law incorporated herein by reference if the same constitutes a general obligation debt within the meaning of Section 6 of Article XI of the Colorado Constitution. The powers conferred by this section are in addition and supplemental to and not in substitution for, and the limitations imposed by this section shall not directly or indirectly modify, limit or affect the powers conferred by the provisions of any other law or this Charter. Bonds may be issued under this section without regard to the provisions of any other law or this Charter, and if so issued, insofar as the provisions of this section are inconsistent with the provisions of any other law or this Charter, the provisions of this section shall control.

Section 6. Provisions regarding Section 20 of Article X of the Colorado Constitution.

(1) For purposes of Section 20 of Article X of the Colorado Constitution, as applied to the City of Black Hawk:

(a) A grant shall include only funds received by the enterprise after application to the State or a local government for funds to be awarded on a competitive basis to entities meeting certain criteria. A grant shall not include any funds loaned or given to the enterprise by the City or any other entity, or any fees, taxes or assessments imposed for the enterprise, including property taxes derived from mills levied for and dedicated to the enterprise.

(b) Any funds collected by the City and paid to a public or private entity pursuant to an agreement between the City and the entity may be treated as a collection for another government and exempted from the fiscal year spending calculation of the City.

(c) The term *ballot issue* shall be limited to a new tax, a tax rate increase, a valuation for assessment ratio increase for a property class, a mill levy increase from the previous year, a tax policy change directly causing a net tax revenue gain, approval of a multiple-fiscal year direct or indirect debt or other financial obligation without adequate cash reserves, approval of spending limit changes, and approval of emergency taxes.

(d) *Local government* shall mean a county, a municipality as defined in Section 31-1-101(6), Colorado Revised Statutes, a school district, or a special district as defined in Section 31-1-103(20), Colorado Revised Statutes.

ARTICLE VIII

Miscellaneous

Section 1. Existing ordinances - validity.

All ordinances, contracts and formal actions previously adopted by the City, not repealed by direct or implied action of the City Council, and not in conflict with this Charter shall remain in full force and effect after passage of this Charter until specifically repealed by ordinance of the City Council. Nothing in this Charter shall be construed to amend, limit, alter, restrict or impair any agreements or contracts entered into by the City prior to the effective date of this Charter.

Section 2. Title to property.

The title to own lots and real estate described therein unsold at a public sale held by the City Marshal or other City or county official, pursuant to the provisions of this Charter or other law then existing, shall vest absolutely in the City, and may be disposed of in such manner as may be provided by the ordinances of such City. No entity other than the City may sell or otherwise transfer property in which the City has an interest without the express written authority of the City.

Section 3. Notice Required on Negligence and Tort Actions.

No action for the recovery of compensation for personal injury, or death or property damage against the City on account of its negligence or tort, shall be maintained unless written notice of the alleged time, place and cause of injury, death or property damage is given to the City Clerk by the person allegedly injured or whose property was allegedly damaged, his agent or attorney, or the personal representative for the person who has died, within one hundred eighty (180) days of the occurrence which allegedly caused the death, injury or property damage. Any action pursuant to this Section must be commenced within two (2) years of the occurrence or of the accidents which allegedly caused the injury, death or property damage. This provision shall not be construed as any waiver of any governmental immunity the City may now have or which may become available to any Colorado municipality in the future.

Section 4. Right of Eminent Domain.

The City shall have the right of eminent domain for all municipal purposes whatever, either within or without the limits of the Town.

Section 5. Contracts With Other Governmental Entities.

The City Council may by ordinance enter into contracts or agreements with other governmental or quasi-governmental entities for the mutual benefit of the entities.

Section 6. Bequests, Gifts and Donations.

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

The City Council may delegate the responsibility for such bequests, gifts and donations to such persons as the City Council may deem advisable.

Section 7. Contracts for Purchases, Lease, and Construction of Public Works.

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

Section 8. Annexation and Zoning.

In all proceedings for the annexation of territory to the City, the City Council shall require concurrent zoning of the same.

Section 9. Amendment.

In addition to the provisions otherwise stated in this Charter, this Charter may be amended in the manner provided by Article XX of the Constitution of the State of Colorado at any general election or special election called for such purpose:

- a. Upon questions which may be submitted to the electors by a majority of the Council, or
- b. Upon questions which may be submitted by the electors. If provisions of two (2) or more proposed amendments adopted or approved at the same election conflict, the amendment receiving the greatest number of votes shall prevail on the conflicting issue.

Section 10. Retirement Plans.

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

Section 11. Effect of State Statutes.

The power to supersede any law of the State of Colorado now or hereafter in force, insofar as it applies to local or municipal affairs, shall be reserved to the City, acting by ordinance, subject only to restrictions of the State Constitution and subsequent amendments to this Charter and by ordinance.

Section 12. Severability.

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

Section 13. Emergency Powers.

In case of riot, insurrection or extraordinary emergency, the Mayor shall assume the authority to execute any action necessary for the protection of life and property. Such authority may include but not be limited to establishing regulations governing conduct and activities related to the cause of the

emergency, and if the emergency situation continues, the Mayor shall convene the City Council who may take such action as it deems necessary. In the event it becomes necessary, the line of succession provided below in this Charter shall be followed.

Section 14. Continuity of Government.

The City Council shall have the power to provide for the continuity of government of the City of Black Hawk in the event of natural or enemy caused disaster. Such power shall be employed in a manner which will preserve representative government to the City of Black Hawk and which will provide an orderly line of succession of officers, notwithstanding the provisions of this Charter. Such succession shall commence with the Mayor and shall then revert to the Aldermen by order of seniority, then to the City Manager and then through an orderly line of succession of the administrative department heads as determined by ordinance.

Section 15. Chapter Titles and Subheadings.

The Chapter titles and subheadings are inserted for convenience and reference only and shall not be construed to limit, describe or control the scope or intent of any provision therein.

Section 16. Construction of Words.

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

Section 17. Indemnification of Mayor and Aldermen.

The City Council may by ordinance indemnify any Alderman, the Mayor, any employee or any appointed official who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit, or proceeding by reason of the fact that he is or was an officer of the City, against expenses (including attorney's fees), judgements, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding if he acted in good faith and in a manner he reasonably believed to be in the best interest of the City and had no reasonable cause to believe his conduct was unlawful.

Section 18. Personnel Manual.

The City Council shall cause to be prepared a Personnel Manual for the City which shall provide policies and guidelines for all City employees and their supervisors.

Section 19. Fire Protection.

The City shall have the exclusive authority to provide, manage and control fire protection within its boundaries, which shall include, without limitation, the following powers: to adopt and enforce building and fire codes and regulations; to erect engine houses and provide fire engines, hose, hose cars, hooks and ladders and other implements for the extinguishing of fires and provide for the use and management of the same by volunteer fire companies or otherwise; to determine the powers and duties

of the members of the fire department in taking charge of property to the extent necessary to bring under control and extinguish any fire; to preserve and protect property not destroyed by fire; and to restrain persons from interfering with the discharge of the duties of the members of the fire department in connection with the fighting of any fire or any other emergency.

Fire protection within the City is a matter of purely local concern, which the City shall manage and control without interference from any state agency, county agency, regional service authority, fire district, public improvement district, local improvement district, or any other organization or political subdivision which attempts to usurp the City's control over fire protection within City boundaries. This section is expressly intended to preserve the City's exclusive authority over fire protection and other emergency services, which authority has been granted to the City by this Charter, by Article XX, § 6 of the Colorado Constitution, and by C.R.S. § 31-15-601. The City's authority to provide fire protection shall be exclusive, despite any contrary provision that may be contained in C.R.S. §32-7-101 *et seq.*, as amended, or any other state statute or regulation.

ARTICLE IX

Transition Period

Section 1. Purpose of Transitional Provisions.

The purpose of this Article is to provide for an orderly transition from the present City government of Black Hawk to a Home Rule City government under provisions of this Charter. The provisions of this Article shall constitute a part of this Charter only to the extent necessary to accomplish that purpose.

Section 2. Effective Date of Charter.

This Charter shall become effective immediately upon voter approval at a regular or special election held for the purpose of considering this Charter.

Section 3. Continuation of Present Elected Officials.

The present Board of Aldermen and the Mayor in office at the time of the adoption of this Charter shall remain the Board of Aldermen and the Mayor and shall continue to serve and carry out the functions, powers and duties of City Council offices until the end of their respective terms.

Section 4. Continuation of Appointed Officers and Employees.

All appointive officers and all employees of the City at the time this Charter is adopted shall continue in that office or employment which corresponds to the City office or employment which they held prior to the effective date of this Charter. They shall, in all respects, be subject to the provisions of this Charter, as though they had been appointed or employed in the manner provided in this Charter, except that any officer or employee who holds a position which this Charter provides to be held at the pleasure of City Council shall hold such position only at such pleasure regardless of the term for which he was originally appointed.

Section 5. Continuation of Prior City Legislation.

All bylaws, ordinances, resolutions, contracts, personnel/employee guidelines, rules and regulations of the City in force at the time this Charter becomes effective shall continue in force except insofar as they conflict with the provisions of this Charter, or shall be amended or repealed by ordinance enacted under authority of this Charter.

THE CITY OF BLACK HAWK
CHARTER COMMISSION
CERTIFICATE OF FINAL ADOPTION

We, the undersigned, present members of the City of Black Hawk Charter Commission, duly elected by the people of Black Hawk, Colorado, at a special election held on September 26, 2000, under the authorization of Article XX of the Constitution of the State of Colorado, to frame a Home Rule Charter for the City of Black Hawk, do hereby certify that the foregoing is the Proposed Charter as finally approved and adopted by the members of the Charter Commission on the 7th day of November, 2000, for submission to the people of Black Hawk at a special election to be held on January 16, 2001.

Done in triplicate at Black Hawk, Colorado, the 7th day of November, 2000.

_____ Vikki A. Burk	_____ Jerry Floyd
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_____ Richard W. Cottrell, Chairperson	_____ Sharon Roth Floyd
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_____ Chris A. Dickey	_____ Nolan W. Jones
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_____ Donald E. Doles, Secretary	_____ William D. Spellman
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Rob Dutcher

James S. Maloney, Attorney
for the Charter Commission