

CHAPTER 152

GOVERNMENT - MUNICIPAL

SENATE BILL 93-162

BY SENATORS Hopper, Feeley, Meiklejohn, and Tebedo;
also REPRESENTATIVES Williams, Armstrong, Chlouber, Dyer, Gordon, R. Hernandez, Jerke, June, Lawrence, Pierson, and Tanner.

AN ACT

CONCERNING THE TERRITORIAL CHARTER OF THE CITY OF BLACK HAWK.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. The act entitled "An Act to Incorporate the City of Black Hawk", approved March 11, 1864, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

**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.

Section 2. Name, powers, and interpretation. THE CITY SHALL CONTINUE AS A TERRITORIAL CHARTER CITY PURSUANT TO THE ORIGINAL CHARTER ADOPTED IN 1864, AS AMENDED HEREIN, AS A BODY POLITIC AND CORPORATE UNDER THE NAME AND STYLE OF BLACK HAWK AND, BY THAT NAME, SHALL HAVE PERPETUAL SUCCESSION; MAY SUE AND BE SUED, PLEAD AND BE IMPEADED IN ALL COURTS OF LAW OR EQUITY; MAY HAVE AND USE A COMMON SEAL AND ALTER THE SAME AT PLEASURE; MAY ADOPT ORDINANCES NOT INCONSISTENT WITH THIS CHARTER; AND SHALL HAVE THE

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

RIGHT OF SELF-GOVERNMENT IN LOCAL AND MUNICIPAL MATTERS AND ALL THE POWERS CONFERRED BY THE CONSTITUTION AND STATUTES OF THE STATE OF COLORADO UPON MUNICIPAL CORPORATIONS, SUBJECT ONLY TO THE SPECIFIC PROVISIONS OF THIS CHARTER WHICH MAY EXPAND, LIMIT, OR AMEND THE POWERS GRANTED TO STATUTORY MUNICIPALITIES. IT IS THE INTENT OF THE GENERAL ASSEMBLY TO LEGISLATIVELY OVERRULE CENTRAL CITY OPERA HOUSE ASSOCIATION v. CITY OF CENTRAL, 650 P.2d 1349 (Colo. App. 1982) AS APPLIED TO THIS CHARTER, TO THE EXTENT SUCH CASE OR PREVIOUS CASES CONSTRUING TERRITORIAL CHARTERS LIMIT TERRITORIAL CHARTER CITIES TO POWERS EXPRESSLY GRANTED. THE GENERAL ASSEMBLY INTENDS THAT THIS CHARTER SHALL BE BROADLY CONSTRUED TO PROVIDE THE CITY OF BLACK HAWK, ACTING BY ITS CITIZENS AND THROUGH ITS CITY COUNCIL, THE BROADEST RANGE OF POWER GRANTED MUNICIPALITIES BY COLORADO LAW AND AS PROVIDED IN THIS CHARTER. IF A POWER IS EXPRESSLY GRANTED OR GRANTED BY IMPLICATION TO MUNICIPALITIES BY THE GENERAL ASSEMBLY AND THERE IS NOT A CONFLICT BETWEEN THIS CHARTER AND SUCH STATUTE, THE CITY MAY EXERCISE THE POWER AS PROVIDED IN THE STATUTE. IF THERE IS A CONFLICT BETWEEN STATUTES GOVERNING MUNICIPALITIES GENERALLY AND THIS CHARTER, THIS CHARTER SHALL CONTROL.

Section 3. Boundaries. THE BOUNDARIES OF THE CITY OF BLACK HAWK SHALL BE THE EXISTING BOUNDARIES, AS SUCH BOUNDARIES MAY BE AMENDED IN THE FUTURE IN ACCORDANCE WITH COLORADO LAW OR BY AMENDMENT OF THIS CHARTER. THE EXISTING BOUNDARIES INCLUDE THOSE BOUNDARIES DESCRIBED IN THE CHARTER ADOPTED MARCH 11, 1864, AND ALL ADDITIONS THERETO. ON OR BEFORE DECEMBER 31, 1993, THE CITY SHALL ADOPT AND RECORD A SURVEY AND LEGAL DESCRIPTION WHICH SHALL BE THE BOUNDARIES OF THE CITY FOR PURPOSES OF ALL CLAIMS ARISING AFTER THE DATE OF RECORDATION THEREOF.

Section 4. Specific powers. THE INHABITANTS OF THE CITY OF BLACK HAWK, BY THE NAME AND STYLE AFORESAID, SHALL HAVE THE POWER TO SUE AND BE SUED, TO PLEAD AND BE IMPEADED, AND TO DEFEND AND BE DEFENDED IN ALL COURTS OF LAW AND EQUITY AND IN ALL ACTIONS WHATSOEVER, TO ACQUIRE BY PURCHASE, GIFT, LEASE, OR CONDEMNATION, AND TO SELL, LEASE, MORTGAGE, MANAGE, CONTROL, RECEIVE, AND HOLD PROPERTY, BOTH REAL AND PERSONAL, EITHER IN OR BEYOND THE CITY FOR THE USE OF THE INHABITANTS OF SAID CITY. THE CITY ADOPTS BY REFERENCE ALL STATUTORY PROVISIONS GRANTING POWERS AND AUTHORITY TO MUNICIPALITIES, SPECIFICALLY INCLUDING, BUT NOT LIMITED TO, THOSE CONTAINED IN TITLES 13, 24, 29, 30, 31, 32, 37, 38, 39, 40, 42, AND 43, COLORADO REVISED STATUTES, AS THE SAME MAY BE FROM TIME TO TIME AMENDED, EXCEPT AS SPECIFICALLY PROVIDED IN THIS CHARTER, AS THOUGH THE SAME WERE SET FORTH IN THIS CHARTER VERBATIM. 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 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, 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 NON-ATTENDANCE 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. (1) THE BOARD OF ALDERMEN SHALL CONSIST OF SIX MEMBERS; EXCEPT THAT, THE ALDERMEN OF THE CITY OF BLACK HAWK MAY BE REDUCED IN NUMBER FROM SIX TO FOUR OR AGAIN INCREASED FROM FOUR TO SIX

IN THE MANNER PROVIDED IN THIS SECTION.

(2) WHEN A PETITION SIGNED BY FIVE PERCENT OF THE REGISTERED ELECTORS OF THE CITY REQUESTING AN ELECTION FOR THE PURPOSE OF REDUCING THE NUMBER OF ALDERMEN FROM SIX TO FOUR IS PRESENTED TO THE CITY COUNCIL OR WHEN THE ALDERMEN DETERMINE BY MAJORITY VOTE THAT SUCH A REDUCTION IN THE SIZE OF THE COUNCIL WOULD BE IN THE INTEREST OF THE CITY, THE COUNCIL SHALL ADOPT AN ORDINANCE CALLING FOR SUCH AN ELECTION TO BE HELD WITHIN FOUR CALENDAR MONTHS FROM THE DATE OF PRESENTATION OF THE PETITION.

(3) SUCH ELECTION MAY BE HELD IN CONNECTION WITH ANY REGULAR OR SPECIAL ELECTION. IN THE EVENT THAT THE ISSUE IS APPROVED AT THE ELECTION, THREE MEMBERS OF THE CITY COUNCIL SHALL CONSTITUTE A QUORUM FOR THE TRANSACTION OF BUSINESS, AND THE LEGISLATIVE AND CORPORATE AUTHORITY OF THE CITY SHALL BE VESTED IN THE CITY COUNCIL CONSISTING OF ONE MAYOR AND FOUR ALDERMEN. THE APPROVAL OF A CHANGE REDUCING THE NUMBER OF ALDERMEN FROM SIX TO FOUR SHALL NOT HAVE THE EFFECT OF REDUCING THE TERM FOR WHICH ANY ALDERMAN WAS PREVIOUSLY ELECTED.

(4) WHERE THE NUMBER OF ALDERMEN HAS BEEN REDUCED FROM SIX TO FOUR, AN ELECTION ON THE ISSUE OF INCREASING THE NUMBER OF ALDERMEN FROM FOUR TO SIX MAY BE HELD AT ANY TIME SUBSEQUENT TO TWO YEARS FOLLOWING THE ELECTION REDUCING THE NUMBER OF ALDERMEN FROM SIX TO FOUR. NO NEW PETITION REQUESTING AN ELECTION TO REDUCE OR INCREASE THE NUMBER OF ALDERMEN MAY BE FILED OR ACCEPTED BY THE CITY COUNCIL, NOR MAY THE COUNCIL REFER ANY SUCH ISSUE TO THE VOTERS, FOR A PERIOD OF TWO YEARS FOLLOWING AN ELECTION FOR THE PURPOSE OF INCREASING OR REDUCING THE NUMBER OF ALDERMEN.

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 OR FOR SUCH LONGER PERIOD OF TIME AS MAY BE DETERMINED BY ORDINANCE, 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 SECTIONS 31-4-406 AND 31-4-407, COLORADO REVISED STATUTES, THE CITY COUNCIL SHALL RECEIVE SUCH COMPENSATION AS SHALL BE FIXED BY ORDINANCE.

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, IF THERE ARE SIX ALDERMEN, OR THREE MEMBERS OF THE CITY COUNCIL, IF THERE ARE FOUR ALDERMEN.

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, PLANNING COMMISSION, 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.

(2) NO MEMBER OF THE COUNCIL, PLANNING COMMISSION, OR OTHER BOARD OR COMMISSION OF THE CITY SHALL BE A COMPENSATED EMPLOYEE OF THE CITY, 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.

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 TWENTY-FOUR HOURS WRITTEN 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 SHALL SERVE FOR FOUR-YEAR TERMS COMMENCING AT THE REGULAR BIENNIAL ELECTION IN 1994. THE TERMS FOR THE ALDERMEN SHALL BE STAGGERED SO THAT AT EACH ELECTION FOLLOWING THE BIENNIAL ELECTION IN 1994, ONE-HALF OF THE BOARD MEMBERS ARE ELECTED TO FOUR-YEAR TERMS AT EACH ELECTION. TO COMMENCE THE STAGGERING OF TERMS, AT THE BIENNIAL ELECTION IN 1994, THE BOARD OF ALDERMEN SHALL BE VOTED ON AND THE THREE CANDIDATES, IF THE BOARD CONSISTS OF SIX MEMBERS, OR THE TWO CANDIDATES, IF THE BOARD CONSISTS OF FOUR MEMBERS, RECEIVING THE HIGHEST NUMBER OF VOTES SHALL BE ELECTED TO FOUR-YEAR TERMS AND THE REMAINING MEMBERS RECEIVING THE NEXT HIGHEST NUMBER OF VOTES SHALL BE ELECTED TO TWO-YEAR TERMS. AT THE BIENNIAL ELECTION IN 1996, THE SUCCESSORS TO THE ALDERMEN RECEIVING TWO-YEAR TERMS IN 1994 SHALL BE ELECTED TO FOUR-YEAR TERMS. IN THE EVENT 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 ACT, AND PROVIDE FOR THEIR DUTIES AND COMPENSATION. THE OFFICERS SHALL INCLUDE 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 DETERMINE THE SAME BY LOT IN SUCH MANNER AS SHALL BE PROVIDED BY ORDINANCE. 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 PROCEED TO DETERMINE THE SAME BY LOT OR AS MAY BE PROVIDED BY ORDINANCE. WHENEVER AN ELECTION FOR MAYOR SHALL BE CONTESTED, THE BOARD OF ALDERMEN SHALL DETERMINE THE SAME AS MAY BE PRESCRIBED BY ORDINANCE.

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, AND ANY ORDINANCE NECESSARY FOR THE IMMEDIATE PRESERVATION OF THE PUBLIC HEALTH, SAFETY, AND WELFARE, OR FOR THE AUTHORIZATION OF ANY MUNICIPAL BORROWING REQUIRING AN ELECTION PURSUANT TO THIS CHARTER OR THE COLORADO CONSTITUTION.

(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 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.

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. 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 AND THE NEW TERM COMMENCE ON JUNE 1, 1993.

Section 4. Commissions of aldermen. THE CITY COUNCIL SHALL ESTABLISH THREE COMMISSIONS, ONE EACH FOR POLICE, STREETS AND ROADS, AND WATER. THE CITY COUNCIL MAY ESTABLISH BY ORDINANCE, THE DUTIES, ROLES, AND RESPONSIBILITIES OF EACH COMMISSION AND, SUCH OTHER COMMISSIONS AS IT DEEMS APPROPRIATE. THE MEMBERS OF EACH COMMISSION SHALL BE APPOINTED BY THE MAYOR FROM THE BOARD OF ALDERMEN. THE COMMISSIONS MAY REVIEW 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 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 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 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;

(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 TIPLING 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 ACT, 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 BY ORDINANCE 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 LAW, 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 32-1-103 (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 OR SPECIFICALLY OR IMPLIEDLY REPEALED BY CODIFICATION OF ALL ORDINANCES OF THE CITY. 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 TOWN 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. Public act. THIS ACT IS HEREBY DECLARED TO BE A PUBLIC ACT AND MAY BE READ IN EVIDENCE IN THE COURTS OF LAW AND EQUITY WITHIN THIS STATE WITHOUT PROOF.

Section 4. Conflicts with statutes. ANY STATUTE ADOPTED BY THE GENERAL ASSEMBLY OF A LOCAL OR MUNICIPAL NATURE OR PARTS OF SUCH STATUTES CONTRARY TO THE PROVISIONS OF THIS CHARTER OR ANY ORDINANCE ADOPTED PURSUANT TO THIS CHARTER OR INCONSISTENT WITH THE PROVISIONS OF THIS CHARTER OR ANY ORDINANCE ADOPTED PURSUANT THERETO ARE SUPERSEDED BY THIS CHARTER AND ORDINANCES AND SUCH STATUTES SHALL NOT APPLY WITHIN THE CITY OF BLACK HAWK.

SECTION 2. Severability. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be

severable.

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 29, 1993