

**Article 1**  
**General Provisions**

**Commented [HMG1]:** Switched from Roman numerals but can reconsider and may re-order articles

1.01 Name and Boundaries. The municipal corporation heretofore existing as the Town of Erie, located in Boulder and Weld Counties, State of Colorado, shall remain and continue a body politic and corporate and under this Charter shall be known as the Town of Erie, with boundaries the same as presently established, until changed in a manner authorized by law.

1.02 Form of Government. The municipal government established by this Charter shall be a Council/Manager form of government.

**Commented [HMG2]:** Add description of council/manager?

1.03 Authority.

(1) The Town shall have all the authority of local self-government and home rule and all authority possible for a municipality to have under the Constitution and laws of the State of Colorado.

(2) The enumeration of any particular authority in this Charter shall in no way be deemed to limit or exclude the exercise of any authority.

(3) All authority shall be exercised in the manner set forth in this Charter or, if not provided for in this Charter, in such manner as provided for by ordinance, resolution, or state statute.

1.04 Rights and Liabilities. By the name of the Town of Erie, a municipal corporation, the Town shall have the following rights and liabilities:

(1) The right to perpetual succession.

(2) The right to own, possess, and hold all property, real and personal, heretofore owned, possessed, and held by the Town, and to manage and dispose of all trusts in any way connected therewith.

(3) The right to purchase or otherwise acquire property on which there are delinquent taxes or special assessments and to dispose of them in like manner as any other property.

(4) The right to succeed to all rights and liabilities of the Town.

(5) The right to acquire all benefits of the Town and to assume and pay all bonds, obligations and indebtedness of the Town.

(6) The right to sue and defend, plead and be impleaded in all courts and places and in all matters and proceedings.

(7) The right to purchase, lease, receive, hold, and enjoy, or sell and dispose of real and personal property.

**Commented [HMG3]:** Address open space separately

(8) To establish public works and provide public utilities and other public services as permitted by law.

**Commented [HMG4]:** Monument's provision related to utilities and public works

(9) The right to adopt, have, and use a common seal and alter the same.

(10) The right to adopt ordinances and resolutions on all matters unless otherwise prohibited by this Charter or by laws applicable to home rule municipal corporations in the State of Colorado.

(11) The right 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, and other applicable statutes, as amended.

## **Article 2 Elections**

2.01 Election Laws. Town elections shall be governed by the Colorado Municipal Election Laws, as amended, except as otherwise provided in this Charter or by ordinance hereafter enacted.

2.02 Types of Elections.

(1) Regular municipal elections shall be held on the Tuesday following the first Monday in November of each odd-numbered year.

(2) The Mayor and each Council Member shall take office at the first regular meeting of the Council in new year following certification of the election, and shall continue in office until their successors have been elected and take office or a vacancy occurs.

(3) Special Town elections shall be held in accordance with the provisions of this Charter and the Colorado Municipal Election Laws as amended, except as otherwise provided in this Charter or by ordinance hereafter enacted. Any special Town election may be called by resolution of the Council not less than forty-five (45) days in advance of such election or when required by this Charter or by statute. The resolution calling a special Town election shall set forth the purposes of such election.

2.03 Nonpartisan Elections. All municipal elections shall be nonpartisan.

**Commented [HMG5]:** Address campaign finance separately

2.04 Recall. Any elected official of the Town may be recalled at any time after the completion of one hundred eighty (180) days in office by the electors entitled to vote for a successor of such official, as set forth in the Colorado Constitution, C.R.S. § 31-4-501, *et seq.*, as amended, and Section 11.12 of this Charter.

**Commented [HMG6]:** Confirm all cross-references

**Article 3**  
**Elective Offices**

**3.01 Town Council and Mayor.**

(1) The Town Council shall include a Mayor and six (6) Council Members. The positions of Mayor and Council Member are separate offices. As used in this Charter, "Town Council" includes the Mayor and all Council Members; the term "Council Member" excludes the Mayor and includes both at-large Council Members and district Council Members.

**Commented [HMG1]:** Added for clarity.

(2) The Mayor and two (2) Council Members shall be elected at large by the registered electors of the Town. Four (4) Council Members shall be elected from the **four** Town districts; one each from their respective district. The positions of at-large Council Member and district Council Member are separate offices.

**- Or -**

(2) The Mayor shall be elected at large by the registered electors of the Town. Six (6) Council Members shall be elected from the **three** Town districts; two each from their respective district.

(3) The Mayor and all Council Members shall be elected to serve four (4) year terms unless a two (2) year term is required to restore staggered positions on the Town Council. In such case, the four (4) year term(s) shall go to the candidate(s) with the highest number of votes, and the two (2) year term(s) shall go to the candidate(s) with the next highest number of votes.

(4) No elected Mayor or Council Member shall serve more than two (2) consecutive terms in one office. Terms are not consecutive if they are at least four (4) years apart or are for separate offices. For the purposes of this limitation, any term to which an individual is appointed does not count as a term.

(5) Nomination requirement. Candidates for at-large offices are required to obtain fifty (50) valid signatures on their candidate nomination petitions. Candidates for district offices are required to obtain twenty five (25) valid signatures from within their district.

**3.02 Council Districts.**

(1) The Town is divided into three (3) / four (4) districts to recognize general election precincts and to establish contiguous and compact districts with due consideration given to equal representation and communities of interest.

**Commented [HMG2]:** These are the required districting criteria. The Town cannot be inconsistent with county precincts and must consider population, district shape, etc.

"Communities of interest" means "distinctive units which share common concerns with respect to one or more identifiable features such as geography, demography, ethnicity, culture, socio-economic status or trade." *Carstens v. Lamm*, 543 F.Supp. 68, 91 (D.Colo. 1982).

In Colorado, community of interest considerations may also include agricultural or industrial identity, water issues, transportation concerns, and comparison of growth rates. Colo. Const. Art. V § 47(3).

(2) Changes in the boundaries of districts may be made, by ordinance, when needed to maintain general election precincts, contiguous and compact districts, equal representation, or communities of interest. Redistricting shall not result in minority vote

**Commented [HMG3]:** If the Charter does not establish the district boundaries, but only the number of districts, we will need to address how/when the districts are established by ordinance following adoption of the Charter.

dilution or political gerrymandering. Changes in the boundaries of districts shall be made by ordinance if a federal census shows a 10% or more deviation in population between the smallest voting district and the largest district.

(3) District changes shall be effective for purposes of any regular or special municipal election only if the ordinance approving the change is effective at least one hundred and eighty (180) days prior to any such election.

(4) Territory added to the Town shall become a part of one or more of the districts, as may be determined by ordinance. The creation of districts by this Charter and any change in the boundary of any district shall not disqualify any Council Member from office before the expiration of the term for which the incumbent was elected or appointed.

### 3.02 Authority of the Town Council.

(1) The Town Council shall have the following authority:

(a) Enact and provide for the enforcement of all ordinances necessary to protect life, health, safety, welfare and property;

~~(b)~~ Declare, prevent and summarily abate and remove nuisances in accordance with due process;

~~(b)~~~~(c)~~ By ordinance create, consolidate or dissolve any Town department;

~~(c)~~~~(d)~~ Preserve and enforce good government, general welfare, order and security of the Town and the inhabitants thereof;

~~(d)~~~~(e)~~ Enforce ordinances and regulations by fines or imprisonment as permitted by state law, or by both fines and imprisonment for each and every offense; and

~~(e)~~~~(f)~~ Delegate to boards and commissions, within the limitations of the Constitution and this Charter, such functions and authority of the Town as the Town Council deems proper and advisable.

(2) The Town Council shall deal with the administrative service solely and directly through the Town Manager. Neither the Mayor nor any Council Member shall dictate the appointment of or direct or interfere with the work of any employee under the Town Manager.

(3) The Town Council shall be the legislative and governing body of the Town and shall exercise, except as otherwise provided in this Charter, all powers conferred upon or possessed by the Town.

3.03 ~~(4) In the case of a vacancy on the Council, the Council shall declare a vacancy according to standards set forth by ordinance or by C.R.S. § 31-4-303, as amended. The Council shall adopt by resolution procedures for filling any such vacancy.~~

**Commented [HMG4]:** Moved to Sec. 3.05 as its own section

Mayor. The Mayor shall be the presiding officer of the Town Council and the recognized head of the Town government for all legal and ceremonial purposes. The Mayor, or anyone acting as Mayor, shall have the following duties, authorities, and responsibilities:

- (1) To vote in the same manner as a Council Member without veto power upon any question;
- (2) To sign all contracts binding the Town, all conveyances of interests in land by the Town, all ordinances and resolutions, and any other documents requiring their signature except as may be delegated by ordinance to the Town Manager or as otherwise provided by ordinance and attested by the Town Clerk under the seal of the Town; and
- (3) To have such other authority as may be conferred upon the Mayor by this Charter and the Town Council so long as that grant of authority is not in conflict with the provisions of this Charter.

3.04 Qualifications to Serve on Town Council.

- (1) No person shall be eligible to be elected or appointed to the Town Council, or to remain seated on the Town Council, unless they are:
  - (a) A citizen of the United States of America;
  - (b) A registered elector of the Town;
  - (c) A resident of the Town for a period of no less than twelve (12) consecutive months preceding the election, and for district offices, a resident of the district in which they are running for a period of no less than twelve (12) consecutive months preceding the election; and
  - (d) Currently eligible to vote in Colorado general elections.

(2) Any person who has been convicted of any of the following offenses is ineligible to serve on Council: embezzlement of public moneys, bribery, perjury, solicitation of bribery, or subornation of perjury. If a person is convicted of one or more of the named offenses after the person's election or appointment to Council, the office shall be declared vacant effective on the date of the conviction. For purposes of this section, a conviction includes being found guilty of, a plea of guilty to, a plea of no contest or nolo contendere to, or the receipt of a deferred judgment or deferred sentence for, any of the named offenses but does not include any conviction for which the records have been ordered expunged or sealed.

**Commented [HMG5]:** Revised to comply with Colo. Const.

In late 2021, Aurora's Charter Article 3-3 on Qualifications of Elective Officers was invalidated by a court. The court ruled the requirements were not in compliance with Article VII, Section 10 and Article XII, Section 4 of the Colorado Constitution.

Article VII, Sec. 10:  
No person while confined in any public prison shall be entitled to vote; but every such person who was a qualified elector prior to such imprisonment, and who is released therefrom by virtue of a pardon, or by virtue of having served out his full term of imprisonment, shall without further action, be invested with all the rights of citizenship, except as otherwise provided in this constitution.

Article XII, Sec. 4:  
No person hereafter convicted of embezzlement of public moneys, bribery, perjury, solicitation of bribery, or subornation of perjury, shall be eligible to the general assembly, or capable of holding any office of trust or profit in this state.

(3) No person who is an employee of the Town or a Town board or commission member may also serve on the Town Council. Any Town employee or board or commission member elected or appointed to the Town Council shall be deemed to have resigned as an employee or board or commission member on the date of taking office on the Town Council.

(a) No person may be a candidate for more than one Town office at the same election. No person may hold two Town offices simultaneously.

(b) A person may be a candidate for one Town office while serving in another Town office and, if not elected, may serve out their existing term.

(4) The Mayor and each Council Member shall continue to meet the requirements of this section throughout their term of office.

(5) The Town Clerk shall be the judge of all qualifications for candidates for Town Council, except as otherwise provided by ordinance.

**3.05 Town Council Vacancies.** Town Council has the authority, by appointment, to fill vacancies on the Council as follows. A person so appointed shall hold office only until a successor chosen by voters at the next regular election duly takes office.

(1) A vacancy occurs when the Mayor or a Council Member submits their resignation in writing to the Town Clerk or at such time as the Mayor or a Council Member fails to meet the requirements to hold office.

(2) At the first Town Council meeting following receipt of such resignation or following the circumstances that disqualify the Mayor or Council Member from holding office, Town Council shall declare a vacancy.

(3) If a Council Member vacancy is declared within one hundred eighty (180) days or fewer before the next regular municipal election, the seat shall remain vacant until a successor chosen by voters at the next regular municipal election duly takes office.

(4) If a vacancy in the office of Mayor is declared within one hundred eighty (180) days or fewer before the next regular municipal election, the Mayor Pro Tem shall assume the role of Mayor until a successor Mayor is chosen by voters at the next regular municipal election. *[what happens with the pro tem's vacant seat – is it filled by appointment per (3) above?]*

(5) If the vacancy of a Council Member or Mayor is declared when there are more than one hundred eighty (180) days until the next regular municipal election, within sixty (60) days after Council's declaration of the vacancy, a majority of Council shall act to either make an appointment to fill the vacancy, as limited below, or shall order an election.

**Commented [HMG6]:** Details of this section need to be worked out

**Commented [HMG7]:** May need to revise - there is a proposal that appointment could be for the remainder of the vacated term if the appointee is chosen from prior unsuccessful candidates

**Commented [HMG8]:** These are referred to separately rather than "members of Town Council," so that a mayor vacancy can be treated differently than a council member vacancy

**Commented [HMG9]:** This cutoff could be described differently as calendar days after the last regular municipal election or as a specific date, say before or after April 30 of the even-numbered year following the regular municipal election.

(a) If the vacancy will be filled by appointment, the person appointed shall be the first unsuccessful candidate from the previous municipal election for the office in which the vacancy exists, based on the tally of votes cast in that election, so long as that candidate remains qualified. If that person is no longer qualified or fails or refuses to accept the appointment, Council shall move down the list of unsuccessful candidates to the next highest vote-getter until all prior candidates have been exhausted. If no prior unsuccessful candidate is qualified or willing to accept appointment, Council shall order an election. *[Does this appointment process apply to unsuccessful mayor candidates when there are more than 180 days until the next regular election?]*

(b) If an election is ordered, it shall be subject to the municipal election code and held as soon as practical to fill the vacancy

(6) If three (3) or more vacancies have been declared and exist at the same time, or if Council Member seats from the same Council district are declared at the same time, an election is required, subject to the municipal election code, which election shall be held as soon as practical to fill all vacancies.

### 3.06 Town Council Meetings.

(1) The Town Council shall meet regularly at least once each month, unless increased by ordinance, at a day, hour and place fixed by the Town Council.

(2) Four (4) members of the Town Council shall constitute a quorum, but, in the absence of a quorum, a lesser number may continue any meeting or hearing to a later time or date, and in the absence of all members, the Town Clerk may adjourn any meeting.

(3) All regular and special meetings of the Town Council shall be open to the public, and citizens shall have a reasonable opportunity to be heard. Written minutes of the proceedings of each meeting shall be kept by the Town Clerk and signed by the Mayor.

### 3.07 Voting.

(1) Votes by each Council Member and the Mayor for and against shall be taken upon the passage of all ordinances and resolutions and entered upon the minutes of the Council proceedings.

(2) To be adopted, every non-emergency ordinance shall require the affirmative vote of a majority of the Council present, and every emergency ordinance shall require a two-thirds (2/3) affirmative vote by the entire Council and, in no case, fewer than five (5) affirmative votes ~~the affirmative vote of two-thirds (2/3) of the Council present.~~

**Commented [HMG10]:** Rather than ordering an election, appointment could be opened up to qualified residents.

Suggested a cooling off period for current/prior board or commission members?

This type of appointment would only be until the next election, not for the entire vacated term

**Commented [HMG11]:** Conform with decision on 3 or 4 districts in Sec. 3.01

**Commented [HMG12]:** Revisit to allow voice votes in some circumstances. Suggest defining what types of enactments require roll call vote and, for all others, a voice vote is permitted. When permitted, the outcome of a voice vote should be announced by presiding officer.

**Commented [HMG13]:** Revised to be consistent with Sec. 6.04(3).

(3) To be adopted, every resolution and motion shall require the affirmative vote of a majority of the Council present.

(4) Every Council Member present and the Mayor if present shall vote on every matter unless the Council Member or the Mayor is excused from voting due to a conflict of interest as provided in Section 3.06 below. If a Council Member or the Mayor refuses to vote without being excused, the Town Clerk shall consider the refusal as an affirmative vote.

3.08 Code of Conduct and Ethics. The Town Council shall adopt by resolution a Code of Conduct and Ethics, which shall address Council conflicts of interest and behavior. No Council Member or Mayor shall vote on any question in which they have a conflict of interest. A conflict of interest occurs when a Council Member or Mayor has a substantial personal or financial interest in the outcome of the question, whether direct or indirect, or on any questions concerning their own conduct, as may be further defined in the adopted Code of Conduct and Ethics. The adopted Code of Conduct and Ethics shall specify penalties for violations of its provisions as well as for violations of this Charter.

**Commented [HMG14]:** Revisit after public comment

3.09 Compensation of Mayor and Council Members.

(1) The Mayor and Council Members shall receive such fixed monthly compensation as the Council shall by ordinance prescribe.

**Commented [HMG15]:** Mayor and Town Council are kept separate here so that Mayor can be compensated differently, if needed

(2) The Town Council shall neither increase nor decrease the compensation of the Mayor or any Council Member during their term of office.

**Commented [HMG16]:** Revisit re: additional benefits available - rec center membership, health insurance, etc.

(3) The Mayor and Council Members may, upon order of the Council, be paid such necessary *bona fide* expenses incurred in service on behalf of the Town as are authorized by the Council.

3.10 Oath of Office. Before entering upon the duties of the office of Mayor or Council Member, every person shall take, subscribe before, and file with the Town Clerk the following an oath or affirmation:

I, (name), swear (or affirm), that I will support the Constitution of the United States, the Constitution of the State of Colorado, the Charter and the ordinances of this Town, and will faithfully perform the duties of my office.

3.11 Mayor Pro Tem and Acting Mayor.

(1) A Mayor Pro Tem shall be elected by the Town Council from its own membership at the first Town Council meeting following the final certification of each biennial election. The Mayor Pro Tem shall serve until the Council meeting following the final certification of the next regular Town election, and shall act as Mayor during the absence of the Mayor.

(2) In the event of absence of both the Mayor and the Mayor Pro Tem, the Town Council shall designate another Council Member by majority vote to serve as Acting Mayor during such absence.

(3) Any Mayor Pro Tem or Acting Mayor, while serving as such, shall retain all authority granted herein to Council Members and may, at the conclusion of their service as Mayor Pro Tem or Acting Mayor, serve out the remainder of their original term.

### 3.12 Special Meetings.

(1) Special meetings of the Town Council shall be called by the Town Clerk on the verbal request of a majority of the entire Council or by the Mayor, on at least twenty-four (24) hours' notice to each Council Member.

(2) Written notices of any special meeting and the topic of any special meeting shall be posted consistent with the posting of notice for regular Council meetings. No business shall be transacted at any special meeting of the Town Council unless such business has been stated in the notice of such meeting.

### 3.13 Executive Sessions.

(1) Any Town Council meeting may be recessed into an executive session by the affirmative vote of two-thirds (2/3) of the Town Council present and may be closed to the public for the purpose of considering any of the following matters:

(a) The purchase, acquisition, lease, transfer, or sale of any real, personal, or other property interest.

(b) Conferences with an attorney for the Town for the purposes of receiving legal advice on specific legal questions.

(c) Matters required to be kept confidential by federal or state law or rules and regulations. The Town Council shall announce the specific citation of the statutes or rules that are the basis for such confidentiality before holding the executive session.

(d) Specialized details of security arrangements or investigations, including defenses against terrorism, both domestic and foreign, and including where disclosure of the matters discussed might reveal information that could be used for the purpose of committing, or avoiding prosecution for, a violation of the law.

(e) Determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators.

(f) Personnel matters except if the employee who is the subject of the session has requested an open meeting, or if the personnel matter involves more than one employee, all of the employees have requested an open meeting.

(g) Consideration of any documents protected by the mandatory nondisclosure provisions of the Colorado Open Records Act, C.R.S. § 24-72-200.1, *et seq.*, as amended.

(h) Any other matter authorized by the Colorado Open Meetings Law, C.R.S. § 24-6-401, *et seq.*, as amended.

(2) The general subject matter of every executive session shall be stated in the motion calling for the session unless doing so would compromise the purpose of the executive session. No formal action, no final policy decision, no rule, regulation, resolution, or ordinance, and no action approving a contract or calling for the payment of money shall be adopted or approved at any executive session.

(3) Members of Town Council, the Town Manager, and the Town Attorney may attend executive sessions, as well as such other relevant people as the Town Council may invite.

(4) The provisions of this Section are specifically intended to supersede any conflicting provisions of Colorado statutes governing open meetings and executive sessions.

**Commented [HMG17]:** "May attend" does not prevent Council from excluding the Town Manager or Town Attorney, if desired.

**Article 4**

**~~Town Administration, Appointed~~Emergency Powers and ~~Town Officers~~Officials and ~~Town Departments~~**

~~4.01 Mayor. The Mayor shall be the presiding officer of the Town Council and the recognized head of the Town government for all legal and ceremonial purposes. The Mayor, or anyone acting as Mayor, shall have the following duties, authorities, and responsibilities:~~

~~(1) To vote in the same manner as a Council Member without veto power upon any question;~~

~~(2) To sign all contracts binding the Town, all conveyances of interests in land by the Town, all ordinances and resolutions, and any other documents requiring their signature except as may be delegated by ordinance to the Town Manager or as otherwise provided by ordinance and attested by the Town Clerk under the seal of the Town;~~

~~(3) To have such other authority as may be conferred upon the Mayor by the Town Council so long as that grant of authority is not in conflict with the provisions of this Charter; and~~

4.01 Emergency Powers. (4)—In case of emergency, the Mayor shall assume the authority to execute any action necessary for the protection of life and property.

(1) (a)—Such authority shall include without limitation establishing regulations governing conduct and activities related to the cause of the emergency, and if the emergency situation continues, the Mayor shall convene the Town Council as soon as practical so that Town Council as a whole ~~which~~ may take such action as it deems necessary.

~~(b)~~ (2) Any unilateral action taken by the Mayor during an emergency shall be temporary in nature and duration and shall be effective only until it is safe and reasonable for the Town Council ~~is to~~ convene to ratify the action.

~~(3)~~ (5) In the event it becomes necessary, the line of succession provided in this Charter shall be followed. The Council shall have the authority to provide for the continuity of government of the Town in the event of disaster. Such authority shall be employed in a manner that will preserve representative government to the Town and that will provide an orderly line of succession of through Town Officers, as that term is defined below, ~~notwithstanding the provisions of this Charter.~~

(4) "Town Officers" means members of the Town Council and the individuals appointed to the positions identified in this Article 4.

(5) ~~Such~~ ~~The Town's line of~~ succession shall commence with the Mayor, ~~then and~~ the Mayor Pro Tem, and shall then revert to Council Members, in order of their seniority, and

**Commented [HMG1]:** Suggest moving these general Mayor duties to Article 3 so that Article 4 is more limited in scope. Revised the title to Article 4 to reflect the narrower scope.

**Commented [HMG2]:** Town Officers defined below; does not include department heads.

"Officers" means members of Town Council and the individuals appointed to the positions identified in this Article 4..."

So it would go like this:

- Mayor
- Mayor Pro Tem
- Town Council in order of seniority
- Town Manager
- Town Attorney
- Municipal Judge
- Municipal Prosecutor
- Town Clerk (if added as a Council appointment)

~~, then, in the order set forth below, through the Town Officer positions, an orderly line of succession of department heads.~~

4.02 **Town Manager.** The Town Council shall hire a Town Manager who shall be the chief administrative officer of the Town and who shall serve at the pleasure of the Town Council. The Town Manager shall be chosen by the Town Council on the basis of executive and administrative qualifications with particular emphasis on experience and training with respect to the duties of the office and shall have the minimum qualifications, if any, as may be set by the Town Council by ordinance. No person holding or who has held Town elective office shall be hired as Town Manager during or within one (1) year after the ~~termination-end~~ of the term of such elected official.

(1) The Town Council may terminate the employment of the Town Manager upon the affirmative vote of a majority of the Town Council at any regular or special meeting called for that purpose and subject to the Town Manager's employment agreement, if any. The action of the Town Council in removing the Town Manager shall be final, it being the intention to vest all authority and fix all responsibility for such removal in the Town Council.

(2) The Town Manager shall be responsible to and report directly to the Town Council on the proper administration of all affairs of the Town placed in the Town Manager's charge, and to that end the Town Manager shall have the powers and duties as set forth by the Town Council by ordinance, including, but not limited to:

- (a) Enforcing or supervising the enforcement of all laws of the Town.
- (b) Hiring and supervising personnel, overseeing all aspects of Town functions and activities, service contracts and departments that report to the Town Manager.
- (c) Performing or supervising the performance of budget-related duties, accounting duties, financial and risk planning, reporting and management.
- (d) Reporting regularly to the Town Council on the functioning of all Town departments, services, activities, performance measures and financial matters.
- (e) Providing for Town Council approval a plan that specifies an order of succession of town staff who may execute the Town Manager's duties and powers in instances when the Town Manager is temporarily unavailable.
- (f) Hiring or retaining a chief financial officer who shall perform such duties as may be prescribed by the Town Manager.
- (g) Hiring or retaining a Town Clerk who shall perform such duties as may be prescribed by the Town Manager.

**Commented [HMG3]:** Louisville was referenced in discussion re: this language, but I cannot find anything applicable

**Commented [HMG4]:** All of Sec. 4.02 is inserted from CPN provisions with modification to (2)(e) from Malcolm

**Commented [HMG5]:** How does appointment work?

"...shall be appointed to the position by a majority vote of the Town Council."

**Commented [HMG6]:** A majority of those present or majority of those in office?

**Commented [HMG7]:** Subject to change based on whether Council appoints

(h) Performing such other duties as set forth in the ordinances of the Town or by direction of the Town Council.

4.03 Town Attorney. The Town Attorney shall be an attorney licensed to practice law in the State of Colorado and shall be appointed to the position by a majority vote of the Town Council then in office.

(1) The Town Attorney shall serve at the will of the Town Council without a definite term at compensation fixed by resolution of the Council.

(2) The Town Attorney shall be responsible to the Town Council, shall formally report to Council at least once annually, and more often upon Council's request, and shall perform such duties as provided by ordinance.

4.04 Municipal Judge. The Municipal Judge shall be an attorney licensed to practice law in the State of Colorado and shall be appointed to the position by a majority vote of the Council then in office.

(1) The Municipal Judge shall serve at the will of the Council without a definite term at compensation fixed by resolution of the Council.

(2) The Municipal Judge shall be responsible to the Council, shall formally report to Council at least once annually, and more often upon Council's request, and shall perform such duties as provided by ordinance.

4.05 Town Prosecutor. The Town Prosecutor shall be an attorney licensed to practice law in the State of Colorado and shall be appointed to the position by a majority vote of the Council then in office.

(1) The Town Prosecutor shall serve at the will of the Council without a definite term at compensation fixed by resolution of the Council.

(2) The Town Prosecutor shall be responsible to the Council, shall formally report to Council at least once annually, and more often upon Council's request, and shall perform such duties as provided by ordinance.

4.06 Town Clerk. Town Clerk shall be hired by the Town Manager as an employee of the Town. The Town Clerk or designee shall attend all meetings of the Council, shall keep a permanent record of its proceedings, and shall have the following other duties and responsibilities:

(1) Be custodian of the Town Seal, affix it to all documents and instruments requiring the seal, and attest to the same;

**Commented [HMG8]:** Consider Town Clerk appointment by Council or election by voters

- (2) Be custodian of all papers, documents and records pertaining to the Town, the custody of which is not otherwise provided for;
- (3) Certify by their signature all ordinances and resolutions enacted or passed by the Council;
- (4) Provide and maintain in the Town Clerk's office a supply of forms required to be filed with the Town by the provisions of this Charter, ordinance or state law;
- (5) Review the sufficiency of all petitions required to be filed for any purpose by the provisions of this Charter or by ordinances enacted hereunder. Yet, nothing contained herein shall require the Town Clerk to advise any petitioner as to how petitions shall be completed prior to their submittal to the Town Clerk;
- (6) Administer oaths of office;
- (7) Act as the Town's designated election official; and
- (8) Perform such other duties as may be prescribed by this Charter, ordinance, state law, or the Town Manager.

**Commented [HMG9]:** This imposes a duty for the Town to supply forms when statute does not otherwise require that. Confirm this provision with Town Clerk

#### ~~4.02 Town Departments.~~

- ~~(1) The Council may by ordinance create, consolidate or dissolve any Town department.~~
- ~~(2) All departments and department heads of the Town, except as otherwise provided in this Charter, shall be under the supervision and control of the Town Manager.~~
- ~~(3) All department heads shall be hired by the Town Manager and shall be considered, at all times, at will employees of the Town. As to department heads, this Section supersedes conflicting state law, including C.R.S. § 31-4-307, as amended.~~

**Commented [HMG10]:** Delete; distributed these provisions between the Council in Article 3 and Manager (above)

**Article 5**  
**Boards and Commissions**

5.01 Existing Boards and Commissions. All boards and commissions existing at the time this Charter is adopted shall continue as established by ordinance, except as may be otherwise provided by this Charter or subsequent ordinance.

**Commented [HMG1]:** Consider whether this lives here or in the transition provisions

5.02 Right to Establish, Amend and Abolish.

(1) The Council may create any boards or commissions, including advisory and appeal boards, provided that no such board or commission shall have authority to perform functions or duties otherwise assigned in this Charter or to interfere with any function or duty otherwise assigned in this Charter. Unless otherwise required by law or this Charter, all boards and commissions shall be created by ordinance, which shall prescribe the duties delegated by the Council and the qualification of members.

(2) Each board and commission shall elect its own chair and vice-chair from among its members. Each board and commission shall operate in accordance with its own rules of procedure, except as otherwise directed by the Council. All board, and commission meetings shall be open to the public, and copies of all records and minutes of all meetings shall be kept and placed in the office of the Town Clerk for public inspection. Reports shall be made to the Council as the Council shall require.

(3) The Council may increase, reduce or change by ordinance any or all of the duties and procedures of any board or commission existing at the time of the adoption of this Charter or as created by ordinance thereafter.

(4) Any board or commission that is not required by statute or this Charter may be abolished by the Council at any time.

(5) Terms and conditions of appointment and composition of all boards and commissions shall be determined by ordinance. Appointment of a member to any board or commission shall require a majority vote of the Council. Removal of any member from a board or commission shall require a two-thirds (2/3) affirmative vote by the entire Council and, in no case, fewer than five (5) affirmative votes for removal, following notice and an opportunity to be heard.

**Article 6**  
**Ordinances**

6.01 Action by Ordinance Required. In addition to such acts of the Council that are required by other provisions of this Charter to be by ordinance, every act creating indebtedness, authorizing borrowing of money, levying a tax, establishing any rule or regulation for the violation of which a penalty is imposed, or placing any burden upon or limiting the use of

private property shall be by ordinance. However, this Section shall not apply to the budget adoption or other appropriations as defined in Section 8.05 of this Charter.

6.02 Form of Ordinance. Every ordinance shall be introduced in written or printed form. The enacting clause of all ordinances shall be: Now, Therefore, Be It Ordained By The Town Council Of The Town Of Erie, Colorado. Every ordinance introduced shall be deemed to contain a severability clause, whether stated therein or not.

6.03 Adoption Procedure for Ordinances. With the exception of emergency ordinances, the following procedure shall be followed in adopting any ordinance:

(1) The ordinance shall be introduced at a regular or special meeting of the Council and read by title.

(2) If required by law, the Council shall conduct a public hearing on the ordinance.

(3) After the public hearing, if applicable, and any discussion or deliberation, the Council shall vote to amend, adopt, or reject the ordinance, or take other action as it deems appropriate.

(4) If the ordinance is adopted by the Council, either as presented or as amended, it shall be published and available for public inspection.

(5) The method of official Town publication of ordinances shall be set by ordinance.

(6) Each ordinance shall be effective ten (10) days after publication or at such later date as specified in the ordinance.

(7) Each ordinance shall be signed by the Mayor and attested to by the Town Clerk, and affidavits of publication shall be retained with the ordinance in the Town's records.

6.04 Emergency Ordinances.

(1) The Council may adopt an emergency ordinance if necessary for the immediate preservation of public property, health, welfare, peace, or safety. Determination by the Council as to the existence of an emergency shall be final and conclusive.

(2) Emergency ordinances shall also meet the following criteria:

(a) The facts determining the emergency shall be specifically stated in the ordinance.

(b) No ordinance granting, renewing, or amending any franchise, or imposing any new tax, tax rate increase, mill levy above that for the prior year, valuation for assessment ratio increase for a property class, extension of an expiring tax, or tax

**Commented [HMG2]:** Cross-reference Sec. 3.07 re: voting. Requires every non-emergency ordinance to be approved by a majority of the Council present

**Commented [HMG3]:** Cross-reference Sec. 3.07 - included an inconsistency but revised to require every emergency ordinance requires the affirmative vote of two-thirds (2/3) of the Council present

policy change directly causing a net tax revenue gain to the Town shall be adopted as an emergency ordinance.

(3) An emergency ordinance may be introduced and adopted at any regular or special meeting. Approval of an emergency ordinance requires a two-thirds (2/3) affirmative vote by the entire Council and, in no case, fewer than five (5) affirmative votes. An emergency ordinance shall take effect upon adoption. Following adoption, an emergency ordinance shall be published in full.

6.05 Codification.

(1) The Council shall cause the ordinances of a general and permanent character to be codified and thereafter maintained in current form.

(2) Any ordinance that is not of a general and permanent nature shall not be codified.

6.06 Adoption of Codes by Reference. The Council by ordinance may adopt by reference any code published by the federal government, State of Colorado or by any agency of either of them, or by any municipality, or by recognized trade or professional organizations, or amendments or revisions thereof. The procedure of adoption of a code by reference shall be as provided in the Colorado Revised Statutes applicable to the adoption of codes by reference, as may be amended from time to time.

6.07 Public Records. ~~Notwithstanding subsequent changes to state law that may limit or reduce public access to public records, a~~ All public records of the Town shall be open for inspection by any person at reasonable times at a minimum in accordance with the Colorado Open Records Act, C.R.S. § 24-72-200.1, et seq., ~~applicable law~~ in effect at the time of adoption of this Charter.

Commented [HMG4]: New language for review.

6.08 Fines and Penalties for Ordinance Violations. Penalties for the violation of Town ordinances shall be established by ordinance. No fine or sentence for such violation shall exceed the maximum established by Colorado Revised Statutes for municipal ordinance violations.