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Article I
General Provisions

- 1.01 Name and Boundaries. The municipal corporation heretofore existing as the Town of Kiowa, Elbert County, State of Colorado, shall remain and continue a body politic and corporate and under this Charter be known as the Town of Kiowa, 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 Board of Trustees/Town Administrator form of government.
- 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 shall be provided for by ordinance, resolution, or state statute.
- 1.04 Rights and Liabilities. By the name of the Town of Kiowa, 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 does assume and shall manage and dispose of all trusts in any way connected therewith;
- (3) The right to succeed to all rights and liabilities of the Town;
- (4) The right to acquire all benefits of the Town and does assume and shall pay all bonds, obligations and indebtedness of the Town;
- (5) The right, by the name of the Town of Kiowa, to sue and defend, plead and be impleaded in all courts and places and in all matters and proceedings;
- (6) The right to purchase, lease, receive, hold, and enjoy, or sell and dispose real and personal property;
- (7) The right to establish municipal water works, sewage disposal works, water and sewer systems, and other utility systems;
- (8) The right to adopt, have, and use a common seal and alter the same at its pleasure;

- (9) The right to adopt ordinances and resolutions on local and municipal matters unless otherwise prohibited by this Charter or by laws applicable to home rule municipal corporations in the State of Colorado; and
- (10) 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 the same now exist or as they may hereafter be amended.

Article II Elections

- 2.01 Election Laws. Town elections shall be governed by the Colorado Municipal Election Laws as now existing or hereafter amended or modified 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 2008 and in each even numbered year thereafter.
- (2) The term of any Mayor or Trustee that ends in April of 2008 shall be extended until the regular Town of Kiowa election held on the Tuesday following the first Monday in November of 2008.
- (3) The Mayor and each Trustee shall take office at the first regular meeting of the Board held in January of the year following their election so long as the election has been finally certified and shall continue in office until their successors have been elected and take office or a vacancy occurs.
- (4) Special Town elections shall be held in accordance with the provisions of this Charter and the Colorado Municipal Election Laws. Any special Town election may be called by resolution of the Board not less than thirty (30) 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 purpose or purposes of such election.
- 2.03 Nonpartisan Elections. All municipal elections shall be nonpartisan. In accepting a nomination, a candidate shall by affidavit, filed with the Town Clerk, attest to the fact that he has not become a candidate as the nominee or representative of or because of any promised support from any political party, committee, convention or organization representing or acting for any political party.
- 2.04 Recall. Any elected official of the Town may be recalled at any time after the completion of six (6) months in office by the electors entitled to vote for a successor of such incumbent, as mandated in the Colorado Constitution; C.R.S. § 31-4-501, *et seq.*, as may be amended from time to time; and Section 13.12 of this Charter.

Article III
Town Board of Trustees

3.01 Town Board. The Town Board of Trustees, hereafter referred to as the Board, shall consist of seven (7) members.

- (1) The Board shall include a Mayor and six (6) Board Members.
- (2) All members of the Board shall be elected at-large by the registered electors of the Town, unless the Board establishes by ordinance voting districts and wards.
- (3) All Board of Trustee members shall be elected to serve four (4) year terms unless a two (2) year term is required to restore staggered positions to the Board. 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 .

3.02 Authority of the Town Board. (1) The Board shall have the following authority:

- (a) To enact and provide for the enforcement of all ordinances necessary to protect life, health, safety, welfare and property;
 - (b) To declare, prevent and summarily abate and remove nuisances;
 - (c) To preserve and enforce good government, general welfare, order and security of the Town and the inhabitants thereof;
 - (d) To enforce ordinances and regulations by ordaining fines not exceeding one thousand (\$1,000) dollars (or whatever higher amount is subsequently set by state law for municipal court jurisdiction), or imprisonment not exceeding one (1) year (or whatever longer term of imprisonment is subsequently set by state law), or both fine and imprisonment for each and every offense;
 - (e) To provide for the granting of probation and the conditional suspension of sentences by the Municipal Court; and
 - (f) To delegate to boards and commissions, within limitations of the Constitution and this Charter, such functions and authority of the Town as it deems proper and advisable.
- (2) No enumeration or particular authority granted to the Board shall be construed to impair any general grant of authority herein contained or granted by the State Constitution, or to limit any such grant of authority of the same class or classes as those so enumerated.

(3) In the case of a vacancy on the Board, the Board shall declare a vacancy according to standards set forth by ordinance or by the state statute applicable to Towns, as the same may be amended, C.R.S. § 31-4-303, and shall appoint a member to fill a vacancy until the next regular election, unless the Board determines to fill the vacancy by Special Election.

3.03 Qualification of Board Members. (1) No person shall be eligible to be elected or appointed to the office of Mayor or Board Member unless he or she meets the following requirements:

- (a) Is a citizen of the United States of America;
- (b) Is a registered elector of the Town; and
- (c) Is a resident of the Town for a period of no less than 12 consecutive months preceding the election.
- (d) No person who has been convicted of a felony shall be eligible to be elected or appointed to the office of Mayor or Board Member.
- (e) No person who is an employee of the Town may serve as Mayor or a Board Member. Any Town employee elected as Mayor or Board Member shall be deemed to have resigned as an employee on the date of taking office.
- (f) No person may be a candidate for both Mayor and Board Member at the same election.

(2) The Town Clerk shall be the judge of the election and of all qualifications for Board Members, except as otherwise provided by ordinance.

3.04 Board Meetings. (1) The Board shall meet regularly at least once each month, unless increased by ordinance, at a day and hour and place to be fixed by the rules and proceedings of each Board.

(2) Four (4) members of the Board shall constitute a quorum, but, in the absence of a quorum, a lesser number may adjourn any meeting to a later time or date, and in the absence of all members the Town Clerk may adjourn any meeting for not longer than one (1) week.

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

3.05 Voting. (1) Votes for and against shall be taken upon the passage of all ordinances and resolutions and entered upon the minutes of the Board

proceedings. The minutes of each meeting shall reflect the specific vote of each Board member.

- (2) Every ordinance shall require the affirmative vote of a majority of the entire Board, and not less than four (4) affirmative votes, to be adopted, and every emergency ordinance shall require the affirmative vote of six (6) Board Members to be adopted.
- (3) Every resolution and motion shall require the affirmative vote of a majority of the members present and voting unless required otherwise in this Charter.
- (4) Refusal by a Board Member to vote shall be the equivalent of an affirmative vote for an ordinance, resolution, or motion unless the Board Member is refraining from or is excused from voting due to a conflict of interest as provided in Section 3.06 below.

3.06 Conflict of Interest. No member of the Board shall vote on any question in which he or she has a personal or financial interest other than the common public interest or on any questions concerning his or her own conduct, and in such instances the member shall disclose his or her interest to the Board.

- (1) Upon disclosure by a Board Member of a potential conflict of interest, the other members of the Board shall determine whether the Trustee shall be excluded from consideration, discussions, and voting on the issue and may take any other action to address the issue the Board deems to be necessary in the best interest of the Town.
- (2) Notwithstanding a determination by the Board that a Trustee may continue to consider, discuss, and vote on the issue, the Trustee may excuse him or herself from voting on an issue, and such recusal shall not constitute the equivalent of an affirmative vote as described in Section 3.05 above.
- (3) If a conflict is established that results in the recusal or excusal of a Board Member, that Board Member shall physically leave the dais and refrain from participation during all consideration, discussion, and voting on the issue on which the Board Member has the conflict.
- (4) If a conflict is established that results in the recusal or excusal of more than one Board Member so that less than a quorum remains to consider an issue, a Board Member may vote notwithstanding subsection (3) of this Section if his or her participation is necessary to enable the Board to act.

3.07 Compensation of Board Members. The members of the Board, including the Mayor, shall receive such compensation as the Board shall by ordinance prescribe.

- (1) The Board shall neither increase nor decrease the compensation of any member during his or her term of office.

- (2) Board Members may, upon order of the Board, be paid such necessary bona fide expenses incurred in service in behalf of the Town as are authorized by the Town Board.
- 3.08 Oath of Office. Before entering upon the duties of the office the Mayor and every Board Member shall take, subscribe before and file with the Town Clerk an oath or affirmation that he or she will support the Constitution of the United States of America, the Constitution of the State of Colorado, this Charter and the ordinances of this Town, and will faithfully perform the duties of the office.
- 3.09 Voting Districts. Voting districts and wards may be created by Ordinance.
- 3.10 Mayor Pro Tem. A Mayor Pro Tem shall be elected by the Board from its own membership at the first meeting in January following each biennial election.
- (1) The Mayor Pro Tem shall serve until the January Board meeting following the next regular Town election, and shall act as Mayor during the absence or disability of the Mayor.
- (2) In the event of absence or disability of both the Mayor and the Mayor Pro Tem, the Board shall designate another of its members based on length of service as a Board Member to serve as Acting Mayor during such absence or disability.
- (3) Any Mayor Pro Tem or Acting Mayor, while serving as such, shall retain all authority granted herein to Board Members and may, at the conclusion of his or her service as Mayor Pro Tem or Acting Mayor, serve out the remainder of his or her original term.
- 3.11 Special Meetings. (1) Special meetings of the Board shall be called by the Town Clerk on the oral request of any four (4) Board Members, on at least twenty-four (24) hours' notice to each member of the Board.
- (2) Written notices of any special meeting and the topic of any special meeting shall be posted in at least one (1) public place at least twenty-four (24) hours prior to the meeting. No business shall be transacted at any special meeting of the Board unless the same has been stated in the notice of such meeting.
- 3.12 Executive Sessions. (1) Any Board meeting may be recessed into an executive session by the affirmative vote of a majority of the members present and may be closed to the public for the following purposes only:
- (a) To determine a position relative to issues subject to negotiation, to receive reports on negotiation progress and status, to develop strategy, and to instruct negotiators;

- (b) To consider the acquisition or disposal of property if, in the judgment of the Board, premature disclosure of information might give any person an unfair competitive or bargaining advantage;
 - (c) For matters of attorney-client privilege, to receive legal advice from an attorney representing the Town, and for matters required by law to be kept confidential;
 - (d) For matters critical to the personal safety of elected officials and for matters involving the protection and security of Town property;
 - (e) For personnel matters;
 - (f) To deliberate on evidence presented to the Board while acting in a quasi-judicial capacity; or
 - (g) To consider additional matters for which an executive session is permitted under the State Statutes concerning the meetings of local public bodies.
- (2) The general subject matter of any executive session shall be stated in the motion calling for the 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 session closed to the public.
- (3) Only the Mayor and members of the Town Board shall attend executive sessions provided however, that other persons may be invited to attend executive sessions by the Mayor and Board.
- (4) The provisions of this Section 3.12 are specifically intended to supersede any conflicting provisions of Colorado statutes governing open meetings and executive sessions.

Article IV
Town Administration and Appointed Officials

- 4.01 Mayor. The Mayor shall be the presiding officer of the Board and the recognized head of the Town government for all legal and ceremonial purposes. He or she shall have the following duties, authorities, and responsibilities:
- (1) To vote as a regular Board 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 his or her signature except as otherwise provided by ordinance and attested by the Town Clerk under the Seal of the Town (Any person acting as Mayor as provided in Section 3.10 shall be permitted to exercise this authority);
 - (3) To have such other authority as may be conferred upon the Mayor by the Board so long as that grant of authority is not in conflict with the provisions of this Charter.
- 4.02 Emergency Authority. (1) 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.
- (a) 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 Board who may take such action as it deems necessary.
 - (b) Any unilateral action taken by the Mayor during an emergency shall be temporary in nature and duration and shall be effective only until the Board may be convened to ratify the action.
- (2) In the event it becomes necessary, the line of succession provided below in this Charter shall be followed. The Board shall have the authority to provide for the continuity of government of the Town of Kiowa in the event of natural or enemy caused 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 officers, notwithstanding the provisions of this Charter.
 - (3) Such succession shall commence with the Mayor and the Mayor Pro Tem and shall then revert to the Board Members by order of seniority, then through an orderly line of succession of the administrative department heads.

4.03 Town Administrator. The Town Administrator shall be the chief administrative officer of the Town and shall serve at the pleasure of the Board.

- (1) The Board, by a majority vote, shall appoint a Town Administrator without a definite term and at a salary fixed from time to time by resolution of the Board.
- (2) The Town Administrator shall be responsible to the Board and shall perform such duties as provided by ordinance, and/or as provided by the direction of the Board, so long as such direction is not contrary to this Charter or the Ordinances of the Town.
- (3) The Town Administrator may only delegate to others the authority and duties prescribed to his or her position to the extent allowed by ordinance.
- (4) The Town Administrator may appoint a Town department head to function in his or her capacity during short absences.

4.04 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 Board at the first January meeting of the Board following each regular Town election.

- (1) The Town Attorney shall serve at the pleasure of the Board, without a definite term, and at a salary or hourly rate fixed from time to time by resolution of the Board.
- (2) The Town Attorney shall be responsible to the Board and shall perform such duties as provided by ordinance.

4.05 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 Board at the first January meeting of the Board following each regular Town election.

- (1) The Municipal Judge shall serve at the pleasure of the Board, without a definite term, and at a salary fixed from time to time by resolution of the Board.
- (2) The Municipal Judge shall be responsible to the Board and shall perform such duties as provided by ordinance.

4.06 Town Clerk. The Town Clerk shall be the Clerk of the Board, but the Town Clerk shall be hired by the Town Administrator and shall be a Department Head of the Town within the meaning of Section 4.07(5) of this Charter. The Town Clerk shall attend all meetings of the Board, shall

keep a permanent journal of its proceedings, and shall have the following other duties and responsibilities:

- (1) To be custodian of the Town Seal, affix it to all documents and instruments requiring the seal, and attest to the same.
- (2) To be custodian of all papers, documents and records pertaining to the Town, the custody of which is not otherwise provided for.
- (3) To certify by his or her signature all ordinances and resolutions enacted or passed by the Board.
- (4) To provide and maintain in the Clerk's office a supply of forms for all petitions required to be filed for any purpose by the provisions of this Charter or by ordinances enacted hereunder.
- (5) To 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 Clerk to advise any petitioner as to how petitions shall be completed prior to their submittal to the Clerk.
- (6) To administer oaths of office.
- (7) To perform such other duties as may be prescribed by this Charter or by the Town Administrator.

4.07 Town Departments. (1) The administrative functions of the Town may be performed by including but not limited to the following departments: Town Clerk, Police, Streets, and such other departments as are or may be established by this Charter or by ordinance of the Town.

- (2) The Town, within a reasonable time, shall provide policies and procedures for such departments created.
- (3) The Board may by ordinance create, consolidate or merge any of the departments, whether set forth in the Charter or created by ordinance, in order to achieve more efficient operation or administration.
- (4) All departments of the Town, except as otherwise provided in this Charter, shall be under the supervision and control of the Town Administrator.
- (5) All department heads hired after the effective date of this Charter shall be hired by the Town Administrator and shall be considered, at all times, at-will employees of the Town. The provisions of this Section 4.07(5) are specifically intended to supersede conflicting state law on this matter, including C.R.S. § 31-4-307.

(6) The Board may by ordinance set personnel policies.

Article V
Boards and Commissions

- 5.01 Existing Boards, Commissions and Committees. All boards, commissions and committees existing at the time that this Charter is adopted shall continue as established by ordinance, except as otherwise provided by this Charter or subsequent ordinance.
- 5.02 Right to Establish, Amend and Abolish. (1) The Board may create any boards, commissions or committees including advisory and appeal boards, provided that no such board, commission or committee 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, commissions and committees shall be created by ordinance, which shall prescribe the duties delegated by Board.
- (2) Each board, commission and committee shall elect its own chairman and vice-chairman from among its citizens-at-large members. Each board, commission and committee shall operate in accordance with its own rules of procedure, except as otherwise directed by the Board. All board, commission and committee 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 Board as the Board shall require.
- (3) The Board may increase, reduce or change any or all of the duties and procedures of any board, commission or committee existing at the time of the adoption of this Charter or as created by ordinance thereafter.
- (4) Any board, commission or committee existing at the time this Charter is adopted or created under the provisions of this Section, which is not required by statute or this Charter, may be abolished by the Board.
- (5) Terms and conditions of appointment and composition of all boards, commissions and committees shall be determined by ordinance, except that appointment of a member to any board, commission or committee shall require an majority vote of the Board and removal of any member from a board, commission or committee shall require a two-thirds (2/3) affirmative vote by the Board and, in no case, fewer than five (5) affirmative votes for removal.

Article VI Ordinances

- 6.01 Action by Ordinance Required. In addition to such acts of the Board 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 BOARD OF TRUSTEES OF THE TOWN OF KIOWA, COLORADO. Except as otherwise provided in this Article, all ordinances shall take effect ten (10) days after publication following final passage. Every ordinance introduced shall be deemed to contain a severability clause, whether stated therein or not.
- 6.03 Adoption Procedure for Ordinances. Each ordinance shall be presented to the Board at least once, and the following procedure shall be followed in adopting any ordinance except an emergency ordinance:
- (1) The ordinance shall be introduced at a regular or special meeting of the Board;
 - (2) The ordinance shall be read by title;
 - (3) Prior to taking final action on the ordinance, the Board shall permit public comments on the ordinance;
 - (4) The Board shall vote to amend, adopt, or reject the ordinance, or take other action as it deems appropriate;
 - (5) If the ordinance is adopted by the Board, either as presented or as amended, it shall be published, and publication of the title thereof, together with a statement that the full text is available for public inspection and acquisition in the office of the Town Clerk, shall be sufficient publication unless publication in full is required by subsequent ordinance;
 - (6) The ordinance shall be effective ten (10) days after publication;
 - (7) The method of official Town publication of ordinances shall be set by ordinance;

- (8) The ordinance shall be signed by the Mayor and attested to by the Town Clerk, and affidavits of publications shall be retained with the ordinance in the Town's records.
- 6.04 Emergency Ordinances. (1) An emergency ordinance necessary for the immediate preservation of public property, health, welfare, peace, or safety shall require the affirmative vote of six members of the Board Members in office at the time. Determination by the Board 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, fixing rates charged by any municipal utility system, 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 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. An emergency ordinance shall take effect upon adoption or on such later date as specified in the ordinance. Following adoption, an emergency ordinance shall be published in full.
- 6.05 Codification. (1) The Board shall cause the ordinances of a general and permanent character to be codified and thereafter maintained in current form. Revisions to the codes may be accomplished by reference as provided in Section 6.06 of this Charter.
- (2) Any ordinance that is not of a general and permanent nature shall be titled as a special ordinance and shall not be codified.
- (3) Review and codification of ordinances shall be accomplished at least every five years.
- 6.06 Adoption of Codes by Reference. (1) The Board by ordinance may adopt by reference any code 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 State Statutes applicable to the adoption of codes by reference.
- (2) Every ordinance adopting a code by references shall contain a notice that copies of the code are available at the office of the Town Clerk, and any

penalty clause in such a code may be adopted only if set forth in full in the adopting ordinance.

- 6.07 Public Records. All public records of the Town of Kiowa shall be open for inspection by any person at reasonable times in accordance with applicable law.
- 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 State Statutes for municipal ordinance violations.

Article VII
Enforcement of Laws and Ordinances

- 7.01 Municipal Court. (1) There shall be a Municipal Court that shall have jurisdiction to hear and determine all cases arising under this Charter or the ordinances of the Town. The scope of the Municipal Court's jurisdiction is hereby expressly declared not to be exclusive, original jurisdiction over matters arising under this Charter and ordinances.
- (2) The powers of and the procedure in the Municipal Court and the manner of enforcement of its orders and judgments shall be as provided for by ordinance presently enacted or hereafter enacted. The Municipal Court shall be a qualified Municipal Court of record and all proceedings therein and evidence at trials shall be kept by verbatim record.
- (3) The Board shall provide a suitable place and all supplies and personnel necessary for the proper functioning of the Court.
- (4) The Board shall provide by ordinance for the enforcement of its ordinances by fine or imprisonment. However, for any one (1) offense, no fine exceeding one thousand dollars (\$1,000.00), or whatever higher limit may be subsequently set by state law for municipal court jurisdiction, nor imprisonment exceeding one (1) year (or whatever longer term of imprisonment is subsequently set by state law), shall be provided for, levied, or imposed by ordinance or by the Municipal Court.
- (5) Each day of an ordinance violation may be treated as a new and separate offense, punishable according to the maximum penalties set for that violation.
- (6) The Municipal Court shall be presided over by the Municipal Judge, who shall meet the criteria for that position set forth in Section 4.05 of this Charter.
- 7.02 Department of Police. (1) There is hereby created a Department of Police, the director of which shall be the Chief of Police who shall be an employee of the Town.
- (2) The Chief of Police shall be a certified peace officer, as that designation is defined by the Peace Officers Standards and Training Board (P.O.S.T.) at C.R.S. § 24-31-305, as that statute may be amended from time to time, or eligible to become a certified peace officer.
- (3) All other requirements, duties, and responsibilities of the Department of Police, the Chief of Police, and Town police officers shall be set by ordinance presently enacted or hereafter enacted.

Article VIII
Town Finances and Borrowing

- 8.01 Fiscal Year. The fiscal year of the Town, and all of its agencies, shall begin on the first day of January and end on the thirty-first day December of each year.
- 8.02 Annual Budget. A proposed budget for the ensuing fiscal year shall be presented to the Board on or before the fifteenth day of October of each year.
- 8.03 Budget Hearing. (1) The Board shall hold a public hearing on the proposed budget on or before the fifteenth day of November of each year.
- (2) Notice of the time and place of such hearing shall be published at least once seven (7) days prior to such hearing, and copies of the proposed budget shall be made available to the public by depositing them in the office of the Clerk.
- (3) The Board may at any time before final adoption increase, decrease, add or strike out any item in the budget.
- 8.04 Scope of Annual Budget. (1) The budget shall provide a complete financial plan of all Town funds and activities for the ensuing fiscal year and, except as required by law or this Charter, shall be in such form as the manager deems desirable or the Board may require.
- (2) In organizing the budget, the manager shall utilize the most feasible combination of expenditure classification by fund, organization unit, program, purpose or activity, and object. The budget shall begin with a clear general summary of its contents and shall be so arranged as to show comparative figures for actual and estimated income and expenditures of the preceding fiscal year.
- (3) The budget shall indicate in separate sections:
- (a) Anticipated revenues classified as cash surplus, miscellaneous revenues and amount to be received from property tax; cash surplus being defined for purposes of this Article as the amount by which cash is expected to exceed current liabilities and encumbrances at the beginning of the ensuing fiscal year;
- (b) Proposed expenditures for current operations during the ensuing fiscal year, detailed by offices, department and agencies in terms of their respective work programs, and the method of financing such expenditures;

(c) A reasonable provision for contingencies that shall not be available for expenditures except as provided in this Section;

(d) Required expenditures for debt service, judgments, cash deficit recovery and statutory expenditures;

(e) Proposed capital expenditures during the ensuing fiscal year, detailed by offices, departments and agencies when practicable, and the proposed method of financing each such capital expenditure; and

(f) Anticipated net surplus or deficit for the ensuing fiscal year for each utility owned or operated by the Town, if any, and the proposed method of its disposition; subsidiary budgets for each such utility giving detailed income and expenditure information shall be attached as appendices to the budget. The total of proposed expenditures and provision for contingencies shall not exceed the total of estimated revenues.

8.05 Adoption of Budget and Appropriation. (1) Not later than the fifteenth day of December of each year, the Board shall adopt a resolution adopting the budget and a resolution adopting the annual appropriations.

(2) Copies of the budget and the capital program as adopted shall be public records and shall be made available to the public in the office of the Town Clerk.

(3) If the Board fails to adopt a budget by this date, the amounts appropriated for the operation of the various departments and areas of the Town during the prior fiscal year shall be deemed adopted for the current fiscal year on a month to month basis, with all items prorated accordingly until such time as the Board adopts the budget for the current fiscal year.

8.06 Certification of Tax Levy. (1) As required by law, the Board shall fix the amount of tax levy that shall be assessed, if any, upon each dollar of assessed valuation of all taxable property within the incorporated limits of the Town, and the Board shall cause the same to be certified to the County as required by law.

(2) If the Board should fail in any year to make such levy as above provided, the rate last fixed shall be the rate for the ensuing fiscal year, which rate shall be levied as by law provided.

8.07 General Fund. There is hereby established a fund to be known as the General Fund. All revenues not specifically allocated to any other fund shall be placed in the General Fund. All general functions of the Town shall be financed by expenditures from the General Fund.

- 8.08 Contingencies. The General Fund may contain an item for contingencies, or the Board may by ordinance establish a separate fund to be known as the Contingency Fund.
- 8.09 Special Funds. In addition to funds provided for in this Charter, the Board may by ordinance establish special funds as it deems necessary and appropriate. The ordinance establishing such funds shall clearly state the purpose for the fund.
- 8.10 Capital Program. (1) If required by the Board by motion, resolution or ordinance, the Mayor or other qualified person appointed by the Board, with such assistance as the Board may direct, shall prepare and submit to the Board a long-range capital program simultaneously with the recommended budget.
- (2) The capital program shall include the following unless otherwise provided by the Board:
- (a) A clear general summary of its contents;
 - (b) A list of all capital improvements that are proposed to be undertaken during the following fiscal years with appropriate supporting information as to the necessity for improvement;
 - (c) Cost estimates, proposed methods of financing and recommended schedules for each such improvement;
 - (d) The estimated annual cost of operating and maintaining the facilities to be constructed or acquired.
- (3) This information may be revised or extended each year with regard to capital improvements still pending or in the process of construction or acquisition.
- 8.11 Transfer of Funds. The Board may by resolution transfer any unencumbered appropriation, balance, or portion thereof from one (1) department, office or agency to another.
- 8.12 Increase or Reduction of Appropriations. (1) The Board may make additional appropriations by ordinance during the fiscal year for unanticipated expenditures required of the Town. Such additional appropriations shall not exceed the amount by which actual and anticipated revenues of the year exceed the revenues as estimated in the budget, unless the appropriations are necessary to relieve an emergency endangering the public peace, health, safety or property.
- (2) If at any time during the fiscal year it appears probable to the Mayor or his or her designee that the revenues available will be insufficient to meet the

amount appropriated, he or she shall provide a report to the Board without delay indicating the estimated amount of deficit and recommending any steps to be taken. The Board shall then take such further action as it deems necessary to prevent or minimize any deficit, and for that purpose it may by ordinance reduce one (1) or more appropriations.

- 8.13 Departmental Appropriations Revert. Any annual departmental appropriation, or any portion thereof, remaining unexpended and unencumbered at the close of the fiscal year shall revert to the General Fund.
- 8.14 Publication of Expenditures. Expenditures authorized to be made need not be published, but the Town Clerk shall maintain a record on file of the same, which record shall at all reasonable times be available for public inspection.
- 8.15 Independent Audit. An independent audit shall be made of all Town accounts at least once annually and more frequently if deemed necessary by the Board. Such audit shall be made by certified public accountants selected by the Board who shall complete the audit within one hundred twenty (120) days after the close of the fiscal year. Copies of such audit shall be made available for public inspection at the office of the Town Clerk.
- 8.16 Forms of Borrowing. (1) The Town may, subject to any applicable limitations in the Colorado Constitution, including any requirements for voter approval, borrow money and issue securities or enter into other obligations to evidence such borrowing in any form and in any manner determined by the Board to be in the best interests of the Town.
- (2) In addition to being authorized by this Article to issue bonds for any municipal purpose as authorized by law, the Town is specifically authorized, by ordinance, with or without an election, as determined by the Board of Trustees, to issue revenue bonds or otherwise to extend its credit for the purpose of purchasing, equipping, constructing, or otherwise acquiring, extending or improving a water, sewer, or other public utility, facility or project, provided that the bonds or other obligation shall be made payable from the net revenues derived from the operation of such system, utility or project, or from the proceeds of any tax other than the general ad valorem tax imposed by the Town.
- (a) Such bonds shall not be issued until a public hearing on the question of issuance of the same shall have been held.
- (b) Notice of such hearing shall be published at least once in a newspaper of general circulation within the Town at least thirty (30) days prior to the public hearing.

- 8.17 Long-Term Rentals and Leaseholds. (1) In order to provide necessary land, buildings, equipment and other property for governmental or proprietary purposes, the Town may enter into long-term installment purchase contracts and rental or leasehold agreements. Such agreements may include an option or options to purchase and acquire title to such property within a period not exceeding the useful life of such property. Each such agreement and the terms thereof shall be concluded by an ordinance duly enacted by the Board.
- (2) The Board may provide for payment of installments thereof out of the general ad valorem tax levy, by the imposition of rates, tolls or service charges for the use of such property or any part thereof, out of any other available municipal revenues or by any combination of the foregoing methods.
- 8.18 Short-Term Notes. The Town by ordinance may borrow money without an election in anticipation of the collection of taxes and issue short-term notes to evidence the amount so borrowed. Any such short-term notes shall mature within twelve (12) months.

Article IX
Public Utilities and Franchises

- 9.01 Town Authority. (1) The Town shall have and exercise with regard to all utilities and franchises, including water and water rights and acquisition thereof and bonded indebtedness in connection therewith, all municipal authority and functions now existing and that may be hereafter provided by the State Constitution and state statutes.
- (2) The Town shall have authority, within or without the territorial limits of the Town, to construct, condemn, purchase, acquire and lease public works, utilities and assets, equipment and everything in relation to or in connection therewith, in whole or in part, for the use of the Town and its inhabitants.
- (3) The Town shall have the authority to exchange water rights owned by it for water rights owned by other persons, entities, municipalities or quasi-municipal corporations. The Town shall also have the right to contract with such aforementioned persons or entities for the purpose of forming consolidated water or sewer districts or for furnishing any municipal services, provided any agreements or contracts arising therefrom would benefit the inhabitants of the Town.
- (4) Except as otherwise provided by the State Constitution or this Charter, all authority concerning the granting, amending, revoking or otherwise dealing in franchises shall be exercised by the Board.
- 9.02 Grant of Public Utility Franchise. (1) Grants of public utility franchises and all extensions and amendments shall be granted only by ordinance. The granting of franchises by the Town shall be limited only by the provisions of the Constitution and statutes that may be applicable to home rule municipalities as now in effect or as hereafter amended and shall be submitted to the vote of the people if required by the State Constitution.
- (2) No exclusive franchises shall be granted.
- 9.03 Water Rights. (1) The Town shall have the authority to buy, exchange, lease, sell, own, control and otherwise deal in water rights.
- (2) The Town shall have authority to purchase or obtain such existing water rights as may be used upon any land that is annexed to the Town from time to time.
- 9.04 Utility Rates. The Board shall, by resolution, establish rates, rules and regulations for services provided by municipally owned utilities. If the Board desires to extend the municipal utilities beyond Town boundaries, it shall do so by ordinance.

- 9.05 Term, Compensation, and Restriction. (1) No franchise, lease or right to use the streets or the public places or property of the Town shall be granted for a term that exceeds twenty (20) years. Every grant of a franchise shall fix the amount and manner of payment of compensation to be paid by the grantee for the use of the same. Such compensation shall be paid as provided and be subject to mutual periodic renegotiation, and failure to pay shall result in forfeiture of the franchise at the option of the Board. This provision shall not except the grantee from any lawful taxation upon his or its property, nor from any license, charges or other impositions levied by the Board, not levied on account of the use granted by the franchise.
- (2) Every public utility, whether it has a franchise or not, shall pay such part of the cost of improvement or maintenance of streets, alleys, bridges, and other public places as shall arise from its use thereof and shall protect and save the Town harmless from all damages arising from said use.
- (3) Every such public utility may be required by the Town to permit joint use of its property and appurtenances located in the streets, alleys or other public places of the Town by the Town and by other utilities insofar as such joint use may be reasonably practicable.
- 9.06 Franchise Review. Each franchise granted under the provisions of this Charter shall include a section specifying a periodic review of said franchise.
- 9.07 Assignment of Franchise. Any assignment or leasing of a franchise shall be considered forfeiture unless consent is given by the Board by ordinance.
- 9.08 Franchise Records. The Board shall cause to be kept in the office of the Town Clerk and open to the public for view, a franchise record in which shall be transcribed copies of all franchises granted by the Town. The record shall give the name of the grantee and any assignees. The record shall be a complete history of all such franchises and shall include a comprehensive and convenient reference to all actions at law affecting the same, copies of all annual reports, and such other information and matters of public interest as the Board may from time to time require.
- 9.09 Existing Franchises. All franchise ordinances of the Town in effect at the time that this Charter is adopted shall remain in full force and effect according to their provisions and terms until the expiration date provided in such ordinance or until modified by another franchise.
- 9.10 Revocable Permits. The Board may grant a permit at any time for the temporary use or operation of any street, alley or Town owned place, provided such permits shall be revocable by the Board at its pleasure,

regardless of whether or not such right to revoke is expressly reserved in such permit.

ARTICLE X
Taxation

- 10.01 Municipal Taxation. The Board may adopt by ordinance municipal taxes as long as those taxes comply with the following conditions:
- (1) Such taxes are subject to any applicable limitations in the Colorado Constitution, including any requirements for voter approval; and
 - (2) Such taxes are not prohibited for home rule municipalities by the Colorado Constitution.
- 10.02 Authority to Acquire and Dispose of Property. In addition to all other power that it has to acquire property, the Town is hereby authorized to purchase or otherwise acquire property on which there are delinquent taxes or special assessments. The Town may also dispose of any property acquired under this authority in like manner as any other property.
- 10.03 Expenditure of Revenues. (1) The Town shall be authorized to collect, retain and expend all of the sales and use tax revenues and all revenues generated by the Town, subject only to those limitations previously approved by the voters, notwithstanding any limitation contained in Article X, Section 20, of the Colorado Constitution or any other law.
- (2) The Town hereby declares its intent not to be bound by Colorado's so-called Gallagher Amendment, Article X, Section 3, of the Colorado Constitution, regarding valuations for assessment on real and personal property, which amendment does not apply to any Colorado home rule municipality.
- 10.04 Enterprise Funds. (1) The Board may, subject to ordinance requirements and limitations, adopt ordinances providing for the establishment and operation of any enterprise deemed to be in the best interest of the Town.
- (2) Within this Article, enterprise refers to a government-owned business authorized to issue its own revenue bonds and receiving under ten percent (10%) of its annual revenue in grants from all Colorado state and local governments combined.

ARTICLE XI
Municipal Investments

11.01 Municipal Investments. The Board may initiate and adopt guidelines for municipal investments as long as those guidelines comply with the following conditions:

- (1) Such guidelines are subject to any applicable limitations in the Colorado Constitution, including any requirements for voter approval; and
- (2) Such guidelines are determined by the Board to be in the best interest of the Town.

ARTICLE XII
Improvement Districts

12.01 Improvement Districts. The Board, subject to applicable restrictions in the Colorado Constitution, shall have authority to create, by ordinance, improvement districts within the Town.

Article XIII
Initiative, Referendum and Recall

- 13.01 Initiative. (1) The initiative power, reserved by Article V, Section 1(9), of the Colorado Constitution, is hereby extended to the registered electors of the Town as to that Town legislation that is subject to the initiative power reserved in said Constitution.
- (2) It is the Town's intention to adopt and follow constitutional and statutory requirements for the initiative process as the same now exist or as they may hereafter be amended.
 - (3) The measure shall be initiated pursuant to the state statutes that establish procedures for a municipal initiative, except as otherwise provided in this Charter and in ordinances not inconsistent with this Charter.
 - (4) The initiative petition shall be signed by registered electors of the Town equal in number to at least five (5) percent of the total number of registered electors of the Town as of the date of filing the petition.
 - (5) The Town Clerk shall not count as valid any signature on an initiative petition if the date of the signature is prior to the date the form of the petition was approved by the Town Clerk.
- 13.02 Referendum. (1) The referendum power, reserved by Article V, Section 1(9), of the Colorado Constitution, is hereby extended to the registered electors of the Town as to those ordinances that are subject to the referendum power reserved in said Constitution. Such ordinances shall be referred pursuant to the state statutes that establish procedures for a municipal referendum, except as otherwise provided in this Charter and in ordinances not inconsistent with this Charter.
- (2) It is the Town's intention to adopt and follow constitutional and statutory requirements for the referendum process as the same now exist or as they may hereafter be amended.
 - (3) A referendum petition shall be signed by register electors of the Town equal in number to at least five (5) percent of the total number of registered electors of the Town as of the final date of publication of the ordinance at issue.
 - (4) The Town Clerk shall not count as valid any signature on a referendum petition if the date of the signature is prior to the date the form of the petition was approved by the Town Clerk.
 - (5) Complete referendum petitions must be filed within thirty (30) days after adoption by the Board, at a regular meeting, of the ordinance sought to be reconsidered.

(6) When a referendum petition is filed with the Town Clerk, the ordinance sought to be reconsidered shall remain in effect until such time as:

- (a) The Board shall suspend the ordinance pending an election, or
- (b) The ordinance shall be voted down in an election held for that purpose, or
- (c) A court order reverses the ordinance.

13.03 Petitioners' Committee. Any two (2) registered electors of the Town may commence initiative or referendum proceedings by filing with the Town Clerk an affidavit stating the following:

- (1) They will constitute the Petitioners' Committee; and
- (2) Stating their names and street addresses and specifying the address to which all notices to the Committee are to be sent.

13.04 Form and Content of Petitions. (1) The petition shall set out in full the proposed initiative or cite the ordinance sought to be reconsidered. All pages of the petition shall be uniform in size and style and shall be assembled as one (1) instrument for filing. Each signature shall be executed in nonerasable ink and shall be followed by the street address of the person signing. Petitions shall contain or have attached thereto throughout their circulation the full text of the ordinance or proposed Charter amendment sought to be considered.

- (2) The form of petition shall be submitted to the Town Clerk for review and approval. The Town clerk shall approve or reject the form of the petition no later than five (5) business days following the date on which the Clerk received the petition for review.

13.05 Affidavit of Circulator. Each page of a petition shall have attached to it when filed an affidavit executed by the circulator thereof stating the following:

- (1) The affiant's name, address, and the date the affiant signed the affidavit;
- (2) That the affiant has read and understands the laws governing the circulation of petitions;
- (3) That the affiant was eighteen (18) years of age or older at the time of circulating the petition;
- (4) That the affiant personally circulated the petition;

- (5) That all signatures were affixed in his presence;
 - (6) That the affiant believes the signatures to be the genuine signatures of the persons whose name they purport to be;
 - (7) That, to the best of affiant's knowledge, all signatures are of persons who are registered electors of the Town of Kiowa;
 - (8) That the affiant has not paid or will not in the future pay and that the affiant believes that no other person has paid or will pay, directly or indirectly, any money or other thing of value to any signer for the purpose of inducing or causing such signer to affix the signer's signature to the petition.
- 13.06 Procedure After Filing. (1) Within thirty (30) working days after a petition is filed, the Town Clerk shall complete a certificate as to its sufficiency and as to the validity of the signatures thereon, specifying if it is insufficient the particulars wherein it is defective. The Town Clerk shall promptly send by mail a copy of the certificate to the Petitioners' Committee.
- (2) A petition certified insufficient for lack of the required number of valid signatures may be amended once if the Petitioners' Committee files a notice of intention to amend it with the Town Clerk within two (2) working days after receiving the copy of the Town Clerk's certificate and files a supplementary petition upon additional forms within ten (10) days after receiving the copy of such certificate.
 - (3) If a petition or amended petition is certified insufficient and the Petitioners' Committee does not elect to amend, the Town Clerk shall promptly present the certificate to the Board, and such certificate shall then be a final determination as to the sufficiency of the petition.
- 13.07 Action by Town Board. When an initiative or referendum petition has been finally determined sufficient, the Board shall, within thirty (30) days, either:
- (1) Adopt the ordinance as submitted by the initiatory petition; or
 - (2) Repeal the ordinance, or part thereof, referred to by referendum petition; or
 - (3) Determine to submit the proposal provided for in a petition to the registered electors of the Town; provided, however, the Board shall have 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; and provided further that

repeal of any referred ordinance may be effected only by a majority vote of the entire Board.

13.08 Results of Election. (1) Initiative. If a majority of the registered electors voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification of the election results. If conflicting ordinances are approved at the same election, the one (1) receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

(2) Referendum. If a majority of registered electors voting on a referred ordinance vote for repeal, it shall be considered repealed upon certification of the election results.

(3) Amendment or repeal. An ordinance adopted by the electorate may not be amended or repealed for the period of six (6) months after the date of the election at which it was adopted, and an ordinance repealed by the electorate may not be reenacted for a period of six (6) months after the date of the election at which it was repealed; provided, however, that any ordinance may be adopted, amended or repealed at any time by appropriate referendum or initiative procedure in accordance with the foregoing provisions of this Article, or if submitted to the electorate by the Board on its own motion. A proposed ordinance or proposed Charter amendment that fails at the election held to consider it shall not be refiled as an initiative petition for at least six (6) months after the election held to consider said ordinance or Charter amendment.

13.09 Town Board Referral. The Board shall have the power to submit to a vote of the registered electors of the Town, without receipt of any petition, any proposed ordinance or any question.

13.10 Withdrawal of Petition. No initiative or referendum petition may be withdrawn once it has been deemed sufficient by the Town Clerk.

13.11 Exceptions. Notwithstanding these provisions for initiative and referendum, the following ordinance matters shall not be subject to initiative and referendum:

(1) Ordinances addressing budgets, capital programs, appropriations, levies of taxes, economic development, and salaries of Town officers or employees shall not be subject to initiative.

(2) Ordinances addressing budgets, capital programs, appropriations, levies of taxes, economic development, salaries of Town officers or employees, special elections, emergencies, authorization of issuance of improvement district bonds payable in part from special assessments, levying special assessments, or contractual obligations of the Town shall not be subject to referendum.

- 13.12 Recall. (1) Any elected official may be recalled at any time after six (6) months in office, pursuant to the State Statutes that establish procedures for the recall of municipal elected officers, as the same may be amended from time to time, except as otherwise provided in this Charter and in ordinances not inconsistent with this Charter.
- (2) A petition to recall a Board Member must be presented to the Town Clerk for review and shall name not less than three (3) and not more than five (5) people who shall represent the recall effort.
- (3) The petition shall include a statement, in not more than two hundred (200) words, of the grounds on which the recall is sought.
- (4) No recall petition shall be circulated until approved as to form by the Town Clerk. The Town Clerk shall approve or disapprove the form of the petition by the close of the second business day following submission of the proposed petition, and the Clerk shall mail notice of his or her action to the officer sought to be recalled on the day that any such petition is approved.
- (5) A petition to recall a Board Member shall be signed by registered electors of the ward or district from which the Board Member was elected, if any, and a petition to recall the Mayor shall be signed by registered electors of the Town. The signers shall number at least twenty-five (25) percent of the eligible electors of the ward, district, or Town, as applicable, at the last preceding regular election.
- (6) The signed recall petition shall be submitted to the Town Clerk, and the Town Clerk shall issue a statement that the recall petition is sufficient or insufficient by the close of business on the fifth business day after the petition is filed. Written protests to the petition may be filed by registered electors of the Town within fifteen (15) days after the filing of the petition.
- (7) If a recall petition is determined sufficient, the Town Clerk shall submit it to the Town Board at the first regular meeting of the Board after the close of the protest period.
- (8) The recall election shall be held not less than thirty (30) days nor more than ninety (90) days from the date of the determination of the sufficiency of the petition. However, if a regular municipal or statewide general election is scheduled to be held within one hundred eighty (180) days after submission of a recall petition, even though that election is not the one at which the office held by the person sought to be recalled would otherwise be filled, the recall election shall be held at the same time as that regular municipal or statewide general election.

Michelle Oeser, Town Clerk

From: Arlene Sagee [ASagee@ci.sheridan.co.us]
Sent: Tuesday, January 04, 2011 2:21 PM
To: moeser@townofkiowa.com
Subject: RE: [CLERKSLIST] Recall

Michelle – you can find that information in the Colorado Revised Statutes, 31-4-501 and following. It pretty much walks you through the process. Good luck and I hope they don't proceed with the recall. Arlene Sagee, City Clerk, City of Sheridan.

From: CML Municipal Clerks Listserv [<mailto:CLERKSLIST@LIST.CML.ORG>] **On Behalf Of** Michelle Oeser, Town Clerk
Sent: Tuesday, January 04, 2011 2:06 PM
To: CLERKSLIST@LIST.CML.ORG
Subject: [CLERKSLIST] Recall

Help

I have never done a recall and have a citizen asking what to do.

Can any of you give me a break down or where to go to start the process?

If this goes forward, I will probably be asking a lot of questions.

Thank you

Michelle M. Oeser
Town Co-Manager/Clerk
Kiowa
303-621-2366
303-621-2595 fax

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- (9) After one (1) recall petition and election, no further petition shall be filed against the same person during the term for which such person was elected or appointed, unless the signers number at least fifty (50) percent of the ballots cast for that office at the last preceding regular election.
- (10) The Town Clerk shall not count as valid any signature on a recall petition if more than sixty (60) days have elapsed between the date the petition was approved by the Town Clerk and the date of the signature.

Article XIV
Miscellaneous Provisions

- 14.01 Purchase, Sale or Lease of Real Property. The Board by ordinance may purchase, sell, exchange or dispose of any interest in real property. The Board by ordinance may lease, for such a term as the Board shall determine, any real property to any person, firm or corporation, public or private.
- 14.02 Eminent Domain. The Town shall have the right of eminent domain for all municipal purposes, either within or without the limits of the Town.
- 14.03 Notice Required on Negligence and Tort Actions. (1) No action for the recovery of compensation for personal injury, or death or property damage against the Town 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 Town 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 that allegedly caused the death, injury or property damage.
- (2) Any action pursuant to this Section must be commenced within two (2) years of the occurrence or of the accidents that allegedly caused the injury, death or property damage.
- (3) The notice given under the provisions of this Section shall not be deemed invalid or insufficient solely by reason of inaccuracy in stating the time, place or cause of the injury, death or property damage, if it is shown that there was no intention to mislead and that the Town was, in fact, not misled thereby.
- (4) This provision shall not be construed as any waiver of any governmental immunity the Town may now have or that may become available to any Colorado municipality in the future.
- 14.04 Contracts with Other Governmental Entities. The Board may by resolution enter into contracts or agreements with other governmental or quasi-governmental entities for the mutual benefit of the entities.
- 14.05 Bequests, Gifts and Donations. (1) The Board, on behalf of the Town, 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.

(2) The Board may delegate the responsibility for such bequests, gifts and donations to such persons as the Board may deem advisable.

(3) The Board shall provide in each annual budget for the amount, if any, of money that the Board may have available to donate for public, charitable or other purposes. Any gift or donation the Board may make, on behalf of the Town, shall be by ordinance.

14.06 Contracts for Purchases, Leases, and Construction of Public Works. (1) The Board may establish by ordinance procedure for entering into contracts for purchases, contracts for leases and contracts for construction of public works.

(2) Purchases of or contracts for supplies, material, equipment or improvements shall be made under such requirements regarding competitive bidding as shall be prescribed by ordinance.

(3) In case of an emergency affecting the public peace, well-being, health, or safety, as also addressed in Section 4.02, the Board may waive all provisions for competitive bidding and direct the Town Administrator, acting as purchasing agent for the Town, to purchase, use, acquire and/or lease equipment, goods, supplies, services and materials

14.07 Amendment. (1) 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 under the following circumstances:

(a) Upon questions that submitted to the electors by a majority of the Board; or

(b) Upon questions submitted by the electors.

(2) 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.

14.08 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 Town, acting by ordinance, subject only to restrictions of the State Constitution and subsequent amendments to this Charter and by ordinance. Unless otherwise provided by this Charter or by ordinances adopted by the Board hereunder, the statutes of the State of Colorado shall be in effect.

14.09 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.

- 14.10 Chapter Titles and Subheadings. The Chapter titles and subheadings in this Charter are inserted for convenience and reference only and shall not be construed to limit, describe or control the scope or intent of any provision herein.
- 14.11 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. "Person" may extend to and be applied to bodies politic and corporate and to partnerships as well as individuals.
- 14.12 Indemnification of Mayor and Board. The Board may by ordinance indemnify any Board member, 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 or she is or was an officer of the Town, against expenses (including attorney fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit, or proceeding if he or she acted in good faith and in a manner he or she reasonably believed to be in the best interest of the Town and had no reasonable cause to believe his or her conduct was unlawful.

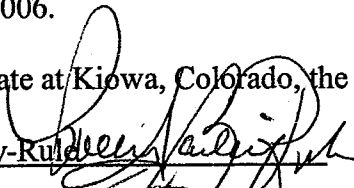
Article XV
Transition Period

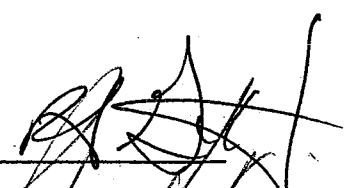
- 15.01 Purpose of Transitional Provisions. The purpose of this Article is to provide for an orderly transition from the present Town government of Kiowa to a Home Rule Town government under provisions of this Charter. The provisions of this Article shall constitute a part of this Charter only to the extent necessary to accomplish that purpose.
- 15.02 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.
- 15.03 Continuation of Present Elected Officials. The present Town Board of Trustees and the Mayor in office at the time of the adoption of this Charter shall become the Board and the Mayor and shall continue to serve and carry out the functions, powers and duties of Board offices until their successors assume such duties, after the regular municipal election held in November of 2008 and November of 2010.
- 15.04 Continuation of Appointed Officers and Employees. (1) All appointive officers and all employees of the Town at the time this Charter is adopted shall continue in that office or employment that corresponds to the Town office or employment that they held prior to the effective date of this Charter.
- (2) 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 that this Charter provides to be held at the pleasure of Board shall hold such position only at such pleasure regardless of the term for which he was originally appointed or hired.
- 15.05 Continuation of Prior Town Legislations. All bylaws, ordinances, resolutions, contracts, rules and regulations of the Town in force at the time this Charter becomes effective shall continue in full force except insofar as they conflict with the provisions of this Charter or are subsequently amended or repealed by ordinance enacted under authority of this Charter.
- 15.06 Savings Clause. This Charter shall not affect any suit pending in any court or any document heretofore executed in connection therewith. Nothing in this Charter shall invalidate any existing contracts between the Town and individuals, corporations or public agencies.


THE TOWN OF KIOWA
CHARTER COMMISSION
CERTIFICATE OF FINAL ADOPTION

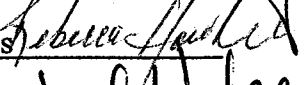
We, the undersigned, present members of the Town of Kiowa Home Rule Charter Commission, duly elected by the people of Kiowa, Colorado, at a regular election held on April 4, 2006, under the authorization of Article XX of the Constitution of the State of Colorado, to frame a Home Rule Charter for the Town of Kiowa, do hereby certify that the foregoing is the Proposed Charter as finally approved and adopted by the members of the Charter Commission on the 17th day of July, 2006, for submission to the Town of Kiowa Board of Trustees for referral to the people of Kiowa at the general election of November 7, 2006.

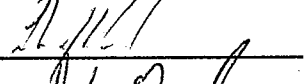
Done in triplicate at Kiowa, Colorado, the 17th day of July, 2006.

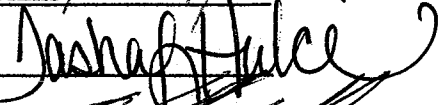
/s/ Polly Bailey-Rude 

/s/ Rick Greenfield 

/s/ Kent Berends 


/s/ Rebecca Hawkins 

/s/ Luke Bond 

/s/ Tasha Hulce 

/s/ Jeff Frenzel 

/s/ Keith Westfall 

/s/ Donnie Gabehart 

/s/ Corey Y. Hoffmann, Town Attorney 