

FORT COLLINS CHARTER

PREAMBLE

We, the people of Fort Collins, Colorado, under the authority of the Constitution of the State of Colorado, do ordain, establish and adopt this Charter for our municipal government.

ARTICLE I. FORM OF GOVERNMENT, POWERS, SEAL

Section 1. Name, boundaries.

The citizens of Fort Collins, in the County of Larimer, State of Colorado, within the boundaries of the municipal corporation as now established and heretofore existing under the name of Fort Collins, or as hereafter established in the manner provided by law, ~~shall~~ will continue to constitute a body corporate and politic in perpetual succession, under the name of the City of Fort Collins, as a home-rule municipal corporation under Article XX of the Constitution of the State of Colorado. The official seal for the city ~~shall~~ will consist of the word "SEAL" surrounded by the words "City of Fort Collins, Colorado."

Section 2. Form of government.

(a) *Form.* The municipal government provided by this Charter ~~shall be known as~~ is the "Council Manager government."

(b) *Powers.* Pursuant to its provisions and subject only to the limitations and exceptions imposed by the state Constitution and by this Charter, all powers of the city ~~shall~~ will be vested in an elective Council, hereinafter referred to as "the Council." All powers of the City of Fort Collins ~~shall~~ will be exercised in the manner prescribed by this Charter or, if the manner be not therein prescribed, then in such manner as may be prescribed by ordinance.

Section 3. Succession to rights and liabilities.

The municipal corporation, the City of Fort Collins, ~~shall~~ will continue to own, possess and hold all the real and personal property heretofore owned, possessed, or held by the city, and ~~shall~~ will continue to manage and dispose of all trusts in connection therewith and succeed to all the rights, benefits, and liabilities of the city.

Section 4. Powers of city.

The city ~~shall have~~ has all the powers granted to municipal corporations and to cities by the Constitution and general laws of this state, together with all the implied powers necessary to carry into execution all the powers granted. The enumeration of particular powers by this Charter ~~shall~~ will not be deemed to be exclusive, and in addition to the powers enumerated or implied, or appropriate to the exercise of such powers, it is intended that the city ~~shall~~ will have and may exercise all powers of local self-government which, under the Constitution of this state, it would be competent for this Charter specifically to enumerate.

ARTICLE II. CITY COUNCIL

Section 1. Membership; terms.

- (a) *Composition of Council.* The Council shall will consist of seven (7) members, including a Mayor and Mayor Pro Tem, elected as provided in this Article.
- (b) *Method of election.* The Mayor shall will be nominated and elected from the city at large. The remaining six (6) members shall will be nominated and elected by Districts. The election of District Councilmembers shall will alternate between the election of representatives for Council Districts 1, 3 and 5 and the election of representatives for Council Districts 2, 4 and 6.
- (c) *Council district boundaries.* The city shall will be divided into six (6) contiguous, reasonably compact districts, each of which shall will consist of contiguous, undivided general election precincts and, to the extent reasonably possible, an equal number of inhabitants. The districts shall will be numbered consecutively in a clockwise fashion beginning with the northeast district, which shall will be District 1. The Council shall will establish by ordinance the process for adjusting district boundaries and giving notice of any proposed boundary changes, and the manner of protesting such proposed changes.
- (d) *Terms.* Except as otherwise provided in Section 18 of this Article and Section 3(d) of Article IX, the term of office of the Mayor shall will be two (2) years, and the term of office of all other members of the Council shall will be four (4) years each; provided, however, that all such officers shall will serve until their successors have been elected and have taken office. The terms of the Mayor and other members of the Council shall will begin when they take the oath of office, which shall will occur as the first order of business at a special Council meeting on the second Tuesday of January next after the election, or, if appointed, the first regular or special Council meeting following their appointment.

Section 2. Qualifications of candidates and members; challenges.

- (a) An individual shall be is eligible to be a candidate for the office of Councilmember if at the time of the election he or she is they are a citizen of the United States; is at least twenty-one (21) years of age; has have been for one (1) year immediately preceding such election an elector of the city; and, in the case of a District Councilmember, has have continuously resided in the District from which he or she is they are to be elected since the date of accepting any nomination for election under Article VIII, Section 3, of this Charter.
- (b) No person prohibited by the Colorado constitution from serving in public office in Colorado shall be is eligible to be a candidate for, or hold, the office of Councilmember.
- (c) No person shall be is eligible to stand for election to more than one (1) elective office at any single municipal election. During a term of office, no member of the Council shall may be an employee of the city or hold any other elective public office. No person shall may be elected or appointed to any city office, position or employment for which the compensation was increased or fixed by the Council while such person was a member thereof until after expiration of one (1) year from the date when such person ceased to be a member of the Council.
- (d) Any registered elector may file with the City Clerk a written protest challenging the qualifications of any member of the Council. Any such protest shall will be resolved by the City Clerk as expeditiously as possible but no more than forty-five (45) days from the date of filing of the protest, pursuant to a procedure established by the Council by ordinance. In order to resolve such protests, the City Clerk shall have has the power to subpoena witnesses, administer oaths, and require the production of evidence. No protest may shall be filed prior to the date of appointment or the date of issuance of the certificate of election of a Councilmember, whichever is applicable, nor shall may any such protest, other than a protest based upon the fact of a felony conviction, be filed more than fifteen (15) days after said date.

- (e) The fact that a Councilmember may be determined to have lacked any qualification for the office of Councilmember during all or any portion of his or her **their** term of office **shall does** not affect the validity of any action taken by the Council during such Councilmember's term of office.

Section 3. Compensation of members.

- (a) **Applicable income statistical area.** For the purpose of this Section, *Area Median Income* **shall will** mean Area Median Income for a single-person household for the Fort Collins/Loveland Metropolitan Statistical Area, as determined and adjusted annually by the U.S. Department of Housing and Urban Development.
- (b) **Compensation.** Commencing in 2023, compensation for members of the City Council **shall will** be paid biweekly and adjusted annually as follows:
- (1) For the Mayor: seventy-five percent (75%) of Area Median Income.
 - (2) For the Mayor Pro Tem: sixty percent (60%) of Area Median Income.
 - (3) For all other Councilmembers: fifty percent (50%) of Area Median Income.
- (c) **Benefits.** Although members of City Council are generally not considered City employees, compensation for service on City Council **shall will** include the option to participate in the City organization's healthcare-related benefits, on the same terms those benefits are available to City employees.

Section 4. Organization.

(a) **Mayoral duties.** The Mayor **shall will** preside at meetings of the Council and **shall will** be recognized as head of the city government for all ceremonial purposes and by the Governor of the state for purposes of military law. The Mayor **shall must** execute and authenticate legal instruments requiring the signature of the Mayor. The Mayor **shall will** also perform such other duties as may be provided by ordinance which are not inconsistent with the provisions of this Charter.

(b) **Mayor Pro Tem.** At the special meeting at which newly-elected officers take their oath of office as described in Section 2(d) of this Article, the Council **shall will** elect a Mayor Pro Tem for a two (2) year term from among the members of the Council to act as Mayor during the absence or disability of the Mayor. If a vacancy occurs in the position of Mayor, the Mayor Pro Tem **shall will** become Mayor as provided in Section 18(b) below.

(c) **Mayor Pro Tem vacancy.** If a vacancy occurs in the position of Mayor Pro Tem, whether through resignation or otherwise, the Council **shall will** at the first regular or special meeting after the occurrence of such vacancy elect a new Mayor Pro Tem to serve for the remainder of the vacated term.

Section 5. Powers.

All powers of the city and the determination of all matters of policy **shall will** be vested in the Council except as otherwise provided by this Charter. Without limitation of the foregoing, the Council **shall will** have power to:

- (a) appoint and remove the City Manager;
- (b) establish, change, consolidate or abolish administrative offices, service areas or agencies by ordinance, upon report and recommendation of the City Manager, so long as the administrative functions and public services established by this Charter are not abolished in any such reorganization. The city **shall must** provide for all essential administrative functions and public services, including, but not limited to the following:
 - (1) fire suppression and prevention;
 - (2) police services;
 - (3) finance and recordkeeping;

- (4) electric utility services;
 - (5) water supply and wastewater services;
 - (6) street maintenance;
 - (7) storm drainage;
 - (8) planning and zoning.
- (c) adopt the budget of the city;
 - (d) authorize the issuance of bonds by ordinance as provided by this Charter;
 - (e) inquire into and investigate any office, service area, or agency of the city and the official acts of any officer or employee thereof, and to compel by subpoena attendance and testimony of witnesses and production of books and documents;
 - (f) adopt plats;
 - (g) adopt and modify the official map of the city;
 - (h) provide for independent audits of all funds and accounts of the city.

Section 6. Ordinances, resolutions, motions.

(a) Council action. The Council shall ~~shall~~ **must** act by ordinance, resolution, or motion. The ayes and nays shall ~~shall~~ **will** be recorded on the passage of all ordinances, resolutions, and motions. Every Councilmember present shall ~~shall~~ **must** vote; if a member fails to vote when present, he or she shall ~~shall~~ **will** be recorded as voting in the affirmative.

(b) Ordinance required. All legislative enactments and every act creating, altering, or abolishing any agency or office, fixing compensation, making an appropriation, authorizing the 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 ~~shall~~ **must** be by ordinance, which shall ~~shall~~ **must** not be so altered or amended on the final passage as to change the original purpose.

(c) Single subject. All ordinances, except the annual appropriation ordinance and any ordinance making a general codification of ordinances, shall ~~shall~~ **must** be confined to one (1) subject which shall ~~shall~~ **must** be clearly expressed in the title.

(d) Introduction and passage of ordinances All ordinances shall ~~shall~~ **must** be formally introduced at a regular or special Council meeting in written or printed form by any member of the Council and considered on first reading and action taken thereon. No ordinance, except an emergency ordinance, shall ~~shall~~ **may** be finally passed on the first reading or at the meeting at which it is first introduced. ~~An emergency ordinance may be formally introduced at a special Council meeting and action taken thereon, including final passage at such special meeting.~~ Reading of an ordinance shall ~~shall~~ **must** consist only of reading the title thereof, provided that copies of the full ordinance proposed shall have been available in the office of the City Clerk at least forty-eight (48) hours prior to the time such ordinance is introduced for each member of the City Council, and for inspection and copying by the general public. Final passage of all ordinances except emergency ordinances shall ~~shall~~ **must** be at a regular Council meeting and provided further that any member of the City Council may request that an ordinance be read in full at any reading of the same, in which case such ordinance shall ~~shall~~ **must** be read in full at such reading.

(e) Emergency ordinances. An emergency ordinance may be formally introduced at a special Council meeting and action taken thereon, including final passage at such special meeting. Emergency ordinances shall require for passage the affirmative vote of at least five (5) members of the Council and shall ~~shall~~ **must** contain a specific statement of the nature of the emergency. No ordinance granting any franchise or special privilege which involves a benefit to any private person or entity shall ~~shall~~ **may** ever be passed as an emergency ordinance.

(f) Ordinance enacting clause. The enacting clause of all ordinances passed by the Council shall ~~shall~~ **must** be as follows: "Be it ordained by the Council of the City of Fort Collins."

Section 7. Ordinances, publication and effective date.

(a) **Publication.** Every proposed ordinance, except an emergency ordinance, shall **must** be published in full at least seven (7) days before its final passage on the city's official internet web site. In addition, each such ordinance shall **must** be published in a newspaper of general circulation in the city by number and title only, together with a statement that the full text is available for public inspection and acquisition in the office of the City Clerk and on the city's internet web site.

(b) **Notices.** Both publications shall **must** contain a notice of the date when said proposed ordinance will be presented for final passage. The City Clerk shall **must**, within seven (7) days after final passage of any such ordinance, publish such ordinance in the same method as is required for the first publication.

(c) **Effective date.** All ordinances, except emergency ordinances, shall **will** take effect on the tenth day following their passage. An emergency ordinance shall **will** take effect upon passage and shall **will** be published as provided above within seven (7) days thereof.

(d) **Form.** Standard codes and codifications of ordinances of the city may be published by title and reference in whole or in part. Ordinances shall **must** be signed by the Mayor, attested by the City Clerk and published without further certification.

(e) **Public hearings.** The Council may enact any ordinance which adopts any code by reference in whole or in part provided that before adoption of such ordinance the Council shall **must** hold a public hearing thereon and notice of the hearing shall **must** be published twice in the newspaper of general circulation, published in the city, one (1) of such publications to be at least eight (8) days preceding the hearing and the other at least fifteen (15) days preceding the hearing. Such notice shall **must** state the time and place of the hearing and shall **must** also state that copies of the code to be adopted are on file with the City Clerk and open to public inspection. The notice shall **must** also contain a description which the Council deems sufficient to give notice to persons interested as to the subject matter of such code and the name and address of the agency by which it has been promulgated. The ordinance adopting any such code shall **must** set forth in full any penalty clause in connection with such code.

Section 8. Disposition of ordinances.

A true copy of every ordinance, when adopted, shall **will** be numbered and recorded in a book marked "Ordinance Record," and adoption and publication shall **must** be authenticated by the signatures of the Mayor and the City Clerk, and by the certificate of the publisher, respectively. The ordinances as adopted by the vote of the qualified electors of the city shall **will** be separately numbered and recorded.

Section 9. Ordinance codification.

The Council shall **must** cause the permanent ordinances to be codified. Such codification may be of the entire body of permanent ordinances or of the ordinances on some particular subject and may be re-enacted by the Council or authenticated in such other manner as may be designated by ordinance. No codification ordinance shall **will** be invalid on the grounds that it deals with more than one (1) subject. The first codification shall **will** be completed within five (5) years of the effective date of this Charter and subsequent codifications shall **must** be made thereafter as deemed necessary by the Council, and all permanent ordinances adopted thereafter shall **must** be codified at least once a year.

Section 10. Proof of charter and ordinances.

This Charter and any ordinance passed by the Council may be proved by a copy thereof certified to by the City Clerk under the seal of the city and, when printed in a book or pamphlet form purporting to be authorized by the city, the same shall **may** be received as prima facie evidence by courts without further proof.

Section 11. Meetings, quorum, executive session.

The Council shall will hold regular meetings at such time and place as it may prescribe by ordinance and shall will prescribe the manner in which special meetings may be called. Notice of any special meeting shall must be given to all Councilmembers no less than one (1) day prior to such meeting. All meetings shall will be open to the public. A majority of the members of Council shall will constitute a quorum sufficient to transact business. A smaller number can adjourn a meeting to a later date and time, and in the absence of all members, the City Clerk may adjourn any meeting for not longer than one (1) week. In the event of an emergency, natural disaster, or unforeseen circumstance that renders the holding of a meeting undesirable or impracticable, the City Manager may, with agreement of the Mayor, cancel a City Council meeting, and shall will make a reasonable attempt to notify the public and the other members of Council of such cancellation before the scheduled time of the meeting. No other action, except to adjourn, may be taken by the Council in the absence of a quorum, unless the absence of a quorum is due to the filing of conflict of interest disclosure statements by all absent members, in which event at least three (3) remaining members may transact business. By majority vote of those present and voting, the Council may approve any action of the Council except the passage of emergency ordinances and the approval of executive sessions. By two-thirds (2/3) vote of those present and voting, the Council may go into executive session, which shall will be closed to the public. Executive sessions may only be held to:

- (1) discuss personnel matters; or
- (2) consult with attorneys representing the city regarding specific legal questions involving litigation or potential litigation and/or the manner in which particular policies, practices or regulations of the city may be affected by existing or proposed provisions of federal, state or local law; or
- (3) consider water and real property acquisitions and sales by the city; or
- (4) consider electric utility matters if such matters pertain to issues of competition in the electric utility industry.

Section 12. City Clerk.

With the approval of the Council, the City Manager shall will appoint a City Clerk who shall will act as Clerk of the Council and who while so employed shall must be a resident of the Fort Collins Urban Growth Area. The City Clerk shall will:

- (1) give notice of Council meetings;
- (2) keep a journal of Council proceedings;
- (3) authenticate by his or her their signature and permanently record in full all ordinances and resolutions; and
- (4) perform other duties required by this Charter or by the City Manager.

Section 13. Council not to interfere with administrative service.

Except for purposes of inquiry, the Council and its members shall may deal with the administrative service of the city solely through the City Manager, and neither the Council nor any member shall may give orders to any subordinates of the City Manager either publicly or privately.

Section 14. Licenses, permits.

The Council may provide for licenses and permits, and fees therefor, for regulatory purposes. The Council shall will provide an administrative procedure for the hearing and determination of appeals relating to issuance, suspension or revocation of such licenses and permits. The Council itself may hear and decide appeals.

Section 15. Surety bonds.

The Council shall **must** require the City Manager, the Financial Officer, and other employees transacting financial business of the city to furnish bonds with such surety and in such amounts as the Council may determine.

Section 16. Contracts with other governmental bodies.

The Council may, by ordinance or resolution, enter into contracts with other governmental bodies to furnish governmental services and make charges for such services, or enter into cooperative or joint activities with other governmental bodies.

(Ord. No. 18, 1973, 2-15-73, approved, election 4-3-73)

Section 17. Independent annual audit.

The Council shall **must** provide for an independent audit at least annually by a certified public accountant of all books and accounts of the city, and shall **must** publish a summary thereof once in the manner provided for publication of legal notices within seven (7) months after the end of each fiscal year.

Section 18. Vacancies.

(a) **Vacancies.** A vacancy exists when a Councilmember:

- (1) dies, resigns, or moves from the city or the District from which elected or appointed;
- (2) assumes another elective office;
- (3) fails to attend all regular and special meetings of the Council for sixty (60) consecutive days unless excused by Council resolution;
- (4) is judicially declared mentally incompetent;
- (5) is convicted of a felony that disqualifies the Councilmember from serving in public office in Colorado under the Colorado Constitution, or is declared by the City Clerk, more than sixty (60) days after the date of issuance of the certificate of election of such Councilmember, to have previously been convicted of a disqualifying felony pursuant to a written protest filed under Section 2 of this article; or
- (6) in the case of an appointed member of the Council, is declared by the City Clerk to lack any qualification for the office of Councilmember.

(b) Filling Councilmember district office vacancy.

(1) Except for the office of Mayor, any vacancy on the Council shall **must** be filled within forty-five (45) days by appointment of the Council. The person so appointed shall **will** serve until the next regular election, when the electors will select a person to fill the vacancy for the remainder of the term, if any.

(2) This selection process shall **be is** subject to the following exception: If the time for filling the vacancy by appointment would fall within forty-five (45) days prior to any regular election, and the remaining unexpired term of the Councilmember to be replaced is more than two (2) years, then the vacancy shall **must** be filled by the newly constituted Council following their election, within forty-five (45) days after their terms of office begin.

Under this exception, the term of office of the Councilmember appointed shall **will** run for the remainder of the replaced Councilmember's term. Any person appointed to fill a Councilmember's vacated position shall **must** have all the qualifications required of regularly elected Councilmembers. In the case of a vacancy representing a member elected from a District, any person appointed or elected to fill such vacancy shall **must** be from the same District, as such District is constituted at the time of the appointment or election.

(b) **Filling an office of the Mayor vacancy.**

The following ~~shall~~ **will** apply to filling vacancies in the office of Mayor:

- (1) If the position of Mayor becomes vacant more than forty-five (45) days prior to the next regular election, the Mayor Pro Tem ~~shall~~ **will** become Acting Mayor, and the Council ~~shall~~ **must** elect a new Mayor Pro Tem. Both the Acting Mayor and Mayor Pro Tem ~~shall~~ **will** serve until the next regular election, at which time the office of Mayor ~~shall~~ **will** be filled by the electors for a new term, and the Acting Mayor and Mayor Pro Tem ~~shall~~ **will** resume their duties as Councilmembers for the remainder of their unexpired terms of office, if any. The vacancy on the Council created by the Mayor Pro Tem assuming the office of Mayor ~~shall~~ **must** be filled in accordance with the provisions of Section 18(a) above.
- (2) If the position of Mayor becomes vacant within the forty-five (45) days prior to any regular election, the duties of the Mayor ~~shall~~ **must** be immediately assumed by the Mayor Pro Tem, who ~~shall~~ **will** serve as Acting Mayor until said regular election, at which time the office of Mayor ~~shall~~ **must** be filled by the electors for a new term. Pending the election and the commencement of the term of the newly elected Mayor, the Council ~~shall~~ **will** consist of six (6) members, and the Council ~~shall~~ **must** elect an interim Mayor Pro Tem. After the election, the Acting Mayor and Interim Mayor Pro Tem ~~shall~~ **will** resume their duties as Councilmembers for the remainder of their unexpired terms of office, if any.
- (3) Nothing herein ~~shall~~ **precludes** the Mayor Pro Tem or any Councilmember from standing for election to the office of Mayor.

ARTICLE III. CITY MANAGER

Section 1. Appointment, qualifications.

(a) **Appointment of City Manager.** The Council ~~shall~~ **will** appoint and fix the compensation of a City Manager, who ~~shall~~ **will** be the chief executive officer and head of the administrative branch of the city government.

(b) **Qualifications.** The City Manager ~~shall~~ **will** be appointed on the basis of ~~his or her~~ **their** executive and administrative qualifications, with special reference to actual experience in and knowledge of accepted practice in respect to the duties of the office.

(c) **Residency.** Prior to appointment, the City Manager need not be a resident of the city, but during ~~his or her~~ **their** tenure in office the City Manager ~~shall~~ **must** reside within the city.

(d) **Limitation on appointment.** No member of Council ~~shall~~ **may** be appointed City Manager during the term for which ~~he or she has~~ **they have** been elected nor within one (1) year after the expiration of such term.

Section 2. Powers, duties.

The City Manager ~~shall~~ **will** be responsible to the Council for the proper administration of all affairs of the city and to that end ~~shall~~ **will** have power and be required to:

- (a) appoint and, when necessary for the good of the service, remove all heads of service areas and employees of the city except as otherwise provided by this Charter;
- (b) prepare the budget annually and submit it to the Council and be responsible for its administration after adoption;
- (c) participate in discussions of the Council in an advisory capacity;
- (d) prepare and submit to the Council as of the end of the fiscal year a complete report on the finances and administrative activities of the city for the preceding year, and make written or oral reports to the Council

when required by it as to any particular matter relating to the affairs of the city within ~~his or her~~ **their** supervision;

- (e) keep the Council advised of the financial condition and the future needs of the city, and make recommendations to the Council;
- (f) enforce the laws and ordinances of the city;
- (g) perform such other duties as may be prescribed by this Charter or required of the City Manager by the Council not inconsistent with this Charter.

Section 3. Absence of City Manager.

To perform ~~his or her~~ **their** duties during temporary absence or disability, the City Manager may designate a qualified employee of the city by letter filed with the City Clerk. If the City Manager fails to make such designation, the Council may by resolution appoint a qualified employee of the city to perform the duties of the City Manager until ~~he or she~~ **they return** ~~returns~~ or ~~his or her~~ **their** disability ceases.

Section 4. Removal of City Manager.

The Council ~~shall~~ **will** appoint the City Manager for an indefinite term and may remove a City Manager by majority vote of the Councilmembers. If a City Manager is removed by this method, at least thirty (30) days before such removal takes effect, the Council ~~shall~~ **must** by majority vote of its members adopt a resolution stating the reasons for the removal, which resolution may also provide for interim suspension. Upon such removal or suspension by this method the Council ~~shall~~ **must** cause to be paid to the City Manager any unpaid balance of ~~his or her~~ **their** salary for the current month and the salary for the next calendar month.

ARTICLE IV. GENERAL PROVISIONS

Section 1. Appointive boards.

- (a) **Establishing boards.** The Council may, by ordinance, establish appointive boards and commissions. The ordinance establishing such boards and commissions ~~shall~~ **must**:
 - (1) prescribe the powers, duties, and operating procedures of the board and commission;
 - (2) establish the terms of office of the board or commission members, including initial overlapping terms;
 - (3) establish the amount of compensation, if any, to be paid to the board or commission members; and
 - (4) state whether the board or commission ~~shall~~ **may** have alternate members authorized to vote when serving in the absence of regular members.
- (b) **Vacancies.** All board and commission members ~~shall~~ **will** be subject to removal by the Council with or without cause. Any vacancy during the unexpired term of any member ~~shall~~ **may** be filled by the Council for the remainder of the term.
- (c) **Organization.** Each board and commission ~~shall~~ **will** choose its own officers from among its members. The Council may change any or all of the powers, duties and procedures of any board or commission and may abolish any board or commission which is not required by this Charter or law.

Section 2. Administrative branch.

The administrative branch of the city government ~~shall~~ **will** be composed of the offices, service areas and agencies established by ordinance upon report and recommendation of the City Manager. Administrative functions and

duties may be assigned and distributed among offices, service areas or departments thereof, or agencies of the administrative branch by regulations issued by the City Manager. The City Manager ~~shall~~ **will** have power, whenever the interest of the city requires, to assign any employee of one (1) service area to perform duties in another service area.

Section 3. Residency requirement.

Directors of a city service area or a group of city service areas, deputy city managers, and assistant city managers ~~shall~~ **must** reside within the Fort Collins Urban Growth Area during their tenure in office, but need not reside within the Fort Collins Urban Growth Area prior to their appointment. City department heads may live outside the Urban Growth Area during their tenure in office, but only if their places of residence are within five miles of the city limits, as measured by a straight line connecting the parcel of property upon which the residence is situated to the nearest boundary line of the city. City department heads appointed prior to March 6, 1985, ~~shall~~ **are** not be subject to this residency requirement.

Section 4. Oath of office.

Before entering upon the duties of the office, each member of Council, the City Manager, the City Attorney, the City Clerk, the Judge of the Municipal Court, and each director of a service area ~~shall~~ **must** take, subscribe before, and file with the City Clerk an oath or affirmation that ~~he or she~~ **they** will support the Constitution of the United States, the Constitution of the State of Colorado, this Charter, and the ordinances of the City of Fort Collins, and that ~~he or she~~ **they** will faithfully perform the duties of the office or position. The City Clerk ~~shall~~ **must** take and subscribe the oath before a notary public.

Section 5. Records to be public.

All city records ~~shall~~ **will** be available for public inspection, subject only to reasonable restrictions. Upon payment of a reasonable fee, a copy or a certified copy of any city record ~~shall~~ **will** be furnished by the custodian thereof. A certified copy of any city record ~~shall~~ **will** be prima facie evidence of its contents.

Section 6. Ordinances remain in force.

All ordinances, resolutions, rules, or regulations in force in Fort Collins, a municipal corporation, at the time this Charter takes effect ~~shall~~ **will** continue in full force and effect until superseded, amended, or repealed, except that those inconsistent with this Charter are hereby repealed.

Section 7. Publication.

Whenever legal notice or other publication is required by this Charter, or by ordinance, rule, or regulation, such notice ~~shall~~ **must** be published at least once in a local newspaper of general circulation in the city, which is devoted to dissemination of news of a general character, unless a different form of notice is specified in this Charter or in the ordinance, rule, or regulation requiring the notice.

Section 8. Charter amendments.

This Charter may be amended at any time in the manner provided by the laws of the State of Colorado. The Council may prescribe by ordinance, upon recommendation of the City Clerk, a general form of petition for citizen-initiated Charter amendments which ~~shall~~ **will** contain warnings and notices to signers as necessary.

Section 9. Conflicts of interest.

(a) *Definitions.* For purposes of construction of this Section 9, the following words and phrases ~~shall~~ have the following meanings:

Business means a corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock company, receivership, trust, activity or entity.

Financial interest means any interest equated with money or its equivalent. *Financial interest* ~~shall~~ **does** not include:

- (1) the interest that an officer, employee or relative has as an employee of a business, or as a holder of an ownership interest in such business, in a decision of any public body, when the decision financially benefits or otherwise affects such business but entails no foreseeable, measurable financial benefit to the officer, employee or relative;
- (2) the interest that an officer, employee or relative has as a nonsalaried officer or member of a nonprofit corporation or association or of an educational, religious, charitable, fraternal or civic organization in the holdings of such corporation, association or organization;
- (3) the interest that an officer, employee or relative has as a recipient of public services when such services are generally provided by the city on the same terms and conditions to all similarly situated citizens, regardless of whether such recipient is an officer, employee or relative;
- (4) the interest that an officer, employee or relative has as a recipient of a commercially reasonable loan made in the ordinary course of business by a lending institution, in such lending institution;
- (5) the interest that an officer, employee or relative has as a shareholder in a mutual or common investment fund in the holdings of such fund unless the shareholder actively participates in the management of such fund;
- (6) the interest that an officer, employee or relative has as a policyholder in an insurance company, a depositor in a duly established savings association or bank, or a similar interest-holder, unless the discretionary act of such person, as an officer or employee, could immediately, definitely and measurably affect the value of such policy, deposit or similar interest;
- (7) the interest that an officer, employee or relative has as an owner of government-issued securities unless the discretionary act of such owner, as an officer or employee, could immediately, definitely and measurably affect the value of such securities; or
- (8) the interest that an officer or employee has in the compensation received from the city for personal services provided to the city as an officer or employee.

Officer or employee means any person holding a position by election, appointment or employment in the service of the city, whether part-time or full-time, including a member of any authority, board, committee or commission of the city, other than an authority that is:

- (1) established under the provisions of the Colorado Revised Statutes;
- (2) governed by state statutory rules of ethical conduct; and
- (3) expressly exempted from the provisions of this Article by ordinance of the Council.

Personal interest means any interest (other than a financial interest) by reason of which an officer or employee, or a relative of such officer or employee, would, in the judgment of a reasonably prudent person, realize or experience some direct and substantial benefit or detriment different in kind from that experienced by the general public. *Personal interest* ~~shall~~ **does** not include:.

- (1) the interest that an officer, employee or relative has as a member of a board, commission, committee, or authority of another governmental entity or of a nonprofit corporation or association or of an educational, religious, charitable, fraternal, or civic organization;
- (2) the interest that an officer, employee or relative has in the receipt of public services when such services are generally provided by the city on the same terms and conditions to all similarly situated citizens; or
- (3) the interest that an officer or employee has in the compensation, benefits, or terms and conditions of ~~his or her~~ **their** employment with the city.

Public body means the Council or any authority, board, committee, commission, service area, department or office of the city.

Relative means the spouse or minor child of the officer or employee, any person claimed by the officer or employee as a dependent for income tax purposes, or any person residing in and sharing with the officer or employee the expenses of the household.

(b) *Rules of conduct concerning conflicts of interest.*

- (1) *Sales to the city.* No officer or employee, or relative of such officer or employee, ~~shall~~ **may** have a financial interest in the sale to the city of any real or personal property, equipment, material, supplies or services, except personal services provided to the city as an officer or employee, if:
 - a. such officer or employee is a member of the Council;
 - b. such officer or employee exercises, directly or indirectly, any decision-making authority on behalf of the city concerning such sale; or
 - c. in the case of services, such officer or employee exercises any supervisory authority in ~~his or her~~ **their** role as a city officer or employee over the services to be rendered to the city.
- (2) *Purchases from the city.* No officer, employee or relative ~~shall~~ **may**, directly or indirectly, purchase any real or personal property from the city, except such property as is offered for sale at an established price, and not by bid or auction, on the same terms and conditions as to all members of the general public.
- (3) *Interests in other decisions.* Any officer or employee who has, or whose relative has, a financial or personal interest in any decision of any public body of which ~~he or she is~~ **they are** a member or to which ~~he or she~~ **they** makes recommendations, ~~shall~~ **must**, upon discovery thereof, disclose such interest in the official records of the city in the manner prescribed in subsection (4) hereof, and ~~shall~~ **must** refrain from voting on, attempting to influence, or otherwise participating in such decision in any manner as an officer or employee.
- (4) *Disclosure procedure.* If any officer or employee has any financial or personal interest requiring disclosure under subsection (3) of this section, such person ~~shall~~ **must** immediately upon discovery thereof declare such interest by delivering a written statement to the City Clerk, with copies to the City Manager and, if applicable, to the chairperson of the public body of which such person is a member, which statement ~~shall~~ **must** contain the name of the officer or employee, the office or position held with the city by such person, and the nature of the interest. If said officer or employee ~~shall~~ **discovers** such financial or personal interest during the course of a meeting or in such other circumstance as to render it practically impossible to deliver such written statement prior to action upon the matter in question, said officer or employee ~~shall~~ **must** immediately declare such interest by giving oral notice to all present, including a description of the nature of the interest.
- (5) *Violations.* Any contract made in violation of this Section ~~shall be~~ **is** voidable by the city. If voided within one (1) year of the date of execution thereof, the party obtaining payment by reason of such contract ~~shall~~ **must**, if required by the city, forthwith return to the city all or any designated portion of

the monies received by such individual from the city by reason of said contract, together with interest at the lawful maximum rate for interest on judgments.

Section 10. Penalties for violation of Charter.

Any violation of a provision of this Charter shall will be deemed a misdemeanor. Any person convicted of such violation may be punished by a fine or imprisonment, or by both such fine and imprisonment, the maximum amount and term of which shall must be no less than that established by ordinance for misdemeanor violations of the city Code. Said maximum penalty shall will be set by the Council by ordinance. Any officer or employee of the city convicted of such a violation shall will be deprived of his or her their office or employment and shall will be ineligible to any city office or employment for two (2) years thereafter.

Section 11. Construction of words.

Whenever such construction is applicable, words used in this Charter importing singular or plural number may be construed so that one (1) number includes both; ~~words importing masculine gender may be construed to apply to the feminine gender as well;~~ and the word "person" may extend to and include firm and corporation; provided that these rules of construction shall will not apply to any part of this Charter containing express provisions excluding such construction or where the subject matter or context is contrary thereto.

Section 12. Construction of Charter.

In the event any section or part of a section of this Charter shall be is declared unconstitutional or invalid by a court of competent jurisdiction, the validity of the remaining sections and parts of sections shall will not be affected thereby.

Section 13. Outgoing officers.

All officers of the city whose terms of office terminate shall must deliver to their successors all papers, records, and property of every kind in their possession or custody by virtue of their office, and shall must account to them or to any authority designated by the council, for all funds, credits, or property of any kind with which they are properly chargeable as such officials.

Section 14. Eminent domain.

In carrying out the powers and duties imposed upon it by this Charter or by the general statutes, the city shall will have power to acquire within or without its corporate limits lands, buildings, and other properties, and any interest in land and air rights over land, and may take the same upon paying just compensation to the owner as provided by law.

Section 15. Improvement districts.

A public work or improvement, the costs of which in whole or in part are to be assessed by the city, may be initiated by the Council on recommendation of the City Manager, or on petition of property owners in such number and in such form as may be prescribed by ordinance. The Council shall will by ordinance prescribe the method of making such improvements and the assessments for their cost.

Section 16. Limitation of actions.

No person shall may be prosecuted, tried, or punished in the city's Municipal Court for any violation of this Charter unless a summons and complaint or penalty assessment notice for the violation is served on such person within one (1) year of the commission of the violation.

ARTICLE V. FINANCE ADMINISTRATION

Part I Budget and Financial Management

Section 1. Fiscal and accounting year.

The fiscal and accounting year shall will be the same as the calendar year. "Budget term" shall will mean the fiscal year(s) for which any budget is adopted and in which it is to be administered. Council shall will set by ordinance the term for which it shall will adopt budgets in accordance with this Article.

Section 2. Budget estimates.

On or before the first Monday in September preceding each budget term, the City Manager shall must file with the City Clerk a proposed budget for the ensuing budget term with an explanatory message. The proposed budget shall must provide a complete financial plan for each fund of the city and shall must include appropriate financial statements for each type of fund showing comparative figures for the last completed fiscal year, comparative figures for the current year, and the City Manager's recommendations for the ensuing budget term.

Section 3. Public record, hearing.

(a) *Public record.* The City Manager's proposed budget shall must be a public record and open to the public for inspection and copy.

(b) *Budget hearing.* The Council shall must, within ten (10) days after the filing of said proposed budget with the City Clerk, set a time certain for public hearing thereon and cause notice of such public hearing to be given by publication. At the hearing, all persons may appear and comment on any or all items and estimates in the proposed budget. Upon completion of the public hearing the Council may revise the budget estimates.

Section 4. Adoption of budget and appropriation of funds.

(a) *Adoption of budget.* After said public hearing and before the last day of November preceding the budget term, the Council shall must adopt the budget for the ensuing term. The adoption of the budget shall must be by ordinance.

(b) *Appropriation.* Before the last day of November of each fiscal year, the Council shall must appropriate such sums of money as it deems necessary to defray all expenditures of the city during the ensuing fiscal year. The appropriation of funds shall must be accomplished by passage of the annual appropriation ordinance.

(c) *Itemization.* Such appropriation of funds shall must be based upon the budget as approved by the Council but need not be itemized further than by fund with the exception of capital projects and federal or state grants which shall must be summarized by individual project or grant.

Section 5. Levy.

The annual appropriation ordinance shall must also include the levy in mills, as fixed by the Council, upon each dollar of the assessed valuation of all taxable property within the city, such levy representing the amount of taxes for city purposes necessary to provide, during the ensuing fiscal year, for all properly authorized expenditures to be incurred by the city, including interest and principal of general obligation bonds. The Council shall must thereupon cause the total levy to be certified by the City Clerk to the county consistent with applicable state statutes, which shall will extend the same upon the tax list of the current year in a separate column entitled "City of Fort Collins Taxes," and shall must include said city taxes in ~~his or her~~ their general warrant to the County

Treasurer for collection. If the Council fails in any year to make said tax levy as above provided, then the rate last fixed shall **must** be the levy fixed for the ensuing fiscal year and the Financial Officer shall **must** so certify.

Section 6. Maximum mill levy.

The mill levy shall **must** not exceed fifteen (15) mills on each dollar of assessed valuation of taxable property within the city for all purposes. Any mill levy in excess of the fifteen (15) mills aforesaid shall **must** be absolutely void as to the excess and it shall **will** be unlawful for the Assessor to extend and for the Treasurer to collect any such excess.

Section 7. Effect of appropriation and levy.

After the commencement of the fiscal year, the annual appropriation ordinance and levy shall **will** be irrevocable and the several amounts stated in the adopted budget and annual appropriation ordinance as proposed expenditures for such fiscal year shall be deemed **will be** appropriated for the **specified** purposes therein specified.

Section 8. Appropriations not to exceed revenue; appropriation required for expenditures and obligations.

- (a) **Revenues.** No appropriation shall **may** be made by the Council which exceeds the revenues, reserves or other funds anticipated or available at the time of the appropriation, except for emergency expenses incurred by reason of a casualty, accident or unforeseen contingency arising after the passage of the annual appropriation ordinance.
- (b) **Appropriation requirements.** It shall be **is** unlawful for any service area, officer or agent of the city to incur or contract any expense or liability or make any expenditure for or on behalf of the city unless an appropriation therefor shall **have** been made by the Council. Any authorization of an expenditure or incurring of an obligation by any officer or employee of the city in violation of this provision shall **will** be null and void from its inception.
- (c) **Powers.** Nothing herein shall **will** apply or limit the authority conferred by this Article in relation to bonded indebtedness, or to the collection of moneys by special assessments for local improvements; nor shall **will** it be construed to prevent the making of any contract or lease providing for expenditures beyond the end of the fiscal year in which it is made, so long as such contract or lease is made subject to an appropriation of funds sufficient to meet the requirements of Section 8(b) above.

Section 9. Supplemental appropriations.

The Council, upon recommendation of the City Manager, may make supplemental appropriations by ordinance at any time during the fiscal year; provided, however, that the total amount of such supplemental appropriations, in combination with all previous appropriations for that fiscal year, shall **must** not exceed the then current estimate of actual and anticipated revenues and all other funds to be received by the city during the fiscal year. This provision shall **does** not prevent the Council from appropriating by ordinance at any time during the fiscal year such revenues and funds for expenditure as may be available from reserves accumulated in prior years, notwithstanding that such reserves were not previously appropriated.

Section 10. Transfer of appropriations.

- (a) **Transfers.** During the fiscal year, the City Manager may transfer any unexpended and unencumbered appropriated amount within the same fund.
- (b) **Capital project accounts.** During the fiscal year, the Council may, by ordinance, upon the recommendation of the City Manager, transfer any unexpended and unencumbered appropriated amount or portion thereof from one (1) fund or capital project account to another fund or capital project account, provided that:

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- (1) the purpose for which the transferred funds are to be expended remains unchanged;
 - (2) the purpose for which the funds were initially appropriated no longer exists; or
 - (3) the proposed transfer is from a fund or capital project account in which the amount appropriated exceeds the amount needed to accomplish the purpose specified in the appropriation ordinance.

Section 11. Lapsed appropriations.

All appropriations unexpended or unencumbered at the end of the fiscal year shall will lapse to the applicable general or special fund, except the Council may designate in an ordinance appropriating funds for capital projects and for federal, state and private grants and donations that such funds shall will not lapse until the completion of the capital project or until the earlier of the expiration of the federal, state or private grant or donation or the city's expenditure of all funds received from such grant or donation.

Nothing herein shall will limits the ability of the Council to terminate a capital project or a federal, state or private grant or donation at any time prior to completion of the project or prior to expiration of or the city's expenditure of all funds from the grant or donation.

Section 12. Deposit of public funds.

The cash balance of the city shall must be deposited or invested in a manner approved by the Council by ordinance or resolution.

Section 13. Collection of taxes.

(a) Manner of collection. Unless the Council otherwise provides by ordinance or resolution, the County Treasurer shall will collect city taxes in the same manner and at the same time as general taxes are collected under the laws of the State of Colorado. In like manner, the Council may provide for collection of special improvement assessments by said Treasurer.

(b) Applicable law. All laws of this state for the assessment of property and the levy and collection of general taxes, sale of property for taxes and the redemption of the same shall will apply and have the same effect with respect to all taxes for the city as general taxes, except as modified by this Charter.

(c) Reporting. On or before the tenth day of each month or as frequently as the Council may prescribe by ordinance, the County Treasurer shall will report and pay to the Financial Officer the amount of tax collections of the city for the preceding month. The estimated costs of tax collections and losses shall must be included in the budget.

Section 14. Audit and payments.

No demand for money against the city shall may be approved, allowed, audited, or paid unless it is in writing, dated and sufficiently itemized to identify the expenditure, and payment thereof approved by the Financial Officer and the person or service area creating the obligation.

Section 15. Prohibited Appropriations forbidden.

No a Appropriations shall be made for any charitable, industrial, educational, or benevolent purposes to any person, corporation, or organization not under the absolute control of the city, nor to any denominational or sectarian institution or association are prohibited.

Section 16. City not to pledge credit.

The city ~~shall~~ **must** not lend or pledge its credit or faith, directly or indirectly, or in any manner to or in aid of any private person or entity for any amount or any purpose whatever, or become responsible for any debt, contract, or liability thereof.

Part II Municipal Borrowing

Section 18. Forms of borrowing.

The city may borrow money and issue the following securities to evidence such indebtedness:

- (1) short-term notes.
- (2) general obligation securities.
- (3) revenue securities.
- (4) refunding securities.
- (5) special assessment securities.
- (6) tax increment securities.
- (7) any other securities not in contravention of this Charter.

Section 19.1. Short-term notes.

The city is hereby authorized to borrow money, by Council action and without an election, in anticipation of the collection of taxes or other revenues and to issue short-term notes to evidence the amount so borrowed. Any such short-term notes payable in whole or part from ad valorem taxes ~~shall~~ **may** be issued after the annual levy of taxes and **must** be payable in full within twelve (12) months from their date, except as otherwise specifically provided in this Charter.

Section 19.2. General obligation securities.

Except as otherwise provided in this Part II of Article V of this Charter, no securities payable in whole or in part from the proceeds of ad valorem taxes of the city ~~shall~~ **may** be issued until the question of their issuance has, at a special or regular election, been submitted to a vote of the electors of the city and approved by a majority of those voting on the question. The aggregate amount of such securities as are described in this Section, excluding securities which have been refunded and defeased, ~~shall~~ **must** not exceed ten (10) percent of the assessed valuation of the taxable property within the city as shown by the last assessment for city purposes. Securities issued for water purposes may be issued by Council action without an election and ~~shall~~ **will** not be included in the determination of such debt limitation.

Section 19.3. Revenue securities.

(a) **Securities.** The city, by Council action and without an election, may issue securities made payable solely from revenues derived from the operation of the project or capital improvement acquired with the securities' proceeds, or from other projects or improvements, or from the proceeds of any sales tax, use tax or other excise tax, or solely from any source or sources or any combination thereof other than ad valorem taxes of the city.

(b) **Council powers.** The Council may, by ordinance, establish any one or more of the city's water, wastewater, storm drainage or electrical utilities as an enterprise of the city. The Council may also, by ordinance, authorize any such city-owned enterprise, acting by and through the Council, sitting as the board of the enterprise, to issue its

own revenue bonds or other obligations (including refunding securities) on behalf of the city, which revenue bonds or other obligations ~~shall will~~ be payable solely from the net revenues (including special assessments) derived from the operation of the enterprise. Such revenue bonds or other obligations may be additionally secured by mortgages on or security interests in any real or personal property of the city used in the operation of the enterprise. Such revenue bonds or other obligations ~~shall must~~ be issued by ordinance of the board of the enterprise, adopted in the same manner and subject to referendum to the same extent as ordinances of the Council.

(c) **Members.** The Council ~~shall may~~ not appoint any persons other than its own members to serve on the board of the enterprise or delegate to any other person or entity the powers reserved to the board of the enterprise hereunder. Neither ~~shall may~~ the Council authorize the board of the enterprise to acquire, construct or install or hold title to or dispose of any city-owned property used in the operation of the enterprise, to impose or adjust rates, fees, tolls or charges for the use of any such property or for any service or commodity furnished by the enterprise, to levy special assessments or to exercise any power reserved to the Council or other city officials by this Charter or otherwise (other than the power to issue revenue bonds and other obligations).

Section 19.4. Refunding securities.

The Council may authorize without an election issuance of refunding securities for the purpose of refunding and providing for the payment of outstanding securities or other obligations of the city as the same mature, or in advance of maturity by means of an escrow or otherwise. The ordinance authorizing the issuance of such refunding securities may provide that the interest rate or principal amount of the refunding securities be higher or lower than that of the securities being refunded, provided that in the case of general obligation securities the total principal and interest payable on the refunding securities does not exceed that of the securities being refunded. No refunding securities (other than water refunding securities and tax increment refunding securities) issued for the purpose of refunding revenue securities ~~shall may~~ be issued without an election if such refunding securities are made payable in whole or part from ad valorem taxes of the city.

Section 19.5. Special assessment securities.

- (a) Securities for any special or local improvement district, secured as provided in this Section, ~~shall will~~ not be subject to any debt limitation nor affect the city's debt incurring power, nor ~~shall will~~ such securities be required to be authorized at any election.
- (b) The city may include property owned by it within any special or local improvement district and provide for the assessment of such property as it would any other property located within the special or local improvement district. The city may without an election elect to pay any such assessment in installments, and any such assessment, regardless of the source of payment thereof, ~~shall will~~ not be included within the limitation contained in Section 19.2 of Article V of this Charter.
- (c) When all outstanding securities for a special or local improvement district have been fully paid and money remains to the credit of the district, it may be transferred to a surplus and deficiency fund. Whenever there is a deficiency in any special or local improvement district fund to meet the payment of outstanding securities and interest due thereon, the deficiency may be paid out of the surplus and deficiency fund.
- (d) Whenever three-fourths ($\frac{3}{4}$) of the securities issued for a special or local improvement district have been paid and cancelled and for any reason the remaining assessments are not paid in time to redeem the final securities for the district, the city ~~shall must~~ pay if so provided in the ordinance authorizing issuance of the bonds, the securities when due and levy additional ad valorem taxes necessary therefor and reimburse itself by collecting the unpaid assessments due the district.

Section 19.6. Terms and disposal of securities.

The terms and maximum interest rate of all securities ~~shall~~ **must** be fixed by the ordinance authorizing the borrowing and providing for its payment and all securities ~~shall~~ **must** be sold or exchanged as determined by the Council. If bonds are publicly sold, Council action awarding the sale of securities, and thereby establishing the interest rates and price paid for the securities, may be by resolution.

Section 19.7. Limitation of actions.

No action or proceeding, at law or in equity, to review any elections, acts or proceedings, or to question the validity of or enjoin the issuance or payment of any securities issued in accordance with their terms, or the levy or collection of any assessments, or for any other relief against any acts or proceedings of the city done or had under this Part II of Article V of this Charter, ~~shall~~ **may** be maintained against the city, unless commenced within thirty (30) days after the election or performance of the act or the effective date of the resolution or ordinance complained of, or else be thereafter perpetually barred.

Section 19.8. Tax increment securities.

The city, by Council action and without an election, may issue tax increment securities payable from ad valorem tax revenues derived from the increased valuation for assessment of taxable property within a plan of development or other similar area as defined by applicable state statutes. Such securities ~~shall~~ **must** be issued in accordance with such statutes or any ordinance adopted by the Council not inconsistent with this Charter. Any securities issued pursuant to this Section ~~shall~~ **will** not be included in the determination of the debt limitation contained in Section 19.2 of Article V of this Charter.

Section 20. No additional limitations.

Section 6 of Part I of Article V of this Charter ~~shall~~ **will** have no application to the payment of securities issued hereunder. Except as provided by this Part II of Article V of this Charter, there ~~shall~~ **will** be no limitations on the authority of the city to incur indebtedness or to issue securities.

Part III. Financial Administration Unit

Section 21. Financial officer.

The City Manager ~~shall~~ **must** appoint a Financial Officer who ~~shall have~~ **has** special knowledge of municipal accounting, taxation, budget making, and finance. Such Officer ~~shall~~ **will** be the ex-officio City Treasurer and head the administrative unit assigned the financial affairs of the city.

Section 22. Powers and duties.

The Financial Officer ~~shall~~ **will** have charge of the financial records and general and special funds of the city, and ~~shall~~ **must** collect, receive, and disburse all money belonging to the city, and ~~shall~~ **will** have all other duties required to administer properly the financial affairs of the city; to that end the Financial Officer ~~shall~~ **will** have authority and ~~shall be~~ **is** required to:

- (a) maintain a general accounting system for the city government and each of its offices, service areas, and agencies; exercise budgetary control over the same in accordance with the budget and annual appropriation ordinance; prescribe the form of receipts, requisitions, warrants, and other evidence of income and disbursements; audit before payment all bills, invoices, payrolls, and other claims and charges against the

city government; and with the advice of the City Attorney, determine the regularity, legality, and correctness of such claims, demands, or charges;

- (b) advise the City Manager of the budget requirements of the Financial Administration Unit and furnish estimates and information concerning other service areas, agencies, and boards as requested by the City Manager;
- (c) advise service areas of remaining allotments;
- (d) disburse funds in a manner which will assure that budget appropriations are not exceeded and that payments are not illegally made;
- (e) collect and hold all city funds; invest funds as directed by the Council by resolution or ordinance; be responsible for all trust funds;
- (f) serve as custodian of all bonds, documents, and other evidences of indebtedness owned by the city or under its control;
- (g) issue all licenses and collect the fees therefor; collect or receive funds of every description belonging to, due to, or accruing to the city, including fines, forfeitures, penalties, taxes, water rentals, sewer fees, and electric revenues;
- (h) submit to the Council through the City Manager periodic statements of all accounts and funds, sufficiently itemized in detail to show the exact financial condition of the city at a frequency established by the Council;
- (i) examine and approve all purchase contracts, orders, and other documents by which the city incurs financial obligations, having previously ascertained that moneys have been appropriated and allotted and will be available when the obligations become due and payable;
- (j) advise the City Manager of any financial irregularity in any service area.

Section 23. Separate utilities accounts.

(a) Utility accounts. The accounts of each utility owned and operated by the city shall **must** be maintained in a separate fund and kept separate and distinct from all other accounts of the city. Each utility fund shall **must** be accounted for utilizing the basis of accounting appropriate for an enterprise fund, and shall **must** contain a reasonable allowance for depreciation and obsolescence.

(b) Full payment required. All expenses incurred by service areas in rendering services to any utility owned and operated by the city shall **must** be fully paid by such utility on a "cost of service" basis as determined by the City Manager. Each utility shall **must** be fully paid for all services rendered by such utility to other city service areas.

(c) Estimates. If the utility is subject to a payment to the general fund in lieu of taxes and franchise fees, an estimate shall **must** be made of the amount of taxes and franchise fees that would be chargeable against such utility if privately owned, and the amount of such payment, as determined by the Council under Article XII, Section 6 of this Charter, shall **must** be charged against the utility fund.

Section 24. Responsibility for funds.

All money belonging to the city and in the custody of city employees shall **must** be paid daily to the Financial Officer.

Section 25. Creation of funds.

The Financial Officer may create such funds as he or she they deems appropriate to carry out the provisions of this Part III. The funds of the city shall **must** include a general fund which shall **will** be used to account for all financial resources of the city except those required to be accounted for in another fund.

Part IV Purchasing

Section 26. Powers and duties.

The City Manager or designee shall **must** appoint a Purchasing Agent who shall **will** contract for all supplies, materials, and equipment required or used by all service areas and agencies of the city, including businesses and enterprises operated by the city.

Section 27. Competitive bidding.

Before the Purchasing Agent makes any purchase of or contract for supplies, materials, or equipment, ~~he or she~~ shall **they must** give ample opportunity for competitive bidding under such rules and regulations, and with such exceptions as the Council may prescribe by ordinance.

Section 28. Emergency purchases.

In case of emergency affecting the public peace, health, or safety, the Council may waive all provisions for competitive bidding and direct the Purchasing Agent to purchase necessary supplies in the open market at not more than commercial prices.

Section 29. Contracts for improvements.

All city improvements constructed by an independent contractor shall **must** be executed pursuant to a written contract. Any such improvement, the cost of which exceeds an amount to be determined by ordinance of the Council, shall **must** be insured by a performance bond or other equivalent security and submitted to a competitive bidding process resulting in award to the lowest responsible bidder or a competitive proposal process; provided, however, that the Council may, by ordinance, authorize the Purchasing Agent to exempt improvements from the competitive bidding and competitive proposal processes.

~~In the event that~~ **if** Council authorizes the city, rather than an independent contractor, to proceed with the construction of an improvement, the services of the city shall **must** be charged as a part of the cost of the improvement.

Section 30. Contracts for service.

The Council shall **will** establish by ordinance a maximum term for contracts for service which may be executed by the city without Council approval. No contract for service for a longer term shall **may** be made by the city, unless authorized by ordinance, which ordinance shall **may** not be passed as an emergency ordinance.

Section 31. Contracts effective only when bond funds available.

No contract for the acquisition of property or the construction of improvements or other expenditures which is to be financed by bonds or other obligations shall **may** be effective until the proceeds of the bonds or obligations have been received by the city.

Improvements to be paid for by special assessments shall **will** be excepted from the provisions of this Section.

ARTICLE VI. CITY ATTORNEY

Section 1. Appointment.

The Council ~~shall~~ **must** appoint and fix the compensation of a City Attorney. The City Attorney ~~shall~~ **must** be licensed to practice law in the State of Colorado during ~~his or her~~ **their** tenure in office, but need not be so licensed prior to appointment. The City Attorney ~~shall~~ **will** serve at the pleasure of the Council.

Assistant and/or Deputy City Attorneys may be appointed as determined by the Council and they ~~shall~~ **will** perform duties as assigned by the City Attorney, including attending Council meetings in the place of the City Attorney.

Section 2. Functions.

The City Attorney ~~shall~~ **will** be the legal adviser of the Council and all employees of the city in matters relating to their official powers and duties. ~~He or she shall~~ **They will** represent the city in all legal proceedings, draw all ordinances, and prepare all other legal documents, attend all Council meetings and perform all services incident to the position as may be required by this Charter, ordinances, or the Council.

Section 3. Special counsel.

The Council may, upon the request of the City Attorney in special cases, employ special counsel if deemed necessary and advisable under the circumstances.

ARTICLE VII. MUNICIPAL COURT

Section 1. Municipal court.

(a) Appointment of judges. There ~~shall~~ **will** be a Municipal Court vested with original jurisdiction of all causes arising under the City's Charter and ordinances. The Council ~~shall~~ **must** appoint the judge or judges of Municipal Court for two (2) year terms. Council ~~shall~~ **will** designate a Chief Judge to carry out related duties as adopted by the Council by ordinance, and ~~shall~~ **will** fix the compensation of the Municipal Judges.

(b) Compensation. Such compensation ~~shall~~ **may** in no manner be contingent upon the amount of fees, fines or costs imposed or collected.

(c) Licensure. Each Municipal Judge ~~shall~~ **must** be licensed to practice law in the State of Colorado during ~~his or her~~ **their** tenure in office, but need not be so licensed prior to appointment.

(d) Temporary judges. As Council determines necessary, the Council may designate one (1) or more reputable and qualified attorneys to serve as temporary judge.

(e) Removal. The Council may remove a Municipal Judge for cause.

(f) Rules, costs and fees. Rules of procedure, costs and fees ~~shall~~ **will** be enacted by the Council upon recommendation of the Chief Municipal Judge.

Section 2. Penalty for violation.

The Council ~~shall~~ **will** provide for enforcement of its ordinances. The maximum penalty for a violation of the ordinances of the city ~~shall~~ **will** be set by the Council by ordinance.

ARTICLE VIII. ELECTIONS

Section 1. Applicability of state constitution.

The Council will provide by ordinance for the manner of holding city elections. All ordinances regarding elections must be consistent with the provisions of this Charter and the state Constitution. For any matter regarding elections not covered by the state Constitution, this Charter or ordinance of the Council will be governed by the laws of the State of Colorado relating to municipal elections, or coordinated municipal elections, as applicable.

Section 2. City elections.

(a) General provisions. A regular city election will be held on the first Tuesday in November of every odd-numbered year. All other municipal elections will be known as special city elections and will be called by ordinance and must be held in accordance with the provisions of this Charter and any ordinances adopted pursuant thereto. All municipal elections must be nonpartisan.

(b) Transitional terms. In order to implement a change of regular city elections from April of each odd-numbered year to November of each odd-numbered year, the term of the Mayor and each Councilmember will be extended to such time as a successor elected in November of the appropriate odd-numbered year (consistent with Article II, Section 1(b)) takes office, unless otherwise ended due to an event of vacancy or recall. Such change in term length will have no effect on the number of terms any such officer may be elected under the applicable term limits.

Section 3. Nomination; withdrawal from nomination.

(a) Nomination. Any person who is qualified at the time of nomination for the office to be filled may be nominated for the elective office by petition. A nominating petition for the office of Mayor must be signed by not less than twenty-five (25) registered electors. A nominating petition for District Council office must be signed by not less than twenty-five (25) registered electors residing in that District. A registered elector may sign one (1) petition for each office for which the elector is entitled to vote at the election. If an elector should sign more petitions than entitled, said elector's signature will be void as to all petitions which the elector signed.

(b) Petition requirements. Nominating petitions must be filed with the City Clerk. The Council will enact an ordinance specifying the time frame for circulation and submittal of nominating petitions and the deadline for withdrawal from candidacy for municipal office. Such time frame must not be changed within one hundred eighty (180) days immediately prior to the election. No nominating petition may be accepted unless the candidate completes a verified acceptance of the nomination certifying that they are not a candidate, directly or indirectly, of any political party, and that they meet the qualifications for office and will serve if elected.

(c) Withdrawal. A person who has been nominated may withdraw from candidacy by filing a written request to do so with the City Clerk before the deadline established by Council ordinance for such withdrawal, and no name so withdrawn may be placed upon the ballot.

Section 4. Petitions.

(a) Form; circulation. The Council will prescribe by ordinance, upon recommendation of the City Clerk, the form for a nominating petition which must include such warnings and notices to signers as may be deemed appropriate by the Council, as well as the candidate's verified acceptance of nomination. The signatures on a nominating petition need not all be subscribed on one (1) page, but to each separate section of the petition there will be attached a signed statement of the circulator thereof, stating the number of signers on that section of the petition, and that each signature thereon was made in the circulator's presence and is the genuine signature of the person whose name it purports to be. When executed, such statement must be accepted as true until it may be proved false. If any portion is proved false, that portion of any petition must be disregarded. Following each signature on the petition of nomination must be written the printed name

and the residence address of the signer, and the date of signing. All nominating papers comprising a petition must be filed as one (1) instrument.

- (b) **Sufficiency of petition.** Upon receipt of a nominating petition, the City Clerk will forthwith examine the petition, and within five (5) business days after the filing of the petition, notify the candidate in writing of the results of the examination, specifying the particulars of insufficiency, if any. Within the regular time for filing petitions, an insufficient petition may be amended and filed again as a new petition, in which case the time of the first filing will be disregarded in determining the validity of signatures thereon, or a different petition may be filed for the same candidate. The petition for each candidate elected to office must be preserved by the City Clerk until the expiration of the terms of office for such person.
- (c) **Compensation prohibited.** No person may receive any compensation whatever for signing a nominating petition.
- (d) **Objections.** The City adopts the applicable requirements and procedures outlined in the Colorado Municipal Election Code of 1965, as amended, for objections to officer nominations.

Section 5. Board of Elections for City-administered elections.

There is hereby created a Board of Elections consisting of the City Clerk, the lead election expert in the City Clerk's Office, as determined by the City Clerk, and Chief Judge. The Board will be responsible for any election duties specified in this Charter and for such additional duties related to the conduct of elections by the City as may be established by the Council by ordinance.

(Ord. No. 201, 1986, § 1, Part H, 12-16-86, approved, election 3-3-87; Ord. No. 202, 1986, § 1, Part V, 12-16-86, approved, election 3-3-87; Ord. No. 11, 1997, § 1, 2-4-97, approved, election 4-8-97; Ord. No. 022, 2007, §1, 2-20-07, approved, election 4-3-07; Ord. No. 015, 2021, § 2, 1-19-21, approved, election 4-6-21; Ord. No. 081, 2022, § 2, 7-5-22, approved, election 11-8-22; Ord. No. 094, 2024, § 1, 7-16-24, approved, election 11-5-24)

Section 6. Appearance of names on ballot.

Every ballot must contain the names of all duly nominated candidates for offices to be voted for at that election, except those who have died or withdrawn. The names will be arranged in alphabetical order of surname for each office, and may not contain any title or degree designating the business or profession of the candidate. The candidate's name may be a nickname, but may not include any punctuation marks setting out the nickname.

Section 7. Certification of election results.

- (a) **Certification of election.** No later than the date specified by Council by ordinance and, after verifying the total number of legal votes cast for each candidate and measure voted upon, the Board of Elections must complete a certificate declaring the results of the election. The candidate receiving the highest number of votes for a particular office, as determined pursuant to this Section 7, will be declared elected to that office. In event of a tie, the selection will be made by the Board of Elections by lot after notice to the candidates affected.
- (b) **Contests.** The City adopts the applicable requirements and procedures outlined in the Colorado Municipal Election Code of 1965, as amended, for contests to officers declared duly elected.
- (c) **Disqualification.** In case the candidate elected is disqualified by court order after the date of issuance of the certificate of election, tabulation of results in that contest shall **must** be rerun with the disqualified candidate being eliminated prior to any tabulation and the candidate with the resulting highest vote shall **must** be elected. If there is no other elected successor who qualifies or if the vote tabulation can no longer be rerun, the office will be deemed vacant, and will be filled by appointment by the remaining members of the council, as provided in Article II, Section 18. In the event of a mandatory recount or recount by request in a City-

administered election, the Board of Elections must complete an amended certificate declaring the results of the election by no later than five (5) business days after the completion of the recount.

- (bd) **Coordinated elections.** For coordinated city elections (which are not administered by the City), the election will be determined and certified, and any tie vote or recount will be administered, as provided in the applicable state law. The candidate receiving the highest number of votes for a particular office, as determined pursuant to Section 7(c), will be declared elected to that office.
- (ee) **Ranked voting methods.** Beginning in 2025, the candidate receiving the highest number of votes for a particular office will be determined using a ranked voting method.
 - (1) For a City-administered election, the ranked voting method will be in accordance with specifications adopted by the City Council by ordinance.
 - (2) For a coordinated election, the ranked voting method will be in accordance with, and as provided by, applicable state law.

Section 8. Campaign contributions.

(a) **Contributions limits.** The Council will act by ordinance to establish a limit on the amount that any person or entity may contribute in support of a candidate for Council on the ballot at any city election.

(b) **Prohibited contributions.** No political party or city employee, directly or indirectly, and no public service corporation, nor any other person, firm or corporation, owning, interested in, or intending to apply for any franchise or contract with the city may contribute or expend any money or other valuable thing, directly or indirectly, to assist in the election or defeat of any candidate.

Section 9. Corrupt practices.

Any person who violates at a city election any state law, provision of this Charter or ordinance of the city will, upon conviction thereof, be disqualified from holding any city position or employment for two (2) years, or any elective city office for four (4) years.

Section 10. Validity of City-administered elections.

No City-administered election may be invalidated if it has been conducted fairly and in substantial conformity with the requirements of this Charter.

Section 11. Computation of time.

- (a) **Calendar days unless specified.** Except when business days are specified, all computations of time made under the provisions of this article will be based on calendar days.
- (b) **Included days.** Except when computing business days, Saturdays, Sundays, City holidays and days City Hall is closed for business for a full or partial day due to inclement weather or other emergency circumstances will be included, but, if the time for any act to be done or the last day of any period is a Saturday, Sunday, City holiday or day City Hall is closed for business for a full or partial day due to inclement weather or other emergency circumstances, the period is extended to include the next day that is not a Saturday, Sunday, or City holiday.
- (c) **Days counted.** In computing time for any act to be done before any regular or special election, the first day will be included, and the last or election day will be excluded.
- (d) **Business days.** If the time for an act to be done under this article is referred to in business days, the time will be computed by excluding Saturdays, Sundays, City holidays, and any day City Hall is closed for business for a full or partial day due to inclement weather or other emergency circumstances.

- (e) **Specific considerations.** If a provision requires doing an act in "not less than" or "no later than" or "at least" a certain number of days or "prior to" a certain number of days or a certain number of months "before" the date of an election, or any phrase that suggests a similar meaning, if that period would end on a Saturday, Sunday or City holiday, it will instead shift to end on the prior business day that is not a Saturday, Sunday, or City holiday. If the period ends on a day City Hall is closed for business for a full or partial day due to inclement weather or other emergency circumstances, the period will end on the next business day on which City Hall is open for business.
- (f) **Time of day.** Except when otherwise specified, an act must be completed by 5:00 p.m. Mountain time on the last day for that action.

Section 12. Further regulations.

The Council may, by ordinance, make such further rules and regulations as are consistent with this Charter and the Colorado Constitution in order to carry out the provisions of this Article.

ARTICLE IX. RECALL

Section 1. The recall.

- (a) **Power of recall.** Any elective officer of the city may be recalled from office, through the procedure and in the manner provided herein, by the registered electors entitled to vote for a successor of such incumbent officer. The procedure to affect a recall will be as provided in this Article.
 - (1) For purposes of this Article, in the case of recall of the Mayor, the words "registered elector" will be construed to mean persons residing within the city who are registered to vote as of the date they signed the petition for recall.
 - (2) For purposes of this Article, in the case of a proposed recall of District Council representatives, the words "registered elector" will be construed to mean persons who are registered to vote within the particular affected Council District of the city as of the date they signed the petition for recall of the District Council representative.
 - (3) No recall petition may be circulated or filed against any officer until the officer has actually held office for at least one (1) year in the officer's current term, nor within six (6) months of the end of such term.
- (b) **Commencement of proceedings; affidavit.** One (1) or more registered electors may commence recall proceedings by filing with the City Clerk an affidavit of not more than two hundred (200) words stating the reasons for the recall of the officer sought to be removed. A separate affidavit must be filed for each officer sought to be recalled.
 - (1) Within two (2) business days after the filing of the affidavit, the City Clerk will mail a copy by certified mail to the affected officer. The City Clerk will also promptly provide the affidavit to the City Council by electronic mail.
 - (2) No later than seven (7) days after the date of the City Clerk's mailing, the affected officer may file with the City Clerk a sworn statement of not more than three hundred (300) words in defense of the charges.
 - (3) The affidavit and the response are intended for the information of the registered electors, who will be the sole and exclusive judges of the sufficiency of the ground or grounds assigned for the recall, and said ground or grounds will not be open to judicial review.
 - (4) Within seven (7) days after the date by which any statement in defense must be filed, the petitioner must submit to the City Clerk a petition for recall of the officer for City Clerk review in accordance with

Section 2(b) of this Article. The petition must be circulated, signed, verified and filed in the manner provided in Section 2 of this Article.

- (5) If no petition for recall has been submitted to the City Clerk for approval of its form within the time period specified above, the recall proceedings will be terminated.

Section 2. Petitions.

- (a) **Separate petitions required.** A separate petition must be circulated and filed for each officer sought to be recalled.
- (b) **Form and content.**
 - (1) Adoption of form. The Council must prescribe by ordinance, upon recommendation of the City Clerk, a general form of petition which will contain warnings and notices to signers as necessary and meet the requirements of this Article.
 - (2) Approval of form. No petition may be circulated until the City Clerk has approved the form for circulation. The City Clerk must determine whether to approve the form of petition no later than five (5) business days after submittal. The City Clerk must first determine that the petition form contains all matters required under this Article and only the matters required by this Article.
 - (3) Scope of approval. The City Clerk's approval under this Section does not constitute an approval of the content of the petition or its legality, but rather, starts the running of the time periods provided for circulation and filing of petitions for recall.
 - (4) Statement of purpose. The petition must contain or have attached to each section throughout its circulation a copy of the charges set forth in the affidavit on file with the City Clerk, and if requested by the person sought to be recalled, a copy of the statement in defense.
 - (5) Petition representatives. Each petition must designate by name and address three (3) registered electors who will represent the signers of the petition in all matters affecting the petition.
 - (6) Signatures. Only registered electors may sign the petitions authorized under this Article. Each signer must sign their own signature and each signature must be followed by the printed name of the signer, the street and number address of their residence, and the date of signing.
 - (7) Petition sections. Each section of the petition must be individually numbered and must contain no less than thirty (30), and no more than one hundred (100) signature lines.
- (c) **Circulation of petition.**
 - (1) To be valid, the petition must be circulated and signed in sections with each section consisting of one (1) or more sheets securely fastened at the top, and each section must contain a full and accurate copy of the text of the petition and the names and addresses of the designated representatives for the petition.
 - (2) All sections must be filed with the City Clerk as one (1) instrument.
 - (3) Only persons eighteen (18) years of age or older may circulate the petition for signatures.
 - (4) The circulation of any petition by any medium other than personally by a circulator is prohibited.
 - (5) No person may receive any compensation whatever for signing a recall petition.
 - (6) No person may knowingly sign an initiative petition more than once.
 - (7) In the event that the signature of any person appears more than once on a petition authorized under this Article, the first signature verified will be counted and all other signatures of that person will be rejected.

- (d) **Affidavit of circulator.** For each petition section, the circulator of the petition section must sign under oath before a notary public the affidavit of circulator attached at the end of the petition section. The affidavit must state the following:
- (1) the circulator's address of residence;
 - (2) that the circulator is eighteen (18) years of age or older;
 - (3) that they personally circulated the section;
 - (4) that each signature was affixed in the circulator's presence on the date stated with such signature;
 - (5) that to the best of the circulator's knowledge and belief each signer was at the time of signing a registered elector of the city;
 - (6) that to the best of the circulator's knowledge and belief each signature is the genuine signature of the person whose name it purports to be;
 - (7) that each signer had an opportunity before signing to read the full text of the petition; and
 - (8) that the circulator has not paid or offered to pay any money or other thing of value to any signer for the purpose of inducing or causing the signer to affix their signature to the petition.

A petition verified by the valid affidavits of its circulators in each of its sections will be prima facie evidence that the signatures thereon are genuine and true.

- (e) **Number of signatures required.**
- (1) First recall attempt. The petition must be signed by registered electors equal in number to at least twenty-five (25) percent of the total of votes cast at the last preceding regular city election for the office to which the incumbent sought to be recalled was elected.
 - (2) Subsequent recall attempts. After one (1) recall petition and election, a recall petition filed against the same officer during the same term for which elected must be signed by registered electors equal in number to at least fifty (50) percent of the total of first choice votes cast at the last preceding regular city election for the office to which the incumbent sought to be recalled was elected.
- (f) **Petition deadlines; submittal.**
- (1) For the recall process to proceed, petitions for recall must be filed with the City Clerk as follows:
 - a. For a District Council representative, no later than thirty-five (35) days after the City Clerk's approval of the form for circulation;
 - b. For a Mayor, no later than forty-nine (49) days after the City Clerk's approval of the form for circulation.
 - (2) All petition sections must be filed with the City Clerk together at the same time and will collectively constitute the petition.
 - (3) A recall petition must be filed with the City Clerk within the requisite time or it will be deemed null and void.
- (g) **Examination of petition.**
- (1) Within fifteen (15) business days of the filing of a petition the City Clerk will ascertain by examination of the petition and the registration books whether the petition is signed by the requisite number of registered electors and contains the required particulars and affidavits.
 - (2) Any petition section the City Clerk reasonably determines has been disassembled, whether or not it has been reassembled, will be deemed invalid.
 - (3) Upon submittal of a petition, the Clerk shall **may** not remove the signature of an elector from the petition.

- (4) The Clerk will issue publicly and provide to the petition representatives the Clerk's initial determination of petition sufficiency. If the petition is insufficient, the City Clerk will so certify and forthwith notify all of the designated petition representatives in writing, specifying the particulars of insufficiency.
- (h) **Protests.**
- (1) Registered electors desiring to protest a determination by the City Clerk that a petition is either sufficient or insufficient may file a written protest, under oath, in the office of the City Clerk within seven (7) days of the City Clerk's initial determination as to sufficiency of the petition. The protest must set forth with particularity the grounds of protest and any signatures and related defects in form protested.
 - (2) Upon the filing of a protest, the City Clerk will send a copy of the protest to the designated petition representatives, the City Council and the City Manager. The City Manager will appoint a hearing officer, who, in conjunction with the City Clerk, will set a time for hearing such protest, which must be no more than ten (10) business days after the filing of a protest.
 - (3) At least five (5) business days prior to the hearing, the City Clerk will send a notice of the date, time and location for the hearing and a copy of the protest to all of the designated petition representatives, the person(s) who filed the protest, and the City Council.
 - (4) All protest hearings will be before a hearing officer appointed by the City Manager. The hearing officer will have the power to issue subpoenas to compel the attendance of witnesses and the production of documents.
 - (5) All records and hearings will be public, and all testimony must be under oath.
 - (6) The hearing will be summary in nature and concluded no later than twenty (20) business days after the protest was filed.
 - (7) The hearing officer must decide and certify the results of the hearing no later than five (5) business days after the hearing is concluded, and no further protest regarding the petition may be filed.
 - (8) The City Clerk will make any final determination regarding the sufficiency or insufficiency of a petition and must base such determination on the protest hearing results issued by the hearing officer.
 - (9) A petition for recall that has been deemed insufficient after protest may not be amended or circulated further and no further protest regarding the petition may be filed.
- (i) **Certification and presentation to Council.** When and if a petition is deemed sufficient, whether following the initial sufficiency determination by the City Clerk in the absence of a protest, or following protest proceedings, the City Clerk will so certify and present the certified petition to the Council at the next regularly scheduled meeting or special meeting called for this purpose. The City Clerk's certificate constitutes the final determination as to the sufficiency of the petition.

Section 3. Action by Council.

- (a) **Purpose.** A recall election will be for the dual purposes of voting on the recall of the officer sought to be removed and the election of a successor.
- (b) **Timing.** Upon the City Clerk's presentation of a petition certified as sufficient for recall, the Council must set a date for the election to be held on a Tuesday at the earliest possible election date that allows the City Clerk sufficient time to meet all legal, logistical and technical requirements applicable to the conduct of an election. The City Clerk will advise the Council of said election date in connection with Council's call of the recall election.
- (c) **Consolidation.** If the earliest possible election date determined by the City Clerk is less than seventy-seven (77) days prior to an upcoming November regular municipal election or November General Election

conducted by the Larimer County Clerk and Recorder, the recall election must be consolidated with such other election date.

- (d) **Termination of election.** If a recall election must be consolidated with a November regular municipal election pursuant to subsection (c) or cannot be set until a date after a November regular election, and if the Council office held by the officer for whom a recall is sought will be on such November ballot, the recall process must be deemed terminated and the regular election for that Council office will proceed as part of the November regular municipal election.
- (e) **Resignation.** If the officer subject to a recall petition resigns before ballots for the recall election are mailed to the voters, the recall process must be deemed terminated and the vacancy must be filled by appointment. If a vacancy occurs after the ballots for the recall election have been mailed to the voters, the election to fill the vacancy under Section 4, below, must nevertheless proceed.

Section 4. Recall elections.

- (a) **Generally.** Recall elections must be conducted in the same manner as provided generally for regular or special city elections in this Charter. All Charter provisions related to nomination and qualification of candidates apply to recall elections.
- (b) **Nominations on recall.** Anyone desiring to become a candidate at the recall election must do so by nominating petition as required in Article VIII of this Charter. The deadline for filing a nominating petition for a recall election will be as established by ordinance of the Council. If more than one (1) officer is sought to be recalled, then the nominating petition must specify which incumbent the candidate seeks to succeed. The name of the person against whom the recall petition is filed is barred from appearing on the ballot as a candidate for the office.
- (c) **Ballots.** The official ballot must include, as to every officer whose recall is to be voted on, the statement of grounds and, if requested by the affected officer, the officer's statement in defense followed by the words, "Shall (name of person against whom the recall petition is filed) be recalled from the office of (_____)?" Following such question must appear the words, "Yes" indicating a vote in favor of the recall and "No" indicating a vote against such recall. On such ballots, under each question, there must also be printed the names of those persons who have been nominated as candidates to succeed the person sought to be recalled.
- (d) **Election results.** If a majority of those voting on the question of the recall of any incumbent from office votes "No," the incumbent continues in office. If a majority votes "Yes" for the incumbent's removal, the incumbent will thereupon be deemed removed from their office upon the taking of the oath of office by their successor. If the officer is recalled, the candidate for succession receiving the highest number of votes at the election determined in accordance with Article VIII, will be declared elected for the remainder of the incumbent's term.
- (e) **Elected replacement.** The candidate elected will take office upon taking the oath of office, which must occur as the first order of business at the next regular or special Council meeting after certification of the election results.
- (f) **Disqualification from office.** No person who has been recalled or has resigned after the City Clerk's presentation to Council of a certified, sufficient petition for recall of such person may serve the city in any elected or Council-appointed capacity within two (2) years after such removal or resignation.

Section 5. Computation of time.

- (a) **Calendar days.** Except when business days are specified, all computations of time made under the provisions of this article will be based on calendar days.

- (b) **Included days.** Except when computing business days, Saturdays, Sundays, City holidays and days City Hall is closed for business for a full or partial day due to inclement weather or other emergency circumstances will be included, but, if the time for any act to be done or the last day of any period is a Saturday, Sunday, City holiday or day City Hall is closed for business for a full or partial day due to inclement weather or other emergency circumstances, the period is extended to include the next day that is not a Saturday, Sunday, or City holiday.
- (c) **Days counted.** In computing time for any act to be done before any regular or special election, the first day will be included, and the last or election day will be excluded.
- (d) **Business days.** If the time for an act to be done under this article is referred to in business days, the time will be computed by excluding Saturdays, Sundays, City holidays, and any day City Hall is closed for business for a full or partial day due to inclement weather or other emergency circumstances.
- (e) **Specific considerations.** If a provision requires doing an act in "not less than" or "no later than" or "at least" a certain number of days or "prior to" a certain number of days or a certain number of months "before" the date of an election, or any phrase that suggests a similar meaning, if that period would end on a Saturday, Sunday or City holiday, it will instead shift to end on the prior business day that is not a Saturday, Sunday, or City holiday. If the period ends on a day City Hall is closed for business for a full or partial day due to inclement weather or other emergency circumstances, the period will end on the next business day on which City Hall is open for business.
- (f) **Time of day.** Except when otherwise specified, an act must be completed by 5:00 p.m. Mountain time on the last day for that action.

Section 6. Further regulations.

The Council may, by ordinance, make such further rules and regulations as are consistent with this Charter and the Colorado Constitution in order to carry out the provisions of this Article.

ARTICLE X. INITIATIVE AND REFERENDUM

Part I Initiative

Section 1. The initiative.

- (a) **Power of initiative.** The registered electors of the city have the power at their option to propose ordinances or resolutions to the Council, and, if the Council fails to adopt a measure so proposed, to adopt or reject such ordinance or resolution at the polls. The procedure for initiative must be as provided in this Article.
- (b) **Commencement of proceedings; notice.** One (1) or more registered electors may commence initiative proceedings by filing with the City Clerk a written notice of intent to circulate an initiative petition. The notice commencing proceedings must contain the full text of the proposed ordinance or resolution and state whether a special election is requested.

Section 2. Petitions.

- (a) **Separate petitions required.** A separate petition must be circulated and filed for each measure sought to be initiated.
- (b) **Form and content.**
 - (1) Adoption of form. The Council will prescribe by ordinance, upon recommendation of the City Clerk, a general form of petition which will contain warnings and notices to signers as necessary.

(2) Petition content.

- a. The petition must be addressed to Council.
- b. An initiative petition must contain a general statement of purpose prepared by the City Clerk in consultation with the City Attorney to fairly and accurately summarize the proposed ordinance or resolution, without argument or prejudice, and indicating that the petition is to be circulated in support of the initiated ordinance or resolution and specifying whether a special election is requested.
- c. The petition must designate by name and address three (3) registered electors who will represent the signers of the petition in all matters affecting the petition.
- d. The petition must contain a full and accurate copy of the text of the initiative.
- e. Each section of the petition must be individually numbered and contain no less than thirty (30), and no more than one hundred (100) signature lines.
- f. For each petition section, the circulator of the petition section must sign under oath before a notary public the affidavit of circulator attached at the end of the petition section. The affidavit must state the following:
 - (i) the circulator's address of residence;
 - (ii) that the circulator is eighteen (18) years of age or older;
 - (iii) that they personally circulated the section;
 - (iv) that each signature was affixed in the circulator's presence on the date stated with such signature;
 - (v) that to the best of the circulator's knowledge and belief each signer was at the time of signing a registered elector of the city;
 - (vi) that to the best of the circulator's knowledge and belief each signature is the genuine signature of the person whose name it purports to be;
 - (vii) that each signer had an opportunity before signing to read the full text of the petition; and
 - (viii) that the circulator has not paid or offered to pay any money or other thing of value to any signer for the purpose of inducing or causing the signer to affix their signature to the petition.

(3) Approval of form for circulation.

- a. No petition may be circulated until the City Clerk has approved the form for circulation.
- b. In considering whether to approve the form of a petition, the City Clerk will evaluate whether the petition form contains all matters required under this Article and only the matters required by this Article.
- c. The City Clerk's approval under this Section does not constitute an approval of the content of the petition or its legality, but rather, starts the running of the time periods provided for circulation and filing of petitions.

(c) **Circulation of petition.**

- (1) To be valid, the petition must be circulated and signed in sections with each section consisting of one (1) or more sheets securely fastened at the top, and containing all required elements as described in Section 2(b)(2) of this Article.
- (2) Only persons eighteen (18) years of age or older may circulate the petition for signatures.

- (3) The circulation of any petition by any medium other than personally by a circulator is prohibited. No person may receive any compensation whatever for signing an initiative petition.
 - (4) Only registered electors may sign the petitions authorized under this Article.
 - (5) Each signer must sign their own signature and each signature must be followed by the printed name of the signer, the street and number address of their residence, and the date of signing.
 - (6) No person may knowingly sign an initiative petition more than once.
 - (7) In the event that the signature of any person appears more than once on a petition authorized under this Article, the first signature verified will be counted and all other signatures of that person will be rejected.
- (d) **Number of signatures required.**
- (1) The petition must be signed by registered electors of the city equal in number to at least ten (10) percent of the total ballots cast in the last regular city election.
 - (2) If a special election is requested by the petitioners, the petition must be signed by registered electors equal in number to at least fifteen (15) percent of the total ballots cast in the last regular city election.
- (e) **Petition deadlines and submittal.**
- (1) To be valid, the initiative petition must be filed no more than sixty-three (63) days after the City Clerk's approval of the form for circulation.
 - (2) To be valid, all petition sections must be filed with the City Clerk together at the same time and those sections submitted together will collectively constitute the petition.
 - (3) Any petition section the City Clerk reasonably determines has been disassembled, whether or not it has been reassembled, will be deemed invalid.
 - (4) Upon submittal of a petition, the Clerk must not remove the signature of an elector from the petition.
 - (5) An initiative petition must be filed with the City Clerk within the requisite time or it will be deemed null and void.
- (f) **Examination of petition; protest; presentation.**
- (1) Within fifteen (15) business days of the filing of a petition the City Clerk will ascertain by examination of the petition and the registration books whether the petition is signed by the requisite number of registered electors and contains the required particulars and affidavits.
 - (2) Any petition section the City Clerk reasonably determines has been disassembled, whether or not it has been reassembled, will be deemed invalid.
 - (3) Upon submittal of a petition, the Clerk must not remove the signature of an elector from the petition.
 - (4) The Clerk will issue publicly and provide to the petition representatives the Clerk's initial determination of petition sufficiency. If the petition is insufficient, the City Clerk will so certify and forthwith notify all of the designated petition representatives in writing, specifying the particulars of insufficiency.
 - (5) Protests.
 - a. Registered electors desiring to protest a determination by the City Clerk that a petition is either sufficient or insufficient may file a written protest, under oath, in the office of the City Clerk within seven (7) days of the City Clerk's initial determination as to petition sufficiency. The protest must set forth with particularity the grounds of protest and any signatures and related defects in form protested.
 - b. Upon the filing of a protest, the City Clerk will send a copy of the protest to the designated petition representatives, the City Council and the City Manager. The City Manager will appoint a

hearing officer, who, in conjunction with the City Clerk, will set a time for hearing such protest, which must be no more than ten (10) business days after the filing of a protest.

- c. At least five (5) business days prior to the hearing, the City Clerk will send a notice of the date, time and location for the hearing and a copy of the protest to all of the designated petition representatives, the person(s) who filed the protest, and the City Council.
 - d. All protest hearings will be before a hearing officer appointed by the City Manager. The hearing officer will have the power to issue subpoenas to compel the attendance of witnesses and the production of documents.
 - e. All records and hearings will be public, and all testimony must be under oath.
 - f. The hearing will be summary in nature and concluded no later than twenty (20) business days after the protest was filed.
 - g. The hearing officer must decide and certify the results of the hearing no later than ten (10) business days after the hearing is concluded, and no further protest regarding the petition may be filed.
 - h. The City Clerk will make any final determination regarding the sufficiency or insufficiency of a petition and must base such determination on the protest hearing results issued by the hearing officer.
- (6) Certification and presentation to Council. When and if a petition is deemed sufficient, whether following the sufficiency determination by the City Clerk in the absence of a protest, or following protest proceedings, the City Clerk must so certify and then present the certified petition to the Council at the next regularly scheduled meeting or special meeting called for this purpose. The City Clerk's certificate will be the final determination as to the sufficiency of the petition.

Section 3. Action by Council.

- (a) **Action on sufficient initiative.** Upon presentation of an initiative petition certified as sufficient by the City Clerk, the Council must within twenty-five (25) business days either (1) adopt the proposed ordinance or resolution without alteration, or (2) submit such proposed measure, in the form petitioned for, to the registered electors of the city as provided in this subsection.
- (1) For a proposed measure that requires voter approval in advance under Article X, Section 20 of the Colorado Constitution, the Council must submit the measure to a vote of the registered electors. If the initiative petition proposing such a measure requests a special election, the proposed measure must be submitted to a vote of the registered electors on the first possible date permitted by Article X, Section 20 of the Colorado Constitution. If a special election is not requested, the proposed measure must be submitted to a vote of the registered electors at the next regular city election or at the Council's option, may be submitted to a vote at an earlier special election that meets the constitutional requirements.
 - (2) For a proposed measure that does not require voter approval in advance under Article X, Section 20 of the Colorado Constitution, if not adopted by the Council under alternative (1) above, the Council must submit the measure to a vote of the registered electors at no later than the next regular or special city election scheduled for any other purpose for which election process requirements can be met. Alternatively, the Council may opt to call an earlier special election for the specific purpose of submitting the initiated measure to the voters.
 - (3) If the initiative petition proposing such measure requests a special election, the Council must submit the proposed measure to a vote of the registered electors at the next November election for which the City is able to coordinate an election with the Larimer County Clerk and Recorder, whether a special election or regular City election.

- (b) **Referral of initiated ordinances.** All ordinances submitted to the Council by initiative petition and adopted by Council without the vote of the electors are subject to the referendum in the same manner as other ordinances.

Section 4. Council use of initiative.

The Council may submit any question or proposed ordinance or resolution to the vote of the people at a regular or special election to be conducted in accordance with the provisions of Article VIII, Section 2 of the Charter.

Section 5. Repeal or amendment of initiated measure.

An initiated measure submitted to the registered electors of the city by the Council, with or without a petition therefore, and adopted by electoral vote cannot be repealed or amended except by a subsequent electoral vote. This provision does not apply to ordinances or resolutions adopted by the City Council and referred to the voters.

Part II Referendum

Section 6. The referendum.

- (a) **Power of referendum.** The registered electors of the city have the power at their option to approve or reject at the polls, any ordinance, or portion of ordinance, adopted by the Council, except ordinances making the annual property tax levy, making the annual appropriation, calling a special election, or ordering improvements initiated by petition and to be paid for by special assessments.
- (b) **Commencement of proceedings.**
 - (1) One (1) or more registered electors may commence referendum proceedings by filing with the City Clerk no later than ten (10) days after final passage of the ordinance in question, a notice of protest against the going into effect of the ordinance. The notice must be brief and need not state any reasons, but must identify the ordinance or part thereof, or code section it proposes to have repealed.
 - (2) Within ten (10) days after the filing of the notice, the proponents must present to the City Clerk the final form for the referendum petition conforming to the requirements of the Article.

Section 7. Petitions.

- (a) **Separate petitions required.** A separate petition will be circulated and filed for each measure sought to be initiated.
- (b) **Form and content.**
 - (1) Adoption of form. The Council will prescribe by ordinance, upon recommendation of the City Clerk, a general form of petition which must contain warnings and notices to signers as necessary.
 - (2) Petition content.
 - a. The petition must be addressed to Council.
 - b. A referendum petition must contain a general statement of purpose prepared by the City Clerk in consultation with the City Attorney to fairly and accurately summarize the ordinance or part thereof sought to be referred, without argument or prejudice, and indicating that the petition is to be circulated in support of the referendum.
 - c. The petition must designate by name and address three (3) registered electors who will represent the signers of the petition in all matters affecting the petition.

- d. The petition must contain a full and accurate copy of the of the ordinance sought to referred, without any exhibits that may be a part of said ordinance, clearly identifying the protested portions if only a partial repeal is sought. In the case of an ordinance exceeding two (2) pages in length, a fair and accurate summary of the ordinance, prepared by the City Clerk in consultation with the City Attorney will replace said ordinance.
 - e. Each section of the petition must be individually numbered and must contain no less than thirty (30), and no more than one hundred (100), signature lines.
 - f. For each petition section, the circulator of the petition section must sign under oath before a notary public the affidavit of circulator attached at the end of the petition section. The affidavit must state the following:
 - (i) the circulator's address of residence;
 - (ii) that the circulator is eighteen (18) years of age or older;
 - (iii) that they personally circulated the section;
 - (iv) that each signature was affixed in the circulator's presence on the date stated with such signature;
 - (v) that to the best of the circulator's knowledge and belief each signer was at the time of signing a registered elector of the city;
 - (vi) that to the best of the circulator's knowledge and belief each signature is the genuine signature of the person whose name it purports to be;
 - (vii) that each signer had an opportunity before signing to read the full text of the petition; and
 - (viii) that the circulator has not paid or offered to pay any money or other thing of value to any signer for the purpose of inducing or causing the signer to affix their signature to the petition.
- (3) Approval of form for circulation.
- a. A petition must not be circulated until the City Clerk has approved the form for circulation.
 - b. The City Clerk will first determine that the petition form contains all matters required by this Article and only the matters required by this Article.
 - c. The City Clerk's approval under this Section does not constitute an approval of the content of the petition or its legality, but rather, will start the running of the time periods provided for circulation and filing of a referendum petition.
- (c) **Circulation of petition.**
- (1) The petition may be circulated and signed in sections with each section consisting of one (1) or more sheets securely fastened at the top, and containing all required elements as described in Section 2(b)(2) of this Article.
 - (2) Only persons eighteen (18) years of age or older may circulate the petition for signatures.
 - (3) The circulation of any petition by any medium other than personally by a circulator is prohibited. No person may receive any compensation whatever for signing a referendum petition.
 - (4) Only registered electors may sign the petitions authorized under this Article.
 - (5) Each signer must sign their own signature and each signature must be followed by the printed name of the signer, the street and number address of their residence, and the date of signing.
 - (6) No person may knowingly sign a referendum petition more than once.

- (7) In the event that the signature of any person appears more than once on a petition authorized under this Article, the first signature verified will be counted and all other signatures of that person will be rejected.
- (d) **Number of signatures required.** The petition must be signed by registered electors of the city equal in number to at least ten (10) percent of the total ballots cast in the last regular city election.
- (e) **Petition deadlines and submittal.**
- (1) The petition must be filed no more than twenty-one (21) days after the City Clerk's approval of the form for circulation.
 - (2) All petition sections must be filed with the City Clerk together at the same time and will collectively constitute the petition.
 - (3) Any petition section the City Clerk reasonably determines has been disassembled, whether or not it has been reassembled, will be deemed invalid.
 - (4) Upon submittal of a petition, the Clerk must not remove the signature of an elector from the petition.
 - (5) A referendum petition must be filed with the City Clerk within the requisite time or it will be deemed null and void.
- (f) **Examination of petition; protest; presentation.**
- (1) Within fifteen (15) business days of the filing of a petition the City Clerk will ascertain by examination of the petition and the registration books whether the petition is signed by the requisite number of registered electors and contains the required particulars and affidavits.
 - (2) Any petition section the City Clerk reasonably determines has been disassembled, whether or not it has been reassembled, will be deemed invalid.
 - (3) Upon submittal of a petition, the Clerk must not remove the signature of an elector from the petition.
 - (4) The Clerk will issue publicly and provide to the petition representatives the Clerk's initial determination of petition sufficiency. If the petition is insufficient, the City Clerk will so certify and forthwith notify all of the designated petition representatives in writing, specifying the particulars of insufficiency.
 - (5) Protests.
 - a. Registered electors desiring to protest a determination by the City Clerk that a petition is either sufficient or insufficient may file a written protest, under oath, in the office of the City Clerk within seven (7) days of the City Clerk's initial determination as to sufficiency of the petition. The protest must set forth with particularity the grounds of protest and any signatures and related defects in form protested.
 - b. Upon the filing of a protest, the City Clerk will send a copy of the protest to the designated petition representatives, the City Council and the City Manager. The City Manager will appoint a hearing officer, who, in conjunction with the City Clerk, will set a time for hearing such protest, which must be no more than ten (10) business days after the filing of a protest.
 - c. At least five (5) business days prior to the hearing, the City Clerk will send a notice of the date, time and location for the hearing and a copy of the protest to all of the designated petition representatives, the person(s) who filed the protest, and the City Council.
 - d. All protest hearings will be before a hearing officer appointed by the City Manager. The hearing officer will have the power to issue subpoenas to compel the attendance of witnesses and the production of documents.
 - e. All records and hearings will be public, and all testimony must be under oath.

- f. The hearing will be summary in nature and concluded no later than twenty (20) business days after the protest was filed.
 - g. The hearing officer must decide and certify the results of the hearing no later than ten (10) business days after the hearing is concluded, and no further protest regarding the petition may be filed.
 - h. The City Clerk will make any final determination regarding the sufficiency or insufficiency of a petition and must base such determination on the protest hearing results issued by the hearing officer.
- (6) Certification and presentation to Council. When and if a petition is deemed sufficient, whether following the sufficiency determination by the City Clerk in the absence of a protest, or following protest proceedings, the City Clerk must so certify and then present the certified petition to the Council at the next regularly scheduled meeting or special meeting called for this purpose. The City Clerk's certificate will be the final determination as to the sufficiency of the petition.

Section 8. Action by Council.

- (a) **Suspension of ordinance.** The City Clerk's certification of a petition as sufficient for referendum automatically suspends the operation of the ordinance in question, or portion sought to be repealed, pending repeal by Council or final determination by the electors.
- (b) **Referral of ordinance.** Following receipt of the City Clerk's certification of a petition as sufficient for referendum, the Council must either refer the ordinance or portion thereof that is the subject of the petition to the voters, as set forth below, or reconsider the ordinance at the next regular meeting of the Council, or at an earlier special meeting of the Council called for this purpose, and adopt an ordinance to repeal the ordinance in question, or part sought to be repealed, on first reading, with second reading at the next regular meeting.
- (c) **Timing of election.** If the ordinance, or that part sought to be repealed, is not repealed, the Council must refer the same to a vote of the registered electors at no later than the next regular or special city election scheduled for any other purpose for which election process requirements can be met. Alternatively, the Council may opt to call an earlier special election for the specific purpose of submitting the referred measure to the voters.

Section 9. Council use of referendum.

The Council may refer any adopted ordinance or resolution, to the vote of the people at a regular or special election to be conducted in accordance with the provisions of Article VIII of the Charter.

Part III In General

Section 10. Elections.

- (a) **Generally.** Elections on initiative and referendum measures must be conducted in the same manner as provided generally for regular or special city elections in this Charter.
- (b) **Ballot text.** Upon ordering an election on any initiative or referendum measure, the Council must, after public hearing, adopt by resolution a ballot title and submission clause for each measure. The ballot title must contain information identifying the measure as a city initiated or referred measure or a citizen initiated or referred measure. The submission clause must be brief, must not conflict with those selected for any petition previously filed for the same election, and must unambiguously state the principle of the provision sought to be considered. The official ballot used when voting upon each proposed or referred measure must

have printed on it the ballot title and submission clause and contain the words, "Yes/For" and "No/Against" in response to each measure.

- (c) **Publication; notice of election.**
 - (1) Initiative. An initiated measure being considered for adoption by Council must be published as part of the appropriate Council meeting agenda in like manner as other proposed ordinances and resolutions. If the initiated measure is submitted to a vote of the people, the City Clerk must publish a notice of election in conformity with the laws of the State of Colorado relating to municipal elections, together with the ballot title, submission clause and full text of the proposed ordinance or resolution. The text of a successful initiative measure need not be published in full after the election.
 - (2) Referendum. If the referred measure is to be submitted to a vote of the people, the City Clerk must publish a notice of election in conformity with the laws of the State of Colorado relating to municipal elections, together with the ballot title, submission clause and full text of the referred ordinance, specifying the portion to be referred if only a portion of the ordinance has been referred. If the ordinance in question exceeds two (2) pages in length, the summary from the petition may be published in place of the full text. The City Clerk will make the full text of a referred ordinance, together with all exhibits, generally available to the public. The full text of an ordinance passed on referendum need not be published after the election.
- (d) **Election results.** If a majority of the registered electors voting on the initiated measure vote in favor, the measure is adopted as an ordinance or resolution of the city upon certification of the election results. If a majority of the registered electors voting on a referred ordinance, vote in favor of the referred ordinance, or referred portion of the ordinance, such referred ordinance or portion thereof will go into effect without further publication upon certification of the election results, or at such later date as may be set forth in the ordinance itself. If the provisions of two (2) or more proposed or referred measures adopted or approved at the same election conflict, the measure receiving the highest affirmative vote will become effective.
- (e) **Frequency of elections.** Any number of proposed ordinances or resolutions or referred ordinances may be submitted at the same election.

Section 11. Computation of time.

- (a) **Calendar days unless specified.** Except when business days are specified, all computations of time made under the provisions of this article will be based on calendar days.
- (b) **Included days.** Except when computing business days, Saturdays, Sundays, City holidays and days City Hall is closed for business for a full or partial day due to inclement weather or other emergency circumstances will be included, but, if the time for any act to be done or the last day of any period is a Saturday, Sunday, City holiday or day City Hall is closed for business for a full or partial day due to inclement weather or other emergency circumstances, the period is extended to include the next day that is not a Saturday, Sunday, or City holiday.
- (c) **Days counted.** In computing time for any act to be done before any regular or special election, the first day will be included, and the last or election day will be excluded.
- (d) **Business days.** If the time for an act to be done under this article is referred to in business days, the time will be computed by excluding Saturdays, Sundays, City holidays, and any day City Hall is closed for business for a full or partial day due to inclement weather or other emergency circumstances.
- (e) **Specific considerations.** If a provision requires doing an act in "not less than" or "no later than" or "at least" a certain number of days or "prior to" a certain number of days or a certain number of months "before" the date of an election, or any phrase that suggests a similar meaning, if that period would end on a Saturday, Sunday or City holiday, it will instead shift to end on the prior business day that is not a Saturday, Sunday, or City holiday. If the period ends on a day City Hall is closed for business for a full or partial day due to

inclement weather or other emergency circumstances, the period will end on the next business day on which City Hall is open for business.

- (f) **Time of day.** Except when otherwise specified, an act must be completed by 5:00 p.m. Mountain time on the last day for that action.

Section 12. Further regulations.

The Council may, by ordinance, make such further rules and regulations as are consistent with this Charter and the Colorado Constitution in order to carry out the provisions of this Article.

ARTICLE XI. FRANCHISES AND PUBLIC UTILITIES

Section 1. Franchise granted by ordinance.

(a) **Franchise requirements.** The Council may grant a franchise relating to any street, alley, or other public place within the city by ordinance, subject to the initiative and referendum powers reserved to the electors of the city. No exclusive franchise shall **may** ever be granted. Every franchise ordinance shall **will** require for its adoption the concurrence of a majority of all the members of the Council.

(b) **Public notice and hearing.** A franchise may be awarded only after a public hearing on the application or proposal. The applicant for the franchise shall **must** publish a notice of the hearing in a local newspaper of general circulation once a week for three (3) successive weeks immediately prior to the date of the hearing. Such notice shall **must** specify the meeting of the Council at which it is intended to apply for the franchise, the name of the applicant, a general description of the rights and privileges to be applied for, and the time for and terms upon which the franchise is desired. The hearing on the franchise application shall **must** not be held unless a publisher's affidavit of publication proving the applicant's compliance with the notice requirements has been presented to the Council. Publication of the franchise ordinance by the City Clerk shall **must** be in the same manner as for other proposed ordinances.

(c) **Initiative and referendum.** The procedure for initiative and referendum of an ordinance granting a franchise shall **must** be as otherwise provided in this Charter, except that the signatures required for referendum shall **will** be equal in number to five (5) percent of the registered electors, or ten (10) percent of the total ballots cast in the last regular city election, whichever is less. If the franchise ordinance is referred to the vote of the electors, the grantee of the franchise shall **must** deposit with the city's Financial Officer an amount determined by said Officer to be sufficient to pay for the cost of the election. No franchise election shall **may** be ordered until the grantee deposits such costs.

Section 2. Franchises to specify streets.

All franchises or privileges hereafter granted to railroads or other transportation systems shall **must** plainly specify the particular streets, alleys, avenues, and other public property, or parts thereof, to which they shall **will** apply. All other franchises may be in general terms and may apply to the city generally.

Section 3. Regulation of public utilities.

(a) **Rights reserved.** The right to regulate the rates, fares, and rentals of public utilities and carriers serving the residents of the city shall **will** always be reserved to the city to be exercised by ordinance.

(b) **Annual reports.** Every person or corporation operating under a franchise or grant from the city shall **must** annually submit to the Council a report verified by the oath of the president, the treasurer, or the general manager

thereof. Such reports shall **must** be in the form, contain such detailed information, and cover the period prescribed by the Council.

(c) **Council powers**. The Council shall ~~have~~ **has** the power, either through its members or by authorized experts or employees, to examine the books and affairs of any such person, persons, or corporations, and to compel the production of books and other records pertaining to such reports or other matters.

Section 4. Books of record.

The Council shall **must** provide and cause to be kept in the office of the City Clerk an indexed franchise record in which shall **must** be transcribed copies of all franchises granted by the city. Said record shall **will** be a complete history of all franchises granted by the city and shall **will** include a comprehensive and convenient reference to actions, contests, or proceedings at law affecting the same, and copies of all annual and inspection reports and such other information as the Council may require.

Section 5. Term, compensation.

No franchise shall **may** be granted for longer than twenty (20) years. Every grant of a franchise shall **must** fix the amount and manner of payment of the compensation to be paid by the grantee for the use of the same, and no other compensation of any kind shall **may** be exacted for such use during the life of the franchise. This provision shall **must** not exempt the grantee from any lawful taxation upon ~~his or her~~ **their** property, nor from any license, charges, or other impositions levied by the Council, not levied on account of the use granted by the franchise.

Section 6. Option to purchase.

Every grant, extension, or renewal of a public utility franchise or right shall **must** provide that the city may, upon the vote of the electors and the payment therefor of its fair valuation, purchase and take over the property and plant of the grantee in whole or in part. Such valuation shall **will** be made as provided in the grant, but shall **must** not include any value of the franchise or right-of-way through the streets or any earning power of such property.

Section 7. Railroad tracks.

The Council, upon some fair apportionment of the cost thereof between the railroad and the city and/or other public authority in interest, may by ordinance require any railroad company to elevate or lower any of its tracks running over, along, or across any street or alley of the city, or to take such other measures for the protection of the public, as in the opinion of the Council the public safety or convenience may require.

Section 8. Street cleaning and paving.

Every grant of any franchise or privilege in, over, under, or along any of the streets or public places in the city for railway purposes, shall **will** be subject to the conditions that the person, firm, or corporation exercising or enjoying the same shall **must**, unless otherwise provided by ordinance, clean, keep in repair, and pave and repave so much of a street or other public place occupied by a railway track as lies between its rails, and between the lines of double track, and for such space outside of said track as may have been acquired by franchise.

Section 9. Right of regulation.

The grant of every franchise or privilege shall **will** be subject to the right of the city, whether in terms reserved or not, to make any regulations for the safety, welfare, and accommodation of the public, including among other things the right to require proper and adequate extensions of the service of such grant, the right to require any or all wires, cables, conduits, and other like appliances to be placed underground, and the right to protect the public from danger or inconvenience in the operation of any work or business authorized by the franchise.

Section 10. Revocable permits.

The Council may grant a permit at any time for the use or occupation of any street, alley, or public place. Such permit shall will be revocable by the Council at its pleasure, whether or not such right to revoke is expressly reserved in such permit.

Section 11. Franchise renewal.

No franchise shall may be renewed before one (1) year prior to its expiration, which renewal shall will be subject to all provisions relating to the original grant of a franchise.

Section 12. Leasing of franchises.

No franchise granted by the city shall may ever be leased, assigned, or otherwise alienated without the express consent of the city, and no dealing with the lessee or assignee on the part of the city to require the performance of any act or the payment of any compensation by the lessee or assignee shall may be deemed to operate as such consent. Any assignment or sale of such franchise without the consent of the city shall will, at the option of the Council, operate as a forfeiture to the city of such franchise.

Section 13. Issuance of stock.

Every ordinance granting any franchise shall will prohibit the issuing of any stock on account thereof by any corporation holding or doing business thereunder.

Section 14. Amendment, renewal, extension or enlargement of franchise.

No amendment, renewal, extension, or enlargement of any franchise, or grant of rights or powers heretofore granted to any corporation, person, or association of persons shall will be made except in the manner and subject to all the conditions provided in this Article for the making of original grants and franchises.

Section 15. Common use of facilities.

The City may by ordinance require any person or corporation holding a franchise from the city for any public utility to allow the use of any of its poles, tracks, wires, conduits, and other related facilities by any other person or corporation to which the city grants a franchise upon the payment of a reasonable rental to the owner therefor. If the person or corporation desiring to use the same cannot agree with the owner regarding said rental and the terms and conditions for such use, within sixty (60) days from offering in writing to do so, the Council after a fair hearing, shall may by resolution fix the terms and conditions of such use and compensation to be paid therefor, which award of the Council shall will be final and binding on the parties concerned.

ARTICLE XII. MUNICIPAL PUBLIC UTILITIES

Section 1. City may acquire utilities.

(a) Council powers. The Council upon vote of the electors shall will have the power within or without the territorial limits of the city to construct, condemn and purchase, acquire, and lease waterworks, gasworks, light plants, power plants, transportation systems, telephone systems, heating plants, and other public utilities local in use and extent, in whole or in part, and everything required therefor, for the use of the city and its inhabitants, and any such systems, plants, works, or ways, or any contracts in relation or in connection therewith which may exist and which the city may desire to acquire or purchase, in whole or in part, the same or any part thereof may be purchased by the city.

(b) Establishment. An election is not required for the purchase of a portion of a utility system which is included in an area being annexed to the city and which is not the subject of an existing city franchise.

(c) Revenue. Such public utilities acquired by the city, except waterworks and transportation systems, shall **may** not be paid for out of general taxes or general obligation bonds, but shall **must** be paid for from revenue derived from the public utility. Equipment necessary for transportation system may be acquired from the funds of the equipment fund of the city.

Section 2. Right of entry.

The directors and employees of city-owned utilities shall **will** have authority in the necessary discharge of their duties to enter upon any lands, properties or premises, within or without the city limits, for the examination or survey thereof, or for the purpose of repairing, inspecting, removing, or connecting the service, reading meters, or any other purpose whatever in connection with the water, wastewater, electric, and other utilities.

Section 3. Restriction on sale of water and electric property.

The City shall **may** not sell, lease, or in any manner dispose of the city's water or electric utility system as a whole unless and except the proposition for such purpose has first been approved by a vote of the electors. The provisions of this Section shall **will** not apply to the sale, lease or exchange of any part of the water or electric utility systems, which the Council, by ordinance, determines does not materially impair the viability of the particular utility system as a whole and further determines is for the benefit of the citizens of Fort Collins. The provisions of this Section shall **will** also not apply to the sale of water rights no longer useful to the city nor to the exchange of certain water rights for other water rights which would be more useful to the city.

Section 4. Control of water.

(a) Surplus water. If at any time the water supply is greater than the immediate needs of the city and its inhabitants, the Council may authorize the City Manager to permit the use of such surplus water by consumers outside the city at such rates as the Council may prescribe; provided that no vested right shall **will** accrue under such permits.

(b) Use. The use of water belonging to the city, or the use of its water system, whether for domestic or industrial use, or for use in connection with a franchise or other privilege granted by the city, shall **will** always be subject to the most comprehensive scrutiny, management, and control by the city, and nothing shall **will** ever be done by a user which **that** shall **will** interfere with the successful operation of the waterworks or tend to interfere with the complete performance of the trust for the people under which such waterworks are held by the city; neither shall **will** such use confer upon any user a right to water superior to the right of any other user.

Section 5. Utility budgeting.

Budgets for all city-owned public utilities shall **must** be prepared and adopted at the same time and to the same extent as budgets for all other city functions, as specified in Article V of this Charter.

Section 6. Municipal utility rates and finances.

(a) Rates. The Council shall **must** by ordinance from time to time fix, establish, maintain, and provide for the collection of such rates, fees, or charges for water and electricity, and for other utility services furnished by the city as will produce revenues sufficient to pay the cost of operation and maintenance of the city's utilities in good repair and working order; to pay into the general fund in lieu of taxes on account of the city-owned utilities such amount as may be established by the Council by ordinance; to pay the principal of and interest on all bonds of the city payable from the revenues of the city's utilities; to provide and maintain an adequate working capital fund for the day-to-day business operations of said utilities; to provide and maintain an adequate fund for the replacement

of depreciated and obsolete property and for the extension, improvement, enlargement and betterment of said utilities; to pay the interest on and principal of any general obligation bonds issued by the city to extend or improve said utilities.

(b) Bond revenue. The provisions hereof shall ~~shall~~ **will** be subject at all times to the performance by the city of all covenants and agreements made by it in connection with the issuance, sale, or delivery of any bonds of the city payable out of the revenues derived from the operation of its utilities, whether such revenue bonds be heretofore or hereafter issued.

(c) Utility fund. All net operating revenues of the city's utilities shall ~~shall~~ **must** be held within the respective utility's fund and may be expended only for renewals, replacements, extraordinary repairs, extensions, improvements, enlargements and betterments to such utility, or other specific utility purpose determined by the Council to be beneficial to the ratepayers of said utilities.

Section 7. Telecommunication facilities and services.

- (a) Council powers.** In addition to all the powers granted by this Charter to the Council to acquire, condemn, establish, construct, own, lease, operate and maintain an electric utility to provide light, power and other electrical facilities and services, the Council may, by ordinance and without a vote of the electors, authorize the electric utility to acquire, construct, provide, fund and contract for telecommunication facilities and services within and outside the City's territorial limits, whether directly or in whole or part through one or more third-party providers. Alternatively, the Council may create by ordinance, and without a vote of the electors, a telecommunications utility to exercise these same powers to furnish telecommunication facilities and services within and outside the City's territorial limits. If the Council creates a telecommunications utility, it may also establish that utility as an enterprise of the City in the same manner, with the same powers and subject to the same requirements and limitations established under Section 19.3(b) of Article V of this Charter for the City's other enterprises. The Council may also exercise with respect to the telecommunications utility the same general authority and powers granted to Council in this Charter with respect to the City's other utilities.
- (b) Issuance of debt obligations.** The Council, acting as itself, the board of the electric utility enterprise or as the board of the telecommunications utility enterprise, shall ~~shall~~ **will** have the power to issue revenue and refunding securities and other debt obligations as authorized in Sections 19.3 and 19.4 of Article V of this Charter to fund the provision of the telecommunication facilities and services authorized in this Section. The cumulative total principal amount of any such securities and other debt obligations issued shall ~~shall~~ **must** not exceed one hundred fifty million dollars (\$150,000,000), except that any refunding of such securities or other debt obligations shall ~~shall~~ **will** not be included in that cumulative total. The City's payment of and performance of covenants under the securities and other debt obligations issued under this subsection (b) and any other contract obligations of the City relating to the provision of telecommunication facilities and services under this Section, shall ~~shall~~ **will** not be subject to annual appropriation so long as annual appropriation is not required under Article X, Section 20 of the Colorado Constitution.
- (c) Rates.** The Council shall ~~shall~~ **must** set by ordinance the rates, fees and charges for furnishing the telecommunication facilities and services authorized in this Section subject to the same limitations in Section 6 of Article XII of this Charter for setting the rates, fees and charges for other City utilities, except to the extent this authority is delegated by Council pursuant to subsection (e) below. In setting such rates, fees and charges, the Council may also include amounts payable to the City's general fund for a franchise fee, a reasonable rate of return on any contributions from the general fund to acquire or construct telecommunication facilities, and the repayment of any loans from the general fund used to support the provision of telecommunication facilities and services under this Section, to include the payment of a reasonable rate of interest on any such loans.
- (d) Executive sessions.** In addition to the authority to go into executive session as provided in Section 11 of Article II of this Charter, the Council, and any board or commission established under subsection (e) below, may go into executive session to consider matters pertaining to issues of competition in providing the

telecommunication facilities and services authorized in this Section, which ~~shall~~ will include, without limitation, matters subject to negotiation, strategic planning, pricing, sales and marketing, development phasing and any other matter allowed under Colorado law.

- (e) **Delegation powers.** As authorized in Section 1 of Article IV of this Charter, the Council may, by ordinance, establish a Council-appointed board or commission and delegate to it, in whole or part, the Council's governing authority and powers granted under this Section concerning the furnishing of telecommunication facilities and services by the City's electric utility or telecommunications utility, but not the power to issue securities as provided in subsection (b), above which ~~shall~~ may only be exercised by the Council acting as itself or as the board of the electric utility enterprise or as the board of the telecommunications utility enterprise. The Council may also delegate by ordinance to the City Manager, in whole or part, its authority in subsection (c) above to set the rates, fees and charges for furnishing telecommunication facilities and services. Any Council ordinance delegating this authority ~~shall~~ must set forth the process to be used by the delegate for the setting of these rates, fees and charges. In addition, the amount of the rates, fees and charges so set by the delegate ~~shall~~ must be determined under the same criteria the Council is authorized and required to follow in subsection (c) above.
- (f) **Definitions.** For purposes of this Section, *telecommunication facilities and services* ~~shall~~ means those facilities used and services provided for the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received, to include, without limitation, any broadband Internet facilities and services using any technology having the capacity to transmit data to enable a subscriber to the service to originate and receive high-quality voice, data, graphics and video. *Telecommunication facilities and services* and "broadband Internet facilities and services" are to be interpreted under this Section in the broadest possible way to cover the widest range of technologies and technology infrastructure, regardless of how these terms may be defined by federal or state law.

ARTICLE XIII. DEFINITIONS

Certain words and phrases used in this Charter are hereby declared to have the following meanings:

"Agency" means any organizational unit of the city.

"Allotment" means a portion of an appropriation made available for expenditure during a specified period of less than one (1) year.

"Appropriation" means the authorized amount of funds set aside for expenditure during a specified time for a specific purpose.

"City" means the City of Fort Collins, Colorado, a municipal corporation.

"Day" means a calendar day unless otherwise specified.

"Department" means a primary subdivision of a service area headed by a person who, regardless of title, is directly responsible to the director of the service area.

"Elector or taxpayer for a period of time" means that, if a person is required to be an elector or taxpayer for a period of time as a qualification to vote, to be a candidate, or to hold an office, then ~~he or she shall~~ they must be such during the entire and consecutive number of years next preceding the specified time.

"Emergency" means an existing condition actually arising from unforeseen contingencies which immediately endangers public property, health, peace, or safety.

"Emergency ordinance" means an ordinance immediately necessary, on account of an emergency, to preserve the public property, health, peace, or safety.

"Employees" means all persons in the compensated service of the city except Councilmembers.

"Fort Collins Urban Growth Area" means that geographical area within and adjacent to the City of Fort Collins identified by Intergovernmental Agreement between the City of Fort Collins and Larimer County as that area identified for annexation and urbanization by the City of Fort Collins including the Urban Growth Area as it exists on March 5, 1985, together with any amendments or changes thereto.

"Misdemeanor" means a violation of this Charter or of any city ordinance so designated, and it ~~shall~~ **does** not have the meaning attached to it in the criminal statutes of the State of Colorado.

"Office" means an administrative, legislative, or judicial position in the service of the city.

"Officer" means a member of the City Council.

"Registered elector" or "elector" means a person residing in the city who has registered to vote in city elections in the manner required by law.

"Service area" means a major city administrative unit designated as a service area by the City Council by ordinance.

"Vote of the electors" means a favorable vote by a majority of the electors voting in an election.

ARTICLE XIV. TRANSITIONAL PROVISIONS

Section 1. Purpose and status of this article.

The purpose of this Article is to provide an orderly transition from the Commission form of government of the city to the Council-Manager form of government under provisions of this Charter and to prevent the impairment of any contractual relationships between the city and the beneficiaries of any retirement plans of the city in effect on the effective date of this Charter or the owners of any municipal bonds of the city then outstanding. This Article ~~shall~~ **will** constitute a part of the Charter only to the extent and for the time required to accomplish that purpose.

Section 2. Transitional period.

The period from the effective date of this Charter to April 12, 1955, ~~shall~~ **will** be known as the transitional period. During the transitional period the former Charter of the City ~~shall~~ **will** remain in effect, except that for the purpose of nominating and electing members of the Council, or filling vacancies thereon, Article VIII of this Charter ~~shall~~ **will** be immediately operative. This Charter ~~shall~~ **will** be fully operative at the close of the transitional period.

Section 3. Retirement plans.

This Charter ~~shall~~ **will** not affect any contractual relationships existing on the effective date of this Charter between the city and any officers or employees by reason of any retirement plans then in effect.

Section 4. Outstanding and authorized bonds.

The provisions of this Charter ~~shall~~ **do** not affect municipal bonds outstanding on the effective date of this Charter. Failure to observe requirements of the former Charter, as amended, governing city elections ~~shall~~ **will** not invalidate any bonds authorized at any election held prior to the effective date of this Charter. Bonds authorized at an election held prior to the effective date of this Charter may be issued in accordance with the provisions of this Charter and when so issued ~~shall~~ **will** be the lawful and binding obligations of the city in accordance with their import.

Section 5. Saving clause.

This Charter ~~shall~~ **does** not affect any suit pending in any court on the effective date of its adoption. Nothing in this Charter ~~shall~~ **will** invalidate any existing contracts between the city and individuals, corporations, or public agencies.