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.

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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 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 consist of the word "SEAL" surrounded by the words "City of Fort Collins, Colorado."

Section 2. - Form of government.

The municipal government provided by this Charter shall be known as the "Council Manager government." 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 be vested in an elective Council, hereinafter referred to as "the Council." All powers of the City of Fort Collins shall 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.

(Ord. No. 15, 1997, § 1, 2-4-97, approved, election 4-8-97)

Section 3. - Succession to rights and liabilities.

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

DEFENDANT'S EXHIBIT BB

Section 4. - Powers of city.

The city shall have 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 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 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 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 be nominated and elected from the city at large. The remaining six (6) members shall be nominated and elected by Districts. The election of District Councilmembers shall 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 be divided into six (6) contiguous, reasonably compact districts, each of which shall consist of contiguous, undivided general election precincts and, to the extent reasonably possible, an equal number of inhabitants. The districts shall be numbered consecutively in a clockwise fashion beginning with the northeast district, which shall be District 1. The Council shall 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 be two (2) years, and the term of office of all other members of the Council shall be four (4) years each; provided, however, that all such officers shall serve until their successors have been elected and have taken office. The terms of the Mayor and other members of the Council shall begin when they take the oath of office, which shall occur as the first order of business at the first regular or special Council meeting following their election or appointment.

(Ord. No. 23, 1981, 2-17-81, approved, election 4-7-81; Ord. No. 94, 1972, 1-4-73, approved, election 2-20-73; Ord. No. 197, 1986, § 1, Parts A, B, 12-16-86, approved, election 3-3-87; Ord. No. 154, 1988, 12-20-88, approved, election 3-7-89; Ord. No. 100, 1990, 9-4-90, approved, election 11-6-90; Ord.

No. 15, 1997, § 1, 2-4-97, approved, election 4-8-97; Ord. No. 011, 2011, § 1, 2-15-11, approved, election 4-5-11)

Section 2. - Qualifications of candidates and members; challenges.

(a) An individual shall be eligible to be a candidate for the office of Councilmember if at the time of the election he or she is a citizen of the United States; is at least twenty-one (21) years of age; has been for one (1) year immediately preceding such election an elector of the city; and, in the case of a District Councilmember, has continuously resided in the District from which he or she is to be elected since the date of accepting any nomination for election under Article VIII, Section 3, of this Charter.

(b) No person who has been convicted of a felony shall be eligible to be a candidate for, or hold, the office of Councilmember.

(c) No person shall be 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 be an employee of the city or hold any other elective public office. No person shall 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 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 the power to subpoena witnesses, administer oaths, and require the production of evidence. No protest 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 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 term of office shall not affect the validity of any action taken by the Council during such Councilmember's term of office.

(Res. No. 71-12, 2-11-71, approved, election 4-6-71; Ord. No. 5, 1983, approved, election 3-8-83; Ord. No. 202, 1986, § 1, Part X, 12-16-86, approved, election 3-3-87; Ord. No. 100, 1990, 9-4-90, approved, election 11-6-90; Ord. No. 20, 1991, § 1, 2-19-91, approved, election 4-2-91; Ord. No. 20,

1993, § 1, 2-16-93, approved, election 4-6-93; Ord. No. 15, 1997, § 1, 2-4-97, approved, election 4-8-97)

Section 3. - Compensation of members.

Commencing in 1998, the compensation for all Councilmembers except the Mayor shall be five hundred dollars ($500.) per month and the compensation of the Mayor shall be seven hundred fifty dollars ($750.) per month. These amounts shall be adjusted annually thereafter for inflation in accordance with the Denver/ Boulder Consumer Price Index.

(Ord. No. 12, 1977, 2-15-77, approved, election 4-5-77; Ord. No. 198, 1986, § 1, Part A, 12-16-86, approved, election 3-3-87; Ord. No. 100, 1990, 9-4-90, approved, election 11-6-90; Ord. No. 16, 1997, § 1, 2-4-97, approved, election 4-8-97)

Editor's note— See § 2-575 of the City Code for current salaries of Councilmembers.

Section 4. - Organization.

The Mayor shall preside at meetings of the Council and shall 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 execute and authenticate legal instruments requiring the signature of the Mayor. The Mayor shall also perform such other duties as may be provided by ordinance which are not inconsistent with the provisions of this Charter.

At the first regular or special meeting after every biennial election, the Council shall 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 become Mayor as provided in Section 18(b) below.

(Ord. No. 11, 1969, 2-27-69, approved, election 4-8-69; Ord. No. 202, 1986, § 1, Part X, 12-16-86, approved, election 3-3-87; Ord. No. 100, 1990, 9-4-90, approved, election 11-6-90; Ord. No. 15, 1997, § 1, 2-4-97, approved, election 4-8-97)

Section 5. - Powers.

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

(Ord. No. 18, 1973, 2-15-73, approved, election 4-3-73; Ord. No. 202, 1986, § 1, Part A, 12-16-86, approved, election 3-3-87; Ord. No. 15, 1997, § 1, 2-4-97, approved, election 4-8-97; Ord. No. 22, 2001, § 2, 2-20-01, approved, election 4-3-01)

Section 6. - Ordinances, resolutions, motions.

The Council shall act by ordinance, resolution, or motion. The ayes and nays shall be recorded on the passage of all ordinances, resolutions, and motions. Every Councilmember present shall vote; if a member fails to vote when present, he or she shall be recorded as voting in the affirmative. 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 be by ordinance, which shall not be so altered or amended on the final passage as to change the original purpose.

All ordinances, except the annual appropriation ordinance and any ordinance making a general codification of ordinances, shall be confined to one (1) subject which shall be clearly expressed in the title. All ordinances shall 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 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 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, 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 be read in full at such reading. Final passage of all ordinances except emergency ordinances shall be at a regular Council meeting. Emergency ordinances shall require for passage the affirmative vote of at least five (5) members of the Council and shall 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 ever be passed as an emergency ordinance.

The enacting clause of all ordinances passed by the Council shall be as follows: "Be it ordained by the Council of the City of Fort Collins."

(Ord. No. 3, 1961, 2-23-61, approved, election 4-4-61; Ord. No. 94, 1972, 1-4-73, approved, election 2-20-73; Ord. No. 18, 1973, 2-15-73, approved, election 4-3-73; Ord. No. 202, 1986, § 1, Part X, 12-16-86, approved, election 3-3-87; Ord. No. 203, 1986, § 1, Part A, 12-16-86, approved, election 3-3-87)

Section 7. - Ordinances, publication and effective date.

Every proposed ordinance, except an emergency ordinance, shall 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 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. Both publications shall contain a notice of the date when said proposed ordinance will be presented for final passage. The City Clerk shall, 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. All

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

Standard codes and codifications of ordinances of the city may be published by title and reference in whole or in part.

Ordinances shall be signed by the Mayor, attested by the City Clerk and published without further certification.

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 hold a public hearing thereon and notice of the hearing shall 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 state the time and place of the hearing and shall 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 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 set forth in full any penalty clause in connection with such code.

(Ord. No. 11, 1967, 2-9-67, approved, election 4-4-67; Ord. No. 18, 1973, 2-15-73, approved, election 4-3-73; Ord. No. 205, 1984, approved, election 3-5-85; Ord. No. 15, 1997, § 1, 2-4-97, approved, election 4-8-97; Ord. No. 93, 2005, § 1, 9-6-05, approved election 11-1-05)

Section 8. - Disposition of ordinances.

A true copy of every ordinance, when adopted, shall be numbered and recorded in a book marked "Ordinance Record," and adoption and publication shall 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 be separately numbered and recorded.

Section 9. - Ordinance codification.

The Council shall 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 be invalid on the grounds that it deals with more than one (1) subject. The first codification shall be completed within five (5) years of the effective date of this Charter and subsequent codifications shall be made thereafter as deemed necessary by the Council, and all permanent ordinances adopted thereafter shall be codified at least once a year.

(Ord. No. 202, 1986, § 1, Part P, 12-16-86, approved, election 3-3-87)

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 be received as prima facie evidence by courts without further proof.

Section 11. - Meetings, quorum, executive session.

The Council shall hold regular meetings at such time and place as it may prescribe by ordinance and shall prescribe the manner in which special meetings may be called. Notice of any special meeting shall be given to all Councilmembers no less than one (1) day prior to such meeting. All meetings shall be open to the public. A majority of the members of Council shall 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. 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 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.

(Ord. No. 94, 1972, 1-4-73, approved, election 2-20-73; Ord. No. 12, 1977, 2-15-77, approved, election 4-5-77; Ord. No. 19, 1993, § 1, 2-16-93, approved, election 4-6-93; Ord. No. 14, 1997, § 1, 2-4-97, approved, election 4-8-97)

Section 12. - City Clerk.

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

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

(Ord. No. 209, 1984, 1-15-85, approved, election 3-5-85; Ord. No. 13, 1997, § 1, 2-4-97, approved, election 4-8-97)

Section 13. - Council not to interfere with administrative service.

Except for purposes of inquiry, the Council and its members shall deal with the administrative service of the city solely through the City Manager, and neither the Council nor any member shall 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 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.

(Ord. No. 202, 1986, § 1, Part Q, 12-16-86, approved, election 3-3-87)

Section 15. - Surety bonds.

The Council shall 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.

(Ord. No. 202, 1986, § 1, Part I, 12-16-86, approved, election 3-3-87)

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 provide for an independent audit at least annually by a certified public accountant of all books and accounts of the city, and shall publish a summary thereof once in the manner provided for publication of legal notices within five (5) months after the end of each fiscal year.

(Ord. No. 206, 1984, 1-15-85, approved, election 3-5-85)

Section 18. - Vacancies.

(a) 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 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 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.

Except for the office of Mayor, any vacancy on the Council shall be filled within forty-five (45) days by appointment of the Council. The person so appointed shall 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. This selection process shall be 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 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 run for the remainder of the replaced Councilmember's term. Any person appointed to fill a Councilmember's vacated position shall 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 be from the same District, as such District is constituted at the time of the appointment or election.

(b) The following shall 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 become Acting Mayor, and the Council shall elect a new Mayor Pro Tem. Both the Acting Mayor and Mayor Pro Tem shall serve until the next regular election, at which time the office of Mayor shall be filled by the electors for a new term, and the Acting Mayor and Mayor Pro Tem shall 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 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 be immediately assumed by the Mayor Pro Tem, who shall serve as Acting Mayor until said regular election, at which time the office of Mayor shall 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 consist of six (6) members, and the Council shall elect an interim Mayor Pro Tem. After the election, the Acting Mayor and Interim Mayor Pro Tem shall resume their duties as Councilmembers for the remainder of their unexpired terms of office, if any.

(3) Nothing herein shall preclude the Mayor Pro Tem or any Councilmember from standing for election to the office of Mayor.

(Ord. No. 201, 1986, § 1, Part L, 12-16-86, approved, election 3-3-87; Ord. No. 154, 1988, 12-20-88, approved, election 3-7-89; Ord. No. 100, 1990, 9-4-90, approved, election 11-6-90; Ord. No. 15, 1997, § 1, 2-4-97, approved, election 4-8-97)

ARTICLE III. - CITY MANAGER

Section 1. - Appointment, qualifications.

The Council shall appoint and fix the compensation of a City Manager, who shall be the chief executive officer and head of the administrative branch of the city government. The City Manager shall be appointed on the basis of his or her executive and administrative qualifications, with special reference to actual experience in and knowledge of accepted practice in respect to the duties of the office. Prior to appointment, the City Manager need not be a resident of the city, but during his or her tenure in office the City Manager shall reside within the city.

No member of Council shall be appointed City Manager during the term for which he or she has been elected nor within one (1) year after the expiration of such term.

(Ord. No. 202, 1986, § 1, Part X, 12-16-86, approved, election 3-3-87; Ord. No. 13, 1997, § 1, 2-4-97, approved, election 4-8-97)

Section 2. - Powers, duties.

The City Manager shall be responsible to the Council for the proper administration of all affairs of the city and to that end shall 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 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.

(Ord. No. 202, 1986, § 1, Part X, 12-16-86, approved, election 3-3-87; Ord. No. 22, 2001, § 2, 2-20-01, approved, election 4-3-01)

Section 3. - Absence of City Manager.

To perform his or her 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 returns or his or her disability ceases.

(Ord. No. 202, 1986, § 1, Part X, 12-16-86, approved, election 3-3-87; Ord. No. 13, 1997, § 1, 2-4-97, approved, election 4-8-97)

Section 4. - Removal of City Manager.

The Council shall 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 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 cause to be paid to the City Manager any unpaid balance of his or her salary for the current month and the salary for the next calendar month.

(Res. No. 72-30, 4-6-72, approved, election 5-23-72; Ord. No. 12, 1977, 2-15-77, approved, election 4-5-77; Ord. No. 202, 1986, § 1, Part B, 12-16-86, approved, election 3-3-87)

ARTICLE IV. - GENERAL PROVISIONS

Section 1. - Appointive boards.

(a) The Council may, by ordinance, establish appointive boards and commissions. The ordinance establishing such boards and commissions shall:

(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 have alternate members authorized to vote when serving in the absence of regular members.

(b) All board and commission members shall be subject to removal by the Council with or without cause. Any vacancy during the unexpired term of any member shall be filled by the Council for the remainder of the term. Each board and commission shall 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.

(Ord. No. 202, 1986, § 1, Part C, 12-16-86, approved, election 3-3-87; Ord. No. 18, 1997, § 1, 2-4-97, approved, election 4-8-97)

Section 2. - Administrative branch.

The administrative branch of the city government shall 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 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.

(Ord. No. 18, 1973, 2-15-73, approved, election 4-3-73; Ord. No. 202, 1986, § 1, Part D, 12-16-86, approved, election 3-3-87; Ord. No. 22, 2001, § 2, 2-20-01, approved, election 4-3-01)

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 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 not be subject to this residency requirement.

(Ord. No. 209, 1984, 1-15-85, approved, election 3-5-85; Ord. No. 202, 1986, § 1, Part E, 12-16-86, approved, election 3-3-87; Ord. No. 13, 1997, § 1, 2-4-97, approved, election 4-8-97; Ord. No. 21, 2001, § 1, 2-20-01, approved, election 4-3-01; Ord. No. 22, 2001, § 2, 2-20-01, approved, election 4-3-01)

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 take, subscribe before, and file with the City Clerk an oath or affirmation that he or she 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 will faithfully perform the duties of the office or position. The City Clerk shall take and subscribe the oath before a notary public.

(Ord. No. 22, 2001, § 2, 2-20-01, approved, election 4-3-01)

Section 5. - Records to be public.

All city records shall 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 be furnished by the custodian thereof. A certified copy of any city record shall 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 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 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.

(Ord. No. 19, 1997, § 1, 2-4-97, approved, election 4-8-97)

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 contain warnings and notices to signers as necessary.

(Ord. No. 199, 1986, § 1, Part D, 12-16-86, approved, election 3-3-87)

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 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 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 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 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 concerning such sale; or

c. in the case of services, such officer or employee exercises any supervisory authority over the services to be rendered to the city.

(2) Purchases from the city . No officer, employee or relative shall, 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 a member or to which he or she makes recommendations, shall, upon discovery thereof, disclose such interest in the official records of the city in the manner prescribed in subsection (4) hereof, and shall 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 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 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 discover 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 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 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, 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.

(Res. No. 71-12, 2-11-71, approved, election 4-6-71; Ord. No. 155, 1988, 12-20-88, approved, election 3-7-89; Ord. No. 10, 1997, § 1, 2-4-97, approved, election 4-8-97; Ord. No. 22, 2001, § 2, 2-20-01, approved, election 4-3-01)

Section 10. - Penalties for violation of Charter.

Any violation of a provision of this Charter shall 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 be no less than that established by ordinance for misdemeanor violations of the city Code. Said maximum penalty shall be set by the Council by ordinance. Any officer or employee of the city convicted of such a violation shall be deprived of his or her office or employment and shall be ineligible to any city office or employment for two (2) years thereafter.

(Ord. No. 202, 1986, § 1, Part X, 12-16-86, approved, election 3-3-87; Ord. No. 162, 1988, 12-20-88, approved, election 3-7-89)

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 not apply to any part of this Charter containing express provisions excluding such construction or where the subject matter or context is repugnant thereto.

(Ord. No. 19, 1997, § 1, 2-4-97, approved, election 4-8-97)

Section 12. - Construction of Charter.

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

Section 13. - Outgoing officers.

All officers of the city whose terms of office terminate shall deliver to their successors all papers, records, and property of every kind in their possession or custody by virtue of their office, and shall 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 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 by ordinance prescribe the method of making such improvements and the assessments for their cost.

(Ord. No. 202, 1986, § 1, Part S, 12-16-86, approved, election 3-3-87)

Section 16. - Limitation of actions.

No person shall 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.

(Ord. No. 17, 1997, § 1, 2-4-97, approved, election 4-8-97)

ARTICLE V. - FINANCE ADMINISTRATION

Part I - Budget and Financial Management

Section 1. - Fiscal and accounting year.

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

(Ord. 12, 1997, § 1, 2-4-97, approved, election 4-8-97)

Section 2. - Budget estimates.

On or before the first Monday in September preceding each budget term, the City Manager shall file with the City Clerk a proposed budget for the ensuing budget term with an explanatory message. The proposed budget shall provide a complete financial plan for each fund of the city and shall 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.

(Ord. No. 23, 1981, 2-17-81, approved, election 4-7-81; Ord. 12, 1997, § 1, 2-4-97, approved, election 4-8-97)

Section 3. - Public record, hearing.

The City Manager's proposed budget shall be a public record and open to the public for inspection and copy. The Council shall, 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.

(Ord. 12, 1997, § 1, 2-4-97, approved, election 4-8-97)

Section 4. - Adoption of budget and appropriation of funds.

After said public hearing and before the last day of November preceding the budget term, the Council shall adopt the budget for the ensuing term. The adoption of the budget shall be by ordinance. Before the last day of November of each fiscal year, the Council shall 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 be accomplished by passage of the annual appropriation ordinance. Such appropriation of funds shall 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 be summarized by individual project or grant.

(Ord. No. 18, 1973, 2-15-73, approved, election 4-3-73; Ord. No. 23, 1981, 2-17-81, approved, election 4-7-81; Ord. No. 10, 1991, § 1(a), 2-19-91, approved, election 4-2-91; Ord. 12, 1997, § 1, 2-4-97, approved, election 4-8-97)

Section 5. - Levy.

The annual appropriation ordinance shall 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 thereupon cause the total levy to be certified by the City Clerk to the county consistent with applicable state statutes, which shall extend the same upon the tax list of the current year in a separate column entitled "City of Fort Collins Taxes," and shall include said city taxes in his or her 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 be the levy fixed for the ensuing fiscal year and the Financial Officer shall so certify.

(Ord. No. 23, 1981, 2-17-81, approved, election 4-7-81; Ord. No. 202, 1986, § 1, Parts I, X, 12-16-86, approved, election 3-3-87; Ord. No. 10, 1991, § 1(a), 2-19-91, approved, election 4-2-91; Ord. 12, 1997, § 1, 2-4-97, approved, election 4-8-97)

Section 6. - Maximum mill levy.

The mill levy shall 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 be absolutely void as to the excess and it shall 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 be irrepealable and the several amounts stated in the adopted budget and annual appropriation ordinance as proposed expenditures for such fiscal year shall be deemed appropriated for the purposes therein specified.

(Ord. 12, 1997, § 1, 2-4-97, approved, election 4-8-97)

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

(a) No appropriation shall 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) It shall be 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 be null and void from its inception.

(c) Nothing herein shall apply to 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 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.

(Ord. 12, 1997, § 1, 2-4-97, approved, election 4-8-97; Ord. No. 22, 2001, § 2, 2-20-01, approved, election 4-3-01)

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 not exceed the then current estimate of actual and anticipated revenues to be received by the city during the fiscal year. This provision shall not prevent the Council from appropriating by ordinance at any time during the fiscal year such funds for expenditure as may be available from reserves accumulated in prior years, notwithstanding that such reserves were not previously appropriated.

(Ord. 12, 1997, § 1, 2-4-97, approved, election 4-8-97)

Section 10. - Transfer of appropriations.

(a) During the fiscal year, the City Manager may transfer any unexpended and unencumbered appropriated amount within the same fund.

(b) 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:

(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.

(Ord. 12, 1997, § 1, 2-4-97, approved, election 4-8-97)

Section 11. - Lapsed appropriations.

All appropriations unexpended or unencumbered at the end of the fiscal year shall lapse to the applicable general or special fund, except that appropriations for capital projects and federal or state grants shall not lapse until the completion of the capital project or until the expiration of the federal or state grant.

Nothing herein shall limit the ability of the Council to terminate a capital project or a federal or state grant at any time prior to completion of the project or expiration of the grant.

(Ord. No. 23, 1981, 2-17-81, approved, election 4-7-81; Ord. 12, 1997, § 1, 2-4-97, approved, election 4-8-97)

Section 12. - Deposit of public funds.

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

(Ord. No. 6, 1975, 2-18-75, approved, election 4-8-75; Ord. 12, 1997, § 1, 2-4-97, approved, election 4-8-97)

Section 13. - Collection of taxes.

Unless the Council otherwise provides by ordinance or resolution, the County Treasurer shall 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. 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 apply and have the same effect with respect to all taxes for the city as general taxes, except as modified by this Charter. On or before the tenth day of each month or as frequently as the Council may prescribe by ordinance, the County Treasurer shall 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 be included in the budget.

(Ord. No. 202, 1986, § 1, Part I, 12-16-86, approved, election 3-3-87; Ord. No. 203, 1986, § 1, Part B, 12-16-86, approved, election 3-3-87; Ord. 12, 1997, § 1, 2-4-97, approved, election 4-8-97)

Section 14. - Audit and payments.

No demand for money against the city shall 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.

(Ord. No. 202, 1986, § 1, Part I, 12-16-86, approved, election 3-3-87; Ord. 12, 1997, § 1, 2-4-97, approved, election 4-8-97; Ord. No. 22, 2001, § 2, 2-20-01, approved, election 4-3-01)

Section 15. - Appropriations forbidden.

No appropriation 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.

Section 16. - City not to pledge credit.

The city shall 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.

(Ord. No. 203, 1986, § 1, Part D, 12-16-86, approved, election 3-3-87)

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.

(Ord. No. 203, 1986, § 1, Part E, 12-16-86, approved, election 3-3-87; Ord. 12, 1997, § 1, 2-4-97, approved, election 4-8-97)

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 be issued after the annual levy of taxes and be payable in full within twelve (12) months from their date, except as otherwise specifically provided in this Charter.

(Ord. No. 18, 1973, 2-15-73, approved, election 4-3-74)

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 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 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 not be included in the determination of such debt limitation.

(Ord. No. 18, 1973, 2-15-73, approved, election 4-3-73; Ord. No. 203, 1986, § 1, Part F, 12-16-86, approved, election 3-3-87)

Section 19.3. - Revenue securities.

(a) 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) 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 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 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.

The Council shall 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 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).

(Ord. No. 18, 1973, 2-15-73, approved, election 4-3-73; Ord. No. 18, 1993, § 1, 2-16-93, approved, election 4-6-93)

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 be issued without an election if such refunding securities are made payable in whole or part from ad valorem taxes of the city.

(Ord. No. 18, 1973, 2-15-73, approved, election 4-3-73; Ord. No. 203, 1986, § 1, Part G, 12-16-86, approved, election 3-3-87)

Section 19.5. - Special assessment securities.

(a) Securities for any special or local improvement district, secured as provided in this Section, shall not be subject to any debt limitation nor affect the city's debt incurring power, nor shall 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 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 (¾) 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 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.

(Ord. No. 18, 1973, 2-15-73, approved, election 4-3-73; Ord. No. 203, 1986, § 1, Part H, 12-16-86, approved, election 3-3-87; Ord. No. 160, 1988, 12-20-88, approved, election 3-7-89; Ord. No. 161, 1988, 12-20-88, approved, election 3-7-89)

Section 19.6. - Terms and disposal of securities.

The terms and maximum interest rate of all securities shall be fixed by the ordinance authorizing the borrowing and providing for its payment and all securities shall 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.

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

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 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.

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

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 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 not be included in the determination of the debt limitation contained in Section 19.2 of Article V of this Charter.

(Ord. No. 18, 1973, 2-15-73, approved, election 4-3-73; Ord. No. 203, 1986, § 1, Part I, 12-16-86, approved, election 3-3-87)

Section 20. - No additional limitations.

Section 6 of Part I of Article V of this Charter shall 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 be no limitations on the authority of the city to incur indebtedness or to issue securities.

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

Part III. - Financial Administration Unit

Section 21. - Financial officer.

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

(Ord. No. 202, 1986, § 1, Part G, 12-16-85, approved, election 3-3-87; Ord. 12, 1997, § 1, 2-4-97, approved, election 4-8-97)

Section 22. - Powers and duties.

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

(Ord. No. 202, 1986, § 1, Part G, 12-16-86, approved, election 3-3-85; Ord. No. 203, 1986, § 1, Part J, 12-16-86, approved, election 3-3-87; Ord. 12, 1997, § 1, 2-4-97, approved, election 4-8-97; Ord. No. 22, 2001, § 2, 2-20-01, approved, election 4-3-01)

Section 23. - Separate utilities accounts.

The accounts of each utility owned and operated by the city shall be maintained in a separate fund and kept separate and distinct from all other accounts of the city. Each utility fund shall be accounted for utilizing the basis of accounting appropriate for an enterprise fund, and shall contain a reasonable allowance for depreciation and obsolescence. All expenses incurred by service areas in rendering services to any utility owned and operated by the city shall be fully paid by such utility on a "cost of service" basis as determined by the City Manager. Each utility shall be fully paid for all services rendered by such utility to other city service areas. If the utility is subject to a payment to the general fund in lieu of taxes and franchise fees, an estimate shall

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 be charged against the utility fund.

(Ord. No. 203, 1986, § 1, Part K, 12-16-86, approved, election 3-3-87; Ord. 12, 1997, § 1, 2-4-97, approved, election 4-8-97; Ord. No. 22, 2001, § 2, 2-20-01, approved, election 4-3-01)

Section 24. - Responsibility for funds.

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

(Ord. No. 202, 1986, § 1, Part J, 12-16-86, approved, election 3-3-87)

Section 25. - Creation of funds.

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

(Ord. No. 203, 1986, § 1, Part L, 12-16-86, approved, election 3-3-87; Ord. 12, 1997, § 1, 2-4-97, approved, election 4-8-97)

Part IV - Purchasing

Section 26. - Powers and duties.

The City Manager or designee shall appoint a Purchasing Agent who shall 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.

(Ord. No. 202, 1986, § 1, Parts H, W, 12-16-86, approved, election 3-3-87; Ord. 12, 1997, § 1, 2-4-97, approved, election 4-8-97; Ord. No. 22, 2001, § 2, 2-20-01, approved, election 4-3-01)

Section 27. - Competitive bidding.

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

(Ord. No. 12, 1967, 2-9-67, approved, election 4-4-67; Ord. No. 6, 1980, 1-16-80, approved, election 2-26-80; Ord. No. 202, 1986, § 1, Parts W, X, 12-16-86, approved, election 3-3-87;)

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.

(Ord. No. 202, 1986, § 1, Part W, 12-16-86, approved, election 3-3-87)

Section 29. - Contracts for improvements.

All city improvements constructed by an independent contractor shall 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 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 Council authorizes the city, rather than an independent contractor, to proceed with the construction of an improvement, the services of the city shall be charged as a part of the cost of the improvement.

(Ord. No. 6, 1980, 1-16-80, approved, election 2-26-80; Ord. No. 202, 1986, § 1, Part W, 12-16-86, approved, election 3-3-87; Ord. No. 12, 1991, § 1, 2-19-91, approved, election 4-2-91; Ord. 12, 1997, § 1, 2-4-97, approved, election 4-8-97)

Section 30. - Contracts for service.

The Council shall 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 be made by the city, unless authorized by ordinance, which ordinance shall not be passed as an emergency ordinance.

(Ord. No. 202, 1986, § 1, Part W, 12-16-86, approved, election 3-3-87; Ord. No. 13, 1991 § 1, 2-19-91, approved, election 4-2-91)

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 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 be excepted from the provisions of this Section.

(Ord. No. 202, 1986, § 1, Parts I, W, 12-16-86, approved, election 3-3-87; Ord. 12, 1997, § 1, 2-4-97, approved, election 4-8-97)

ARTICLE VI. - CITY ATTORNEY

Section 1. - Appointment.

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

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

(Ord. No. 18, 1973, 2-15-73, approved, election 4-3-73; Ord. No. 202, 1986, § 1, Parts V, X, 12-16-86, approved, election 3-3-87; Ord. 13, 1997, § 1, 2-4-97, approved, election 4-8-97)

Section 2. - Functions.

The City Attorney shall 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 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.

(Ord. No. 202, 1986, § 1, Parts V, X, 12-16-86, approved, election 3-3-87)

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.

(Ord. No. 202, 1986, § 1, Part V, 12-16-86, approved, election 3-3-87)

ARTICLE VII. - MUNICIPAL COURT

Section 1. - Municipal court.

There shall be a Municipal Court vested with original jurisdiction of all causes arising under the City's Charter and ordinances. The Council shall appoint a Municipal Judge for a two (2) year term and shall fix the compensation of the Municipal Judge. Such compensation shall in no manner be contingent upon the amount of fees, fines or costs imposed or collected. The Municipal Judge shall be licensed to practice law in the State of Colorado during his or her tenure in office, but need not be so licensed prior to appointment. In the absence of the Municipal Judge, the Council shall designate a reputable and qualified attorney to serve as a temporary judge. The Council may remove the Municipal Judge for cause.

Rules of procedure, costs and fees shall be enacted by the Council upon recommendation of the Municipal Judge.

(Ord. No. 202, 1986, § 1, Parts V, X, 12-16-86, approved, election 3-3-87; Ord. No. 5, 1989, 1-17-89, approved, election 3-7-89; Ord. 13, 1997, § 1, 2-4-97, approved, election 4-8-97)

Section 2. - Penalty for violation.

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

(Ord. No. 202, 1986, § 1, Parts R, V, W, 12-16-86, approved, election 3-3-87)

ARTICLE VIII. - ELECTIONS

Section 1. - Applicability of state constitution.

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

(Res. No. 71-12, 2-11-71, approved, election 4-6-71; Ord. No. 202, 1986, § 1, Part V, 12-16-86, approved, election 3-3-87)

Section 2. - City elections.

A regular city election shall be held on the first Tuesday after the first Monday in April of odd-numbered years. Special city elections shall be called by ordinance and shall be held in accordance with the provisions of this Charter and any ordinances adopted pursuant thereto. All municipal elections shall be nonpartisan.

(Ord. No. 23, 1981, 2-17-81, approved, election 4-7-81; Ord. No. 201, 1986, § 1, Part B, § 2, 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. 154, 1988, 12-20-88, approved, election 3-7-89; Ord. No. 11, 1997, § 1, 2-4-97, approved, election 4-8-97)

Section 3. - Nomination; withdrawal from 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 shall be signed by not less than twenty-five (25) registered electors. A nominating petition for District Council office shall 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 shall be void as to all petitions which the elector signed.

Nominating petitions must be filed with the City Clerk. The Council shall 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 shall not be changed within one (1) year immediately prior to the election. No nominating petition shall be accepted unless the candidate completes a verified acceptance of the nomination certifying that he or she is not a candidate, directly or indirectly, of any political party, and that he or she meets the qualifications for office, and will serve if elected.

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 shall be placed upon the ballot.

(Ord. No. 12, 1977, 2-15-77, approved, election 4-5-77; Ord. No. 201, 1986, § 1, Part E, § 3, 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)

Section 4. - Petitions.

(a) Form; circulation. The Council shall prescribe by ordinance, upon recommendation of the City Clerk, the form for a nominating petition which shall 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 shall 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 shall be accepted as true until it shall be proved false. If any portion is proved false, that portion of any petition shall be disregarded. Following each signature on the petition of nomination shall be written the printed name and the residence address of the signer, and the date of signing. All nominating papers comprising a petition shall be filed as one (1) instrument.

(b) Sufficiency of petition. Upon receipt of a nominating petition, the City Clerk shall forthwith examine the petition, and within five (5) 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 shall 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 shall be preserved by the City Clerk until the expiration of the terms of office for such person.

(c) No person shall receive any compensation whatever for signing a nominating petition.

(Ord. No. 12, 1977, 2-15-77, approved, election 4-5-77; Ord. No. 201, 1986, § 1, Part E, § 4, 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. 158, 1988, 12-20-88, approved, election, 3-7-89; Ord. No. 11, 1997, § 1, 2-4-97, approved, election 4-8-97; Ord. No. 005, 2015, § 1, 1-20-15, approved, election of 4-7-15)

Section 5. - Board of Elections.

There is hereby created a Board of Elections consisting of the City Clerk, Chief Deputy City Clerk, and Municipal Judge. The Board shall be responsible for any election duties specified in this Charter and for such additional duties related to the conduct of elections 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)

Section 6. - Appearance of names on ballot.

Every ballot shall 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 shall be arranged in alphabetical order of surname for each office, and shall not contain any title or degree designating the business or profession of the candidate. The candidate's name may be a nickname, but shall not include any punctuation marks setting out the nickname.

(Ord. No. 129, 1999, § 1, 8-17-99, approved, election 11-2-99)

Section 7. - Certification of election results.

On the third day after every city election and, after verifying the total number of legal votes cast for each candidate and measure voted upon, the Board of Elections shall complete a certificate declaring the results of the election. The candidate receiving the highest number of votes for a particular office shall be declared elected to that office. In event of a tie, the selection shall be made by the Board of Elections by lot after notice to the candidates affected. In case the candidate elected fails to qualify within sixty (60) days after the date of issuance of the certificate of election, the candidate with the next highest vote shall be elected, and the candidate failing to qualify shall forfeit his or her office whether or not such candidate has taken the oath of office. If there is no other elected successor who qualifies, the office shall be deemed vacant, and shall be filled by appointment by the remaining members of the Council, as provided in Article II, Section 18.

(Ord. No. 197, 1986, § 1, Parts C, M, 12-16-86, approved, election 3-3-87; Ord. No. 202, 1986, § 1, Parts V, W, 12-16-86, approved, election 3-3-87; Ord. No. 11, 1997, § 1, 2-4-97, approved, election 4-8-97; Ord. No. 129, 1999, § 2, 8-17-99, approved, election 11-2-99; Ord. No. 022, 2007, §1, 2-20-07, approved, election 4-3-07)

Section 8. - Campaign contributions.

The Council shall 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.

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 shall contribute or expend any money or other valuable thing, directly or indirectly, to assist in the election or defeat of any candidate.

(Ord. No. 6, 1980, 1-16-80, approved, election 2-26-80; Ord. No. 208, 1984, 1-15-85, approved, election 3-5-85; Ord. No. 201, 1986, § 1, Part M, 12-16-86, approved, election 3-3-87; Ord. No. 202, 1986, § 1, Parts V, W, 12-16-86, approved, election 3-3-87; Ord. No. 11, 1997, § 1, 2-4-97, approved, election 4-8-97; Ord. No. 129, 1999, § 2, 8-17-99, approved, election 11-2-99)

Section 9. - Corrupt practices.

Any person who violates at a city election any state law, provision of this Charter or ordinance of the city shall, 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.

(Ord. No. 201, 1986, § 1, Parts J, M, 12-16-86, approved, election 3-3-87; Ord. No. 202, 1986, § 1, Parts V, W, 12-16-86, approved, election 3-3-87; Ord. No. 11, 1997, § 1, 2-4-97, approved, election 4-8-97; Ord. No. 129, 1999, § 2, 8-17-99, approved, election 11-2-99)

Section 10. - Validity of elections.

No city election shall be invalidated if it has been conducted fairly and in substantial conformity with the requirements of this Charter.

(Ord. No. 201, 1986, § 1, Part M, 12-16-86, approved, election 3-3-87; Ord. No. 202, 1986, § 1, Parts V, W, 12-16-86, approved, election 3-3-87; Ord. No. 11, 1997, § 1, 2-4-97, approved, election 4-8-97; Ord. No. 129, 1999, § 2, 8-17-99, approved, election 11-2-99)

Section 11. - 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.

(Ord. No. 11, 1997, § 1, 2-4-97, approved, election 4-8-97; Ord. No. 129, 1999, § 2, 8-17-99, approved, election 11-2-99)

ARTICLE IX. - RECALL

Section 1. - The recall.

(a) Power. 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. For purposes of this Article, in the case of recall of the Mayor, the words "registered elector" shall be construed to mean persons residing within the city who are registered to vote as of the date they signed the petition for recall. For purposes of this Article, in the case of a proposed recall of District Council representatives, the words "registered elector" shall 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. No recall petition shall 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. The procedure to effect a recall shall be as provided in this Article.

(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 shall be filed for each officer sought to be recalled. Within forty-eight (48) hours after the filing of the affidavit, the City Clerk shall mail a copy by certified mail to the affected officer. Within five (5) 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. The affidavit and the response are intended for the information of the registered electors, who shall be the sole and exclusive judges of the sufficiency of the ground or grounds assigned for the recall, and said ground or grounds shall not be open to judicial review. Within ten (10) days after the date by which any statement in defense must be filed, a petition for recall of the officer shall be submitted to the City Clerk for approval of the form of the petition in accordance with Section 2(b) of this Article. The petition shall be circulated, signed, verified and filed in the manner provided in Section 2 of this Article. 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 shall be terminated.

(c)

Call of election. A recall election shall be for the dual purposes of voting on the recall of the officer sought to be removed and the election of a successor. Upon the City Clerk's presentation of a petition certified sufficient for recall, the Council shall set a date for the election which shall be held on a Tuesday not less than sixty (60) nor more than ninety (90) days from the date of presentation of the certified petition to Council. However, if any other city election is to occur within ninety (90) days from the presentation of the certified petition to Council, the recall election shall be postponed and consolidated with such other city election. The order setting a date for the recall election shall not become effective until five (5) days from the presentation of the certified petition to Council. If the officer resigns within the five-day period, the vacancy may be filled by appointment. If a vacancy occurs in the affected office after the effective date of the order, the election to fill the vacancy shall nevertheless proceed.

(d) Disqualification for 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 shall serve the city in any elected or appointed capacity within two (2) years after such removal or resignation.

(Ord. No. 199, 1986, § 1, Part A, § 1, 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. 157, 1988, 12-10-88, approved, election 3-7-89; Ord. No. 11, 1997, § 1, 2-4-97, approved, election 4-8-97; Ord. 128, 1999, § 1, 8-17-99, approved, election 11-2-99)

Section 2. - Petitions.

(a) Separate petitions required. A separate petition shall be circulated and filed for each officer sought to be recalled.

(b) Form and content.

(1) Approval of form. No petition shall be circulated until the City Clerk has approved the form for circulation. The City Clerk shall first determine that the petition form contains only the matters required by this Article. The Council shall prescribe by ordinance, upon recommendation of the City Clerk, a general form of petition which shall contain warnings and notices to signers as necessary. The City Clerk's approval under this Section shall not constitute an approval of the content of the petition, but rather, shall start the running of the time periods provided for circulation and filing of petitions for recall.

(2) Statement of purpose. The petition shall be addressed to Council and shall 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.

(3) Signatures. Only registered electors may sign the petitions authorized under this Article. Each signer must sign his or her own signature and each signature shall be followed by the printed name of the signer, the street and number address of his or her residence, and the date of signing. No person shall knowingly sign his or her name more than once for the recall of the same incumbent.

(c) Circulation of petition. The petition may be circulated and signed in sections with each section consisting of one (1) or more sheets securely fastened at the top, provided that each section contains a full and accurate copy of the text of the petition and the names and addresses of the designated representatives for the petition. All sections shall be filed as one (1) instrument. Only persons eighteen (18) years of age or older may circulate the petition for signatures. The circulation of any petition by any medium other than personally by a circulator is prohibited. No person shall receive any compensation whatever for signing a recall petition.

(d) Affidavit of circulator. A circulator shall attach to each section of the petition circulated, an affidavit signed by the circulator under oath before a notary public stating the following:

(1) the circulator's address of residence;

(2) that the circulator is eighteen (18) years of age or older;

(3) that he or she personally circulated the section;

(4) that each signature was affixed in the circulator's presence;

(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 his or her signature to the petition.

A petition verified by the valid affidavits of its circulators in each of its sections shall 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 entire vote cast at the last preceding regular city election for all candidates for the office, to which the incumbent sought to be recalled was elected as one of the officers thereof, said entire vote being divided by the number of all officers elected to such office at said election.

(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 entire vote cast at the last preceding regular city election for all candidates for the office to which the incumbent sought to be recalled was elected as one of the officers thereof, said entire vote being divided by the number of all officers elected to such office at said election.

(f) Place of filing, time limits. Petitions for recall shall be filed with the City Clerk within thirty (30) days of the City Clerk's approval of the form for circulation. Each petition shall designate by name and address not less than three (3) nor more than five (5) registered electors who shall represent the signers of the petition in all matters affecting the petition, and shall be endorsed by such persons.

(g) Sufficiency of petition; amendment. Within five (5) working days of the filing of a petition the City Clerk shall 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. If the petition is insufficient, the City Clerk shall so certify and forthwith notify all of the designated petition representatives in writing, specifying the particulars of insufficiency.

Registered electors desiring to protest the sufficiency of a petition may file a written protest, under oath, in the office of the City Clerk within ten (10) days of the filing of the petition. The protest shall set forth with particularity the grounds of protest and the names and defects in form protested. The reasons assigned for recall may not be protested. Upon the filing of a written protest, the City Clerk shall set a time for hearing such protest, which shall be no more than seven (7) days thereafter. At least five (5) days before the hearing, the City Clerk shall mail a copy of the protest to all of the designated petition representatives together with a notice of the time for hearing. All records and hearings shall be before the City Clerk who shall have the power to issue subpoenas to compel the attendance of witnesses and the production of documents. All records and hearings shall be public, and all testimony shall be under oath. The hearing shall be summary in nature and concluded within thirty (30) days after the petition was filed. The City Clerk shall decide and certify the results of the hearing within ten (10) days after the hearing is concluded.

In case the petition is deemed insufficient, whether following the initial determination by the City Clerk, or following protest proceedings, it may be withdrawn and amended within fifteen (15) days from the filing of the City Clerk's certificate of insufficiency. The City Clerk shall, within five (5) days after such amendment, examine the amended petition and the registration books and certify the result. If the petition is still insufficient, or if no amendment is made, the City Clerk shall return it to one (1) of the designated petition representatives without prejudice to the filing of a new petition for the same purpose.

When and if a petition or amended 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 shall so certify and present the certified petition to the Council at the next regularly scheduled meeting. The City Clerk's certificate shall then be a final determination as to the sufficiency of the petition.

(Ord. No. 199, 1986, § 1, Part A, § 2, 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. 157, 1988, 12-20-88, approved, election 3-7-89; Ord. No. 158, 1988, 12-20-88, approved, election 3-7-89; Ord. No. 11, 1997, § 1, 2-4-97, approved, election 4-8-97; Ord. No. 88, 2000, § 1, 8-15-00, approved, election 11-7-00)

Section 3. - Elections.

(a) Generally. Elections on recall shall 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 shall apply to recall elections.

(b) Nominations on recall. Anyone desiring to become a candidate at the recall election shall do so by nominating petition as required in Article VIII of this Charter. The deadline for filing a nominating petition for a recall election shall 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 shall not appear on the ballot as a candidate for the office.

(c) Ballots. There shall be printed on the official ballot, 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 shall 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 shall 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 shall thereupon be deemed removed from his or her office upon the taking of the oath of office by his or her successor. If the officer is recalled, the candidate for succession receiving the highest number of votes at the election shall be declared elected for the remainder of the incumbent's term. The candidate elected shall take office upon taking the oath of office, which shall occur as the first order of business at the next regular or special Council meeting. In case the candidate elected fails to qualify within sixty (60) days after the issuance of a certificate of election, the candidate with the next highest vote shall be elected, and if there is no other elected successor who qualifies, the office shall be deemed vacant, and shall be filled by appointment by the remaining members of the Council, as provided in Article II, Section 18.

(Ord. No. 199, 1986, § 1, Part A, § 3, 12-16-86, approved, election 3-3-87; Ord. No. 202, 1986, § 1, Parts V, W, X, 12-16-86, approved, election 3-3-87; Ord. No. 11, 1997, § 1, 2-4-97, approved, election 4-8-97; Ord. No. 006, 2015, § 1, 1-20-15, approved, election of 4-7-15)

Section 4. - 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.

(Ord. No. 199, 1986, § 1, Part A, § 4, 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)

ARTICLE X. - INITIATIVE AND REFERENDUM

Section 1. - The initiative.

(a) Power. The registered electors of the city shall 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 shall 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 shall contain the full text of the proposed ordinance or resolution and shall state whether a special election is requested. After such notice has been filed, the City Clerk shall approve the petition for circulation in accordance with Section 5(b) of this Article. The petition shall be circulated, signed, verified, and filed in the manner prescribed in Section 5 of this Article.

(c) 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, except when 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.

(d) Petition deadlines. The initiative petition shall be filed no more than sixty (60) days after the City Clerk's approval of the form for circulation. Unless a special election is requested, the petition must also be filed at least ninety (90) days prior to the next regular city election. If the petition requests a special election in conjunction with a Larimer County Coordinated or General Election, the City Clerk shall establish a submittal deadline for the petition that will enable the measure to be considered at such election, which deadline shall be consistent with all pertinent provisions of the Colorado Revised Statutes governing the conduct of such elections, and, if applicable, with Article X, Section 20 of the Colorado Constitution, and shall advise the petition representatives in writing as to the submittal deadline.

(e) Action by Council. Upon presentation of an initiative petition certified as sufficient by the City Clerk, the Council shall either (1) adopt the proposed ordinance or resolution without alteration within thirty (30) days, or (2) submit such proposed measure, in the form petitioned for, to the registered electors of the city; provided, however, that if the proposed measure requires voter approval in advance under Article X, Section 20 of the Colorado Constitution, alternative (1) above shall not be available to the Council and the proposed measure shall instead be submitted to a vote of the registered electors. If the initiative petition proposing such a measure requests a special election, the proposed measure shall 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 shall be submitted to a vote of the registered electors at the next regular city election. In the case of a proposed measure that does not require voter approval in advance under Article X, Section 20 of the Colorado Constitution, the proposed measure, if not adopted by the Council under alternative (1) above, shall be submitted to a vote of the registered electors at the next regular city election or, if the initiative petition proposing such measure requests a special

election, the proposed measure shall be submitted to a vote of the registered electors at a special election to be called by the Council within one hundred twenty (120) days of the presentation of the certified petition to the Council, unless any other regular or special city election is to occur within said period, in which case the proposed measure shall be submitted at such other regular or special city election. All ordinances submitted to the Council by initiative petition and adopted by Council without the vote of the electors shall be subject to the referendum in the same manner as other ordinances.

(Ord. No. 6, 1980, 1-16-80, approved, election 2-26-80; Res. No. 83-22, 1-18-83, approved, election 3-8-83; Ord. No. 199, 1986, § 1, Part B, § 1, 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. 21, 1993, § 1, 2-16-93, approved, election 4-6-93; Ord. No. 11, 1997, § 1, 2-4-97, approved, election 4-8-97; Ord. No. 127, 1999, § 1, 8-17-99, approved, election 11-2-99; Ord. No. 101, 2002, § 1, 8-20-02, approved, election 11-5-02; Ord. No. 004, 2015, § 1, 1-20-15, approved, election of 4-7-15)

Section 2. - The referendum.

(a) Power. The registered electors of the city shall have the power at their option to approve or reject at the polls, any 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. One (1) or more registered electors may commence referendum proceedings by filing with the City Clerk within 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 shall be brief and need not state any reasons, but shall identify the ordinance or part thereof, or code section it proposes to have repealed. Not later than ten (10) days after the filing of the notice, the proponents shall present to the City Clerk the final form for the referendum petition conforming to the requirements of the Article. If the notice and petition form are timely presented, the City Clerk shall approve the petition form for circulation, in accordance with Section 5(b) of this Article. The petition shall be circulated, signed, verified, and filed in the manner prescribed by Section 5 of this Article.

(c) 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.

(d) Petition deadlines. The referendum petition shall be filed within twenty (20) days after the City Clerk's approval of the petition for circulation. If a completed petition is not subsequently filed within the requisite time after the City Clerk's approval of the petition for

circulation, the referendum effort is null and void and the petition shall not be circulated further.

(e) Action by Council. The presentation to Council of a petition certified by the City Clerk as sufficient for referendum shall automatically suspend the operation of the ordinance in question pending repeal by Council or final determination by the electors. The Council shall reconsider the ordinance at the next regular or special meeting of the Council following the receipt of the petition by the City Clerk. If the ordinance, or that part sought to be repealed, is not repealed, the Council shall refer the same to a vote of the registered electors at the next regular or special city election scheduled for any other purpose. Alternatively, the Council may call a special election for that specific purpose.

(Ord. No. 6, 1980, 1-16-80, approved, election 2-26-80; Ord. No. 199, 1986, § 1, Part B, § 2, 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. 127, 1999, § 1, 8-17-99, approved, election 11-2-99)

Section 3. - Council use of initiative and referendum.

The Council may submit any question or proposed ordinance or resolution, or refer any adopted ordinance or resolution, to the vote of the people at a regular or special election in the same manner and with the same force and effect as is provided for citizen initiated and referred measures.

(Ord. No. 6, 1980, 1-16-80, approved, election 2-26-80; Res. No. 83-22, 1-18-83, approved, election 3-8-83; Ord. No. 199, 1986, § 1, Part B, § 3, 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)

Section 4. - 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 therefor, and adopted by electoral vote cannot be repealed or amended except by a subsequent electoral vote. This provision shall not apply to ordinances or resolutions adopted by the City Council and referred to the voters.

(Ord. No. 11, 1997, § 1, 2-4-97, approved, election 4-8-97)

Section 5. - Petitions.

(a) Separate petitions required. A separate petition shall be circulated and filed for each measure sought to be initiated or referred to the vote of the electors.

(b) Form and content.

(1) Approval of form for circulation. No petition shall be circulated until the City Clerk has approved the form for circulation. The City Clerk shall first determine that the petition form contains only the matters required by this Article. The Council shall prescribe by ordinance, upon recommendation of the City Clerk, a general form of petition which shall contain warnings and notices to signers as necessary. The City Clerk's approval under this Section shall not constitute an approval of the content of the petition, but rather, shall start the running of the time periods provided for circulation and filing of petitions.

(2) Petition content. The petition shall be addressed to Council.

a. Initiative. The petition shall contain or have attached to each section throughout its circulation the full text of the proposed ordinance or resolution and shall contain a general statement of purpose fairly and accurately summarizing the proposed ordinance or resolution, indicating that the petition is to be circulated in support of the initiated ordinance or resolution and specifying whether a special election is requested.

b. Referendum. The petition shall contain or have attached to each section throughout its circulation the full text of the ordinance sought to be referred, clearly identifying the protested portions if only a partial repeal is sought. In the case of bond ordinances, the full text of the ordinance need not be set forth but the petition shall contain or have attached to each section throughout its circulation the title and summary of the ordinance in question as prepared by the City Clerk.

(3) Signatures. Only registered electors may sign the petitions authorized under this Article. Each signer must sign his or her own signature and each signature shall be followed by the printed name of the signer, the street and number address of his or her residence, and the date of signing. No person shall knowingly sign an initiative or referendum petition more than once. In the event that the signature of any person appears more than once on a petition authorized under this Article, the first signature verified shall be counted and all other signatures of that person shall be rejected.

(c) Circulation of petition. The petition may be circulated and signed in sections with each section consisting of one (1) or more sheets securely fastened at the top, provided that each section contains a full and accurate copy of the text of the petition and the names and addresses of the designated representatives for the petition. All sections shall be filed as one (1) instrument. Only persons eighteen (18) years of age or older may circulate the petition for

signatures. The circulation of any petition by any medium other than personally by a circulator is prohibited. No person shall receive any compensation whatever for signing an initiative or referendum petition.

(d) Affidavit of circulator. A circulator shall attach to each section of the petition circulated an affidavit signed by the circulator under oath before a notary public stating the following:

(1) the circulator's address of residence;

(2) that the circulator is eighteen (18) years of age or older;

(3) that he or she personally circulated the section;

(4) that each signature was affixed in the circulator's presence;

(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 his or her signature to the petition.

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

(e) Time limits; petition representatives. Petitions for initiative and referendum shall be filed with the City Clerk within the requisite time limits or they will be deemed null and void. Each petition shall designate by name and address not less than three (3) nor more than five (5) registered electors who shall represent the signers of the petition in all matters affecting the petition.

(f) Sufficiency of petition.

(1) Examination. Within five (5) working days of the filing of a petition the City Clerk shall 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. If the petition is insufficient, the City Clerk shall so certify and forthwith notify all of the designated petition representatives in writing, specifying the particulars of insufficiency.

(2) Insufficient petition; amendment.

(i)

If an initiative petition is deemed insufficient, whether following the initial determination by the City Clerk, or following protest proceedings, it may be amended by the submission of additional signatures collected after the City Clerk approved the form of the petition and within fifteen (15) days from the filing of the Clerk's certificate of insufficiency. Such signatures must be collected consistent with the requirements for collecting petition signatures as described in this Article. Within five (5) working days after such amendment, the City Clerk shall make examination of the amended petition and certify the result. If the amended petition is still insufficient, or if no amendment was made before the expiration of the time permitted for amendment, the petition shall be null and void without prejudice to the filing of a new petition for the same purpose.

(ii) If a referendum petition is deemed insufficient, it may be amended by the submission of additional signatures collected consistent with the requirements of this Article, but to be considered, must be amended within the twenty-day circulation period after the City Clerk's approval of the petition form for circulation. Within five (5) days after such amendment, the City Clerk shall make like examination of the amended petition and certify the result. If the amended petition is still insufficient, or if no amendment was made before the expiration of the time permitted for amendment, said referendum petition is null and void and a new petition may not thereafter be filed for referendum of the same ordinance.

(3) Protests. 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 ten (10) days of the filing of the petition. The protest shall set forth with particularity the grounds of protest and the names and defects in form protested. Upon the filing of a protest, the City Clerk shall set a time for hearing such protest, which shall be no more than seven (7) days thereafter. At least five (5) days prior to the hearing, the City Clerk shall mail a copy of the protest to all of the designated petition representatives together with a notice of the time for hearing. All hearings shall be before a hearing officer appointed by the City Manager who shall have the power to issue subpoenas to compel the attendance of witnesses and the production of documents. All records and hearings shall be public, and all testimony shall be under oath. The hearing shall be summary in nature and concluded within thirty (30) days after the petition was filed. Said hearing officer shall decide and certify the results of the hearing within ten (10) days after the hearing is concluded. The City Clerk shall make any final determination regarding the sufficiency or insufficiency of a petition and shall base

such determination on the protest hearing results certified by the hearing officer. A petition for referendum which has been deemed insufficient after protest may not be amended or circulated further.

(4) Certification and presentation to Council. When and if a petition or amended 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 shall so certify and present the certified petition to the Council at the next regularly scheduled meeting. The City Clerk's certificate shall then be a final determination as to the sufficiency of the petition.

(Res. No. 83-22, 1-18-83, approved, election 3-8-83; Ord. No. 199, 1986, § 1, Part B, § 4, 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. 158, 1988, 12-20-88, approved, election 3-7-89; Ord. No. 21, 1993, § 1, 2-16-93, approved, election 4-6-93; Ord. No. 11, 1997, § 1, 2-4-97, approved, election 4-8-97; Ord. No. 88, 2000, § 1, 8-15-00, approved, election 11-7-00; Ord. No. 004, 2015, § 1, 1-20-15, approved, election of 4-7-15)

Section 6. - Elections.

(a) Generally. Elections on initiative and referendum measures shall be conducted in the same manner as provided generally for regular or special city elections in this Charter.

(b) Ballots. Upon ordering an election on any initiative or referendum measure, the Council shall, after public hearing, adopt by resolution a ballot title and submission clause for each measure. The ballot title shall contain information identifying the measure as a city initiated or citizen initiated measure. The submission clause shall be brief, shall not conflict with those selected for any petition previously filed for the same election, and shall unambiguously state the principle of the provision sought to be added. The official ballot used when voting upon each proposed or referred measure shall have printed on it the ballot title and submission clause and shall 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 shall be published in like manner as other proposed ordinances and resolutions. If the initiated measure is submitted to a vote of the people, the City Clerk shall 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 shall 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. If the ordinance in question is a bond ordinance, the summary from the petition may be published in place of the full text. 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 ordinance, the ordinance shall 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 shall become effective.

(e) Frequency of elections. Any number of proposed ordinances or resolutions or referred ordinances may be submitted at the same election. Not more than one (1) special election on citizen-initiated measures shall be held in any twelve (12) months. This limitation does not apply to the Council which on its own motion may at any time call a special election for the purpose of considering any measure initiated, or adopted and referred, by the Council.

(Res. No. 83-22, 1-18-83, approved, election 3-8-83; Ord. No. 199, 1986, § 1, Part B, § 5, 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. 004, 2015, § 1, 1-20-15, approved, election of 4-7-15)

Section 7. - 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.

(Res. No. 83-22, 1-18-83, approved, election 3-8-83; Ord. No. 199, 1986, § 1, Part B, § 6, 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)

ARTICLE XI. - FRANCHISES AND PUBLIC UTILITIES

Section 1. - Franchise granted by ordinance.

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 ever be granted. Every franchise ordinance shall require for its adoption the concurrence of a majority of all the members of the Council.

A franchise may be awarded only after a public hearing on the application or proposal. The applicant for the franchise shall 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 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 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 be in the same manner as for other proposed ordinances.

The procedure for initiative and referendum of an ordinance granting a franchise shall be as otherwise provided in this Charter, except that the signatures required for referendum shall 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 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 be ordered until the grantee deposits such costs.

(Ord. No. 202, 1986, § 1, Part V, 12-16-86, approved, election 3-3-87; Ord. No. 204, 1986, § 1, Part A, 12-16-86, approved, election 3-3-87; Ord. No. 19, 1997, § 1, 2-4-97, approved, election 4-8-97)

Section 2. - Franchises to specify streets.

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

(Ord. No. 202, 1986, § 1, Part V, 12-16-86, approved, election 3-3-87)

Section 3. - Regulation of public utilities.

The right to regulate the rates, fares, and rentals of public utilities and carriers serving the residents of the city shall always be reserved to the city to be exercised by ordinance. Every person or corporation operating under a franchise or grant from the city shall annually submit to the Council a report verified by the oath of the president, the treasurer, or the general manager thereof. Such reports shall be in the form, contain such detailed information, and cover the period prescribed by the Council. The Council shall have 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.

(Ord. No. 202, 1986, § 1, Part V, 12-16-86, approved, election 3-3-87)

Section 4. - Books of record.

The Council shall provide and cause to be kept in the office of the City Clerk an indexed franchise record in which shall be transcribed copies of all franchises granted by the city. Said record shall be a complete history of all franchises granted by the city and shall 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 be granted for longer than twenty (20) years. Every grant of a franchise shall 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 be exacted for such use during the life of the franchise. This provision shall not exempt the grantee from any lawful taxation upon his or her property, nor from any license, charges, or other impositions levied by the Council, not levied on account of the use granted by the franchise.

(Ord. No. 202, 1986, § 1, Parts V, X, 12-16-86, approved, election 3-3-87; Ord. No. 19, 1997, § 1, 2-4-97, approved, election 4-8-97; Ord. No. 023, 2007, § 1, 2-20-07, approved, election 4-3-07)

Section 6. - Option to purchase.

Every grant, extension, or renewal of a public utility franchise or right shall 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 be made

as provided in the grant, but shall not include any value of the franchise or right-of-way through the streets or any earning power of such property.

(Ord. No. 202, 1986, § 1, Parts L, V, 12-16-86, approved, election 3-3-87)

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.

(Ord. No. 202, 1986, § 1, Part V, 12-16-86, approved, election 3-3-87)

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 be subject to the conditions that the person, firm, or corporation exercising or enjoying the same shall, 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.

(Ord. No. 202, 1986, § 1, Part B, 12-16-86, approved, election 3-3-87)

Section 9. - Right of regulation.

The grant of every franchise or privilege shall 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.

(Ord. No. 202, 1986, § 1, Part V, 12-16-86, approved, election 3-3-87)

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 be revocable by the Council at its pleasure, whether or not such right to revoke is expressly reserved in such permit.

(Ord. No. 202, 1986, § 1, Part V, 12-16-86, approved, election 3-3-87; Ord. No. 204, 1986, § 1, Part C, 12-16-86, approved, election 3-3-87)

Section 11. - Franchise renewal.

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

(Ord. No. 202, 1986, § 1, Part V, 12-16-86, approved, election 3-3-87)

Section 12. - Leasing of franchises.

No franchise granted by the city shall 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 be deemed to operate as such consent. Any assignment or sale of such franchise without the consent of the city shall, at the option of the Council, operate as a forfeiture to the city of such franchise.

(Ord. No. 202, 1986, § 1, Part V, 12-16-86, approved, election 3-3-87)

Section 13. - Issuance of stock.

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

(Ord. No. 202, 1986, § 1, Part V, 12-16-86, approved, election 3-3-87)

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 be made except in the manner and subject to all the conditions provided in this Article for the making of original grants and franchises.

(Ord. No. 202, 1986, § 1, Part V, 12-16-86, approved, election 3-3-87)

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 by resolution fix the terms and conditions of such use and compensation to be paid therefor, which award of the Council shall be final and binding on the parties concerned.

(Ord. No. 202, 1986, § 1, Part V, 12-16-86, approved, election 3-3-87; Ord. No. 204, 1986, § 1, Part D, 12-16-86, approved, election 3-3-87)

ARTICLE XII. - MUNICIPAL PUBLIC UTILITIES

Section 1. - City may acquire utilities.

The Council upon vote of the electors shall 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. 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. Such public utilities acquired by the city, except waterworks and transportation systems, shall not be paid for out of general taxes or general obligation bonds, but shall 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.

(Ord. No. 202, 1986, § 1, Parts L, V, 12-16-86, approved, election 3-3-87)

Section 2. - Right of entry.

The directors and employees of city-owned utilities shall 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.

(Ord. No. 202, 1986, § 1, Parts M, V, 12-16-86, approved, election 3-3-87)

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

The City shall 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 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 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.

(Ord. No. 12, 1969, 2-27-69, approved, election 4-8-69; Ord. No. 23, 1981, 2-17-81, approved, election 4-7-81; Ord. No. 202, 1986, § 1, Parts N, V, 12-16-86, approved, election 3-3-87)

Section 4. - Control of 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 accrue under such permits.

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 always be subject to the most comprehensive scrutiny, management, and control by the city, and nothing shall ever be done by a user which shall 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 such use confer upon any user a right to water superior to the right of any other user.

(Ord. No. 202, 1986, § 1, Part V, 12-16-86, approved, election 3-3-87)

Section 5. - Utility budgeting.

Budgets for all city-owned public utilities shall 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.

(Ord. No. 202, 1986, § 1, Part V, 12-16-86, approved, election 3-3-87)

Section 6. - Municipal utility rates and finances.

The Council shall 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. The provisions hereof shall 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.

All net operating revenues of the city's utilities shall 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.

(Res. No. 71-12, 2-11-71, approved, election 4-6-71; Ord. No. 202, 1986, § 1, Part V, 12-16-86, approved, election 3-3-87; Ord. No. 203, 1986, § 1, Part N, 12-16-86, approved, election 3-3-87; Ord. No. 159, 1988, 12-20-88, approved, election 3-7-89)

Section 7. - Reserved.

Editor's note— Section 7, relating to the Water Board, derived from Ord. No. 8, 1967, and Ord. No. 202, 1986, was repealed by Ord. No. 21, 1991, adopted Feb. 19, 1991, approved at an election held Apr. 2, 1991.

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 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 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.

(Ord. No. 209, 1984, 1-15-85, approved, election 3-5-85; Ord. No. 199, 1986, § 1, Part C, 12-16-86, approved, election 3-3-87; Ord. No. 201, 1986, § 1, Part N, 12-16-86, approved, election 3-3-87; Ord. No. 202, 1986, § 1, Parts F, R, V, X, 12-16-86, approved, election 3-3-87; Ord. No. 22, 2001, § 1, 2-20-01, approved, election 4-3-01; Ord. No. 011, 2015, § 1, 2-3-15, approved, election of 4-7-15)

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 constitute a part of the Charter only to the extent and for the time required to accomplish that purpose.

(Ord. No. 202, 1986, § 1, Part V, 12-16-86, approved, election 3-3-87; Ord. No. 203, 1986, § 1, Part O, 12-16-86, approved, election 3-3-87)

Section 2. - Transitional period.

The period from the effective date of this Charter to April 12, 1955, shall be known as the transitional period. During the transitional period the former Charter of the City shall 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 be immediately operative. This Charter shall be fully operative at the close of the transitional period.

(Ord. No. 202, 1986, § 1, Parts V, W, 12-16-86, approved, election 3-3-87)

Section 3. - Retirement plans.

This Charter shall 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.

(Ord. No. 202, 1986, § 1, Parts V, W, 12-16-86, approved, election 3-3-87)

Section 4. - Outstanding and authorized bonds.

The provisions of this Charter shall 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 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 be the lawful and binding obligations of the city in accordance with their import.

(Ord. No. 202, 1986, § 1, Parts V, W, 12-16-86, approved, election 3-3-87)

Section 5. - Saving clause.

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

(Ord. No. 202, 1986, § 1, Parts U, V, W, 12-16-86, approved, election 3-3-87)