

**CHARTER**  
**FOR THE CITY OF LOUISVILLE, COLORADO**

**APPROVED AND ADOPTED BY THE HOME RULE CHARTER COMMISSION ON  
AUGUST 20, 2001**  
**SUBMITTED TO THE CITY COUNCIL ON AUGUST 21, 2001**  
**APPROVED BY THE REGISTERED ELECTORS NOVEMBER 6, 2001**  
**AMENDMENTS APPROVED BY THE REGISTERED ELECTORS NOVEMBER 2, 2004**  
**AMENDMENTS APPROVED BY THE REGISTERED ELECTORS NOVEMBER 3, 2009**

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## **PREFATORY SYNOPSIS**

The members of the Home Rule Charter Commission of the City of Louisville, Colorado, hereby submit to the City Council and to the registered electors a proposed Home Rule Charter which has been framed in conformity with Article XX of the Colorado Constitution and the Municipal Home Rule Act of 1971, as amended.

The Commission members have sought to prepare a Charter which provides for an open government in which every member of the community has an opportunity to participate, and which holds the City's elected and appointed officials to the highest ethical standards. The Charter also assures the right of the citizens to vote on important matters, including any new tax or tax rate increase that may be proposed in the future.

The Commission recognizes that the Charter is a document of limitation on the home rule powers available to the City and its citizens. Therefore, the Commission has sought to include in the Charter important protections for the citizens.

Special mention should be made of the place of the Charter in relation to other applicable laws. The Bill of Rights and other protections afforded citizens by the United States Constitution are, of course, primary. The Constitution of the State of Colorado also contains specific limitations on the City's home rule powers. The Commission recognizes that the Charter is subordinate to, and must keep faith with, those federal and state enactments which limit the City's home rule powers.

The Commission also recognizes that certain State statutes should continue to apply to the City. Variations were made from the statutes only where home rule powers permitted and sound reasons existed.

Commission members are also mindful of the following values, and believe that they have been reflected in the Charter:

- All citizens are born free and equal in rights, and should act towards one another with dignity and respect.
- The government must act in a manner that protects the rights of each individual and the well-being of the community as a whole.
- The government is formed by the citizens, and the citizens have the right to control the government through their elected representatives or, when appropriate, by direct democracy.
- The citizens look to the government to provide basic municipal services in an efficient and cost-effective manner. However, in order to maintain the qualities that

make Louisville a unique community, it is also important to protect and enhance the City's natural, cultural, and recreational resources, and preserve the City's scenic, historic, and aesthetic features.

With the foregoing principles in mind, the following summarizes some of the key provisions of the Charter as submitted by the Home Rule Charter Commission to the City Council on August 21, 2001; future amendments may not be reflected in this summary.

**Article 1 - Definitions:** This article defines words and phrases used throughout the Charter.

**Article 2 - General Provisions:** This article contains a summary statement of the Charter's purposes, describes the home rule powers of the City, and provides for a Mayor-Council-Manager form of government. It also provides the procedure for amendments to the Charter; under that procedure, amendments may be initiated by ordinance or by petition, but must all be approved by the electors.

**Article 3 - City Council:** This article provides for the organization and qualifications of the City Council. Six Councilmembers will continue to be elected, two from each ward. The Mayor will continue to be elected by the voters at large for a four-year term. Four-year overlapping terms of office also continue for Councilmembers. Beginning in 2005, terms of office will commence at the first regular meeting following the November regular election, rather than in January.

**Article 4 - Council Procedure:** This article establishes meeting procedures for the Council. All regular and special meetings must be open to the public, and persons must be given a reasonable opportunity to be heard. Study sessions are also open to the public. The procedure for adopting regular and emergency ordinances is established.

**Article 5 - Ethics and Open Government:** This article establishes ethical standards for members of the Council, boards, commissions, task forces, and committees, and for City employees. The standards embody and strengthen those that were in effect before the adoption of the Charter. This article also establishes requirements for executive sessions that reflect those in effect before the adoption of the Charter. Citizens will have access to the City's public records in accordance with state open records laws.

**Article 6 - Elections:** Current municipal election laws are generally retained in this article. Regular elections remain in November of each odd-numbered year. The number of wards in the City remains at three. Any future change in the number of wards would be accomplished only by an amendment to the Charter.

**Article 7 - Initiative, Referendum, and Recall:** This article reserves to the voters the power to initiate and vote on proposed ordinances, and the power to require adopted ordinances to be referred to a public vote. Five percent of the total number of registered electors must sign an initiative petition, and two and one-half percent of the total number of registered electors must sign a referendum petition. This article also reserves to the voters the power to recall the Mayor or any Councilmember.

**Article 8 - City Manager:** This article establishes the qualifications and functions of the City Manager, and addresses the relationship of the City Council and the City Manager. The article also provides for the City Manager's appointment of the City Clerk and City Treasurer. It specifies that no person shall interfere in the Clerk's Charter responsibility to serve as an independent and neutral election official.

**Article 9 - Legal and Judiciary:** This article provides for the qualifications and functions of the City Attorney, the City Prosecutor, and the Municipal Court.

**Article 10 - Boards and Commissions:** This article specifies that certain boards and commissions shall not be abolished, and permits removal of board and commission members during their term only for cause. The article provides for other matters in relation to boards and commissions. It also provides for the establishment of short-term task forces and committees by resolution.

**Article 11 - Finance, Budget, and Audit:** This article sets out the procedures for the adoption of the annual budget. In addition to the proposed budget, the City Manager is also required to submit a five-year capital projects program. At least one public hearing must be held on the proposed budget and capital projects program. Each department head is required to keep the City Manager advised of any financial irregularities in the department. An annual financial audit is required.

**Article 12 - Municipal Borrowing and Taxation:** This article addresses debts and taxation. The article establishes a debt ceiling. The City will be required to obtain voter approval before incurring debt. Voter approval will also be required for any new tax or tax rate increase. All applicable constitutional requirements for tax and debt matters, such as the Taxpayer's Bill of Rights or "TABOR" (Article X, Section 20 of the Colorado Constitution) continue to apply to the City. Lease-purchase agreements, except those pertaining to water rights acquisition, will require voter approval.

**Article 13 - City-Owned Utilities:** City-owned utilities are addressed in this article. Utility rates will continue to be established by the City Council. Each utility's accounts must be kept separately. Although loans from utility funds to other City funds will be allowed, such loans must be approved by ordinance, and must be repaid with interest.

**Article 14 - Franchises and Permits:** This article guarantees the right of referendum on

all franchises for the occupation of City streets and other rights-of-way. Other permits and licenses for the temporary use or occupation of the rights-of-way may be granted on a revocable basis.

**Article 15 - Open Space:** This article provides for management standards for City-owned open space lands. The standards are intended to preserve and promote native plants, native wildlife, and their habitats, as well as cultural resources, agriculture, scenic vistas, and appropriate passive recreation, on open space.

**Article 16 - Miscellaneous Provisions:** Among other miscellaneous matters addressed by this article are: a bond or insurance requirement for City personnel involved in handling City funds; a penalty for willful violation of the Charter; restrictions on the transfer of interests in City park lands; and the establishment of competitive bidding requirements.

**Article 17 - Transitional Provisions:** Among the transitional matters addressed by this article are: the effective date of the Charter; the repeal of legislation inconsistent with the Charter and continuation of legislation not inconsistent with the Charter; and the continuation of City employees, the Mayor and Councilmembers, and board and commission members.

In conclusion, the Commission believes that this Charter provides for an open and ethical government structure that will maintain and enhance the quality of life in Louisville, assure fiscal responsibility and accountability, and continue to be responsive to the needs and concerns of the citizens.

## ARTICLE 1

### DEFINITIONS

#### Section 1-1. Definitions.

As used in this Charter, the following terms shall have the following meanings, except where the context clearly indicates otherwise:

(a) "Board or commission" means each board and commission established by or pursuant to Section 10-1.

(b) "City" means the City of Louisville, Colorado.

(c) "Council" or "City Council" means the body constituting the City Council of the City.

(d) "Councilmember" means each member of the City Council except the Mayor.

(e) "Emergency" means a matter which could not have been reasonably anticipated or foreseen, and on which immediate action is genuinely and urgently necessary for the preservation of the public health, safety, or welfare.

(f) "Employee," "City employee," or "employee of the City" means each compensated person in the service of the City who is designated as an employee in the personnel rules and regulations of the City.

(g) "Entire Council" means all of the seven (7) members of the City Council provided for in Section 3-1.

(h) "General statewide election" means the statewide election held on the Tuesday succeeding the first Monday of November in each even-numbered year.

(i) "Lease-purchase agreement" means:

(1) Any installment purchase agreement for the purchase of real or personal property which requires or permits payments during more than one (1) fiscal year, regardless of any right of the City to terminate the agreement; or

(2) Any agreement for the lease or rental of real or personal property which requires or permits payments during more than one (1) fiscal year, regardless of any right of the City to terminate the agreement, and under which title to the property is

transferred at the end of the term for nominal or no additional consideration.

(j) "Mayor" means the Mayor of the City.

(k) "Member of the Council" means the Mayor and each Councilmember.

(l) "Newspaper" means a newspaper of general circulation in the City which meets the requirements for a legal newspaper as established in the State statutes.

(m) "Officer" means the Mayor and each Councilmember.

(n) "Park land" means land acquired or owned in whole or in part by the City that is:

(1) Designated, maintained, or reserved by the City for such recreation uses as are not prohibited by the City; or

(2) Composed primarily of irrigated turf designed for public use.

(o) "Posting" or "posted" means placing, in areas accessible by the public, at City Hall, the City Library, the Louisville Recreation Center, and one additional location that is open to the public during hours different from the regular business hours of City Hall. (Repealed and Reenacted by Initiative Approved 11/02/04).

(p) "Publication" or "publish" means:

(1) Printing in a newspaper, and placement of a copy in the City Library;  
or

(2) Placement on the City's internet website or other technologies adopted by the City, and placement of a copy in the City Library; or

(3) By posting, if an emergency exists or when no such newspaper is available. Anything so posted shall subsequently be published as provided in Paragraph (1) or (2).

(q) "Registered elector" means an elector who has registered to vote pursuant to the State statutes.

(r) "Regular election" or "regular City election" means a City election held pursuant to Section 6-2.

(s) "Special election" or "special City election" means a City election held at a

time other than a regular election.

(t) "State Constitution" or "Colorado Constitution" means the Constitution of the State of Colorado, as from time to time amended.

(u) "State statutes" means the statutes of the State of Colorado, as from time to time amended.

(v) "Task force or committee" means each task force or committee established pursuant to Section 10-2(f).

(w) "United States Constitution" means the Constitution of the United States of America, as from time to time amended.

(x) "Agenda-related materials" means the agenda, all reports, correspondence and any other document forwarded to a public body that provide background information or recommendations concerning the subject matter of any agenda item. (Added by Initiative Approved 11/02/04).

(y) "Communications file" means a paper or digital file, organized chronologically and accessible to any person during normal business hours, containing a copy of any letter, memorandum or other public record that the clerk or secretary of the City Council or Planning Commission has distributed to, or sent on behalf of, the Mayor, the chairperson of the Commission, or a quorum of the Council or Commission concerning a matter that has been placed on the Council's or Commission's agenda within the previous thirty days or is scheduled or requested to be placed on the agenda within the next thirty days. The file may, but need not contain, voluminous reports, studies or analyses not created by City officers or employees provided that their omission is noted in the file. Excepted from the file shall be commercial solicitations, agenda-related material, and records excepted from disclosure to the public. (Added by Initiative Approved 11/02/04).

(z) "Public body" means those City public bodies referenced in Section 5-7(f) and, for purposes of Article 4, Section 5-5 and Section 5-18, also includes the City Council. (Added by Initiative Approved 11/02/04, Amended by Referred Measure Approved 11/03/09).

(aa) "Substantive discussions" means debate, deliberation or other discussion about the merits, benefits, advantages or disadvantages of any proposed or possible resolution of any issue that will be or may be the subject of formal action by a public body. (Added by Initiative Approved 11/02/04).

## ARTICLE 2

### GENERAL PROVISIONS

#### **Section 2-1. Name, Boundaries.**

The Colorado municipal corporation now existing as the "City of Louisville" shall remain and continue under the same name and with the same boundaries until lawfully changed.

#### **Section 2-2. Purpose of Charter.**

It is the purpose of this Charter to establish a basic governmental structure that will provide for the effective and efficient conduct of the business of the City. Full participation in the affairs of the City, by every member of the community, shall be encouraged and permitted in the manner provided for in this Charter.

#### **Section 2-3. Form of Government.**

The municipal government provided by this Charter shall be known as a mayor-council-manager government.

#### **Section 2-4. Powers of the City.**

(a) The City shall have all the power of local self-government and of home rule, and shall have all power possible for the City under the State Constitution. All such powers shall be exercised in a manner consistent with the United States Constitution, the State Constitution, and this Charter or, if not provided for in this Charter, in such manner as shall be provided by ordinance.

(b) Except as otherwise provided in this Charter, the City shall also have all powers granted to cities, towns, and municipalities by the State statutes.

(c) The enumeration of specific powers in this Charter shall not be considered as limiting or excluding any other power under Article XX of the State Constitution.

#### **Section 2-5. Amendments to the Charter.**

This Charter may be amended in the manner provided in the State Constitution and the State statutes pertaining to home rule charter amendments. Proceedings to amend the Charter may be initiated by:

(a) A petition meeting the requirements of the State statutes; or

(b) An ordinance, approved by at least two-thirds (2/3) of the entire Council, submitting the proposed amendment to a vote of the registered electors of the City.

### **ARTICLE 3**

#### **CITY COUNCIL**

##### **Section 3-1. City Council.**

(a) The City Council shall be the governing body of the City, and shall be responsible for exercising all powers and responsibilities not conferred by this Charter on others. All powers and responsibilities shall be exercised in the manner prescribed in this Charter or, if not provided for in this Charter, the manner provided by ordinance.

(b) The City Council shall consist of six (6) Councilmembers and the Mayor. Two (2) Councilmembers shall be nominated and elected from each ward, and the Mayor shall be nominated and elected from the City at large.

##### **Section 3-2. Mayor; Mayor Pro Tem.**

(a) The Mayor shall preside over meetings of the City Council, but shall be a member of the Council and shall have the same voting powers as any Councilmember.

(b) The Mayor shall exercise such executive powers and responsibilities with respect to the administration of the City as are provided by ordinance.

(c) By the affirmative vote of a majority of the entire Council, a Councilmember shall be appointed as Mayor pro tem, for a two (2) year term, to perform the responsibilities of the Mayor when the Mayor is absent or is otherwise unable to perform the responsibilities of the Mayor.

##### **Section 3-3. Mayor and Councilmembers - Qualifications.**

(a) The Mayor shall be a registered elector of the City who has resided within the limits of the City for at least twelve (12) consecutive months immediately preceding the election. If an annexation has occurred, residence within the annexed territory for the prescribed time period shall be deemed to meet the residency requirements of this section.

(b) Each Councilmember shall be a registered elector of the City who has resided in his or her respective ward for at least twelve (12) consecutive months immediately preceding the election. If the boundaries of the ward are changed pursuant to Section 6-4 or as a result of annexation, residence for the prescribed time period,

within territory added to the ward, shall be deemed to meet the residency requirements for the ward to which the territory was added.

(c) Any person who seeks election or appointment to the office of Mayor or Councilmember, and who has been convicted of any of the following offenses, shall disclose the same, in writing and under penalty of perjury, on such forms and in such manner as established by ordinance:

- (1) Any felony offense; and
- (2) Embezzlement, bribery, perjury, solicitation of bribery, or subornation of perjury.

(d) For purposes of Subsection (c), a conviction includes being found guilty of, a plea of guilty to, a plea of no contest or nolo contendere to, or the receipt of a deferred judgment or deferred sentence for, any of the offenses described in Subsection (c); but does not include any conviction for which the records have been ordered expunged or sealed.

(e) If a person is convicted of one (1) or more of the offenses described in Subsection (c) after the person's election or appointment to the office of Mayor or Councilmember, the office shall be declared vacant effective on the date of the conviction.

(f) No City employee, and no City board or commission member, may serve as Mayor or Councilmember. A City employee or a City board or commission member who is elected as Mayor or Councilmember shall be deemed to have resigned from the position of City employee, or City board or commission member, on the date of taking office under Section 3-4(b).

(g) No person may be a candidate for both Mayor and Councilmember at the same election, or hold both positions simultaneously.

(h) The Mayor and each Councilmember shall continue to meet the requirements of this section throughout the term of office.

**Section 3-4. Term of Office; Time of Taking Office; Oath.**

(a) Each Councilmember shall be elected for a four (4) year term. Councilmembers' terms shall be staggered within each ward. The Mayor shall be elected for a four (4) year term.

(b) The Mayor and each Councilmember shall take office at the first regular

meeting of the Council following their election, and shall continue in office until their successors have been elected and take office, or a vacancy is earlier established.

(c) Before taking office, the Mayor and each Councilmember shall take and file with the City Clerk an oath or affirmation to support the United States Constitution, the State Constitution, the Charter, and the ordinances of the City, and to faithfully perform the duties of the office.

### **Section 3-5. Compensation.**

The Mayor and each Councilmember shall receive the salary and benefits prescribed by ordinance. The salary shall not be increased or decreased during the term for which the Mayor or Councilmember has been elected. Subject to the Council's approval, the Mayor and Councilmembers may be reimbursed for the actual and necessary expenses incurred in the performance of the duties of office.

### **Section 3-6. Vacancies.**

(a) A vacancy shall exist if, during the term of office, the Mayor or a Councilmember:

- (1) Dies;
- (2) Is judicially declared incompetent;
- (3) Resigns;
- (4) Is recalled without the election of a successor;
- (5) No longer meets one (1) or more of the qualifications specified in Section 3-3(a) or (b); or
- (6) Has had more than six (6) absences from regular Council meetings during any period of twelve (12) consecutive calendar months. The date of the seventh (7th) absence shall be deemed to be the date on which the office was vacated.

(b) If a vacancy occurs in the office of Mayor or Councilmember, the City Council, by a majority vote of the remaining members, shall appoint a person who meets the qualifications of Section 3-3 to hold the office:

- (1) Until the next regular election; or
- (2) If a statewide general election will occur before the next regular

election, until a special election to fill the vacancy, which shall be held on the same date as the statewide general election.

## **ARTICLE 4**

### **CITY GOVERNMENT PROCEDURES**

#### **Section 4-1. Meetings.**

(a) The Council shall meet regularly at least twice each month. The Council shall prescribe in its rules of procedure the day and hour of its regular meetings and the procedures governing meetings.

(b) The Council shall cause minutes of each regular and special meeting to be taken and to be retained permanently in the records of the City.

#### **Section 4-2. Special Meetings and Business at Special Meetings.**

(a) Except for an emergency special meeting governed by Subsection (b), each special meeting shall be called by the City Clerk on the request of any four (4) members of the Council, and shall be held on at least forty-eight (48) hours written notice.

(b) An emergency special meeting shall be called by the City Clerk on the request of the City Manager or any four (4) members of the Council, and shall be held on at least twenty-four (24) hours written notice to each member of the Council. An emergency special meeting shall not be called unless:

(1) Each person requesting the meeting has determined that the meeting is urgently necessary in order to take action on an unforeseen matter requiring immediate action; and

(2) The basis for the determination described in Paragraph (1) is stated in the notice of the meeting.

(c) The meeting notice required by Subsection (a) or (b) shall be served personally or sent by electronic mail to the member's e-mail address, or left at the member's usual place of residence. The notice need not be served if the member has waived the notice in writing. (Amended by Referred Measure Approved 11/02/04).

(d) The Council shall not take action on any item of business at any special meeting unless:

(1) The item to be acted on has been stated in the notice of the meeting;

or

(2) The item to be acted on is reasonably related to the item which was stated in the notice of the meeting.

### **Section 4-3. Study Sessions.**

(a) The People declare the following policy relating to study sessions:

(1) The purpose of study session meetings is to enable members of a public body to obtain information about and discuss matters of public business in a less formal atmosphere.

(2) Full debate and deliberations about matters that may be the subject of formal action should occur at formal meetings of the public body to permit members of the public to participate meaningfully in, and to understand the grounds for, any formal action contemplated or taken by the public body.

(b) Each study session meeting of a public body shall be held on at least 72 hours notice to each member of the public body. All study sessions shall be open to the public.

(c) No preliminary or final policy decision, fiscal decision, rule, regulation, resolution, ordinance, action approving a contract, action calling for the payment of money, or other formal action, shall be made or taken at any study session.

(d) At any study session, any member of the public who in good faith believes that a study session is proceeding in violation of subsection (c) of this Section shall be entitled to submit a brief written objection to the official presiding over the study session; the written objection shall specify the ground for the objection. The presiding official shall exercise his or her discretion in determining whether the study session is in compliance with this Section, and shall conduct the study session in accordance with that determination. The City may adopt laws or regulations, consistent with this Section, to prevent the abuse of this subsection (d).

(e) The public body holding a study session shall cause to be made a written summary or other record of each study session within five days after each study session. The summary shall be retained permanently in the records of the City. Any written statement issued under subsection (d) of this Section shall be a part of the summary or record.

(f) Nothing in this Section shall preclude the public body or its members from participating in full discussion, debate and decision-making on procedural matters relating to the conduct of the study session. (Entire Section Repealed and Reenacted by Initiative Approved 11/02/04).

#### **Section 4-4. Quorum.**

Except as otherwise provided in this Charter, a majority of the members of the Council holding office at the time shall be a quorum for the transaction of business at each regular and special meeting.

#### **Section 4-5. Meetings to be Public.**

(a) All regular and special meetings of the Council shall be open to the public, and persons shall have a reasonable opportunity to be heard at each meeting under such rules of procedure as the Council may prescribe.

(b) Notice of each non-emergency meeting of the City Council shall be posted in accordance with Section 5-18. Notice of each emergency special meeting shall be posted at least 24 hours in advance of the meeting and shall include specific agenda information to the extent such information is available. (Repealed and Reenacted by Initiative Approved 11/02/04).

(c) The City Council shall hold an executive session only in accordance with Sections 5-1 through 5-4.

(d) All meetings of any public body shall occur in public buildings and public facilities accessible to all members of the public. (Added by Initiative Approved 11/02/04).

#### **Section 4-6. Council Acts.**

(a) The Council shall act only by ordinance, resolution, or motion. Each action shall be recorded in the minutes of the meeting. The Council may select the appropriate form for its action, except where a particular form is required by the Charter.

(b) Each ordinance and resolution shall be numbered according to a numbering system established by the City Clerk.

(c) A true copy of every ordinance and resolution as adopted shall be retained permanently in the records of the City.

#### **Section 4-7. Voting.**

(a) Each member's vote on an ordinance or resolution shall be recorded in the minutes.

(b) Except where a greater number is required in this Charter, the final adoption of any ordinance shall require the affirmative vote of a majority of the entire Council, and resolutions and motions shall require the affirmative vote of a majority of the members of the Council present.

(c) No member of the Council shall vote on any matter concerning the member's own conduct.

#### **Section 4-8. Action by Ordinance Required.**

In addition to such acts of the Council as are required by the State Constitution or this Charter to be by ordinance, and except as otherwise provided in this Charter, the following acts of the Council shall be by ordinance:

(a) Authorizing the borrowing of money, imposing a new tax, increasing a tax rate, or approving a lease-purchase agreement;

(b) Approving any transfer of fee ownership in real property owned by the City;

(c) Approving any transfer of water rights owned by the City; or

(d) Establishing any regulation for violation of which a fine, imprisonment, or both may be imposed.

#### **Section 4-9. Form of Ordinance.**

(a) Each ordinance shall be introduced in printed form. The enacting clause of the ordinance shall be: BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOUISVILLE, COLORADO.

(b) Except as otherwise provided in this Charter, each ordinance shall take effect thirty (30) days after publication following final adoption.

(c) Unless otherwise specifically provided in the ordinance, each ordinance shall be deemed to contain a severability clause whether stated therein or not.

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

#### **Section 4-10. Ordinances - Public Hearing Required.**

(a) No ordinance shall be adopted without first holding at least one (1) public

hearing on the ordinance.

(b) The procedure for the hearing, the timing of the hearing, and other matters pertaining to the hearing, shall be established in the Council's rules of procedure. The procedure shall:

(1) Specify whether the public hearing will be held prior to Council action on first reading, prior to Council action on second reading, or both;

(2) Provide at least one (1) opportunity for public comments on the ordinance prior to the initial Council discussion of the ordinance; and

(3) Provide at least one (1) additional opportunity for public comments on the ordinance following the initial Council discussion but before Council action on the ordinance.

#### **Section 4-11. Non-Emergency Ordinances - Adoption Procedure.**

The following procedure shall be followed in adopting any ordinance except an emergency ordinance:

(a) The ordinance shall be introduced by motion at a regular or special meeting of the Council.

(b) The ordinance shall be read in full or by title.

(c) After the first reading, the Council shall vote to amend, adopt, or reject the ordinance, or take such other action as it deems appropriate.

(d) If the ordinance is adopted on first reading, it shall be published in full.

(e) The ordinance shall be introduced by motion at a second regular or special meeting of the Council held not earlier than four (4) days after the first publication.

(f) The Council shall vote to amend, finally adopt, or reject the ordinance, or take such other action as it deems appropriate.

(g) Upon final adoption, the ordinance shall be published either in full or by title only, as the Council may direct; however, if the ordinance is amended prior to final adoption and is published by title only, the amendment shall be published in full. If published by title, the ordinance shall contain a notice that copies of the full ordinance are available at City offices.

#### **Section 4-12. Emergency Ordinances -- Adoption Procedure.**

(a) An emergency ordinance shall require the affirmative vote of two-thirds (2/3) of the entire Council. The facts showing the emergency shall be specifically stated in the ordinance.

(b) An emergency ordinance may be introduced and finally adopted at any regular or special meeting, shall require only one (1) reading, and shall not require publication prior to final adoption. An emergency ordinance shall take effect upon final adoption or on such later date as specified in the ordinance.

(c) Following final adoption, an emergency ordinance shall be published in full.

#### **Section 4-13. Codification.**

The Council shall cause each ordinance of a general and permanent nature to be codified. The codification, or any revisions to the codification, may be adopted by reference as provided in Section 4-14.

#### **Section 4-14. Adoption of Codes by Reference.**

(a) The Council may adopt, by ordinance, any code by reference. The procedure for adoption of a code by reference shall be as provided in the State statutes applicable to the adoption of codes by reference, or such other procedure as the Council may provide by ordinance.

(b) Every ordinance adopting a code by reference shall contain a notice that copies of the code are available at City offices.

(c) Any penalty for the violation of any provision of a code adopted by reference shall be set forth in full in the adopting ordinance.

#### **Section 4-15. Fines and Penalties for Ordinance Violations.**

The penalty for the violation of a City ordinance shall be established by ordinance. No fine or sentence for such a violation shall exceed the maximums established by the State statutes for municipal ordinance violations.

#### **Section 4-16. Open Government Policy.**

(a) Each Councilmember and each member of a permanent board or commission shall participate in at least one City-sponsored open government-related seminar, workshop or other program at least once every two years. Such program shall

provide information on at least these topics relating to municipal government: the theories and policies underlying and laws relating to ethics, open government, open meetings, open records, and promoting citizen participation in municipal government.

(b) The City shall publish and update a pamphlet or other summary of Articles 4 and 5 of this Charter, and other laws relating to citizen participation in municipal government. The pamphlet or summary shall be provided to each member of a public body at its first meeting of the calendar year, and shall be made freely available to citizens on the City's web site, City Hall, City Library and other public places, and at meetings of public bodies. (Entire Section Added by Initiative Approved 11/02/04).

## **ARTICLE 5**

### **OPEN GOVERNMENT AND ETHICS**

#### **Section 5-1. Executive Sessions - General.**

(a) It is the policy of the City that the activities of City government should be conducted in public to the greatest extent feasible in order to assure public participation and enhance public accountability.

(b) The City Council may hold an executive session only at a regular or special meeting and for the sole purpose of discussing one (1) or more of the topics set forth in Section 5-2.

(c) No adoption of any proposed policy, position, resolution, rule, regulation, or formal action, and no informal or "straw" vote, shall occur at any executive session.

(d) The Council may, by ordinance, establish other procedures and requirements pertaining to executive sessions.

#### **Section 5-2. Executive Sessions - Authorized Topics.**

Topics which may be discussed in an executive session shall be limited to the following:

(a) Matters where the information being discussed is required to be kept confidential by federal or state law;

(b) Personnel matters involving the dismissal, demotion, discipline or review of the performance of employees directly appointed by the Council, consideration of complaints or charges against employees appointed directly by the Council, and other personnel matters only upon request of the City Manager or Mayor for informational

purposes only;

(c) Consideration of water rights and real property acquisitions and dispositions by the City, but only as to appraisals and other value estimates and strategy for the acquisition or disposition of such rights or property; and

(d) Consultation with an attorney representing the City with respect to pending litigation. Pending litigation shall include cases in which a lawsuit is actually commenced, and any situation where the person requesting the executive session believes in good faith that a lawsuit may result. The Council may discuss settlement strategies in an executive session.

### **Section 5-3. Executive Sessions - Procedures.**

(a) A request for an executive session may be made only by a member of the Council, the City Attorney or other attorney representing the City, the Municipal Judge, or the City Manager.

(b) The request to go into an executive session shall be made in an open session at a regular or special meeting of the Council. The requesting party shall give as detailed and specific a statement as possible, using his or her best judgment to avoid disclosure of any confidential matters, as to the topic or topics to be discussed and the reasons for requesting an executive session.

(c) The executive session shall only be held upon an affirmative vote of two-thirds (2/3) of the entire Council. A separate vote shall be held on each topic requested to be considered in the executive session. Following the vote and immediately prior to retiring into the executive session, the Mayor shall announce the topic or topics of the executive session.

(d) Immediately upon retiring into the executive session, the requesting party shall explain in detail the nature of the topic and the reasons for requesting the executive session. At this time, those in attendance may discuss the propriety of the executive session.

(e) Before any discussion on the merits of any topic in the executive session, the City Attorney or other attorney representing the City shall give an opinion as to the propriety of the executive session and shall provide guidelines as to the limitations that apply to the discussion.

(f) At any time, any participant may object to the continuation of the executive session. Upon the making of such objection, all discussion shall cease and the Council shall reconvene in an open session for the purpose of determining the propriety of

continuing the executive session. An affirmative vote of two-thirds (2/3) of the entire Council shall be required to continue the executive session.

(g) Upon completion of the executive session, the Council shall reconvene in an open session. The person who requested the executive session shall provide as detailed an explanation as allowed by law without disclosing any confidential matter or any matter which would adversely affect the interests of the City, and shall announce what procedure, if any, will follow from the executive session.

(h) Discussions that occur in executive session shall be recorded, and access to the record shall be provided, in the manner and to the extent provided in the State statutes concerning open meetings and the State statutes concerning open records.

#### **Section 5-4. Executive Sessions - State or Federal Law.**

To the extent matters addressed in this article are also addressed in any applicable provisions of state or federal law, it is the intent of this Charter that the provisions which best preserve the principles of open government and public participation in the affairs of the City shall prevail.

#### **Section 5-5. Public Records.**

(a) The provisions of this Charter relating to open records shall be liberally construed with State open records laws to promote the prompt disclosure of City records to citizens at no cost or no greater than the actual cost to the City. The City shall strictly construe exceptions provided under the State statutes authorizing certain public records to be exempt from disclosure to the public.

(b) City records shall be open for inspection by any person in accordance with this Charter and the State statutes concerning public records and criminal justice records. To the extent State open records laws or City ordinances conflict with the provisions of this Charter, whichever law provides greater access to City records and less expense to the person requesting the records shall control disclosure by the City.

(c) No fee shall be charged for the inspection of City records.

(d) No fee shall be charged for locating City records and making them available for copying, except that the actual labor cost to the City of locating City records may be charged and a reasonable deposit may be required if the records request seeks voluminous records, or records dating over a period of two or more years, and locating the records has exceeded two hours. The City may adopt laws or regulations, consistent with the open records policy of this Charter, to prevent the abuse by persons of open records requests.

(e) No photocopy charges shall be assessed for the first 25 pages of City records provided to a requester on a single request, or for electronic records. When electronic records responsive to a request are readily available, the City shall offer to make such records available as an alternative to paper copies. Photocopy charges per page shall not be greater than the City's actual cost. Where requested City records are voluminous, nothing shall prohibit the City from arranging for a private copy service to make the photocopies and requiring the requester to reimburse the City for actual costs paid to the private copy service.

(f) Any letter, memo, map, drawing, plan or other document that is not an agenda-related material or contained in a communications file and that is submitted to the City Council or Planning Commission during a meeting shall be immediately made available to the public either by making copies available to the public at the meeting or by displaying the document at the meeting so that the public can view the document. No discussion or consideration of such a document by the public body shall occur unless the document has been made available to the public as provided in this subsection (f). Whenever feasible, the City shall cause such documents to be displayed so that citizens observing Council or Planning Commission meetings on television can view the documents.

(g) The City shall make available to the public, at least on the City's web site and City Library, agenda-related materials for each public body. If agenda-related materials are unavailable in electronic format, each such item shall be described on the web site. Within one year from the effective date of this Section, the City shall have a plan for making available on the web site all agenda-related materials. The City shall invite public participation in creating the plan.

(h) The City shall make available to the public the City Council's and Planning Commission's communications file. (Entire Section Repealed and Reenacted by Initiative Approved 11/02/04).

#### **Section 5-6. Code of Ethics - Declaration of Purpose.**

(a) Sections 5-6 through 5-17 shall be known as the Code of Ethics.

(b) Those entrusted with positions in the City government must commit to adhering to the letter and spirit of the Code of Ethics. Only when the people are confident that those in positions of public responsibility are committed to high levels of ethical and moral conduct, will they have faith that their government is acting for the good of the public. This faith in the motives of officers, public body members, and employees is critical for a harmonious and trusting relationship between the City government and the people it serves.

(c) While it is critical that persons holding positions in the City government

follow both the letter and spirit of the Code of Ethics, it is equally important that they strive to avoid situations that may create public perceptions of violations of the Code of Ethics. Perceptions of such violations can have the same negative impacts on public trust as actual violations.

(d) The Code of Ethics is intended to foster public trust by defining the parameters of honest government and by prohibiting the use of public office for private gain.

(e) To the extent matters addressed in the Code of Ethics are also addressed in state or federal law, it is the intent of the Code of Ethics that the more restrictive provisions shall control.

### **Section 5-7. Code of Ethics - Definitions.**

For purposes of the Code of Ethics only, the following words shall have the following meanings:

(a) "Business entity" means:

(1) Any corporation whether for profit or nonprofit, governmental entity, business, trust, limited liability company, partnership, association, or other legal entity; and

(2) Any other form of business, sole proprietorship, firm, or venture, carried on for profit.

(b) "Contract" means any arrangement or agreement pursuant to which any material, service, or other thing of value is to be furnished for a valuable consideration or is to be sold or transferred.

(c) "Domestic partnership" means an exclusive committed relationship between two (2) unmarried adult persons who are unrelated by blood, maintain a mutual residence, and share basic living expenses.

(d) "Interest" means a pecuniary, property, or commercial benefit, or any other benefit the primary significance of which is economic gain or the avoidance of economic loss, but does not include:

(1) Any matter in which a similar benefit is conferred to all persons or property similarly situated nor does it include the ownership or control of shares of stock; or

(2) Any beneficial interest in shares of stock, the aggregate amount of which constitutes one (1) percent or less of the shares of stock of the business entity then outstanding.

(e) "Official action" means any legislative, administrative, or quasi-judicial act of any officer, public body member, or employee, or of the City Council or any public body of the City.

(f) "Public body" means any board or commission, or any task force or committee, except any task force or committee for which the City Council determines, in the resolution establishing it, that Sections 5-6 through 5-17, or such portions thereof as selected by the Council, shall not apply because the public interest would be served by the participation of persons who would otherwise have an interest in the matters to be addressed by the task force or committee.

(g) "Relative" means any person related to an officer, public body member, or employee by blood, marriage, or domestic partnership, in any of the following degrees: parents, spouse, children, brothers, sisters, parents-in-law, nephews, nieces, aunts, uncles, first cousins, grandparents, grandchildren, and children-in-law. A separation between spouses shall not be deemed to terminate relationships described herein.

**Section 5-8. Code of Ethics - Related persons and entities; duration of interest.**

(a) An interest of the following persons and entities shall be deemed to constitute an interest of the officer, public body member, or employee for purposes of the requirements of Section 5-9 and Section 5-10:

(1) Any relative of the officer, public body member, or employee; or

(2) Any business entity in which the officer, public body member, or employee is an officer, director, employee, partner, principal, member, or owner (other than stockholder);

(3) Any business entity in which the officer, public body member, or employee owns or controls shares of stock, or any beneficial interest in shares of stock, the aggregate amount of which constitutes more than one (1) percent of the shares of stock of the business entity then outstanding; or

(4) Any business entity in which the officer is an officer, director, employee, partner, principal, member, or owner (other than stockholder), where the business entity is seeking to advance its financial benefit through an official action of the City, if the officer would be directly or indirectly involved in making the decision.

(b) For purposes of the Code of Ethics, participation in a stock mutual fund shall not be considered an interest in any business entity in which the mutual fund owns or controls shares of stock.

(c) For purposes of the Code of Ethics, the parties to a domestic partnership shall be treated as the equivalent of spouses, and the domestic partnership shall be treated as the equivalent of marriage.

(d) For purposes of the Code of Ethics, an officer shall be deemed to continue to have an interest in a business entity for a period of one (1) year after the officer's actual interest has ceased.

### **Section 5-9. Code of Ethics - Standards.**

(a) The following requirements shall constitute reasonable standards and guidelines for the ethical conduct of officers, public body members, and employees.

(b) No officer, public body member, or employee who has the power or duty to perform, or has any influence over, an official action related to a contract, shall:

(1) Have or acquire an interest in a contract between a business entity and the City, unless the City's procedures applicable to the solicitation and acceptance of such contract are followed and unless the officer, public body member, or employee has complied with the provisions of Section 5-10;

(2) Have an interest in any business entity which is a party to the contract with the City, unless the officer, public body member, or employee has complied with the provisions of Section 5-10;

(3) Represent or appear before the City Council, any public body, or any other officer, public body member, or employee, on behalf of any business entity which is a party to the contract with the City;

(4) Have solicited or accepted present or future employment with any business entity which is a party to a contract with the City, if the offer or acceptance of such employment is related to or results from any official action performed by the officer, public body member, or employee with regard to the contract; or

(5) Solicit, accept, or be granted a present or future gift, favor, discount, service or thing of value from or for any person involved in the contract. Nothing in this paragraph shall prohibit any officer, public body member, or employee from accepting an occasional nonpecuniary gift of fifteen dollars (\$15.00) or less in value, or from accepting an award, publicly presented, in recognition of public service. However, no officer, public

body member, or employee shall accept a nonpecuniary gift of any value if the gift is or may be in any way associated with a contract that is or may be one for which the officer, public body member, or employee has the power or duty to perform an official action.

(c) No officer, public body member, or employee shall be directly responsible for the hiring, appointment, retention, or supervision of, or influence or attempt to influence the hiring, appointment, supervision, or retention by the City of, any relative of the officer, public body member, or employee.

(d) No officer, public body member, or employee shall influence or attempt to influence the compensation, benefits, or other terms and conditions of City office or City employment applicable to a relative of the officer, public body member, or employee.

(e) No relative of an officer, public body member, or employee shall be hired as an employee unless the City's personnel procedures applicable to such employment have been followed.

(f) No officer, public body member, or employee shall use for personal or private gain, or for any other personal or private purposes, any information which is not available to the public and which is obtained by reason of his or her position with the City, or disclose any such information except as required by law or for City purposes.

(g) No employee shall engage in or accept any employment or service, other than employment by the City, if such employment or service reasonably would tend to impair the employee's independence of judgment in the performance of the employee's duties. This restriction shall not be construed to prohibit any other restrictions or prohibitions on outside employment applicable to an employee.

(h) Neither the City Manager, nor any employee who is the head of a City department, shall be appointed to serve as a member of a public body.

(i) No officer, public body member, or employee shall request or direct the use of an employee's working time for the City, and no employee shall use his or her working time for the City, for personal or private purposes.

(j) No officer, public body member, or employee shall request, direct, or permit the personal or private use of any City vehicle or City equipment except in the same manner and under the same circumstances applicable to any person who is not an officer, public body member, or employee, unless such use will substantially benefit the City.

(k) No officer, public body member, or employee shall request, or grant to any person, any special consideration, treatment, or advantage beyond that which is available

to every other person in similar circumstances or need.

(l) No officer, public body member, or employee shall, at any time within two (2) years after termination from the City:

(1) Appear on behalf of the officer's, public body member's, or employee's interest, or on behalf of the interest of any other person, before the City Council, any public body, or department of the City, in relation to any matter concerning which the officer, public body member, or employee performed an official act; or

(2) Represent the interest of the officer, public body member, or employee, or of any other person, in any other matter before the City Council, any public body, or department of the City, without disclosing to the City the officer's, public body member's, or employee's prior relationship to the City and present relationship to the interest.

(m) Except as provided in Subsection (n), no officer, public body member, or employee shall appear before the City Council or any public body on behalf of any business entity.

(n) A member of a public body may appear on behalf of a business entity before the City Council or before a public body other than the public body of which he or she is a member, so long as the appearance does not concern any matter that has or may come before the public body of which he or she is a member.

(o) Nothing in the Code of Ethics shall preclude an officer, public body member, or employee from appearing before the City Council, any public body, or any other officer, public body member, or employee on behalf of any person which is not a business entity, so long as the appearance does not concern the officer's, public body member's, or employee's interest.

(p) No officer or public body member shall offer or promise to give his or her vote or influence in favor of or against any proposed official action in consideration or upon condition that any other officer, public body member, will promise or assent to give his or her vote or influence in favor of or against any other proposed official action.

(q) No officer shall become a City employee at any time during the term of office, or for two (2) years after leaving office.

(r) No officer shall acquire or seek to acquire any real estate or interest therein if the officer knows, or reasonably should know, that the Council is evaluating, proposing, or pursuing the acquisition of such real estate or interest therein. The officer's knowledge shall be presumed if the minutes or other record of any Council meeting or study session

reflect any discussion of the same, or if the officer was present at any executive session at which the same was discussed. The prohibitions of this subsection shall continue to apply until after the Council has abandoned any effort to acquire such real estate or interest therein, and such abandonment has been reflected in the minutes or other record of a Council meeting.

**Section 5-10. Code of Ethics - Disclosure of Interest; Non-Participation in Discussion or Action.**

(a) The procedures of this section shall be followed by:

(1) Each officer who has an interest in, or whose interest would be affected by, any proposed official action before the City Council; and

(2) Each public body member who has an interest in, or whose interest would be affected by, any proposed official action before the public body of which the person is a member.

(b) Each officer or public body member, when required to follow this section, shall:

(1) Immediately and publicly disclose the nature and extent of the interest;

(2) Not participate in any discussion or decision concerning the proposed action; and

(3) Leave the room where the discussion or decision is taking place during the time the proposed action is being discussed and the decision is being made.

(c) With respect to any official action in which an officer, public body member, or employee has an interest, the officer, public body member, or employee shall not:

(1) Participate in any discussion with the City Council, any public body, or any other employee, concerning such an action to be taken by the City Council, the public body, or the other employee; or

(2) Attempt to influence publicly or privately, the City Council, any public body, or any other employee, in connection with an official action described in Paragraph (1).

(d) With respect to any official action that would affect the interest of a competitor of a business entity in which an officer, public body member, or employee has

an interest, the officer, public body member, or employee shall not:

(1) Participate in any discussion with the City Council, any public body, or any other employee, concerning such an action to be taken by the City Council, the public body, or the other employee; or

(2) Attempt to influence publicly or privately, the City Council, any public body, or any other employee, in connection with an official action described in Paragraph (1).

**Section 5-11. Code of Ethics - Filing of Financial Disclosure Statement.**

(a) Within three (3) working days after a person has filed a nomination petition or write-in affidavit of intent for the office of Mayor or Councilmember, and within five (5) working days after a person has been appointed to fill a vacancy in such office, the person shall complete, sign, and file with the City Clerk a disclosure statement that contains:

(1) The person's employer and occupation and the nature of any income in excess of one thousand dollars (\$1,000.00) per year per source, including without limitation, capital gains whether or not taxable, dividends, interest, wages, salaries, rents, and profits;

(2) The name, location, and nature of activities of any business entity with holdings of real or personal property or with business dealings in Boulder County, in which the person has any interest, and the nature of the interest;

(3) The location of any real property within Boulder County in which the person has an interest or, if the person has a controlling interest in an entity or enterprise disclosed pursuant to Paragraph (2), in which the controlled entity or enterprise has any interest and the nature of such interest;

(4) A sworn or verified statement signed by the person, under penalty of perjury, stating that to the best of the person's knowledge, information, and belief, the person has provided, accurately and completely, all of the information required by the disclosure form in compliance with the Code of Ethics. The statement shall contain:

(A) An acknowledgment that, for the purposes of Sections 5-9 and 5-10, the person is deemed to have an interest in his or her own financial affairs, and in that of the person's spouse and other relatives as specified in the Code of Ethics; and

(B) An acknowledgment that, for the purposes of Sections 5-9 and 5-10, the person understands that he or she must disclose such an interest pursuant

to Section 5-10 and comply with the non-participation provisions thereof, and that it is a violation of the Code of Ethics to fail to file the statement within the time required herein; and

(C) Such additional information as the person making the disclosure desires.

(b) Except as specifically provided herein, the form and content of the disclosure statement referred to in Subsection (a) shall be established by resolution of the City Council.

(c) Notwithstanding any other provision of this section, no candidate, officer, or public body member shall be required to disclose any confidential relationship protected by law.

(d) By no later than September 10 of each year, each officer shall file an amended disclosure statement with the City Clerk, or notify the City Clerk in writing that the officer has no change of financial condition regarding the disclosed items since the previously filed disclosure statement.

#### **Section 5-12. Code of Ethics - Enforcement.**

(a) The provisions of Sections 5-9 through 5-11 shall be enforced as follows:

(1) The City Prosecutor shall have the primary responsibility for administration of said provisions.

(2) Any person who believes that an officer, public body member, or employee has violated any of said provisions and wishes to initiate proceedings on such alleged violations shall file a written complaint with the City Prosecutor. The complaint shall state in detail the facts of the alleged violation, shall specify the section or sections of the Code of Ethics alleged to have been violated, and shall contain a sworn or verified statement signed by the complainant and stating under penalty of perjury that the information in the complaint is true and accurate, and that the complaint is filed in good faith and not out of malice or any other improper motive or purpose. Any complaint which does not contain such a signed statement shall be returned forthwith to the complainant without action.

(3) If the complaint is made against an officer or public body member, within ten (10) days after receipt of the complaint the City Prosecutor shall forward a copy of the complaint to the officer or public body member against whom the complaint is made, and to an advisory judge referred to in Section 5-13. The City Prosecutor shall request the advisory judge to appoint a qualified disinterested attorney to serve as special

prosecutor. If, within ten (10) days after the request, the advisory judge has not appointed a special prosecutor, the City's municipal judge shall appoint a qualified disinterested attorney to serve as special prosecutor. The reasonable expenses and fees of an advisory judge making such an appointment and of the attorney serving as special prosecutor shall be paid by the City. The attorney recommended or appointed pursuant to this paragraph shall serve as special prosecutor for purposes of investigation and action on the complaint, and shall take such actions concerning the complaint as are consistent with the Code of Ethics, the Colorado municipal court rules of procedure, and the prosecutor's ethical responsibilities. Before completing the investigation, the special prosecutor shall provide the officer or public body member against whom the complaint is made an opportunity to provide information concerning the complaint.

(4) If the complaint is against an employee, the City Prosecutor shall investigate the complaint and shall take such actions concerning the complaint as are consistent with the Code of Ethics, the Colorado municipal court rules of procedure, and the prosecutor's ethical responsibilities. Within ten (10) days after receipt of the complaint the City Prosecutor shall forward a copy of the complaint to the employee against whom the complaint is made and, before completing the investigation, shall provide the employee an opportunity to provide information concerning the complaint.

(b) A person commits false reporting of a complaint under this section if:

(1) The person makes a complaint of a violation under Sections 5-9 through 5-11 or knowingly causes the transmission of a complaint to the City Prosecutor of such a violation when the person knows that the violation did not occur; or

(2) The person makes a complaint or knowingly causes the transmission of a complaint to the City Prosecutor pretending to furnish information relating to a violation of Sections 5-9 through 5-11 when the person knows that he or she has no such information or knows that the information is false.

(c) A person who is convicted of false reporting of a complaint under this section shall be punished as provided in Section 16-7 of this Charter.

### **Section 5-13. Code of Ethics - Advisory Opinions.**

(a) The municipal judge shall maintain the consent of one (1) or more judges of municipalities other than the City, to provide advisory opinions with respect to the applicability of Sections 5-9 through 5-11. The names of such advisory judges shall be provided to the City Council, the City Manager, and the City Attorney. The reasonable expenses and fees of an advisory judge providing such an opinion shall be paid by the City.

(b) If any officer, public body member, or employee is uncertain as to the applicability of Sections 5-9 through 5-11 to a particular situation, or as to the definition of terms used in said sections, the officer, public body member, or employee may apply in writing to the City Council, Mayor, or City Manager for an opinion from an advisory judge pursuant to this section, and the City Council, Mayor, or City Manager may submit an application to the advisory judge for procurement of an opinion. Any officer or public body member may apply directly to an advisory judge for an opinion. The application shall state in detail the applicable facts and the section or sections of the Code of Ethics concerning which the opinion is requested.

(c) Any person who requests and acts in accordance with an advisory opinion issued pursuant to this section shall not be subject to any penalties for such action under the Code of Ethics, unless material facts were omitted or misstated in the request for the advisory opinion.

(d) An opinion rendered by an advisory judge pursuant to this section shall be disclosed to the public by posting, unless the advisory judge who issued the opinion determines it in the best interest of the City to delay such posting, in which case the opinion shall be posted as soon as the judge determines that the best interest of the City will no longer be harmed by public disclosure of the opinion.

#### **Section 5-14. Code of Ethics - Violations - Penalties.**

An officer, public body member, or employee who is convicted of a violation of any of the provisions of Sections 5-9 through 5-11 shall be punished as provided in Section 16-7 of this Charter.

#### **Section 5-15. Code of Ethics - Violations - Voiding of Contract.**

Any contract which was the subject of any official action of the City in which there was or is an interest prohibited by the Code of Ethics shall be voidable at the option of the City, if legally permitted. Where the City Attorney determines that the public interest may best be served by not voiding such contract, it may be enforced and an action or proceeding may be brought against any officer, public body member, or employee in violation of the provisions of the Code of Ethics for damages in an amount not to exceed twice the damages suffered by the City or twice the profit or gain realized by the officer, public body member, or employee, whichever is greater.

#### **Section 5-16. Code of Ethics - Violations - Injunction.**

The City Prosecutor shall have the power, where a violation of the provisions of the Code of Ethics is threatened or has occurred, to bring a civil action or proceeding at law or in equity for a judgment enjoining any violation of the provisions of the Code of Ethics.

### **Section 5-17. Code of Ethics - Distribution.**

The City Clerk shall cause a copy of the Code of Ethics, and any forms required for compliance with the Code of Ethics, to be distributed to each officer, public body member, and employee of the City within twenty (20) days after the adoption of the Charter, and to each officer, public body member, and employee elected, appointed, or hired thereafter, before entering into any duties with the City, and to each candidate for elective office at the time the candidate obtains a nomination petition. In addition, the City Clerk shall cause a copy of any amendment to the Code of Ethics to be distributed to each officer, public body member, and employee of the City within twenty (20) days after the enactment of the amendment.

### **Section 5-18. Notices and Agendas.**

(a) Any meeting of a public body shall be preceded by the posting of a notice of and agenda for the meeting. Except as provided in Section 4-2, the notice and agenda shall be posted, and published on the City's website, no less than 72 hours before the meeting.

(b) The agenda for any non-emergency meeting of a public body shall contain an itemized list of all subjects on which substantive discussions are reasonably expected or which may be the subject of formal action.

(c) No public body shall engage in substantive discussions relating to, or take formal action on, any subject at a non-emergency meeting when that subject was not listed in the agenda for that meeting and is not substantially related to any subject listed in the agenda, provided, however, that the City Council may engage in substantive discussions and take formal action on a matter of public business not on the agenda, upon a finding by the presiding officer that such discussions or action will promote the general welfare of the City, it is important that the matter be acted upon before the next formal City Council meeting, and it would be injurious to the City to await action on the matter until the next formal City Council meeting.

(d) For purposes of this Section, a subject is not substantially related to a subject listed in the agenda when a person reading the agenda before the meeting would not have reasonably expected that the subject would be substantively discussed or formally acted upon at the meeting.

(e) At any non-emergency meeting of a public body, any member of the public who in good faith believes that a meeting is proceeding in violation of subsection (c) of this Section shall be entitled to submit a brief written objection to the official presiding over the meeting; the written objection shall specify the ground for the objection. The presiding official shall exercise his or her discretion in determining whether the meeting

is in compliance with this Section, and shall conduct the meeting in accordance with that determination. The written objection shall be retained permanently in the records of the City. The City may adopt laws or regulations, consistent with this Section, to prevent the abuse of this subsection (e). (Entire Section Added by Initiative Approved 11/02/04).

## **ARTICLE 6**

### **ELECTIONS**

#### **Section 6-1. Colorado Municipal Election Laws Adopted.**

Except as otherwise provided by this Charter or by ordinance, City elections shall be governed by the State statutes contained in the Colorado Municipal Election Code. All regular and special elections shall be nonpartisan.

#### **Section 6-2. Regular Elections.**

A regular election shall be held in November of each odd-numbered year on the date established by the State statutes for the regular elections of statutory cities.

#### **Section 6-3. Special Elections.**

A special election shall be called by a resolution adopted at least sixty (60) days prior to the election. The resolution calling a special election shall describe the purpose of the election.

#### **Section 6-4. Wards.**

(a) The City shall be divided into three (3) wards, the boundaries of which shall be revised only by a resolution adopted by the affirmative vote of a majority of the entire Council.

(b) Each ward shall be compact and contiguous to the extent practicable. At the time of revision pursuant to Subsection (c), the population in any ward shall not vary by more than five (5) percent from the population in any other ward.

(c) Following each federal decennial census, the boundaries of the wards shall be revised as necessary to meet the requirements of Subsection (b). Ward boundaries shall not be changed more frequently unless necessary to conform to any applicable constitutional apportionment requirements. The revision shall be completed within one (1) year after the census figures are released by the federal government.

(d) Territory added to the City shall become a part of such ward or wards as

may be determined by resolution; but this shall not prevent the subsequent revision of any ward boundary to conform to constitutional requirements.

(e) No revision in ward boundaries shall create a vacancy during the term of any Councilmember in office at the time of the change.

### **Section 6-5. Conduct of Elections.**

The City Clerk shall have charge of all activities and duties required pursuant to this Charter relating to the conduct of City elections. In any case where election procedure is in doubt, the City Clerk shall prescribe the procedure to be followed.

## **ARTICLE 7**

### **INITIATIVE, REFERENDUM, AND RECALL**

#### **Section 7-1. Initiative.**

(a) The registered electors of the City may initiate a proposed ordinance in accordance with the initiative power reserved by Article V, Section 1(9) of the State Constitution. Any initiated measure shall be in the form of an ordinance. Except as otherwise provided in this Charter, the ordinance shall be initiated pursuant to the State statutes which establish procedures for a municipal initiative.

(b) When an initiative petition is presented to the City Clerk for approval as to form, the City Clerk shall reject the form and disapprove its circulation if, in addition to any other applicable grounds, the proposed ordinance contains more than one (1) subject. The City Clerk shall determine that the ordinance contains more than one (1) subject if the matters addressed in the ordinance are not necessarily or properly connected, or are disconnected or incongruous.

(c) An initiative petition shall be signed by registered electors of the City equal in number to at least five (5) percent of the total number of electors of the City registered to vote as of the date established by the State statutes for determining such percentage.

#### **Section 7-2. Referendum.**

(a) The registered electors may require an adopted ordinance to be referred to them at an election in accordance with the referendum power reserved by Article V, Section 1(9) of the State Constitution. Except as otherwise provided in this Charter, the ordinance shall be referred in compliance with the State statutes which establish procedures for a municipal referendum.

(b) The referendum power shall not apply to an emergency ordinance. However, this prohibition shall not prevent the use of the initiative power under Section 7-1 to repeal or amend an emergency ordinance.

(c) A referendum petition shall be signed by registered electors of the City equal in number to at least two and one-half (2-1/2) percent of the total number of electors of the City registered to vote as of the date established by the State statutes for determining such percentage.

### **Section 7-3. Refiling of Initiative or Referendum Petition.**

(a) Within fifteen (15) days after the issuance of a determination that the petition is not sufficient, the petition may be amended by the addition of any required information relating to the signers or by the attachment of proper circulator affidavits, and may be refiled as an original petition. Any petition amended and refiled in accordance with this subsection may not be amended and refiled more than once.

(b) A written determination that the refiled petition is or is not sufficient shall be issued within four (4) business days after the petition is refiled. Any protest concerning the refiled petition shall be filed within five (5) business days of the date on which such petition was refiled. The hearing on the protest shall be conducted in the same manner in which the original hearing provided for in the State statutes was conducted.

### **Section 7-4. Form of Election on Initiated or Referred Measure; Order on Ballot; Ballot Title.**

(a) The form of the election on an initiated or referred ordinance shall be:

(1) The same as the form of the election that was used for the immediately preceding regular election; or

(2) If the election on the ordinance will occur at the regular election, the same as the form of the election to be used for that regular election.

(b) If there is more than one (1) ordinance concerning the same subject to be voted on at the same election, an initiated ordinance under Section 7-1 or a referred ordinance under Section 7-2 shall have priority on the ballot over any ordinance submitted by the Council under Section 7-6. If more than one (1) ordinance under Section 7-1 or Section 7-2 is submitted concerning the same subject, priority on the ballot shall be determined on the basis of the date on which the final determination of sufficiency was made on the petition for the ordinance.

(c) The City Clerk shall hold at least one (1) public hearing prior to setting the

ballot title for an initiated or referred ordinance, and shall take into consideration any comments received at the public hearing in setting the title.

**Section 7-5. Prohibited Action by Council - Initiated or Referred Measure.**

(a) No initiated ordinance adopted by the registered electors of the City may be substantively amended or repealed by the Council during a period of four (4) years after the date of the election on the initiated ordinance, unless the amendment or repeal is approved by the registered electors.

(b) No referred ordinance repealed by the registered electors of the City may be readopted by the Council during a period of four (4) years after the date of the election on the referred ordinance, unless the readoption is approved by the registered electors.

**Section 7-6. Council Referendum.**

The Council may submit any measure to a vote of the registered electors of the City, without receipt of any petition. Each measure shall be submitted by ordinance.

**Section 7-7. Recall.**

(a) The Mayor or any Councilmember may be recalled from office in accordance with the State statutes which establish procedures for the recall of municipal elective officers, except as otherwise provided in this Charter.

(b) A petition to recall the Mayor shall be signed by registered electors of the City. A petition to recall a Councilmember shall be signed by registered electors of the ward from which the Councilmember was elected. The signers of the petition shall number at least twenty-five (25) percent of the entire vote cast for all the candidates for the person's office at the last preceding election at which the person was elected.

(c) If the office held by the person sought to be recalled would otherwise be filled at a regular City election scheduled to be held within ninety (90) days after submission of the recall petition, the petition shall not be accepted and no recall election shall be held.

(d) If a regular City election is scheduled to be held within ninety (90) days after submission of the recall petition, even though that election is not the one at which the office held by the person sought to be recalled would otherwise be filled, the recall election shall be held at the same time as that regular City election.

(e) If a general statewide election is scheduled to be held within ninety (90) days after submission of the recall petition, the recall election shall be held at the same

time as that statewide election.

(f) After one (1) recall petition and election during a person's term, no further petition shall be filed against that person during the same term, unless the petition signers number at least fifty (50) percent of the entire vote cast for all the candidates for the person's office at the last preceding election at which the person was elected.

**Section 7-8. Withdrawal and Reinstatement of and Other Matters Pertaining to Initiative, Referendum, or Recall Petition.**

(a) An initiative, referendum, or recall petition may be withdrawn at any time prior to forty-five (45) days preceding the day on which the election is scheduled to be held, by filing with the City Clerk a written request for withdrawal signed by the persons designated in the petition as the proponents' representatives. Except as provided in Subsection (b), the petition shall have no further force or effect, and the proceedings shall be terminated, upon the filing of the request.

(b) With regard to an initiative or referendum petition only, the persons designated in the petition as the proponents' representatives may reinstate the petition after withdrawal by filing a notice of reinstatement within ten (10) days after the date on which the request for withdrawal was filed. Once so reinstated, there shall be no further right of withdrawal.

(c) The City Clerk shall identify, in a written decision, the specific grounds on which an initiative, referendum, or recall petition is rejected as to form, including the specific reasons for any determination under Section 7-1(b) that a proposed ordinance contains more than one (1) subject. A copy of the decision shall be furnished to the person or persons who submitted the petition.

(d) The City Clerk shall not count as valid any signature on an initiative, referendum, or recall petition if the date of the signature is prior to the date on which the City Clerk approved the form of the petition.

(e) No signature on an initiative, referendum, or recall petition shall be stricken solely on the basis of a minor irregularity that does not prevent the reasonable verification of the signer's name and address against voter registration records.

**Section 7-9. Initiative, Referendum, and Recall Petition Forms to be Provided.**

The City Clerk shall provide, upon request, sample forms of initiative, referendum, and recall petitions which conform to the requirements of this Charter.

## ARTICLE 8

### CITY MANAGER

#### **Section 8-1. Appointment, Qualifications, Evaluation, and Removal.**

(a) The City Council, by the affirmative vote of a majority of the entire Council, shall appoint a City Manager to serve at the pleasure of the Council.

(b) The Council shall establish the City Manager's compensation.

(c) The City Manager shall become a resident of the City within the time established by the Council, and shall remain a resident throughout the Manager's appointment.

(d) The City Council shall evaluate the City Manager's performance at least annually, and shall make a written record of the evaluation.

(e) The removal of the City Manager shall require the affirmative vote of a majority of the entire Council.

#### **Section 8-2. Exclusive Service to City.**

During the period of the appointment, the City Manager shall not be an employee of, or perform any services for compensation from, any person or entity other than the City, unless the Manager has first obtained the approval of the City Council.

#### **Section 8-3. Powers and Duties of Manager.**

(a) The City Manager shall be the chief administrative official of the City.

(b) Subject to the Council's oversight, the City Manager shall have the following powers and duties:

(1) Be responsible for the enforcement of the ordinances, resolutions, franchises, contracts, and other enactments of the City.

(2) Establish and implement personnel rules and regulations for City employees.

(3) Cause a proposed budget to be prepared and submitted to the Council annually, and be responsible for the administration of the adopted budget.

(4) Cause to be prepared and submitted to the City Council, as of the end of the fiscal year, a complete report on finances and administrative activities of the City for that year, and make other reports as requested by the Council concerning the matters of the City in the Manager's charge.

(5) Keep the City Council advised of the financial condition and future needs of the City.

(6) Exercise supervision and control over all City personnel and departments, and make recommendations to the City Council concerning the establishment, consolidation or abolition of City departments.

(7) Attend City Council meetings and participate in discussions with the Council in an advisory capacity.

(8) Be responsible for appropriately informing the public on, and involving the public in, City functions and activities.

(9) Perform such other duties as prescribed by this Charter, or as required by the Council and not inconsistent with this Charter.

#### **Section 8-4. City Clerk; City Treasurer.**

(a) The City Manager shall appoint a qualified person to serve as the City Clerk. The City Clerk shall perform the responsibilities provided for in this Charter, the City's ordinances, and other applicable laws, and other duties as directed by the City Manager.

(b) No person shall dictate, prevent, or interfere with the City Clerk's responsibilities as an independent and neutral election official under Article 6 or Article 7 of this Charter.

(c) The City Manager shall appoint a qualified person to serve as the City Treasurer. The City Treasurer shall perform the responsibilities provided for in this Charter, the City's ordinances, and other applicable laws, and other duties as directed by the City Manager.

#### **Section 8-5. Council's Relationship to Employees.**

(a) The City Manager shall be responsible to the City Council for the proper administration of all matters placed in the Manager's charge by this Charter or by ordinance not inconsistent with this Charter.

(b) Neither the Council nor any member of the Council shall dictate or interfere with the appointment of, or the duties of, any City employee subordinate to the City Manager, the City Attorney, or the Municipal Judge, or prevent or interfere with the exercise of judgment in the performance of the employee's City responsibilities.

(c) A member of the Council may discuss any matter pertaining to City operations with any employee, including the City Manager, but shall not give any direct orders to any such employee.

## **ARTICLE 9**

### **LEGAL AND JUDICIARY**

#### **Section 9-1. City Attorney.**

(a) The City Council, by the affirmative vote of a majority of the entire Council, shall appoint a City Attorney to serve at the pleasure of the Council.

(b) The Council shall establish the City Attorney's compensation.

(c) The City Attorney shall be, at all times while serving as City Attorney, an attorney at law admitted to practice in Colorado.

(d) The removal of the City Attorney shall require the affirmative vote of a majority of the entire Council.

(e) The City Attorney shall serve as the chief legal advisor for the City, shall advise the Council and other City officials in matters relating to their official powers and duties, and shall perform such other duties as may be designated by the Council.

(f) The Council may employ such special counsel as may be recommended by the City Attorney, the City Manager, or the Council.

#### **Section 9-2. City Prosecutor.**

(a) The City Council, by the affirmative vote of a majority of the entire Council, shall appoint a City Prosecutor to serve at the pleasure of the Council.

(b) The Council shall establish the City Prosecutor's compensation.

(c) The City Prosecutor shall be, at all times while serving as City Prosecutor, an attorney at law admitted to practice in Colorado.

(d) The removal of the City Prosecutor shall require the affirmative vote of a

majority of the entire Council.

- (e) The City Prosecutor shall prosecute actions brought in the Municipal Court.

**Section 9-3. Municipal Court; Municipal Judge.**

(a) There shall be a Municipal Court vested with jurisdiction over matters arising under the Charter and ordinances of the City. The Municipal Court shall be a court of record.

(b) The City Council shall appoint, by the affirmative vote of two-thirds (2/3) of the entire Council, a presiding municipal judge and such deputy municipal judges as the Council deems necessary. Each municipal judge shall be appointed for a two (2) year term; except that the initial appointment may be for a term which expires on the date of the next regular election. Any vacancy in the office of municipal judge shall be filled by appointment for the remainder of the unexpired term.

(c) The Council shall establish the compensation for the presiding municipal judge and each deputy municipal judge. The compensation shall not be dependent upon the outcome of the matters to be decided by the judge.

(d) The presiding municipal judge and each deputy municipal judge shall be, at all times while serving as judge, an attorney at law admitted to practice in Colorado.

(e) The removal of any judge during the term of office shall require the affirmative vote of two-thirds (2/3) of the entire Council. Any such removal shall only be for one (1) or more of the following causes:

- (1) Willful misconduct in office, including misconduct which, although not related to judicial duties, brings the office into disrepute or is prejudicial to the administration of justice;

- (2) Willful or persistent failure to perform judicial duties, including incompetent performance of judicial duties;

- (3) Habitual intemperance, including extreme or immoderate personal conduct, recurring loss of temper or control, illegal use of alcohol, or the illegal use of narcotic or dangerous drugs;

- (4) Persistent violation of one (1) or more of the following principles of conduct:

- (A) That the judge should uphold the integrity and independence

of the judiciary;

(B) That the judge should avoid impropriety and the appearance of impropriety in all of the judge's activities; and

(C) That the judge should perform the duties of the office impartially and diligently.

(f) The principles of conduct set forth in Paragraph (4) of Subsection (e) shall be interpreted consistently with the canons of judicial conduct applicable to judges in the state court system.

## **ARTICLE 10**

### **BOARDS AND COMMISSIONS**

#### **Section 10-1. Establishment of Boards and Commissions.**

(a) Except as provided in Subsection (b), the City Council may, by ordinance, establish, consolidate or abolish any board or commission.

(b) The following boards and commissions shall not be abolished:

- (1) Board of Adjustment;
- (2) Building Code Board of Appeals;
- (3) Historic Preservation Commission;
- (4) Open Space Advisory Board; and
- (5) Planning Commission.

#### **Section 10-2. Boards and Commissions - General.**

(a) Except as otherwise provided by this Charter or by ordinance, each board and commission shall be advisory in character. The term, responsibilities, policies, and other matters concerning each board and commission shall be as established by resolution.

(b) The appointment or removal of each board and commission member shall require the affirmative vote of a majority of the entire Council. During the term of office, a member shall be removed only for cause as defined in the resolution described in Subsection (a).

(c) Except as provided in Subsection (d), each member of a board or commission shall be a resident of the City at the time of appointment and throughout the member's term.

(d) If the board or commission is one in which specialized technical expertise is necessary or desirable, the Council may provide, in the resolution described in Subsection (a), for the appointment of one (1) or more members who are not residents of the City, but who have such expertise.

(e) The members of each board and commission shall serve without compensation, but may be paid authorized expenses actually incurred in the performance of the duties of office.

(f) The Council may establish, by resolution, task forces or committees to provide advisory recommendations on special or short-term issues. The resolution establishing the task force or committee shall set forth the goals and responsibilities of the task force or committee. The appointment or removal of each task force or committee member shall require the affirmative vote of a majority of the entire Council.

(g) No board or commission, or task force or committee, shall hold any executive session except in accordance with procedures which shall be consistent with those established in Section 5-3, and only for pending litigation, as described in Section 5-2(d).

## **ARTICLE 11**

### **FINANCE, BUDGET, AND AUDIT**

#### **Section 11-1. Fiscal Year.**

The fiscal year shall be the same as the calendar year.

#### **Section 11-2. Annual Budget Estimates.**

(a) Unless a different date is set by the City Council, each department head shall submit to the City Manager, on or before the first day of September, the department's proposed budget for the next fiscal year.

(b) Unless a different date is set by the City Council, the City Manager shall submit to the Council, on or before the third Tuesday in October of each year, a proposed budget for the City for the next fiscal year.

(c) The proposed budget shall provide a complete financial plan for the City in a format acceptable to the City Council. Except as otherwise provided by this Charter, the proposed budget shall be prepared in accordance with the State statutes establishing the local government budget law and the local government uniform accounting law.

### **Section 11-3. Capital Budget Estimates.**

As part of the proposed budget or as a separate report attached to the budget, the City Manager shall present a program of proposed capital projects for the next fiscal year and the four (4) following fiscal years. An estimate of the costs of such projects shall be submitted together with suggested methods of financing those costs, and any recommendations for the omission or deferment of projects.

### **Section 11-4. Public Hearing.**

(a) Within fourteen (14) days after it receives the proposed budget and the proposed capital projects program from the City Manager, the City Council shall set the date and time for at least one (1) public hearing on the proposed budget and proposed capital projects program.

(b) Notice of the public hearing shall be published at least once, and shall state that copies of the proposed budget and the proposed capital projects program are available for public inspection in the office of the City Clerk.

### **Section 11-5. Council Action on Budget.**

(a) Unless another date is provided by ordinance, the Council shall adopt the budget, by resolution, on or before the date provided by law for certification of the property tax mill levy.

(b) If the Council fails to adopt the budget by the required date, the amounts budgeted and appropriated for the then-current fiscal year, together with any additional amounts necessary for payments of principal and interest on securities and other payment obligations, shall be deemed the budgeted and appropriated amounts for the next fiscal year on a month-to-month basis, with all items in it prorated accordingly, until such time as the Council adopts the budget for that fiscal year.

(c) Adoption of the budget shall constitute appropriations of the amounts specified in the budget as expenditures from the funds indicated, and shall constitute a levy of the property tax mill levy specified in the budget. The Council shall cause the property tax mill levy to be certified as provided by law.

#### **Section 11-6. Budget Control.**

(a) Except as otherwise provided in this Charter or by ordinance, procedures concerning supplemental appropriations, transfers, contingencies, and other matters pertaining to the budget, shall be as set forth in the State statutes establishing the local government budget law.

(b) During the fiscal year, no officer or employee shall expend or contract to expend any money, or incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts appropriated by the City Council. Any contract, verbal or written, made in violation of this subsection shall be void, and no moneys of the City shall be paid on such contract; except that the City Council may ratify such a contract if it determines that ratification would be in the best interest of the City, and if it first adopts a resolution making the necessary appropriation.

(c) The transfer of monies from one (1) fund to another shall only be made by a resolution amending the budget.

(d) Monthly or more often if required by the Council, the City Manager shall submit to the Council data showing the relation between the estimated and actual revenues and expenditures to date.

(e) The balance in any budget appropriation at the end of the fiscal year shall become a part of the same fund for the next fiscal year.

(f) Each department head shall advise the City Manager of any financial irregularities in the department.

#### **Section 11-7. Independent Audit.**

The Council shall provide for a financial audit, which shall be performed at least annually by a certified public accountant selected by the Council. The audit shall be performed in accordance with the State statutes establishing the local government audit law. Copies of the audit shall be made available for public inspection.

## ARTICLE 12

### MUNICIPAL BORROWING AND TAXATION

#### **Section 12-1. Borrowing.**

(a) Subject to the State Constitution and notwithstanding any limitations in the State statutes, the City may borrow money and issue securities or enter into other obligations to evidence such borrowing in any form and in any manner determined by the Council to be advantageous to the City.

(b) The total amount of the City's indebtedness shall not at any time exceed three (3) percent of the actual value, as determined by the county assessor, of the taxable property in the City, except such debt as may be incurred in supplying water.

#### **Section 12-2. Municipal Taxation.**

Subject to the State Constitution and notwithstanding any limitations in the State statutes, the City Council may adopt, by ordinance, such taxes as are not prohibited for home rule municipalities by the Colorado Constitution.

#### **Section 12-3. Voting on Tax and Borrowing Matters Required Notwithstanding Future Changes in State Constitution.**

(a) No new tax, and no increase in the rate of any tax adopted by the City, shall take effect until approved by the registered electors, notwithstanding the elimination of any requirement in the State Constitution for such elector approval.

(b) No bonds payable in whole or in part from the proceeds of general property taxes or sales and use taxes, or to which the full faith and credit of the City are pledged, shall be issued until approved by the registered electors, notwithstanding the elimination of any requirement in the State Constitution for such elector approval.

#### **Section 12-4. Lease-Purchases.**

(a) Any lease-purchase agreement entered into by the City shall be approved by the City Council by non-emergency ordinance, notwithstanding the elimination of any requirement in State statutes for such approval by non-emergency ordinance. (Amended by Referred Measure Approved 11/02/04).

(b) Nothing in this section shall apply to the acquisition of water rights by lease-purchase or other means.

### **Section 12-5. Improvement Districts.**

(a) The City Council shall have the power to create local improvement districts within the City, and to:

(1) Contract for, construct, acquire, or install local improvements of every character within the districts;

(2) Assess the cost of such improvements, wholly or in part, upon the property benefited in such districts; and

(3) Issue local improvement bonds for such improvements.

(b) The Council shall establish, by ordinance not inconsistent with this Charter, the requirements pertaining to such local improvement districts, including but not limited to the method and manner of:

(1) Creating the districts;

(2) Constructing, acquiring, or installing the improvements;

(3) Approving contracts for such construction, acquisition, or installation;

(4) Issuing and paying bonds for such construction, acquisition, or installation, and assessing the costs upon the property benefited; and

(5) Protesting the creation of a district.

## **ARTICLE 13**

### **CITY-OWNED UTILITIES**

#### **Section 13-1. Authority and Powers - Utilities.**

The City shall have and exercise, in any matter pertaining to City-owned utilities, including water and water rights and acquisition thereof, and bonded indebtedness in connection therewith, all the authority and powers provided by the State Constitution, State statutes, and other applicable laws.

#### **Section 13-2. Utility Rates and Finances.**

(a) The Council shall from time to time fix, establish, maintain, and provide for the collection of rates, fees, and charges for water, sewer, and other utility services

furnished by the City.

(b) Such rates, fees, and charges shall be sufficient, in the Council's judgment, to:

(1) Provide good service to the customers;

(2) Pay all bonds and any legally required refunds;

(3) Cover the cost of operation, maintenance, additions, extensions, betterments, and improvements;

(4) Provide a reasonable return on the City's investment in utility properties and capital investments; and

(5) Reimburse the general fund for administrative services and overhead provided and incurred by the City on behalf of each utility, which may include an amount to reimburse the City for the utility's use of the City's rights of way.

(c) The provisions of this section 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 water, sewer, and other utilities, whether such revenue bonds be heretofore or hereafter issued.

### **Section 13-3. Separate Utility Accounting.**

(a) All monies derived from City-owned utilities shall be accounted for separately from other monies of the City.

(b) Any loan of money derived from a City-owned utility to any other City-owned utility, or to any other City fund, shall be approved by ordinance. The motion approving the loan shall specify the term of the loan and the interest rate. The interest rate shall be adjusted annually to a rate equal to the average return of City investments for the preceding twelve (12) months.

## **ARTICLE 14**

### **FRANCHISES AND PERMITS**

#### **Section 14-1. New Franchises and Renewals.**

(a) Any franchise, and any renewal of or amendment to a franchise, shall be

granted by the City Council by ordinance. Any ordinance granting, renewing or amending a franchise shall be subject to a referendum, notwithstanding any emergency declaration in the ordinance, if one is filed in accordance with the procedures and requirements set forth in this Charter. If such an election is ordered, the grantee of such franchise shall deposit the cost of the election with the City Clerk in an amount determined by the City Clerk.

#### **Section 14-2. Revocable Permits or Licenses.**

Except as otherwise provided in this Charter, the City may grant a permit or license at any time for the temporary use or occupation of any street, alley, other public way, or City-owned place. Any such permit or license shall be revocable by the City at any time and without cause, whether or not such right to revoke is expressly reserved in the permit or license.

### **ARTICLE 15**

#### **OPEN SPACE**

#### **Section 15-1. Open Space Article - Purpose.**

The purpose of this article is to establish management standards for City-owned open space lands that:

- (a) Are consistent with good stewardship and sound ecological principles;
- (b) Preserve and promote native plants, native wildlife, and their habitats; and
- (c) Preserve and promote cultural resources, agriculture, scenic vistas, and appropriate passive recreation activities.

#### **Section 15-2. Open Space Article - Definitions.**

As used in this article, the following terms shall have the following meanings:

- (a) "Agricultural uses" means the use of land for grazing and for growing and cultivation of crops and plants.
- (b) "Native plants" means plant species that occur naturally in Louisville habitats without direct or indirect human actions.
- (c) "Native wildlife" means animal species that occur naturally in Louisville habitats without direct or indirect human actions.

(d) "Open space" or "open space land" means land that is included in the open space zone district pursuant to Section 15-3.

(e) "Passive recreation activities" means recreational activities that are determined by the City Council, after consideration of the recommendations of the Open Space Advisory Board, to have minimal harmful effects on native plants and native wildlife.

### **Section 15-3. Open Space Zone District.**

(a) The City Council, after considering the recommendations of the Open Space Advisory Board, shall establish and from time to time update an inventory of each parcel of vacant land owned in whole or in part by the City, and determine whether the parcel shall be designated as open space land.

(b) The City's ordinances shall provide for an open space zone district into which shall be placed all land which is located wholly within the City and which has been designated as open space in accordance with Subsection (a). With respect to any such land that is owned by the City jointly with another governmental entity, the City shall endeavor in good faith to obtain the consent of such governmental entity to place the land into the open space zone district.

(c) The use of land in the open space zone district shall be in accordance with the classification and management requirements of Section 15-4. Subject to such requirements, the City Council may regulate specific activities on land in the open space zone district, after considering the recommendations of the Open Space Advisory Board.

(d) No land which has been placed in the open space zone district shall be rezoned or placed into any other zone district without the approval of the registered electors.

### **Section 15-4. Classification and Management of Open Space Land.**

(a) It is intended that the various classifications of open space provided for in this section will require management policies specifically designed to provide an appropriate level of protection for each classification.

(b) The City shall place open space in and manage open space according to the following classifications, as further delineated by ordinance:

(1) Open Space-Preserve Land.

(A) Land under this classification shall be characterized by a moderate to high level of relative ecological importance with lower levels of habitat fragmentation. Where Open Space-Preserve land is adjacent to other open space or other City-owned land, the adjacent land shall include, where possible, a sufficient buffer area to permit the successful management of the Open Space-Preserve land.

(B) This land shall be managed in a manner that preserves and promotes the long-term viability of native plants and native wildlife, restoration, restoration potential, and ecologically sound agricultural use. Management of City-owned lands surrounding Open Space-Preserve lands shall, to the extent possible under and consistent with the management criteria for the classification of such surrounding land, not be in conflict with the management required under this section.

(C) Visitation for research purposes and formal supervised educational visitation may be permitted in this classification. No or very low levels of passive recreational activities shall be permitted.

(D) When there is a real conflict between human use and any area or item of ecological importance in this classification, preference shall be given to sustaining the area or item of ecological importance.

(2) Open Space-Protected Land.

(A) Land under this classification shall be characterized by a moderate to high level of relative ecological importance with higher levels of habitat fragmentation.

(B) This land shall be managed in the same manner as Open Space-Preserve Land, except that management may permit passive recreation activities so long as:

(i) The passive recreation activities are designed to encourage resource protection, long-term ecological viability of native plants and native wildlife, restoration, ecologically sensitive agricultural use, research, and education; and

(ii) The recreational impacts are contained in order to prevent any adverse effect on Open Space-Preserve land.

(C) Moderate to moderately high visitation levels may be permitted in this classification.

(D) When there is a real conflict between human use and any area or item of ecological importance in this classification, preference shall be given to

sustaining the area or item of ecological importance.

(3) Open Space-Visitor Land.

(A) Land under this classification shall be characterized by a lower level of relative ecological importance with higher levels of habitat fragmentation.

(B) Open Space-Visitor Land shall be managed so that recreational opportunities are designed to encourage resource protection with minimal landscaping using native plants and limited irrigation.

(C) Moderate to high levels of visitation may be permitted in this classification.

(4) Open Space-Other Lands.

(A) Open Space-Other Lands shall be managed to include construction of entryway features and trail rests, planting of trees, and other buffer plantings. Reasonable attempts shall be made to minimize the impact of entryway features and trail rests on the land, and to use native trees and plants.

(B) High levels of visitation and passive recreation activities consistent with existing patterns may be permitted in this classification.

(c) Once placed into one of the classifications described in Subsection (b), no open space shall be placed into a less protected classification except by an ordinance approved by at least two-thirds (2/3) of the entire City Council. Before approving any such ordinance, the Council shall consider any recommendations of the Open Space Advisory Board provided within thirty (30) days after the Council's request for such recommendations. Such an ordinance shall be subject to the rights of initiative and referendum in the manner set forth in Article 7 of this Charter, whether or not the ordinance is legislative in character.

(d) The City shall not use any lethal method to control or manage native wildlife on any open space land unless the City has first made good faith efforts to use non-lethal methods. In addition, the City shall not use relocation or lethal methods against any species of native wildlife on any open space land if that action would result in the elimination of that species from all open space.

(e) Nothing in Subsection (d) shall prohibit the use of relocation or lethal methods on any open space land to control or manage native wildlife for the immediate protection of human health and safety.

(f) The City shall not use pesticides, herbicides and other similar chemicals on open space land unless:

(1) The City reasonably determines that other non-toxic remedies will have little opportunity for success; or

(2) They are required by state law or federal law.

(g) In representing the City's position for the management of any open space land which is located outside the City, or is owned by the City jointly with another governmental entity, the City shall endeavor in good faith to manage such lands consistent with the standards for management of City open space set forth in this section. No substantive change in the use of such land shall be approved by the City unless it has been referred to the Open Space Advisory Board for review and recommendations.

### **Section 15-5. Open Space - Effect of Article.**

Nothing in this article shall be construed to:

(a) Affect or limit the safe and efficient operation, construction and maintenance of the City's water, sewer, drainage, and flood control systems and infrastructure; except that the City shall make reasonable efforts to mitigate the impact of such operation, construction, and maintenance on open space;

(b) Prohibit the use of wheelchairs and similar devices on open space by persons with disabilities;

(c) Affect or limit the City's authority to approve the reasonable use of motorized vehicles on open space for maintenance activities or emergency services, or for purposes of compliance with legal access agreements;

(d) With respect to open space lands which are jointly owned by the City with another governmental entity and which are the subject of an intergovernmental agreement or a conservation easement, affect or limit the management of such lands in accordance with the terms of such agreement or easement;

(e) Affect or limit the City's authority to obtain and follow the recommendations of the Colorado Division of Wildlife with respect to the management and control of large game animals and large non-game animals that are occasionally found on City open space; or

(f) Require any level of budgetary appropriations with regard to the matters addressed in this article.

**Section 15-6. Open Space -- Transfer of Interest.**

(a) Except as provided in Subsection (b), the approval of the registered electors shall be required for:

(1) The sale, lease, trade, or other transfer or conveyance of any open space land; or

(2) The grant of a license or easement to use any open space land.

(b) No approval of the registered electors shall be required for:

(1) The grant of a lease for agricultural uses on open space land, but only to permit the continuation of agricultural uses that existed prior to the City's acquisition of the land;

(2) The grant of a non-exclusive license, easement, or permit for the undergrounding of utilities on open space land. The grantee of the license or easement shall restore all disturbances to the land resulting from the grantee's activities; or

(3) The transfer of any property interest in or relating to open space land that substantially and directly advances the open space goals set forth in Section 15-1, by an ordinance approved by at least two-thirds (2/3) of the entire City Council following favorable recommendation by the Open Space Advisory Board. Such an ordinance shall be subject to the rights of initiative and referendum in the manner set forth in Article 7 of this Charter, whether or not the ordinance is legislative in character.

**ARTICLE 16**

**MISCELLANEOUS PROVISIONS**

**Section 16-1. Interpretation.**

(a) Except as otherwise specifically provided in or indicated by the context, all words used in this Charter indicating the present tense shall not be limited to the time of the adoption of this Charter, but shall extend to and include the time of the happening of any event or requirement for which provision is made in this Charter.

(b) Except as otherwise specifically provided in or indicated by the context, the singular number shall include the plural, the plural shall include the singular, and the word "person" may extend and be applied to bodies politic and corporate and to partnerships as well as individuals.

**Section 16-2. Severability of Charter Provisions.**

If any part of this Charter or the application of any part of this Charter to any person or circumstance is found to be invalid, such invalidity shall not affect the validity of any remaining part of this Charter, and to this end this Charter is declared to be severable.

**Section 16-3. Park Land - Transfer of Interest.**

(a) Except as provided in Subsection (b), the approval of the registered electors shall be required for:

- (1) The sale, lease, trade, or other conveyance of any park land; or
- (2) The grant of an exclusive license to use any park land.

(b) No approval of the registered electors shall be required for:

- (1) The grant of a temporary permit for a special event on park land; or
- (2) The grant of a non-exclusive license or easement for the undergrounding of utilities on any park land. The grantee of the license or easement shall restore all disturbances to the land resulting from the grantee's activities.

**Section 16-4. Bonding.**

Before permitting any member of the Council or any City employee to perform any function or duty involving the handling of City funds, the City shall obtain a fidelity bond or insurance coverage in an amount acceptable to the Council.

**Section 16-5. Bequests, Gifts, and Donations.**

Except as otherwise provided in this Charter, the Council, on behalf of the City, may receive bequests, gifts, and donations of all kinds of property with power to manage, sell, lease, or otherwise dispose or provide for the disposition of the same.

**Section 16-6. Saturdays, Sundays, and Holidays.**

If the last day of any period required to be computed under this Charter is a Saturday, Sunday, or City holiday, the period shall be extended to include the next day which is not a Saturday, Sunday, or City holiday.

**Section 16-7. Penalty for Violation of Charter.**

Any willful violation of a provision of this Charter shall be deemed a misdemeanor and may be prosecuted in the Municipal Court. Any person convicted of such a violation may be punished by imprisonment for a term not to exceed the maximum term of imprisonment that the Municipal Court is authorized to impose pursuant to Section 4-15, by a fine in an amount not to exceed the maximum fine that the Municipal Court is authorized to impose pursuant to Section 4-15, or by both such fine and imprisonment.

**Section 16-8. Competitive Bidding.**

Purchases of or contracts for supplies, material, equipment, or improvements shall be made under such requirements with respect to competitive bidding as shall be prescribed by ordinance.

**Section 16-9. Eminent Domain.**

In carrying out the powers and duties provided for in this Charter, the City shall have all powers conferred by Article XX of the State Constitution to acquire, within or outside its corporate limits, land, buildings, air rights, water, water rights and water storage rights, utilities, and other property and property rights, and may take the same upon paying just compensation to the owner as provided by law.

**Section 16-10. Charter Amendments.**

To the extent any amendments to this Charter conflict with preexisting or earlier-amended provisions, the later amendments shall be construed to supersede the preexisting or earlier-amended provisions.(Entire Section Added by Initiative Approved 11/02/04).

**ARTICLE 17**

**TRANSITIONAL PROVISIONS**

**Section 17-1. Effective Date of Charter.**

This Charter shall become effective immediately upon filing and recording with the Secretary of State of Colorado following approval of the registered electors of the City.

**Section 17-2. Prior City Legislation.**

All ordinances, resolutions, rules, and regulations of the City which are not inconsistent with this Charter, and which are in force and effect on the effective date of this Charter,

shall continue in full force and effect until repealed or amended. Any provision of any ordinance, resolution, rule, or regulation which is inconsistent with this Charter is hereby repealed.

**Section 17-3. Continuation of Personnel.**

The employment of each employee of the City serving on the effective date of this Charter shall continue as if this Charter had not been adopted.

**Section 17-4. Existing Terms of Office; Other Transitional Matters.**

(a) Section 3-4(b) shall apply to each person elected to the office of Mayor or Councilmember at the November, 2005 regular election and thereafter.

(b) The terms of office of the members of each City board and commission, serving prior to the effective date of this Charter, shall continue as if this Charter had not been adopted.

(c) The elective office of City Treasurer shall be abolished at the conclusion of the term of office being served by the City Treasurer on the effective date of this Charter.

(d) The elective office of City Clerk shall be abolished at the conclusion of the term of office being served by the City Clerk on the effective date of this Charter.

(e) The City Council shall provide for such other transitions as necessary or desirable as a result of the adoption of this Charter.

**Section 17-5. Saving Clause.**

(a) Neither the adoption of this Charter nor the amendment or repeal of any ordinance, resolution, rule, or regulation, or portion thereof, inconsistent with this Charter, shall be construed to destroy any property right, contract right, or right of action of any nature or kind, civil or criminal, vested in or against the City by virtue of any such ordinance, resolution, rule, or regulation, or portion thereof, or any other provision of law theretofore existing or otherwise accruing to the City.

(b) All such rights shall vest in and inure to the City or to any persons asserting any such claims against the City as fully and as completely as though this Charter had not been adopted, and as though there had been no amendment or repeal of any ordinance, resolution, rule, regulation, or portion thereof.

(c) Such rights shall include but not be limited to:

(1) Any contractual relationships between the City and any employee by virtue of any retirement and pension plans in effect on the effective date of this Charter; and

(2) Any franchise ordinances and agreements of the City in effect on the effective date of this Charter.