

# City of Colorado Springs

## Charter

### HISTORICAL NOTE

On May 11, 1909 Colorado Springs electors, pursuant to the home rule provisions of Article XX of the State Constitution, adopted the Charter of the City of Colorado Springs. The original Charter created a commission form of government for the City. The legislative functions were vested in a Council consisting of the Mayor and four at-large Councilmembers. The Mayor was granted a salary of \$3,600 per year, and each Councilmember was granted a salary of \$2,000 per year. The executive and administrative functions were vested in five departments: Water and Water Works; Finance; Public Safety; Public Works and Property; and Public Health and Sanitation. The Mayor was designated as Commissioner of the Department of Water and Water Works, and the Council was required to designate one Councilmember to be commissioner of each of the other departments. This latter provision was amended on April 1, 1913 to provide for the selection at general elections of Councilmembers as commissioners.

The Charter provided that the Mayor was to be the Chief Executive Officer of the City. Upon the recommendation of the commissioner of the appropriate department, the Mayor appointed the heads of such departments and all other employees of the City. The Mayor was further empowered to suspend or remove any officer or employee in the public interest. The Charter allowed the Mayor to veto any or every item contained in appropriation ordinances, but such veto could be overridden by vote of four Councilmembers (in effect, the entire Council exclusive of the Mayor).

The Charter was substantially amended on July 6, 1920 to provide for a Council-Manager form of government in lieu of the previous commission form. The amended Charter provided for nine Councilmembers to be elected at large for staggered six-year terms. Council was required to elect biennially one of its members as President and another as Vice-President. The President was required to preside at Council meetings and had a voice and vote therein but no veto. He could use the title of Mayor but had little power except in times of public emergency. All members of Council were required to serve without compensation.

Another 1920 amendment created the office of City Manager, who was to be employed by the Council as the executive of the City. The Manager was granted broad powers and duties, including the right to exercise the power and authority of the commissioner or head of any of the five departments originally created in 1909. Thus, the Manager rather than individual Councilmembers performed the functions of department commissioners as prescribed by the unamended portions of the Charter. The 1920 amendment also granted to discharged City Police and Fire Department employees the right to a hearing before the Civil Service Commission.

At a special election held on January 24, 1922, the Charter was amended to provide for the submission of the question of issuing bonds to a vote of the qualified taxpaying electors. However, in *Pike v. School District No. 11 in El Paso County*, 172 Colo. 413, 474 P.2d 162 (1970), the Colorado Supreme Court ruled that a state statute limiting the right to vote to taxpaying electors was unconstitutional. The Charter provision was therefore amended in 1977 to delete the requirement that an elector in bond issue elections must have paid a property tax within the City. See also, *Karok v. City and County of Denver*, 176 Colo. 406, 490 P.2d 936 (1971).

The Charter was amended again on April 5, 1927. This amendment expanded the election provisions of the Charter, and it included a provision for the registration of electors for municipal elections at the office of the

City Clerk.

The Department of Utilities was created by an amendment to the Charter approved by Colorado Springs voters on April 4, 1939. The amendment provided for the manner of handling the funds and accounts of that department. On April 1, 1947 the Charter was amended to replace the Park Commission with a Department of Parks and Recreation, to be subject to the control of Council. An amendment allowing the formation of a combined City-County Health Department was approved on April 5, 1949. On April 3, 1951 a definition of "taxpaying electors" and "city taxes" was added, and on April 5, 1959 a provision defining the terms "qualified electors" was inserted. Amendments to the Charter which were approved on April 4, 1961 included an expansion to the provisions concerning the vacancy of the offices of elected officials; a provision allowing the City to take up the last one-fifth of public improvement district bonds; and a section allowing the 1947 Public Library Law to govern public libraries in Colorado Springs. On April 12, 1963 the Charter was again amended to allow Council to prescribe the method for registration of electors and authorizing the use of voting machines. The limitation on the City's indebtedness was increased from three percent to ten percent on April 6, 1965. The Charter was further amended on April 4, 1967 to allow recreational use of a portion of the City's Northfield and North Slope watersheds.

In April 1969 Colorado Springs electors approved two amendments to the Charter relating to the election of Councilmembers. First, the term of Councilmembers was reduced from six years to four years. Secondly, provision was made for the election of four district Councilmembers and five at-large Councilmembers, thereby eliminating the former section which provided that all nine were to be elected at large.

On April 1, 1975 the Charter was amended to provide for the popular election of the Mayor. Thus, Council would consist of four at-large Councilmembers, four district Councilmembers, and a popularly elected Mayor. Another amendment adopted in 1975 expanded the vacancy and forfeiture provisions relating to the offices of Mayor, Vice-Mayor and Councilmembers. Also, a section was added to the Charter providing for the City's joint cooperation with other governmental units and for its participation with the private sector in the development of energy or water resources.

On April 5, 1977 the Charter was amended by adding a so-called "safe-seat" provision which required any elected officer running for an elective City office, other than that currently held by him or her, to give a notice of intent to so run at least sixty days prior to the next election. Once the notice of intent is given and not withdrawn at least sixty-one days prior to the election, the office currently held is automatically vacated on the third Tuesday in April following the election.

In this same election, the five administrative departments originally created by the 1909 Charter were abolished, providing instead that Council by ordinance may establish departments, divisions, offices or agencies and prescribe the functions thereof, other than those already provided for in the Charter. Another amendment abolished the Police Court and created a Municipal Court, its practice and procedure set forth by Colorado law, Colorado Supreme Court rules and City ordinances.

On April 3, 1979 several amendments to the Charter were approved by Colorado Springs electors. Included was a substantial revision of the Charter's election provisions. Sections relating to registration, form of ballots and the like were deleted, and a provision was substituted enabling Council to regulate these matters by ordinance. Former section 85(f), which defined a "qualified elector" as an elector qualified to vote in the City and registered to vote, was deleted. A Colorado Supreme Court decision held that requiring registration as a prerequisite to qualification as an elector was unconstitutional. See *Francis v. Rogers*, 182 Colo. 430, 514 P.2d 311 (1973). See also, *Valdez v. Election Commission of City and County of Denver*, 184 Colo. 384, 521 P.2d 165 (1974); *Benson v. Election Commission*, 62 Colo. 206, 161 P. 295 (1916).

Another 1979 amendment to the Charter completely revised the recall, initiative and referendum provisions so as to ensure their compliance with articles V and XXI of the Colorado Constitution. A Colorado Supreme Court decision had held that the delegation to municipalities of the power to regulate recall elections under

Colo. Const. art. XXI, sect. 4, was limited to procedural matters and substantive provisions not in conflict with the State Constitution. *Bernzen v. City of Boulder*, 186 Colo. 81, 525 P.2d 416 (1974). See also, *Shroyer v. Sokol*, 191 Colo. 32, 550 P.2d 309 (1976). The 1979 revision to the recall, initiative and referendum provisions was therefore an attempt to comply with applicable provisions of the State Constitution pursuant to the dictates of the Colorado Supreme Court.

The 1979 amendment also added section 145(a) providing for the removal of striking City employees and requiring all City employees to make an oath declaring that they will not participate in any manner in a strike against the City. In September 1979, a strike of City employees did occur and because of very strict interpretations placed upon section 145(a) by an unsympathetic court, it was found as a practical matter that section 145(a) in its original version was unenforceable. The section was further amended by Colorado Springs electors on February 19, 1980, eliminating most of the procedural requirements used by the court to hamper the City in its efforts to deal with the striking employees.

Another 1980 amendment adopted by the electors provided that division of the City into election districts shall take place at least 120 and not more than 150 days before any City election at which district Councilmembers are to be elected. The previous Charter provision had required such districting to take place within 120 days after receipt of the United States decennial census for the City.

In the April 1985 election, eleven proposed amendments to the Charter were considered. Four amendments were passed, including the granting of a fifteen year non-exclusive franchise to Citizens Cable. Among the defeated proposals were amendments to allow Council to issue water bonds without voter approval; to lease City property to other governmental entities for up to a 99-year term, or to issue sales and use tax bonds solely for capital improvements; a proposal limiting to 90 days the time in which to file petitions for initiated ordinances; and an amendment establishing salaries for Mayor and Councilmembers. Later that same year, in August, the leasing proposal was again defeated. Two other proposed amendments were passed in this second election of 1985, giving the City Clerk thirty days to count signatures in recall, referendum and initiative petitions, and requiring petitions for initiated ordinances to be filed within 180 days of issuance by the Clerk.

Until 1987, section 4 of the Charter established a five-year residency requirement for mayoral and Councilmember candidates. This five-year requirement was declared unconstitutional. See *Bird v. City of Colorado Springs*, 181 Colo. 141, 506 P.2d 1099 (1973). The state's Municipal Election Code provides a one-year (12 consecutive months) residency requirement, which the Supreme Court upheld in *Cowan v. City of Aspen*, 181 Colo. 386, 509 P.2d 1269 (1973). As a home rule city, Colorado Springs' own Charter would normally overrule the state provision; however, as the City's five-year requirement had been invalidated by the court, the state's one-year requirement arguably applied to candidates for municipal office in Colorado Springs. In spite of this, electors turned down proposed amendments in 1977 and 1985 which would have reduced the residency requirement to one year. Finally, in 1987 electors brought the Charter into conformity with the court's view and the state statute by approving an amendment establishing the one-year residency requirement for mayoral and Councilmember candidates.

In addition to the reduction in the residency requirements just discussed, the 1987 election amended the Charter by providing a method for filling a vacancy in the office of Mayor. Electors also approved an amendment which terminated the surplus-deficiency fund for improvement district bonds pursuant to the Federal Tax Reform Act of 1986 and an amendment which allowed leasing of City property by Council to other governmental entities for up to 99 years -- excepting park property. Once again, salaries for Mayor and Councilmembers were turned down.

In 1989 electors considered three proposed amendments to the Charter. Approved were provisions for filling Councilmember vacancies and for publishing ordinances in newspapers of either general or limited circulation. A proposal to allow Council to grant franchises without voter approval was again defeated.

In April 1991 City voters were faced with five Charter amendment proposals, all of which passed. Two were

"housekeeping" matters, making all references to Councilmembers gender-neutral and amending references to the Department of Utilities to simply "Utilities." The other three amendments, however, generated some controversy. One amendment limited the Mayor and Councilmembers to two consecutive terms. The other two amendments limited taxation powers of the City: Amendment 3 required voter approval in advance for any new tax, rate increase, higher mill levy, tax extension, or termination of tax exemptions, or any change in the City's tax policy that would result in a net gain to the City in revenue, and further, it limited fiscal year spending according to a prescribed formula; Amendment 4 limited the general City property tax to 7 mills in 1991 and phased out sales and use taxes on utility and telecommunications services, and phased out the 5% capital improvement sales and use tax beginning in 1993, and further limited the sales and use tax rate to 2% unless raised by voters or by a declared emergency.

Voters were faced with eleven ballot questions in the April 1993 election. Only two measures were defeated, one to maintain the city's sales tax at 0.5% for capital improvements, and the other to pay the Mayor and Councilmembers an annual salary. Among the significant measures passed were an annual goals-setting session for Council; a limitation on special district debt; a requirement that circulators of City recall, initiative and referendum petitions be registered electors of the city; and an open meetings law that meets state requirements. Voters also changed the number of Councilmember votes, from two-thirds to a majority, needed to remove the City Manager, and added a new section to the Charter making the Utilities Director an appointee of City Council instead of an employee selected and managed by the City Manager.

The April 1995 election proposed six Charter issues, four of which were approved. One amendment provided that every legislative and administrative officer of the City and all other employees required by law shall be required to take an oath or affirmation to support the Constitution of the United States, Constitution of the State of Colorado, and the City of Colorado Springs Charter. An annual stipend of \$6,250 was approved for City Councilmembers. The Manager of Utilities was authorized to designate the utilities departments with the approval of City Council, and provisions were made that Council shall not sell, convey or lease all or any substantial part of the property of Utilities without an affirmative vote of the electors, excepting those transactions that occur in the ordinary course of business.

The April 1997 election proposed one Charter issue, which voters approved. The amendment gave the Civil Service Commission the authority to classify employment in the Police and Fire Departments and to determine selection processes as to fitness and eligibility of candidates for employment.

In the coordinated election of November 2, 1999, Colorado Springs voters considered three Charter amendment proposals. The first sought to amend section 7-90(c)(2) to provide that the local TABOR election notices have the same form and substance as the state constitutional TABOR provisions. The second proposed to amend Charter section 12-30(b) by requiring that petition circulators be City residents and by deleting the requirement that they be registered voters. Finally, the third proposal would have changed the title of Charter section 14-40 from "Continuation" to "Discharges or Reduction in Grade" and would have provided that appeal hearings held by the City's Civil Service Commission be limited to an examination of the administrative hearing record below and oral argument, in lieu of *de novo* review. All three measures were defeated by sizable margins.

The general election held on November 7, 2000 presented three local referendum issues to City voters: (1) whether Adelphia Cable Communications should receive a nonexclusive cable television franchise for at least 10 years but not more than 15; (2) whether Wideopenwest Colorado should receive a similar franchise; and (3) whether the revenues generated for the City from these franchise agreements be exempt from TABOR fiscal year spending limitations. The vote was to approve both franchises but to keep franchise revenues subject to TABOR provisions in the Charter.

In the April 3, 2001 municipal election, one major and fairly controversial measure (but not a Charter issue) faced voters. Known as "SCIP '01," the referendum asked voters to approve a 0.9% sales and use tax to fund certain enumerated capital improvements City-wide, including street construction and maintenance, traffic

improvements, drainage, and recreation facilities, as well as public safety personnel, equipment and operational needs. The measure failed.

Of seven questions before voters in the following November 6, 2001 election, only one involved the Charter. That proposed amendment sought to align the mailing of notices for City TABOR elections with the state's constitutional provision, thus saving the City a significant amount of money and duplication of effort. The voters approved this measure, but voted down all but one of the remaining six issues before them, which sought funding for various capital improvement programs including transportation, stormwater, Platte/Chelton intersection improvements, police and fire, public works equipment and road maintenance, and parks and recreation projects. The measure known as B-4 for police and fire was the only one of these to pass.

In the municipal election of April 5, 2005, three of five Charter proposals passed. One measure prevents any planning, building, funding or financing of a convention center without prior voter approval. A second requires Council to maintain a strategic plan prioritizing City goals and establishing measurable outcomes, including the Comprehensive Plan and a five-year capital improvements plan. This measure also requires an annual "state of the city" report to be made to citizens by the Mayor. The third requires the City budget to include Council stipends and expenses, to declare the amount of money required to fund the budget, and to apportion the City budget among the general city, utilities and hospital funds based on a Council-determined allocation methodology. The two charter proposals rejected by voters included a pay raise for Mayor and Councilmembers and an elimination of the 30-word limitation on tax and bonded-debt ballot titles.

The municipal election of April 7, 2009, resulted in the passage of one charter proposal which amended article VII, section 7-90(b)(5) of the Charter of the City of Colorado Springs as it related to the definition of "Enterprise". The measure amended the prior enterprise definition in the Charter to the same enterprise definition as provided by the Colorado Constitution. The amendment to the definition provided the enterprises of the City to apply for federal grants and federal funds.

The general election held on November 2, 2010 proposed a substantial change from the Council-Manager form of government that voters had instituted on July 6, 1920, to provide for a Council-Mayor form of government. The amended Charter now provides for the election of a new fifth at-large councilmember so that City Council is comprised of five at-large members and four district members from whom the members shall elect a President of City Council. The positions of City Manager and Vice-Mayor have been eliminated. The new Mayor is now the chief executive and head of City government, is responsible for all executive and administrative affairs, works for the City full time, holds no other paid position, will develop the budget in line with the City's strategic plan, acts to approve or disapprove ordinances finally passed by the Council with certain specified exceptions, may disapprove specific line items in any ordinance appropriating funds, and appoints, subject to confirmation by City Council, the City Clerk, City Attorney, Municipal Judges, Chief Financial Officer or Controller, Police Chief, Fire Chief and lead managers of public works, parks, community development, and the airport.

The foregoing is a review of major amendments to the Charter since its adoption in 1909. Reference should be made to the Charter itself in order to ascertain in detail its contents. In reviewing the Charter, it must be remembered that a charter is the organic law of a home rule municipality, and extends to all its local and municipal matters. Colo. Const. art. XX, sect. 6. Colorado Springs, as a home rule city, possesses every power of the Colorado state legislature as to local and municipal matters, unless restricted by the terms of its Charter. See, *Service Oil Co. v. Rhodus*, 179 Colo. 335, 500 P.2d 807 (1972); *Veterans of Foreign Wars v. Steamboat Springs*, 195 Colo. 44, 575 P.2d 835 (1978). Thus, the Charter of the City of Colorado Springs is not a grant of powers to the City; rather, it is a limitation on powers given the City under the home rule provisions of the State Constitution, as determined by the citizens of Colorado Springs.

## THE CHARTER OF THE CITY OF COLORADO SPRINGS

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### PREAMBLE

We, the people of the City of Colorado Springs, under the authority of the Constitution of the State of Colorado, do ordain and establish this Charter for the City of Colorado Springs.

### ARTICLE I.<sup>1</sup> NAME, BOUNDARIES, POWERS, RIGHTS, AND LIABILITIES

**1-10.Name--Boundaries.** The municipal corporation now existing and known as the "City of Colorado Springs" shall remain and continue to be a body politic and corporate under the same name and with the same boundaries, with power and authority to change its boundaries in manner authorized by law. (1909)

### **1-20.Powers--Rights--Liabilities.**

(a)By the name of the "City of Colorado Springs," the City shall have perpetual succession, and shall own, possess, and hold all property, real and personal, theretofore owned, possessed or held by the said City of Colorado Springs, and shall assume, manage, and dispose of all trusts in any way connected therewith; (1909)

(b)Shall succeed to all the rights and liabilities, and shall acquire all benefits, and shall assume and pay all bonds, obligations, and indebtedness of said City of Colorado Springs; by that name may sue and defend, plead and be impleaded, in all courts and places and in all matters and proceedings; may have and use a common seal and alter the same at pleasure; may purchase, receive, hold and enjoy, or sell and dispose of, real and personal property; (1909)

(c)May receive bequests, gifts, and donations of all kinds of property, in fee simple, or in trust for public, charitable, or other purposes; and do all things and acts necessary to carry out the purpose of such gifts, bequests, and donations, with power to manage, sell, lease, or otherwise dispose of the same in accordance with the terms of the gift, bequest, or donation; (1909)

(d)Shall have the power, within or without its territorial limits, to construct, condemn and purchase, purchase, acquire, lease, add to, maintain, conduct, and operate waterworks, light plants, power plants, transportation systems, heating plants, and any other public utilities or works or ways local in use and extent, in whole or in part, and everything required therefor, for the use of said City and the inhabitants thereof, and any such systems, plants or works or ways, or any contracts in relation or connection therewith, that may exist and which said City may desire to purchase, in whole or in part, the same or any part thereof may be purchased by said City which may enforce such purchase by proceedings at law as in taking land for public use by right of eminent domain, and shall have the power to issue bonds upon the vote of the taxpaying electors, at any special or general election, in any amount necessary to carry out any of said powers or purposes;<sup>2</sup> (1909)

(e)The legislative, executive, and judicial powers of the City shall extend to all matters of local and municipal government, it being the intent hereof that the specifications of particular powers by any other provision of this Charter, shall never be construed as impairing the effect of the general grant of powers of local government hereby bestowed;<sup>3</sup> (1909)

(f)The City may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation by contract or otherwise, with other governmental units of

every kind and character. The City may become a shareholder or subscriber, or a joint owner, in any public or private corporation only in order to effect the development of energy or water resources after discovery, production, transportation, or transmission of energy or water for the benefit of the City; (1975)

(g)The City shall also have all powers, privileges, and functions which, by or pursuant to the Constitution of this State, have been or could be granted to or exercised by any city of the first class;<sup>4</sup> (1909)

(h)All powers of the City shall, except as otherwise provided in this Charter, be vested in the elective officers, subject to distribution and delegation of such powers as provided in this Charter or by ordinance. (1909)

**1-30.Council-Mayor Government.** The municipal government provided by this Charter shall be known as the "Council-Mayor Government." Pursuant to its provisions and subject only to the limitations imposed by this Charter, all powers of the City shall be vested in an elective Council and Mayor. (1975; 2010)

## **ARTICLE II. ELECTIVE OFFICERS**

### **2-10.(a)Elective Officers--Terms--Limitation of Terms for Mayor and Councilmembers.**

**(1) Elective Officers--Terms.** The elective officers of the City shall be a Mayor and nine (9) Councilmembers who shall be elected at the general municipal elections. The Mayor and three (3) members of Council shall be elected at large by the qualified electors of the City and one (1) member of Council shall be elected from each of the six (6) election districts of the City by the qualified electors of such district as hereafter provided commencing with the April 2013 general municipal election. The Mayor shall be elected by a majority, and not a plurality, of votes cast for the office of Mayor according to a run-off election, the procedures for which shall be established by Council. The terms of the office of Mayor and all Councilmembers whether at large or from districts shall be for a period of four (4) years. (1909; 1969; 1975; 1991; 2010; 2011)

**(2)Limitation of Terms for Mayor.** Commencing with the April 3, 2007 general municipal election, no person shall be elected to the office of Mayor for more than two (2) consecutive terms, except that any person who is elected to the office of Mayor for two (2) years or less of a term to which some other person was elected Mayor, may be elected to the office of Mayor for two (2) additional consecutive terms of office. Any person who is elected to the office of Mayor for more than two (2) years of a term to which some other person was elected Mayor may be elected to the office of Mayor for one (1) additional consecutive term. Persons holding the office of Mayor for two (2) consecutive terms may again be elected to the office of Mayor at the next general municipal election after termination of the consecutive terms. (1991; 2007)

**(3)Limitation of Terms for Councilmembers.** Commencing with the April 2, 1991 general municipal election, no person shall be elected to the office of Councilmember for more than two (2) consecutive terms, nor shall any person who has held the office of Councilmember by appointment and election for more than two (2) years of a term to which some other person was elected Councilmember be elected to more than one (1) consecutive term. Any person who is elected for two (2) years of an unexpired term of a Councilmember may be elected to the office of Councilmember for two (2) additional consecutive terms. Any person who has served two (2) consecutive terms of office may again be elected to the office of Councilmember at the next general municipal election after termination of the consecutive terms. (1991)

**(b) Districts.** At least one hundred twenty (120) and not more than one hundred fifty (150) days before any City election at which district members of Council are to be elected, the City Clerk shall divide the City into six election districts having substantially equal populations commencing with the April 2013 general municipal election. All of the area in each district shall be contiguous. The Council shall provide by ordinance the method of creating said districts and establishing their boundaries, the giving of notice of such proceedings, the manner of protesting such proceedings, and division of the City into said districts and for hearing on such protest. (1969; 1975; 1977; 1980; 2011)

**(c) Commencement of Office.** The term of the Mayor and Councilmembers shall commence at ten o'clock A.M. on the third Tuesday of April following their election, except the term of a Councilmember appointed to fill a vacancy shall commence upon the taking of the oath of office, and further excepted that the term of Mayor may commence on the first Tuesday in June following the general municipal election, if necessary to accommodate a run-off election. The term of the Mayor and Councilmembers elected as a result of a recall election shall commence upon the declaration of the election and taking the oath of office. (1909; 1920; 1969; 1975; 2010)

**(d) Mayor and Councilmember Elections.** The Mayor and the three at-large Councilmembers shall be elected for four (4) year terms. The six (6) district Councilmembers shall be elected for four (4) year terms commencing with the 2013 general municipal election. (1969; 1975; 2010; 2011)

**(e) Mayor and Councilmember Prohibitions.** No elected City officer shall be permitted to run for any elective City office, except that held by him or her, unless written notice is given to the City Clerk of their intention to so run at least sixty (60) days prior to the date of the next general municipal election. Such notice shall not be withdrawn after the 61st day preceding the next general municipal election. Once such notice is given and not withdrawn, the office of that elected officer shall be automatically vacated at 9:59 A.M. on the third Tuesday in April following said election. The vacancy thus created shall be filled by election at the general municipal election next following when such notice was given. The term of office shall be for the unexpired term of the elected officer giving the notice. (1977; 2010)

**2-20. Qualifications.** No person shall be eligible to the office of Mayor or Councilmember unless he or she is a citizen of the United States, at least twenty-five (25) years of age, and shall have been for one (1) year immediately preceding such election a resident of the City of Colorado Springs. (1909; 1987)

**2-30.(a) Vacancy.** The office of Mayor or Councilmember shall become vacant upon death, resignation, removal from office, or forfeiture of office in any manner authorized by law. The office of Mayor or at-large Councilmember shall become vacant for failing to maintain bona fide residence in the City. The office of district Councilmember shall become vacant for failing to maintain bona fide residence in the district from which elected. (1909; 1975; 1987)

If a vacancy occurs in the office of Mayor, duties and responsibilities of that position shall transfer according to section 4-20 of this Charter, and Council shall call an election within ninety (90) days, unless a general municipal election will occur in one hundred eighty (180) days and nominations for the office of Mayor can be timely filed in accord with municipal election law, for the purpose of electing a qualified person to the unexpired term of the office of Mayor. If a general municipal election will occur within one hundred eighty (180) days, the provisions of section 4-20 of this Charter shall apply until a successor of the Mayor last elected pursuant to the provisions of section 2-10 of this Charter is elected and qualified, in accordance with this Charter. (1909; 1961; 1975; 1987; 2010)

If a vacancy occurs in the office of a Councilmember more than sixty (60) days prior to the next

general municipal election, the Council shall appoint an eligible person to fill such vacancy within thirty (30) days of the date of vacancy until the next general municipal election. Any appointed Councilmember shall be subject to the provisions of recall set forth herein. If a vacancy occurs in the office of a Councilmember within sixty (60) days of a general municipal election, such vacancy shall be filled at the next general municipal election. Any vacancy filled by election shall be for the unexpired term. (1961; 1989)

**(b)Forfeiture of Office.** The office of Mayor or Councilmember shall be forfeited if:

(1)At any time during their term of office they lack any qualification for the office of Mayor or Councilmember prescribed by this Charter or by law;

(2)Violate any express prohibition or requirement of this Charter;

(3)Are convicted of a crime which constitutes a felony in the jurisdiction in which it occurred; or

(4)In the case of Councilmembers only, a Councilmember fails to attend three (3) consecutive regular meetings of the Council without being excused by the Council. (1975; 2010)

### **ARTICLE III. THE COUNCIL**

**3-10.(a)General Powers.** All legislative powers of the City shall be vested in the Council, except as otherwise provided by law or this Charter. (1909; 1920; 1977; 1993; 2005; 2010)

**(b)Executive or Administrative Functions.** Except as otherwise set forth herein, whenever an executive or administrative function or duty shall be required to be performed by ordinance, the same shall be performed by the executive branch and not by the legislative branch. (2010)

**(c)Duties.** To provide for the future of the City, Council shall maintain a strategic plan which prioritizes goals for the City Council and establishes measurable outcomes. The plan process shall consider public input. Council shall provide the plan and goals to the Mayor for consideration in the development of the municipal administrative budget. (1909; 1920; 1977; 1993; 2005; 2010)

**(d)Accountability.** The City Council shall provide for an annual "Report to the Citizens". (2005; 2010)

**(e)Appointments.** The Council shall appoint by the concurring vote of a majority of its members a City Auditor, whose duties, compensation, and tenure of office shall be as prescribed by ordinance. All votes upon appointments to office shall be upon roll call and recorded. (1920; 1977; 2007; 2010)

**(f)Personnel Policies.** The Council shall review and approve by ordinance personnel policies and procedures for all City employees, including civil service employees, but specifically excluding employees of City Utilities and the City's health system; and all municipal purchasing and contracting rules and regulations, it being determined that, as a matter of policy, City Council shall undertake those tasks through the legislative process. (2010)

**(g)Mayor's Proclamation.** The Council may review a Mayor's proclamation in times of public danger or emergency, and may terminate such proclamation at any time by a majority vote of the Council. (2010)

**3-20.President of Council.** The President of Council shall be elected by and from the members of the Council and shall preside at all meetings of the Council; the President of Council shall have a voice and vote in its proceedings. The President of Council shall be recognized as the leader of the Council. (2010)

In the absence of the President of Council, the other members of the Council shall elect one of their number to perform the duties of the President of Council. At its first regular meeting on or after the third Tuesday in April of each odd-numbered year, and biennially thereafter, the Council shall elect one of its members as President of Council. (1909; 1920; 1975; 2010)

The President of Council, as such officer, but not as a Councilmember, may be removed from the office of President of Council by a vote of at least five (5) members of the Council. (2010)

**3-30.Judge of Qualifications.** The Council shall be the judge of the election and qualification of its own members and of the grounds for the forfeiture of the office of Councilmember subject to review by the courts in case of contest. (1909; 1977; 2010)

**3-40.Restrictions Upon Members of the Council.** Councilmembers shall not hold any other City office, position, employment, or be employed by any agency for which their compensation is directly paid by the City. No former Councilmember shall be appointed to any office, position, or employment, the compensation of which was increased or fixed by the Council while they were a member thereof, until after the expiration of one (1) year from the date when they ceased to be a member of the Council. (1909; 1977; 2010)

**3-50.Rules of the Council.** The Council shall make and publish its own rules of procedure within sixty (60) days of the effective date of this provision. The Council may amend its own rules. The Council may punish its members for disorderly conduct, and the Council may compel the attendance of members. (1909; 1977)

**3-60.Sessions of the Council.**

(a)The Council shall meet at least once a month in legislative session, and the Council shall prescribe the time and place of its legislative sessions and the manner in which special meetings thereof may be called. (1909; 1977)

(b)The City Clerk shall be the Clerk of the Council. (1909; 1977)

(c)A majority of the members of Council shall constitute a quorum to do business, but a lesser number can adjourn. (1909; 1977)

(d)Colorado Statutes as now existing applying to open meetings of local governments shall apply to the meetings of the City Council and its boards and commissions. (See Appendix of the Colorado Open Meetings Law at the end of the Charter.) (1909; 1977; 1993)

(e)The Council shall cause to be kept a journal of its legislative sessions, which shall be public record. (1909; 1977)

**3-70.Ordinances and Resolutions.**

(a)At legislative sessions the Council shall act only by ordinance, resolution, or motion. (1909; 1977)

(b)The ayes and noes shall be taken upon the passage of all ordinances and resolutions and

entered upon the journal of the Council's proceedings. Upon the request of any member, the ayes and noes shall be taken and recorded upon any motion. Every member when present must vote. Every ordinance and every resolution providing for the expenditure of money shall require on final passage the affirmative vote of five (5) members. (1909; 1920; 1977)

(c)No ordinance shall be finally passed on the date it is introduced, except in the case of public emergency as set forth in section 3-90. (1909; 1920; 1977)

(d)The enacting clause of all ordinances passed by the Council shall be in these words: "Be It Ordained by the City Council of the City of Colorado Springs." (1909; 1920; 1977)

(e)Every ordinance finally passed by the Council shall be presented to the Mayor within forty-eight hours thereafter for final adoption. If the Mayor approves such ordinance, he or she shall finally adopt it by signing it within five days after receiving it. If the Mayor disapproves, the ordinance shall be returned to the Council within five days with the Mayor's objections in writing. If then six (6) of the members vote to pass the same over the Mayor's veto, it shall become a finally adopted ordinance, notwithstanding the objections of the Mayor. If the Mayor does not return the ordinance with written objections within the time specified, it shall become finally adopted as if the Mayor had approved it. (2010)

(1)In any ordinance appropriating funds, the Mayor may disapprove specific line items without disapproving the entire ordinance. After disapproval of specific line items, the ordinance shall be returned to Council to complete the over-ride process as outlined above as to each line item vetoed. (2010)

(2)Notwithstanding the foregoing subsections, the Mayor shall not have power to disapprove by veto the following listed types of ordinances, this limitation applying only to the following specifically identified ordinances: an ordinance accomplishing any quasi-judicial act; an ordinance approving bonds to be issued by any City enterprise; an ordinance pertaining to article VI, "Utilities," of this Charter; an ordinance submitting a Charter amendment to a vote of the qualified electors; or an ordinance proposing a Charter convention. (2010)

(f)The City Clerk shall, with the Mayor, sign and attest all ordinances and resolutions. (1909; 1977; 2010)

**3-80.Publication of Ordinances.** Every ordinance shall be published twice in a newspaper or newspapers of general or limited circulation within the City to ensure general coverage in the City with the first publication to be at least ten (10) days before final passage by Council of the ordinance published, and the second publication any time after its final adoption according to section 3-70(e) above. The ordinance shall not take effect until five (5) days after the second publication. However, emergency ordinances passed as provided in this article shall take effect upon final adoption and be so published on the following day, subject always to the provisions of article XII. When the Council deems it appropriate, publication of the title of any ordinance with a summary written by the City Clerk, together with a statement that the ordinance is available for public inspection and acquisition in the office of the City Clerk, shall be sufficient publication. (1909; 1920; 1977; 1989; 2010) (Ed. note: The 1977 amendment brought together in a single section the provisions relating to publication which had previously been found in sections 13 and 14.)

**3-90.Emergency Ordinances.** To meet a public emergency affecting life, health, property, or the public peace, the Council may adopt one or more emergency ordinances, but such ordinances may not levy taxes, grant, renew, or extend a license, permit, franchise, special privilege, or authority, or regulate the rate charged by any public utility for its services. An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly

designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing such emergency in clear and specific terms.<sup>5</sup> An emergency ordinance may be adopted, with or without amendment, or rejected at the meeting at which it is introduced, but the affirmative vote of at least five (5) members shall be required for adoption. (1977)

After its adoption the ordinance shall be published and printed as prescribed for other ordinances. It shall become effective upon adoption or at such later time as it may specify. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances. (1977)

**3-100.Amendment or Repeal.** No ordinance or section thereof shall be amended or repealed except by ordinance adopted in the manner provided in this Charter. (1909; 1977) (Ed. note: This provision was formerly section 15 of the 1909 Charter. The former section 16 dealing with ordinances granting franchises was repealed as unnecessary in 1977. See article X relating to Franchises and Licenses.)

**3-110.Record of Ordinances.** A true copy of every ordinance shall be kept in a book marked "Ordinance Record," and every ordinance shall be authenticated by the signatures of the Mayor and City Clerk. (1909; 1977)

**3-120.Proof of Ordinances.** Any ordinance or any portion thereof may be proved by a copy thereof certified by the City Clerk, under the seal of the City; or when printed in book or pamphlet form and purporting to be published by the authority of the City, the same shall be received in evidence in all Courts, or other places, without further proof. (1909; 1977)

**3-130.Charter and Ordinances.** The Council shall, from time to time hereafter, cause such ordinances as it deems necessary to be codified under appropriate headings and to be published in book form, together with or separate from the Charter and such provisions of the Constitution and laws of the State as the Council may deem expedient. The present ordinances, resolutions, and orders not inconsistent with the provisions of this Charter and in force at the time this Charter takes effect shall continue in full force and effect until the Council otherwise by ordinance, resolution, or motion provides. Such codification or any section thereof may be proven in the same manner and with the same effect as any other ordinance. (1909; 1977)

**3-140.Printed Monthly Statements.** The Council shall cause to be printed each month in pamphlet form a detailed statement of all receipts and expenditures of the City and a summary of Council's legislative proceedings during the preceding month and furnish printed copies thereof to the public library, the daily newspapers of the City, and to persons who shall apply therefor at the office of the Clerk. Said statement shall also show the amount of water used during the preceding month and the amount of reserve water in storage at the end of that month. (1909; 1977) (Ed. note: This provision was formerly section 21 of the 1909 Charter. The former section 20, dealing with the power of the City Council to establish offices and employments was repealed as unnecessary in 1977.)

**3-150.Adoption by Reference.** The City Council may by ordinance adopt by reference printed or published codes, provided, that such adoption shall be by ordinance published as required in section 3-80, and, provided further, no penalty clause may be adopted by reference. (1977)

**3-160.Independent Audit.** The Council shall provide for an independent annual audit of all City accounts and may provide for more frequent audits as it deems necessary. Such audits shall be made by a certified public accountant or firm of such accountants who have no direct personal interest in the fiscal affairs of the City government or any of its officers. The Council may, without requiring competitive bids, designate such accountant or firm annually or for a period not exceeding

three (3) years, provided that the designation for any particular fiscal year shall be made not later than six (6) months after the beginning of such fiscal year. If the State makes such an audit, the Council may accept it as satisfying the requirements of this section. (1977; 1985)

#### **ARTICLE IV. THE MAYOR<sup>6</sup>**

**4-10.Creation of the Office of Mayor; General Powers.** There shall be, and hereby is, created the office of Mayor. The Mayor shall be the chief executive and shall enforce all laws and ordinances; the Mayor shall possess, have and exercise, all the executive and administrative powers granted to the City by article XX of the Constitution of the State of Colorado, and all executive and administrative powers contained in the Charter of the City, and otherwise existing by operation of law, except as hereinafter delegated to the departments hereinafter created, and except the powers granted to other elective officers by this Charter. The Mayor shall be considered the head of the City government for the purpose of executing legal instruments, for all ceremonial purposes, and by the Governor or other constituted authority for the purpose of military law. The Mayor may take command of the police and govern the City by proclamation in times of public danger or emergency. The Mayor shall from time to time give the Council information on the condition of the City and recommend such measures as he or she may deem expedient. The Mayor shall execute all contracts and see that all contracts and agreements with the City are faithfully kept and fully performed. The head of every department shall report to the Mayor all facts and information known to him or her concerning the violation of any contract or agreement with the City. (2010)

#### **4-20.Succession.**

(a)Whenever the Mayor is unable, from any cause, to perform the duties of the office for more than a temporary or short-term absence, the President of the Council shall be the acting Mayor and shall hold such office until a successor of the Mayor last elected pursuant to the provisions of section 2-10 of this Charter is elected and qualified, in accordance with this Charter, at which time the President of the Council may return to his or her seat on Council. (2010)

(b)If the President of Council refuses or is unable to discharge the duties of the Office of Mayor, the Council shall elect one of its members acting Mayor, who shall hold such office until a successor of the Mayor last elected pursuant to the provisions of section 2-10 of this Charter is elected and qualified, in accordance with this Charter. (2010)

(c)Whenever the President of Council becomes the acting Mayor, Council shall elect a new President of Council to serve during the absence as provided in this Charter. (2010)

**4-30.Restrictions Upon the Office of Mayor.** The Mayor shall not hold any other paid employment position during his or her term in office. No former Mayor shall be appointed to any City office, position, or employment, until after the expiration of one (1) year from the date when he or she ceased to hold the office of Mayor. (2010)

**4-40.Specific Powers and Duties of the Mayor.** The Mayor shall be responsible for all executive and administrative affairs of the City, except those reserved to Council herein, including but not limited to, the following: (1920; 1975; 2010)

(a)The Mayor shall see that the laws and ordinances of the City are enforced. (2010)

(b)Accountability.

(1)The Mayor shall maintain and submit to the citizens a strategic plan that prioritizes goals for the City and establishes measurable outcomes. The strategic plan shall include the Comprehensive Plan and a five-year capital improvements plan for municipal needs. The plan process shall consider public input. The plan and goals shall be used in the development of the municipal administrative budget. The Mayor shall provide for an annual "State of the City" report to the citizens on progress in meeting the strategic plan. (2010)

(2)The Mayor shall prepare and submit to the citizens on or before June 30 of each year, a report on the financial condition of the City that identifies material changes, both positive and adverse. The City shall publish these mid-year and year-end financial reports. (2010)

(3)The Mayor shall prepare and submit to the Council a complete report on the finances and administrative activities of the City as of the end of each fiscal year, and the Mayor shall timely make such other reports as the Council may require concerning the operations of City departments, offices, and agencies that are subject to the Mayor's direction and supervision. (2010)

(c)The Mayor shall appoint and suspend or remove any City government employee, which excludes employees of City Utilities and the City's health system. All appointments shall be upon merit and fitness alone. The Mayor may authorize any administrative officer who is subject to the Mayor's direction and supervision to exercise these powers with respect to subordinates in that officer's department, office, or agency. (2010)

(d)The Mayor shall direct and supervise the administration of all departments, divisions, offices, and agencies of the City, except as otherwise provided by this Charter or by law. The Mayor may delegate administrative and ministerial functions to the administrative officers of the City. (2010)

(e)The Mayor will appoint a Chief of Staff to act as an administrative officer of the municipal government under the Mayor's supervision and who shall serve at the pleasure of the Mayor. However, despite such delegation or appointment, the responsibility for the proper and effective administration of the City remains always with the Mayor and none other. (2010)

(f)Appointments. Subject to confirmation by the concurring vote of a majority of the members of City Council, the Mayor shall appoint individuals to serve at the pleasure of the Mayor in the following positions. If Council fails to begin the confirmation process for any appointment within thirty (30) days thereof or fails to take final action to approve or deny the appointment within ninety (90) days thereof, the appointment shall be deemed confirmed. (2010)

(1)City Clerk;

(2)City Attorney and Municipal Judges;

(3)Chief Financial Officer, or the Controller, or, regardless of title, the official acting as the City's financial manager; and City Treasurer, the offices of which may be held by one person;

(4)Police Chief and Fire Chief;

(5)Regardless of title, the leader or head of the City's departments, divisions, offices, agencies, or enterprises relating to public works, parks, community development and the municipal airport so that the individual ultimately responsible for each such function answers directly to the Mayor.

(6)The director or manager of any City department, division, office, agency, or enterprise if the Mayor's appointment authority is set forth by ordinance, except that the Mayor shall not appoint the chief executive officers of the City Utilities or the City's health system. (2010)

(g)The Mayor shall see that all terms and conditions imposed in favor of the City or its inhabitants in any contract or franchise are faithfully kept and performed, and upon knowledge of any violation thereof to report the same to the City Attorney, who is hereby required to take such proceedings as may be necessary to enforce the same. (2010)

(h)The Mayor shall have the right to attend and be heard at any meeting of Council and may recommend to the Council for adoption such measures as the Mayor may deem necessary or expedient. (2011)

(i)On or before the first Monday in October in each year, the Mayor shall furnish to the Council estimates in writing of the probable expenses to be incurred in the several departments of the City for the ensuing fiscal year, specifying in detail probable expenditures, including a statement of the salaries of all administrative officers and employees, and certify the amount of money to be raised by taxation during the ensuing fiscal year to make payment of interest, sinking fund, and principal of bonded indebtedness and also the estimated amount of revenue from all sources other than tax levy. At the same time or on such later date in each year as shall be fixed by the Council, the Mayor shall prepare and present to the Council the annual budget for the ensuing fiscal year, which shall include interest and sinking fund on the bonded debt. The budget so prepared shall be in such detail as to the aggregate sum and the items thereof allowed to each department, office, board, or commission as the Mayor may deem advisable except such as are fixed by law. (2010)

(j)The Mayor shall serve as an *ex officio* and non-voting member of the Board of Directors for Utilities. (2010)

(k)The Mayor shall perform such other executive and administrative duties as may be prescribed by the Charter or the ordinances of the City. (1920; 1975; 2010)

## ARTICLE V. ADMINISTRATIVE DEPARTMENTS

(Ed. note: In the original 1909 Charter, article V was titled "Executive and Administrative Departments." It identified five departments by name and provided that each commissioner should have charge of one of those departments. The 1920 amendments specifically repealed the provisions assigning the commissioners to departments but left the designation of the five departments intact. The 1977 amendment attempted to eliminate the apparently conflicting and archaic provisions and to establish a system which will permit necessary flexibility in organizing the City's administrative structure and pinpointing responsibility for the operation.)

**5-10.Creation of Departments.** By ordinance, the City Council may establish departments, divisions, offices, or agencies in addition to those created by this Charter and may prescribe the functions of all departments, offices, and agencies, except that no function assigned by this Charter to a particular department, office, or agency may be discontinued or, unless this Charter specifically so provides, assigned to any other. The specific positions enumerated in section 4-40(f)(1)\_ (4), as well as the leader or head of departments described in section 4-40(f)(5) shall be appointed by the Mayor, subject to confirmation by Council. Such departments, divisions, offices, or agencies may include but not be limited to police, fire, and health. (1977; 2010)

**5-20.Direction by the Mayor.** All departments, divisions, offices, and agencies shall be under the direction and supervision of the Mayor but may be administered by the Mayor's Chief of Staff. The Mayor may serve as the head of one or more such departments, offices, or agencies or may appoint one (1) person as the head of two (2) or more of them. (1977; 2010)

## ARTICLE VI. UTILITIES

(Ed. note: Article VI, including sections 30 through 34, as originally adopted in the 1909 Charter, referred only to Water and Water Works. In 1925, the City acquired the electrical generation and transmission systems serving the City. In 1929, the City developed its own gas distribution system. In 1939, the people of the City adopted a Charter provision numbered 79(a) which established a Public Utilities Department consisting of the Division of Water and Water Works, the Division of Electric Light and Power, and the Division of Gas and "any other public utility acquired by the City." In 1948, the Wastewater Division, then known as the Sewer Division, was created as yet another division of the Department of Utilities. The 1977 amendment to the Charter attempted to draw all these divergent provisions together into one location.)

**6-10.Utilities Director, Appointment.** The City Council shall by a majority vote of its entire membership employ a Utilities Director who shall serve at the pleasure of Council and who shall be responsible for the operation of Utilities. The Utilities Director shall have the power to appoint and remove all employees of Utilities who shall be City employees.<sup>7</sup> (1993)

**6-20.Definitions.** For the purposes of this article, the term "Utility" shall mean the acquisition, erection, construction, operation, or maintenance by the City of water systems, wastewater systems, electric light and power systems, gas systems, and such other systems designated by Council which are necessary for the citizens and owned by the citizens of the City of Colorado Springs. (1977)

**6-30.General Powers.** The City shall have and exercise with regard to utilities, all municipal powers, including without limitation, all powers now existing and which may hereafter be provided by the Constitution and laws of the State of Colorado. (1977)

### **6-40.Utilities--Accounting--Reserves.**

(a)City Council shall serve as the Board of Directors for Utilities, and the Mayor shall serve as an *ex officio* and non-voting member thereof. Utilities shall include the departments designated by the Manager of Utilities and approved by Council. Each of said departments shall, as far as practicable, be administered as an entity. All revenues of each department shall be placed in the utilities gross income fund, from which all operating and maintenance expenses shall be deducted. The funds of Utilities shall be kept separate from the funds of all other departments of the City. (1977; 1985; 1991; 1995; 2010)

(b)The net earnings of Utilities shall be appropriated for the necessary requirements of any of its departments, or of Utilities as a whole, and any remaining surplus may be appropriated to the general revenues of the City by the City Council in its Annual Budget and Appropriation Ordinance. (1977; 1991)

(c)Adequate reserves for the replacement of obsolescent or depreciated property shall be provided annually in the accounts and budgets of several departments of Utilities in accordance with the Uniform Classifications of Accounts as now or hereafter adopted by the Public Utilities Commission of the State of Colorado. All such reserves not utilized for the replacement of obsolescent or depreciated property, or for additions or betterments to the plant or equipment of the several departments of Utilities shall be funded, and such funded reserves shall not be appropriated for any other use than the replacement of obsolescent or depreciated property, for additions or betterments to the physical property of Utilities, or for the payment of principal bonds of Utilities. (1977; 1991)

(d)Nothing herein shall affect the requirements of any existing bond ordinance or the obligations of the City with reference to any outstanding bonds. (1977; 1991)

(e)The Council shall cause to be printed annually for public distribution a report showing all costs of maintenance, extension, and improvements; all operating expenses of every description; the amount set aside for sinking fund purposes; the value of any utility service given without charge; allowance for interest, depreciation, and insurance, and estimates of the amounts of taxes that would be chargeable against such property if owned by a private corporation. (1939; 1977; 1991)

**6-50.Water Rights.** The City shall have the authority to buy, exchange, augment, lease, own, and control water and water rights. (1977; 1985)

**6-60.Emergency Warrants.** If at any time since the passage of the last annual appropriation ordinance the monies appropriated and available for Utilities shall be insufficient in the judgment of the Council to meet any Utilities emergency, the Council may upon passage of a resolution declaring an emergency cause warrants to be issued payable out of the receipts of Utilities for the ensuing year, including the proceeds from the sales of bonds. Said warrants and monies realized thereon shall be applied only to meeting the emergency so declared. (1909; 1977; 1991)

**6-70.Utility Rates.** The Council shall by ordinance or resolution establish rates, rules and regulations, and extension policies for the services provided by Utilities. (1909; 1977; 1991)

**6-80.Sale, Conveyance or Leasing of Utilities.** Council shall not sell, convey or lease all or any substantial part of the property of Utilities or any Utilities Department without an affirmative vote of the electors of the City; provided that the foregoing shall not apply to the sale, lease, or conveyance of property of Utilities or any Utilities Department (i) which occurs in the ordinary course of business, or (ii) which shall cease to be necessary for the efficient operation of the utility, or (iii) which shall have been replaced by other property serving substantially the same function. (1995)

## **ARTICLE VII. FINANCE**

**7-10.Fiscal Year.** The fiscal year of the City shall commence on the first day of January and end on the last day of December of each year. (1909; 1977)

### **7-20.Public Monies.**

(a)The Mayor shall have the direct control of the revenues of the City except as otherwise provided by this Charter or by ordinances. (1909; 1977; 2010)

(b)The Council shall by ordinance provide a system for the collection, custody, and disbursement of all public monies not inconsistent with the provisions of this Charter. (1909; 1977)

### **7-30.Budget.**

(a)The Council shall, upon receipt of the budget,<sup>8</sup> adopt the budget with or without amendment. In amending the budget, the Council may add or increase programs or amounts and may delete or decrease any programs or amounts, except amounts required by law or for debt service on general obligation bonds or for estimated cash deficit; provided, however, that no amendment to the budget shall increase the authorized expenditures to an amount greater than the total of estimated income. (1909; 1977)

(b)In adopting the budget the Council shall also estimate and declare the amount of money necessary to be raised by tax levy. The estimate shall take into account the amounts available from other sources to meet the expenses of the City for the ensuing fiscal year. The budget and estimate

as finally adopted shall be signed by the Mayor and City Clerk and filed with the Controller. (1909; 1977) (Ed. note: Formerly section 41.)

(c)The budget shall include all stipends and other expenses of City Council and the salary of the Mayor and the budget shall declare the amount of money necessary to fund the budget. Subject to any pre-existing bond covenants, the City Council's budget shall be apportioned among the City's general fund, its Utilities funds and its health system fund as a reflection of City Council's direct responsibilities for all municipal and Utilities matters as well as City Council's general supervision and control of health system matters based upon such reasonable allocation methodology as City Council may determine. (2005; 2010)

#### **7-40.Levy.**

(a)Upon said estimate, the Council shall forthwith proceed to make by ordinance the proper levy in mills upon each dollar of the assessed valuation of all taxable property within the City, such levy representing the amount of taxes for City purposes necessary to provide for payment during the ensuing fiscal year of all properly authorized demands upon the Treasurer.<sup>9</sup> The Council shall thereupon cause the total levy to be certified by the Clerk to the County Assessor who shall extend the same upon the tax list of the current year in a separate column entitled "The City of Colorado Springs Taxes," and shall include said City taxes in the general warrant to the County Treasurer for collection. The levy shall never exceed twenty (20) mills on the dollar for all general City purposes upon the total assessed valuation of said taxable property within the City. The foregoing limitation of twenty (20) mills shall not apply to taxes levied by the Council for the payment of any interest, sinking fund, or principal of any bonded indebtedness of the City now existing or hereafter created, nor for payment of interest, sinking fund, or principal of the indebtedness of any town or city which may hereafter be incorporated with or annexed to the City, nor to special assessments for local improvements. (1909; 1977)

(b)If the Council fails in any year to make the tax levy as above provided, then the rate last fixed shall be the rate fixed for the ensuing fiscal year. (1909; 1977)

(c)The amount required to make payment of any interest, sinking fund, or principal of bonded indebtedness shall always be included in and met by tax levy, except as otherwise provided for in this Charter. (1909; 1977) (Ed. note: Formerly section 42.)

**7-50.Appropriations.** Upon the basis of the budget as adopted and filed, the several sums shall forthwith be appropriated by ordinance to the several purposes therein named for the ensuing fiscal year. Said ordinance shall be adopted not later than the thirty-first day of December in each year, and shall be entitled "The Annual Appropriation Ordinance." (1909; 1977) (Ed. note: Formerly section 43.)

**7-60.No Liability Without Appropriation.** Neither the Council, nor the Mayor, nor any administrative officer or employee of the City shall have authority to make any contract involving the expenditure of public money, or impose upon the City any liability to pay money, unless and until a definite amount of money shall have been appropriated for the liquidation of all pecuniary liability of the City under such contract or in consequence thereof to mature during the period covered by the appropriation. Such contract shall be *ab initio* null and void as to the City for any other or further liability, provided, first, that nothing herein contained shall prevent the Council from providing for payment of any expense, the necessity of which is caused by any casualty, accident, or unforeseen contingency arising after the passage of the annual appropriation ordinance; and, second, that the provisions of this section shall not apply to or limit the authority conferred in relation to bonded indebtedness, nor for monies to be collected by special assessments for local improvements. (1909; 1977; 2010) (Ed. note: Formerly section 44.)

### **7-70.Collection of Taxes.**

(a)Unless otherwise provided by ordinance, the County Treasurer shall collect City ad valorem taxes in the same manner and at the same time as general ad valorem taxes are collected, and all laws of this State for the assessment of property and the levy and collection of general ad valorem taxes, including laws for the sale of property for taxes and the redemption of the same, shall apply and have as full effect in respect of taxes for the City as of such general ad valorem taxes, except as modified by this Charter. (1909; 1977)

(b)All laws of this State for the assessment of property and the levy and collection of ad valorem taxes, sale of property for taxes, and the redemption of the same shall apply and have full force and effect in respect to taxes for the City as to such general ad valorem taxes, except as modified pursuant to this Charter. (1909; 1977) (Ed. note: Formerly section 46.)

### **7-80.Limitation on City Indebtedness.**

(a)No bonds or other evidences of indebtedness, payable in whole or in part from the proceeds of ad valorem property taxes or to which the full faith and credit of the City are pledged in writing or otherwise shall be issued, except in pursuance of an ordinance authorizing the same, and unless the question of the issuance of the bonds shall at any special or general municipal election be submitted to a vote of the qualified electors of the City and approved by a majority of those voting on the question. However, the Council pursuant to ordinance and without election may:

(1)Issue local improvement district bonds;

(2)Borrow money or issue bonds for the purpose of acquiring, constructing, extending or improving water, electric, gas, sewer, or other public utilities or income-producing projects; provided, further, that said borrowing shall be repaid and said bonds shall be made payable solely out of the net revenue derived from the operation of the utility, utilities, or other income-producing projects, or any or all thereof. Net revenue shall mean gross revenue less all operation and maintenance expenses of the project for which the money has been borrowed or bonds issued.

(b)The City shall not become indebted for any purpose or in any manner to an amount which, including existing indebtedness, shall exceed ten percent (10%) of the assessed valuation of the taxable property within the City as shown by the last preceding assessment for City purposes; provided, however, that in determining the amount of indebtedness, there shall not be included within the computation of indebtedness local improvement district bonds, revenue bonds, or general obligation bonds or other evidences of indebtedness issued for the acquisition, construction, extension, or improvement of water facilities or supplies, or both. (1909; 1922; 1951; 1965; 1977) (Ed. note: Formerly section 47.)

### **7-90.The Taxpayer's Bill of Rights.**

**(a)General Provisions.** The preferred interpretation shall be that which restrains most the growth of City government. All provisions are self-executing and severable. In addition to existing remedies, individual or class action suits for refunds or for injunctive or declaratory relief may be filed. Successful plaintiffs are entitled to costs and reasonable attorney fees, but the City is not unless the suit be ruled frivolous. Revenue amounts collected, retained, or spent illegally since three (3) full fiscal years before a suit is filed shall be refunded as directed by the court, with ten percent (10%) annual simple interest from such misconduct. Legal payments on bonded debt, pensions, and judgments have the first claim on City revenue. Other limits on City finances are neither repealed nor

prohibited. (1991)

**(b)Term Definitions.** For purposes of this section:

(1)"Ballot issue" means a proposal, not a person, that may be voted on in any Colorado election after any initial petition process filing or any referral to voters by elected officials.

(2)"City" means the municipal government excluding enterprises.

(3)"City growth" means the net percentage change in assessment roll value from new construction minus destruction of similar real property improvements and additions to minus deletions from the real property assessment roll.

(4)"Emergency" excludes economic conditions, revenue shortfalls, or City salary or fringe benefit increases.

(5)"Enterprise" means a government-owned business authorized to issue its own revenue bonds and receiving under 10% of annual revenue in grants from all Colorado state and local governments combined. (2009)

(6)"Fiscal year spending" means all City expenditures and reserve increases except, as to both, those for refunds made in the current or next fiscal year or those from gifts, federal funds, collections for another government, City reserve transfers, pension contributions by employees and pension fund earnings, damage awards, or capital asset sales.

(7)"Inflation" means the percentage change in the United States Bureau of Labor Statistics Consumer Price Index for Denver-Boulder, all items, all urban consumers, or its successor index, until such an index is issued for the City.

**(c)Election Provisions.**

(1)Any City ballot issue shall be decided by a majority of those voting on it in the State general election, the biennial City election, or on the first Tuesday in November of odd-numbered years. The Council may consolidate unpetitioned ballot issues on the ballot. Except for bonded debt, Charter amendments, or petitions, voters may approve a delay in voting on ballot issues for up to four (4) years, but acts during a delay shall not last beyond the delay. (1991)

(2)The City shall mail at the lowest cost one (1) notice or one (1) set of notices titled, as appropriate, "NOTICE OF ELECTION TO INCREASE TAXES/TO INCREASE DEBT/ON A CITIZEN PETITION/ON A REFERRED MEASURE" addressed to "All Registered Voters" at each mailing address of one (1) or more registered electors IN ACCORDANCE WITH THE TIME REQUIREMENTS SET FORTH IN COLORADO CONSTITUTION ARTICLE X, SECTION 20(3)(b) AS AMENDED. The first accurate title of these four (4) shall be printed next to the mailing address and the first accurate title for each notice printed at the top of each, all in thirty (30) point or larger bold type. Except by voter approval, the notice shall include only:

(i)The election date, hours, polling place, ballot title, text, and election office address and telephone number;

(ii)For tax or debt increases, the estimated or actual total of fiscal year spending plus federal funds for the current and each of the past four (4) years, and the overall percentage and dollar change;

(iii)For the first full fiscal year of each Council-proposed tax increase, Council estimates of the dollar

amount of each increase and of fiscal year spending plus federal funds without the increase;

(iv) The principal amount and maximum annual and total repayment cost of any proposed City bonded debt, and the balance and annual and remaining total repayment cost of total current City bonded debt;

(v) Two summaries, up to five hundred (500) words each, one (1) for and one (1) against the proposal, of written comments filed with the City Clerk by thirty (30) days before the election. No summary shall mention names of persons or private groups, nor any endorsements of or resolutions against the proposal. Representatives obeying these rules shall write this summary for their petition. The City Clerk shall maintain and accurately summarize all other written comments. (1991; 2001)

If increases or spending totals exceed any estimate in (iii) for the same fiscal year, an approved tax increase is reduced up to one hundred percent (100%) in proportion to the greater dollar excess, and its excess revenue refunded with ten percent (10%) annual simple interest. City bonded debt approved hereafter shall not issue on terms that could exceed its proportion of the maximum repayment costs in (iv). Ballot titles for tax or bonded debt increases shall not exceed thirty (30) words, and shall begin, "SHALL CITY TAXES BE INCREASED (first, or if phased in, final, full fiscal year dollar increase) ANNUALLY...?" or "SHALL CITY DEBT BE INCREASED (principal amount), WITH A REPAYMENT COST OF (maximum total dollar amount),...?"

**(d) Required Elections.** The following require voter approval in advance:

(1) Except as provided by (f), any new tax, tax rate increase, mill levy above that of the prior year, tax extensions, or tax exemption termination, or any change in City tax policy that directly provides a net gain in City or enterprise tax revenue above the level that would otherwise exist;

(2) Except for refinancing City bonded debt at a lower interest rate or adding new employees to existing City pension plans, City creation of a direct or indirect City debt or other financial obligation whatsoever that extends, or causes a penalty if not extended, past the fiscal year incurred without adequate present cash reserves irrevocably pledged and held for all future payments.

**(e) Emergency Reserves.** For use in declared emergencies only, the City shall reserve in 1991 one percent (1%) or more, in 1992 two percent (2%) or more, and in all later years three percent (3%) or more of fiscal year spending. An unused reserve shall apply to the next year's reserve. (1991)

**(f) Emergency Taxes.** This section grants no new taxing power. Property taxes shall not be imposed for an emergency. Emergency taxes shall also meet all of the following conditions:

(1) Six (6) Councilmembers or more declare the emergency and impose the tax by separate recorded roll call votes;

(2) Emergency tax revenue shall be spent only after emergency reserves are depleted, and shall be refunded if not spent on the emergency;

(3) A tax not approved on the next election date sixty (60) days or more after the declaration ends after the election month.

**(g) Spending Limited.** After deducting current year emergency tax spending and relevant (a) and (c)(2) refunds with interest, the maximum annual change in fiscal year spending equals inflation plus City growth in the prior calendar year, adjusted for annual voter-approved changes after 1990 in revenue not from emergency taxes. If revenue from sources not excluded from fiscal year spending

exceeds this spending limit in dollars for that fiscal year, the excess shall apply in the next year to reduce tax rates or City bonded debt. After deducting relevant (a) and (c)(2) refunds with interest, the maximum annual change in property tax revenue equals inflation plus City growth in the prior calendar year, adjusted for annual voter-approved changes after 1990 in property tax revenue. New City bonded debt increases, and retiring City bonded debt lowers, fiscal year spending and property tax revenue by the annual debt service funded by either or both. These limits in (g) begin with the authorization of 1992 fiscal year spending and 1991 property taxes due in 1992. (1991)

**(h)Revenues Limited.**

(1)Except by voter approval after 1990, no 1991 or later general City property tax shall exceed seven (7) mills.

(2)Any City sales, use, or occupation tax based on telephone, cable television, or residential use utility services shall phase out in four (4) equal annual rate changes beginning July 1, 1991.

(3)The one-half percent (0.5%) sales and use tax increase shall phase out in five (5) annual rate changes of one-tenth percent (0.1%) beginning January 1993, and the two percent (2%) rate shall be raised only by voter approval or in a declared emergency. (1991)

**7-100.Limitation on District Indebtedness.** Districts authorized by Colorado Statutes (title 31 and 32, C.R.S.) serve an important public function in financing the construction of capital improvements. However, the fiscal use of districts for this purpose cannot be without prudent and reasonable restraint when formed in whole or in part within the jurisdictional limits of the City of Colorado Springs. (1993)

(a)Any district so formed shall not become indebted for any purpose or in any manner for an amount, which, including existing indebtedness of the district, shall exceed ten percent (10%) of the total assessed valuation of the taxable property within the district unless approved by at least a two-thirds (2/3) vote of the entire Council. (1993)

(b)The district shall not issue any debt instrument for any purpose other than construction of capital improvements with a public purpose necessary for development. (1993)

(c)The City Council and Mayor shall make available to the public all essential data and information regarding the financial condition and status of any and all districts established pursuant to title 31, C.R.S. (1993; 2010)

**ARTICLE VIII. MUNICIPAL COURT**

(Ed. note: Article VIII formerly dealt with the Department of Public Safety. It provided also for relief funds for Police and Fire Departments and for a Police Court. The function of the relief funds has been superseded by statutory provisions for pension funds and the office of Police Court is totally outmoded.)

**8-10.Municipal Court.** There shall be a Municipal Court for the City of Colorado Springs. The practice and procedure of said Court shall be as set forth by Colorado Statutes, Colorado Supreme Court Rules, and City ordinance as now existing or hereinafter amended or modified. (1977)

**ARTICLE IX. BOARDS AND COMMISSIONS**

(Ed. note: Article X formerly dealt with the Department of Health and Sanitation. A 1949 amendment made possible the creation and operation of a joint City-County Health Department, which was created in 1950 and continued in operation until 1976 when a County Health Department having county-wide jurisdiction was created. At this writing, the City contracts with the County Health Department to provide enforcement services for Housing Codes and similar health and sanitation matters which are of only City-wide application.)

#### **9-10.Boards and Commissions.**

(a)In addition to those boards and commissions existing at the time of this Charter, the Council may create any boards and commissions, including advisory and appeal boards. All boards and commissions shall be created by ordinance, which shall prescribe the powers and duties delegated by Council. Initial appointments by the Council to any board or commission shall specify the term of office of each member in order to achieve overlapping terms. All members shall be subject to removal by the Council. Council shall also make appointment to fill vacancies for unexpired terms. Each board and commission shall elect its own chairman and vice-chairman from among its members. Each board and commission shall operate in accordance with its own rules of procedure, except as otherwise directed by Council. (1977)

(b)The Council may increase, reduce, or change any or all of the powers, duties, and procedures of any boards or commissions existing at the time of this Charter, or created by ordinances thereafter. (1977)

(c)Any board or commission existing at the time of this Charter or created under this provision which is not required by this Charter or law may be abolished by Council. (1977)

### **ARTICLE X. FRANCHISES AND LICENSES**

(Ed. note: In 1909 there were at least two (2) franchises in existence in the City - transportation (street railway) and light and power. In 1925, the outstanding light and power franchise terminated and the City acquired all assets of the company and has owned and operated the system since that time. In 1971, the transportation company voluntarily relinquished its franchise, and the City acquired all its assets. An excellent opportunity was thus provided to rewrite all existing franchise provisions of the Charter. No attempt has been made in this article to maintain a numbering system consistent with the 1909 numbering.)

#### **10-10.Definitions.**

(a)Franchise: For the purpose of this Charter, and the ordinances of the City of Colorado Springs, the term "franchise" shall mean a special right or privilege granted by vote of the electorate of the City of Colorado Springs to any person, firm, or corporation to erect, construct, operate, carry on, or maintain an electric power plant, communication system, gas plant or system, rail or mass transit system, or any other business activity affective of the public interest which permanently occupies and obstructs the public streets, rights-of-way, alleys, or properties, together with such other uses as are determined by ordinance to be of such a public concern that want of regulation and control will injuriously affect the public in its general interest. (1977)

(b)License: For the purposes of this Charter, and the ordinances of the City of Colorado Springs, the term "license" shall mean a temporary or revocable permission granted to all other activities not a franchise. (1977)

**10-20.General Powers.** The City shall have and exercise with regard to all franchises, all municipal powers, including, without limitation, all powers now existing and which may hereafter be provided by the Constitution and Statutes. In every franchise the right of the City to construct, lease, purchase, acquire, condemn, or operate any public utility, work, or way, shall be expressly reserved. Except as otherwise provided by the Constitution or this Charter, all powers concerning the method of granting, amending, revoking, or otherwise dealing in franchises shall be exercised by the Council. (1977)

**10-30.Granting of Franchises.**

(a)No franchise shall be granted except upon approval by a majority of the electors voting thereon.<sup>10</sup> (1977)

(b)Except when the terms, fees, compensation, conditions, or any other matters relating to the granting of franchises are set by the vote of the electorate, the Council shall establish by ordinance the terms, fees, compensation, conditions, and any other matters relating to the granting of franchises. (1977)

**10-40.Tax.** The City shall have the right to license or tax the equipment of any franchise. The license or tax shall be exclusive of and in addition to all other lawful taxes upon the property of the holder thereof. (1909; 1977) (Ed. note: Formerly section 68.)

**10-50.No Franchise Leased, Exception.** No franchise granted by the City shall ever be leased, assigned, or otherwise alienated without express consent of the City, and no dealing with the lessee or assignee on the part of the City to require the performance of any act or payment of any compensation by the lessee or assignee shall be deemed to operate as such consent. (1909; 1977) (Ed. note: Formerly section 74.)

**10-60.Term Not Longer Than Twenty-Five (25) Years.** No franchise, lease, or right to use the property of the City shall be granted by the City, except as in this Charter provided, for a longer term than twenty-five (25) years. For the purpose of economic development, the City may grant a lease or right to use the property of the City for up to ninety-nine (99) years. This shall not apply to City owned parklands for which the term of a franchise, lease, or right to use shall never exceed twenty-five (25) years. (1909; 1977; 1987) (Ed. note: Formerly section 80.)

**10-70.No Exclusive Franchise--Renewal.** No exclusive franchise shall ever be granted, and no franchise shall be renewed before one (1) year prior to its expiration. (1909; 1977) (Ed. note: Formerly section 73.)

**10-80.City May Purchase.** Every grant of franchise shall provide that the City may purchase and take over the property of the holder in whole or in part. (1909; 1977) (Ed. note: Formerly section 81.)

**10-90.Franchise Records.** The City Clerk shall keep an indexed franchise record in which shall be transcribed copies of all franchises heretofore and hereafter granted. The index shall give the name of the grantee and any assignees. The franchise record shall include a comprehensive and convenient reference to all actions at law affecting the same, and copies of all annual reports and such other matters of information and public interest as the Council may, from time to time, require. (1909; 1977) (Ed. note: Formerly section 78.)

**10-100. License or Temporary Permits.** The Council may grant a temporary permit, a license, or an easement at any time, in, on, above, through, or under any street, alley, or public place, provided such license, temporary permit, or easement shall be revocable at any time, and that such right to revoke shall be expressly reserved in every temporary permit, license, or easement which may be

granted hereunder. (1909; 1977) (Ed. note: Formerly section 83.)

## **ARTICLE XI. ELECTIONS<sup>11</sup>**

(Ed. note: Article XIII formerly set forth detailed provisions which regulated municipal elections within the City. These included provisions regulating the registration of voters, the form of nomination petitions, the form of ballots, and the use of carriages or other vehicles on election day. The 1979 amendment eliminated such outmoded provisions and allows Council to regulate municipal election matters by ordinance.)

**11-10.Laws Governing Elections.** General and special municipal elections shall be governed by this Charter and such ordinances as Council may prescribe not inconsistent herewith. The Council may, by ordinance, establish the method for the registration of electors; the number, qualification, and compensation for election judges and clerks; the boundaries of election precincts; the districting of the City for establishing districts; and such other matters relating to elections. Elections concerning repeal or amendment to this Charter shall be governed by this Charter, Colorado statutes, and such ordinances as the Council may prescribe not inconsistent therewith. (1979)

**11-20.Municipal Elections.** A general municipal election shall be held in the City on the first Tuesday in April in each odd-numbered year. Special elections may be held on any Tuesday designated by the City Council, except as limited in the Colorado Municipal Election Law as now existing or hereafter amended. (1979)

**11-30.Nonpartisan Elections.** All municipal elections shall be nonpartisan. In accepting a nomination, a candidate shall, by affidavit filed with the City Clerk, attest to the fact that such candidate has not become a candidate as the nominee or representative of, or because of any promised support from any political party, committee, convention, or organization representing or acting for any political party. (1979)

**11-40.Disclosure of Private Interests by Councilmembers and Candidates for Council.** The City Council shall provide by ordinance for the disclosure of substantial private business interests by candidates for and members of the City Council. (1979)

**11-50.Campaign Disclosures.** The City Council shall provide by ordinance for the disclosure of election campaign expenditures and election campaign contributions. (1979)

**11-60.Names on Ballots.** The names of all candidates for each elective office shall be printed on ballots in a random order which shall be determined by the City Clerk. (1979)

### **11-70.Prior Voter Approval of Any City Convention Center.**

(a)The City of Colorado Springs shall be prohibited from planning, building, funding, or financing a convention center, with or without a hotel or other ancillary structures, unless a majority of voters gives prior approval to the complete project at a regular or special municipal election. (2005)

(b)No less than sixty days prior to the voters' consideration of the City's convention center proposal, the City shall make available in a public document the following materials:

(1)A factually based range of the costs attributable to construction, operation, and maintenance of the convention center and all ancillary structures;

(2) A factually based range of cost estimates for any infrastructure improvements that will be required;

(3) The annual and total debt service requirements for both the construction of the center and the infrastructure improvements; and

(4) The estimated infrastructure improvement costs as a percentage of the average amount spent during the previous five years on all municipal infrastructure improvements. (2005)

(c) Definitions.

(1) "City of Colorado Springs" means any municipal function or entity receiving or providing funds through or from the municipal budget, urban renewal programs, the Public Improvement Corporation or its functional equivalent, any business improvement or other special district wholly or partially located within the City, the Public Utilities Department, Colorado Springs Transit, any "enterprise" as defined in this Charter, any franchise or license, or any other function or entity controlled, in whole or in part, by the City Council.

(2) "Convention Center" shall mean any building or combination of buildings planned or built for conferences or conventions that could accommodate in-town or out-of-town attendees, or a combination thereof.

(3) "Financing" shall mean: (i) any indebtedness; (ii) any financial obligation of the City whether it commits City funds directly or on a contingent basis; (iii) any tax abatement that is not based on a change in property classification or valuation prior to the election to approve the City convention center; or (iv) any guarantee of any payment in connection with a convention center, including but not limited to insurance purchased to guarantee payment of debt service.

(4) "Funding" shall mean: (i) any appropriation, loan, or pledge of any public funds; (ii) any assignment of new or existing taxes; or (iii) any use of funds provided by any other government, including but not limited to District, Municipal, County, State or Federal funds, whether such funds are the sole source of funding or are used in conjunction with funds from any other source whatsoever. (2005)

## **ARTICLE XII. RECALL, INITIATIVE, AND REFERENDUM<sup>12</sup>**

(Ed. note: Former article XIV dealt solely with the recall of elective officers. The initiative provisions were set forth in former article XV, with former article XVI dealing with the referendum. The 1979 amendment repealed articles XV and XVI, and combined the recall, initiative, and referendum provisions under article XIV. The amendment also substantially revised the recall, initiative, and referendum sections so as to ensure their compliance with the Colorado Constitution. Because the revision was so extensive, no attempt was made to conform to the former numbering system and no reference is made to the number of former sections dealing with similar provisions.)

### **12-10. General Authority.**

**(a) Recall.** Any officer having held an elective office for at least six (6) consecutive months may be removed by both petition and vote of the electors of the City. Electors who are entitled to sign the petition and to vote in the recall election are those persons who are entitled to vote for a successor to the incumbent sought to be recalled. (1979; 1985)

**(b) Initiative.** The electors of the City shall have power to propose ordinances to the Council, and if the Council fails to adopt an ordinance so proposed, to adopt or reject such ordinance at a City election. (1979; 1985)

**(c) Referendum.** The electors of the City shall have power to recommend reconsideration by the Council of any adopted ordinance and, if the Council fails to repeal an ordinance so reconsidered, to approve or reject such ordinance at a City election, provided that such power shall not extend to ordinances making tax levy or appropriation or establishing special improvement districts.<sup>13</sup> (1979; 1985)

**(d) Repeal of Initiated Ordinance.** The Council may, on its own motion, submit any ordinance adopted by an initiative to a vote of the electors at any succeeding general municipal election for repeal or amendment of the initiated ordinance. An ordinance so adopted by a vote of the electors cannot be repealed or amended except by a vote of the electors.<sup>14</sup> (1979; 1985)

**(e) Reference by the Council.** Subject to the provisions of section 12-10(d), the Council may, of its own motion, submit to electoral vote for adoption or rejection at a general or special municipal election any proposed ordinance or measure in the same manner and with the same force and effect as is provided for initiated ordinances.<sup>15</sup> (1979; 1985)

**(f) Further Regulations.** The Council may, by ordinance, make such further regulations as it may deem necessary to carry out the provisions of the initiative and referendum powers, except as limited by this Charter and the Colorado Constitution. (1979; 1985)

**12-20. Commencement of Proceedings; Petitioner's Committee; Affidavit.** Any three (3) electors may commence recall, initiative, or referendum proceedings by filing with the City Clerk an affidavit stating they will constitute a Petitioner's Committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses and specifying the address to which all notices to the Committee are to be sent, and setting out either: (1979; 1985)

(a) The name of the officer or officers sought to be removed and a general statement in not more than two hundred (200) words on the ground or grounds upon which removal is sought; or

(b) The full text of the proposed initiative ordinance; or

(c) The full text of the ordinance sought to be reconsidered.

As soon as possible after the affidavit of the Petitioner's Committee is filed, the Clerk shall issue the appropriate petition blanks to the Petitioner's Committee. (1979; 1985)

### **12-30. Petitions.**

#### **(a) Form and Content.**

**(1) Uniform Petition Blanks.** The City Clerk shall issue appropriate petition blanks consisting of sheets having such general form printed at the top as designated by the City Clerk, for either recall, initiative, or referendum. The Clerk, upon issuing such forms to any persons, shall enter in a permanent record to be kept in such office for this purpose the name of the persons to whom issued, the date of such issuance, and the number of such forms issued, and shall certify on each of said forms under the Clerk's seal, the name of at least one of the persons to whom issued and the date of the issuance. No referendum, initiative, or recall petition shall be filed unless it shall bear such Certificate of the Clerk. The uniform petition blanks shall be furnished without charge. (1979; 1985)

**(2)Statement of Purpose.**

**(i)Recall.** The petition shall contain a general statement, in not more than two hundred (200) words, of the ground or grounds on which such recall is sought, which statement is intended for the information of the electors, and the electors shall be the sole and exclusive judges of the legality, reasonableness, and sufficiency of such ground or grounds assigned for such recall, and said ground or grounds shall not be open to review. (1979; 1985)

**(ii)Initiative.** The petition shall contain or have attached thereto throughout its circulation the full text of the ordinance proposed. The City Council shall by ordinance prescribe the method for setting the title of the initiated ordinance. (1979; 1985)

**(iii)Referendum.** The petition shall contain or have attached throughout its circulation the full text of the ordinance sought to be referred. (1979; 1985)

**(3)Signatures.** Each signer must sign his/her own proper signature, the date of signing said petition, and his/her place of residence, giving his/her street and number. The signatures to the petition need not all be on one sheet of paper. The petition may be circulated and signed in sections with each section consisting of one or more sheets, provided that each section shall contain a full and accurate copy of the title and text of the petition. All sheets and sections shall be filed as one instrument. (1979; 1985)

**(b)Affidavit of Circulator.** To each section of a petition, which section may consist of one or more sheets, shall be attached an affidavit by the Circulator, signed under oath before a Notary Public, stating that the Circulator is a registered elector of the City of Colorado Springs, and that the Circulator personally circulated the paper, the number of signatures thereon, that all the signatures were affixed in the Circulator's presence, that to the best of the Circulator's knowledge each signature appended to the paper is the genuine signature of the person whose name it purports to be, that each signer had an opportunity before signing to read the full text of the matter proposed or sought to be reconsidered, and that to the best of the Circulator's knowledge each signer is an elector of the City of Colorado Springs. (1979; 1985; 1993)

Such petition so verified shall be prima facie evidence that the signatures thereon are genuine and true and that the persons signing the same are electors. (1979; 1985)

**(c)Number of Signatures.**

**(1)Recall.**

(i)For the recall of Mayor or a Councilmember at large, the petition must be signed by electors entitled to vote for a successor of the incumbent sought to be recalled and such signatures must be equal in number to at least twenty-five percent (25%) of the total ballots cast for the office of Mayor in the last preceding election for such office. (1979; 1993)

(ii)For the recall of a district Councilmember, the petition must be signed by electors entitled to vote for a successor of the incumbent sought to be recalled and such signatures must be equal in number to at least twenty-five percent (25%) of the total ballots cast in the last preceding election for the office of such Councilmember. (1979; 1993)

**(2)Referendum.** The petition must be signed by electors of the City equal in number to at least fifteen percent (15%) of the total ballots cast for the office of Mayor in the last preceding election for

such office. (1979; 1985; 1993)

**(3) Initiative.** The petition must be signed by electors of the City equal in number to at least twenty percent (20%) of the total ballots cast for the office of Mayor in the last preceding election for such office. (1979; 1985; 1993)

**(4) Signature Requirements.** If the signatures required by this section 12-30(c) violate any provisions of the Colorado Constitution, then such signature requirements would be reduced to the number which complies with the Colorado Constitution. (1993)

**(d) Time for Filing Petitions.** Days shall be calendar days starting the day following the date of filing of the affidavit and including the last date only. Holidays and weekends shall be counted; however, when the last date falls on a day when the City Clerk's office is closed, then the next following business day shall be the last day for filing. (1979; 1985)

**(1) Recall.** All petitions shall be returned and filed with the Clerk within sixty (60) days from the issuance of such blank petition forms. (1979; 1985)

**(2) Referendum.** Within ten (10) days of final reading by the City Council of the ordinance sought to be reconsidered, Petitioners' Committee must file its Affidavit of Intent; and, within thirty (30) days from the date of final reading, the completed petition must be filed. (1979; 1985)

**(3) Initiative.** All petitions shall be returned and filed with the Clerk within one hundred eighty (180) days from the issuance of such blank petition forms. (1979; 1985)

**12-40. Procedure After Filing.** Certificate of Clerk; Amendment. Within thirty (30) days after the petition is filed, the City Clerk shall examine the petition to determine whether the petition is signed by the requisite number of electors, and shall attach thereto the Clerk's Certificate showing the result of such examination. If this Certificate shows the petition to be insufficient, the Clerk shall send to the Petitioners' Committee by registered mail, within said thirty (30) days, a copy of the Certificate, which shall specify the particulars wherein it is defective; and the petition may be amended at any time within thirty (30) days from the filing of the Certificate. The Clerk shall, within thirty (30) days after such amendment, make like examination of the amended petition and attach thereto the Certificate of the result. If still insufficient, or if no amendment is made, the Clerk shall return the petition to the Petitioners' Committee without prejudice to the filing of a new petition for the same purpose. (1979; 1985)

If a petition or amended petition is certified sufficient, the Clerk shall promptly present the Certificate to the Council and the Certificate shall then be a final determination as to the sufficiency of the petition. (1979; 1985)

**12-50. Referendum Petitions; Suspension of Effect of Ordinance.** No ordinance passed by the Council shall go into effect except as provided in section 3-80, and except emergency ordinances or ordinances making or setting appropriations. Upon the filing of the Petitioners' Committee Affidavit of intention to file a petition in referendum, the ordinance sought to be reconsidered shall be suspended from taking effect. Such suspension shall terminate when:

(a) The Petitioners' Committee fails to file a completed petition within thirty (30) days from the date of the final reading; or

(b) There is a final determination of insufficiency of the petition; or

(c)The Petitioners' Committee withdraws the petition; or

(d)The Council repeals the ordinance; or

(e)Upon a vote by the electors wherein the referred ordinance prevails. (1979; 1985)

## **12-60.Action on Petitions.**

### **(a)Action by Council.**

**(1)Recall.** The Council, if the officer sought to be removed does not resign within five (5) days after the attachment of the Clerk's Certificate that a sufficient petition has been filed, shall order an election to be held on a Tuesday fixed by it, not less than thirty (30) nor more than sixty (60) days from the date of the Clerk's Certificate that a sufficient petition is filed; provided, however, that if any other municipal election is to occur within ninety (90) days from the date of the Clerk's Certificate, the Council may, in its discretion, postpone the holding of the recall election to the date of such other municipal election. If a vacancy occurs in said office after the order for the recall election, the election shall proceed as provided in this article. The incumbent shall continue to perform the duties of the office until the election. If then not recalled, such incumbent shall continue in office. If then recalled, such incumbent shall be deemed removed upon the qualification of the successor, who shall hold office during the unexpired term. If the successor fails to qualify within ten (10) days after receiving notification of the successor's election, the incumbent shall thereupon be deemed removed and the office vacant. The method of removal by recall herein provided for shall be cumulative and additional to any method otherwise provided in this Charter. (1979; 1985)

**(2)Initiative.** If the petition contains a request that said proposed ordinance be submitted to a vote of the people, if not passed by the Council, the Council shall within twenty (20) days after the attachment of the Clerk's Certificate of Sufficiency to the accompanying petition either:

(i)Pass said ordinance without alteration (subject to the provisions of section 12-10(e) of this Charter); or

(ii)Call a special election within ninety (90) days unless a general municipal election is fixed within said ninety (90) days; and at such special or general municipal election said proposed ordinance shall be submitted without alteration to the vote of the electors of the City. (1979; 1985)

**(3)Referendum.** When a referendum petition has been finally determined sufficient, it shall be the duty of the Council to reconsider such ordinance, and if the same be not entirely repealed, the Council shall submit the ordinance to a vote of the electors of the City, at a special municipal election to be called for that purpose within ninety (90) days of receipt of the Clerk's Certificate, unless a general municipal election is fixed within said ninety (90) days. (1979; 1985)

### **(b)Submission to Voters; Election.**

**(1)Recall.** The nomination of other candidates, the publication of notice of such removal election, and the conduct of the same shall all be in accord with the provisions of article XII hereof, relating to elections. (1979; 1985)

There shall be printed on the official ballot, as to every officer whose recall is to be voted on, the words, "Shall (name of person against whom the recall petition is filed) be recalled from the Office of Councilmember, Mayor?" Following such question shall be the words, "Yes" and "No," on separate lines, with a blank space at the right of each, in which the voter shall indicate his/her vote for or

against such recall. Below the question shall be printed in not more than two hundred (200) words, the reasons set forth in the petition for demanding the recall, and in not more than three hundred (300) words there shall also be printed, if desired, the officer's justification of his/her course in office. (1979; 1985)

On such ballots, under each question, there shall also be printed the names of those persons who have been nominated as candidates to succeed the person sought to be recalled; but no vote cast shall be counted for any candidate for such office, unless the voter also voted for or against the recall of such person sought to be recalled from said office. The name of the person against whom the petition is filed shall not appear on the ballot as a candidate for the office. Where more than one district Councilmember is subject to the recall election, the candidates for a district Councilmember's position shall be listed below that district Councilmember subject to the recall. Where more than one Councilmember at large is subject to the recall election, the candidates seeking election shall run at large and not in place of any particular Councilmember whose removal is being sought. (1979; 1985)

## **(2) Initiative.**

**(i) Publication of Initiative Ordinance.** Whenever any proposed ordinance is required by this Charter to be submitted to the voters of the City at an election, notice of such election shall be in accordance with article XI of this Charter, which notice shall include the full text of the initiated ordinance, and if adopted by the electors of the City, such ordinance shall be published within ten (10) days after such adoption, and shall become effective immediately upon publication. (1979; 1985)

**(ii) Several Ordinances at One (1) Election.** Any number of proposed ordinances may be voted on at the same election, in accordance with the provisions of this article. (1979; 1985)

**(iii) Ballots.** The ballots used when voting upon each proposed ordinance shall contain the words, "For the Initiated Ordinance" and "Against the Initiated Ordinance" and the ballot shall contain the title of the ordinance as it was circulated in the petition. (1979; 1985)

## **(3) Referendum.**

**(i) Publication.** Notice of election shall be in accordance with article XI of this Charter, which notice shall include the full text of the ordinance or only the title thereof, as Council may decide. (1979; 1985)

**(ii) Ballot.** The ballots used when voting upon each referred ordinance shall contain the words, "For the Ordinance" and "Against the Ordinance" and the ballot shall contain the title of the ordinance as it was circulated in the petition. (1979; 1985)

## **12-70. Results of Election.**

**(a) Recall.** If a majority of those voting on said question of the recall of any incumbent from office shall vote "No," the incumbent shall continue in that office; if a majority shall vote "Yes," the incumbent shall thereupon be deemed removed from said office. (1979; 1985)

If a district Councilmember or Mayor shall be removed, then the candidate who has received the highest number of votes for the district or Mayor's position thereby vacated shall be declared elected for the remainder of the incumbent's term. In the event of the removal from office of only one (1) Councilmember at large where other Councilmembers at large were also subject to the recall election, the candidate who receives the highest number of votes shall be thereby elected to the

office vacated for the unexpired term of the removed Councilmember. In the event of the removal of more than one (1) Councilmember at large, the candidate who receives the highest number of votes shall be thereby elected to the office of Councilmember for the longest unexpired term of the Councilmember removed. The candidate who receives the next highest number of votes shall be thereby elected to the office of Councilmember at large for the next longest unexpired term. Candidates shall thereafter be elected to the remaining unexpired terms of the removed Councilmembers. In case the person who received the highest number of votes shall fail to qualify within ten (10) days after the issuance of a Certificate of Election, the office shall be deemed vacant, and shall be filled according to law. (1979; 1985)

No person who has been removed from an office by recall, or who has resigned from such office while recall proceedings were pending against that person, shall be appointed to any City office, board, position of responsibility, or employment within one (1) year after such removal by recall or resignation. (1979; 1985)

**(b) Initiative.** If a majority of the electors voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification of the election results. (1979; 1985)

**(c) Referendum.** If a majority of the electors voting on a referred ordinance vote in favor of the ordinance, it shall then go into effect upon certification of the election results. (1979; 1985)

**(d) Conflicting Ordinances.** If conflicting ordinances, proposed either by initiative and/or referendum, are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.<sup>16</sup> (1979; 1985)

### **ARTICLE XIII. OFFICERS, EMPLOYEES, AND SALARIES<sup>17</sup>**

**13-10. Officers, Employees.** Councilmembers shall be the legislative officers of the City. The Mayor shall be the chief executive and chief administrative officer of the City. The City Attorney, City Clerk, City Treasurer, City Auditor, Chief of Staff, and all department heads shall be the administrative officers of the City. All other persons employed by the City shall be City employees. (1909; 1979; 2007; 2010)

#### **13-20. Compensation of Elected Officials.**

(a) The Mayor shall be paid an annual salary adjusted by ordinance every four years to coincide with the start of a new mayoral term and shall reflect any change, up or down, over that four-year period in the most local consumer price index for all urban consumers (CPI-U) published by the U.S. Department of Labor, Bureau of Labor Statistics, beginning with an annual salary of \$96,000 for the first Mayor serving under the Council-Mayor Government in April 2011. In addition, the City of Colorado Springs shall provide employee benefits to the Mayor in the same manner as provided to other full-time City employees. (2010)

(b) All Councilmembers shall receive an annual stipend of \$6,250 payable pursuant to ordinance. The City of Colorado Springs shall not provide City paid benefits to Councilmembers other than those mandated by Federal or State statute. (1995; 2010)

**13-30. Oaths.** Every legislative, executive, and administrative officer of the City and all other employees required by law shall, before they enter upon the duties of their office, take, subscribe, and file with the Clerk an oath or affirmation to support the Constitution of the United States, the Constitution of the State of Colorado, and the Charter of the City of Colorado Springs, and to faithfully perform the duties of the office upon which they shall be about to enter. (1909; 1979; 1995;

2010)

**13-40.Bonds.** If any officer or employee is required by law to give bond, he/she shall not be deemed qualified for such office or employment until such bond has been duly filed. (1909; 1979)

**13-50.Personal Financial Interest.** Any City officer, employee, or appointee who has a substantial financial interest, direct or indirect or by reason of ownership of stock in any corporation, in any contract with the City or in the sale of any land, material, supplies, or services to the City or to a contractor supplying the City shall make known that interest and shall refrain from voting upon or otherwise participating in their capacity as a City officer or employee in the making of such sale or in the making or performance of such contract. Any City officer or employee who willfully conceals such a substantial financial interest or willfully violates the requirements of this section shall be guilty of malfeasance in office or position and shall forfeit said office or position. Violation of this section with the express or implied knowledge of the person or corporation contracting with or making a sale to the City shall render the contract or sale voidable by the Mayor or the City Council. (1909; 1977; 1979; 2010)

**13-60.Prohibitions.**

**(a)Activities Prohibited.**

(1)No person shall be appointed to or removed from, or in any way favored or discriminated against with respect to any City position or appointive City administrative office because of race, sex, political or religious opinions or affiliations. (1979)

(2)No person shall willfully make any false statement, certificate, mark, rating, or report in regard to any test, certification, or appointment under the personnel provisions of this Charter or the rules and regulations made thereunder, or in any manner commit or attempt to commit any fraud preventing the impartial execution of such provisions, rules, and regulations. (1979)

(3)No person who seeks appointment or promotion with respect to any City position or appointive City administrative office shall directly or indirectly give, render, or pay any money, service or other valuable thing to any person for or in connection with that person's test, appointment, proposed appointment, promotion, or proposed promotion. (1979)

(4)No person shall orally, by letter or otherwise, solicit or assist in soliciting any assessment, subscription, or contribution for any political party or political purpose whatever from any person holding any compensated appointive City position. (1909; 1979)

**13-70.Removal of Striking Employees.** It shall be unlawful for any employee of the City of Colorado Springs to participate in or engage in a strike or any action to withhold service from the City. In the event of such strike or action, any employee who participates or engages therein shall be disciplined. Such discipline shall be discharge; however, for any such employee who has acted in violation of this section as a result of coercion or threat of serious harm, such discipline shall be suspension without pay. Such disciplinary action may be appealed only under such rules as the Mayor shall establish. Neither Council nor any administrative officer of the City shall grant amnesty to any employee in violation of this section. (1979; 1980; 2010)

**13-80.City Attorney, Duties.** The City Attorney shall conduct all cases in court in this State wherein the City shall be party plaintiff or defendant, or a party in interest. The City Attorney shall be the legal adviser of the Mayor, Council, Commissions, and Heads of Departments in relation to their duties, and shall perform such other duties, not inconsistent herewith, as may be required of the City Attorney by ordinance. The City Attorney shall receive such salary as the Council by ordinance shall

prescribe. (1909; 1979)

**13-90.City Attorney Assistants.**

(a)The City Attorney may employ assistants, who shall receive such salary as the Council by ordinance shall prescribe. (1979; 2010)

(b)The Council may also, at any time, employ other counsel, to take charge of any litigation or to assist the Attorney, whose compensation shall be fixed by the Council at the time of employment. (1909; 1979)

**ARTICLE XIV. CIVIL SERVICE**

**14-10.Commission.**

(a)There is hereby established a Civil Service Commission consisting of five (5) members who shall serve without compensation. (1979)

(b)The Council first elected after the adoption of this article, as soon as practicable thereafter, shall appoint two (2) members to said Commission to serve for one (1) year, another two (2) members to serve for two (2) years, and one (1) member to serve for three (3) years. Thereafter, as the initial terms of such appointments expire, Council shall appoint members whose terms shall be for a period of three (3) years. Members of the Civil Service Commission shall be allowed to be appointed for a second consecutive three (3) year term, but none thereafter. If a vacancy shall occur in the Commission, it shall be filled by appointment by the Council for the unexpired term. (1909; 1979)

**14-20.Commission to Make Rules.** The Commission shall, with the approval of the Council, make such rules and regulations for the proper conduct of its business, as it shall find necessary or expedient. The Commission shall, among other things, classify employments for Civil Service Employees in the Police and Fire Departments for open, competitive and free examinations as to fitness or other selection processes established by the Civil Service Commission as to fitness; for eligible lists from which vacancies shall be filled; for a period of probation before employment is made permanent; and for promotion on the basis of merit, experience and record. (1909; 1979; 1997)

**14-30.Council Give Further Powers.** The Council, whenever requested by the Commission, may by ordinance confer upon the Commission such other or further rights, duties, and privileges as may be necessary to adequately enforce and carry out the principles of civil service.<sup>18</sup> (1909)

**14-40.Continuation.** All persons at the time of the adoption of this section, occupying positions in the classified civil service, shall retain their positions until discharge under the provisions hereof. Discharges from the classified civil service or reductions in grade or compensation, or both, may be made for any cause, not political or religious, which will promote the efficiency of the service; but only in written specifications by the authority making the discharge or reduction; and the person sought to be discharged or reduced shall have notice thereof, together with a copy of the specifications, and shall be allowed a reasonable time for answering the same in writing. A copy of the specifications, notice, answer, and the order of discharge or reduction shall be made a part of the record of the division of the service in which the discharge or reduction is made, and a copy shall also be filed with the Civil Service Commission. If the person discharged or reduced desires to have such discharge or reduction reviewed by the Commission, they may present a sworn petition therefor, whereupon the Commission shall examine the facts at a public hearing, with the right on

the part of the person discharged or reduced to appear in person and by counsel, cross-examine such witnesses as may testify against him/her and produce testimony in his/her own behalf. If the Commission shall find that the person has been wrongfully discharged or reduced, he/she shall be reinstated forthwith. (1921) (Ed. note: Formerly section 150.a.)

## **ARTICLE XV. GENERAL PROVISIONS**

**15-10.Transition to Council-Mayor Form of Government.** The form of government existing in the City at the time of adoption of this revised Charter shall continue unaltered, and, except as inconsistent with this revised Charter, all officers and other persons in the service of the City at the time this Charter takes effect shall continue to serve as such and to receive compensation therefor as now provided by law and to have and exercise the powers, authority, and jurisdiction theretofore possessed by them respectively. (2010)

(a) Upon approval of this revised Charter by voters in 2010, the City's form of government shall begin to transition from a Council-Manager form of government to the Council-Mayor form of government so that the Mayor elected at the City's regular election of April 2011, or any run-off election necessary thereafter, shall assume the duties set forth herein. In addition, the fifth at-large councilmember, created by section 2-10(a)(1) herein, shall be elected at the City's regular election of April 2011. (2010)

(b) The Mayor in office at the time of approval of this revised Charter by voters in 2010 shall remain in office under the Council-Manager Government until the Mayor elected at the City's regular election of April 2011, or any run-off election necessary thereafter, is sworn in under the Council-Mayor Government. (2010)

(c) Upon approval of this revised Charter by voters in 2010, the Council shall complete within ninety (90) days its review and approval by ordinance of the personnel policies and procedures and its review and approval by ordinance of the purchasing and contracting rules and regulations, as mandated by section 3-10(f) herein. (1909; 1979; 2010)

**15-20.Compilation of Charter.** Council shall have the power, by ordinance, to renumber and rearrange all articles, sections, and paragraphs of this Charter, and any amendments thereto, as it shall deem appropriate. (1993)

**15-30.Present Ordinances Continue in Force.** All laws, ordinances, resolutions, by-laws, orders, rules, or regulations in force in the City at the time this Charter takes effect, and not inconsistent with the provisions of this Charter, shall continue in full force and effect, until the Council otherwise by ordinance, resolution, or motion provides. All references to the City Manager in laws, ordinances, resolutions, by-laws, orders, rules, or regulations in force in the City shall, following the City's regular election of April 2011, be read to refer to the Mayor unless otherwise specified herein. (1909; 1979; 2010)

**15-40.Continuing Bonds.** All official bonds, recognizances, obligations, contracts, and all other instruments entered into or executed by or to the City before this Charter takes effect, and all taxes, fines, penalties, and forfeitures due or owing to the City, and all writs, prosecutions, actions, and causes of action, except as herein otherwise provided, shall continue and remain unaffected by this Charter. (1909)

**15-50.Submission of Charter Amendments.** Nothing herein contained shall be construed as preventing the submission to the people of more than one Charter amendment measure at any one election. The "Municipal Home Rule Act"<sup>19</sup> as now existing or hereinafter amended, shall govern the

submission of Charter amendments. (1909; 1979)

**15-60.Reservation of Power.** The power to supersede any law of this State, now or hereafter in force, insofar as it applies to local or municipal matters, shall be reserved to the City, acting by ordinance. (1909)

**15-70.Conflict Between Measures--Which Adopted.** In case the electors at the election held for the adoption or rejection of this measure are called upon to vote upon any other measure, amendment to the Charter, or alternative article or proposition and any other such measure, amendment, or alternative article or proposition should be adopted and there should be any conflict between this measure and such other measure, amendment, or alternative article or proposition, then the measure, amendment, or alternative article or proposition receiving the largest number of votes shall prevail as to such matters wherein there is a conflict, and provided, further, that should there at any future election be submitted different measures, amendments, or alternative propositions and more than one be adopted and there be any conflict between the same, then the measure, amendment, or alternative article or proposition receiving the largest number of votes shall prevail.<sup>20</sup> (1920; 1979)

**15-80.Public Records.** Colorado statutes as now existing or hereinafter amended applying to public records shall apply to the public records of the City. (1979)

**15-90.Severability of Charter Provisions.** If any provision, section, article, or clause of this Charter or the application thereof to any person or circumstances shall be found to be invalid by a court, such invalidity shall not affect any remaining portion or application of the Charter which can be given effect without the invalid portion or application, provided such remaining portions or applications are not determined by the court to be inoperable, and to this end this Charter is declared to be severable. (1979)

**15-100. Saving Clause.** This Charter shall not affect any suit pending in any court or any document heretofore executed in connection therewith. Nothing in this Charter shall invalidate any existing agreements or contracts between the City of Colorado Springs and individuals, corporations, or public agencies. (1979)

**15-110. Northfield Watershed--Recreational Use.** Upon completion of the enlargement of Northfield Reservoir No. 5 of the municipal water system and the completion and installation of appurtenant recreational facilities by the United States Forest Service, the City Council may allow City-owned land in the Northfield system to be used for recreational purposes and to make such cooperative arrangements as it may deem appropriate with the Forest Service for the development and management of the recreational resources of the reservoir and adjacent lands. (1967) (Ed. note: Formerly section 165.)

**15-120. North Slope Watershed--Recreational Use.** Upon completion of the enlargement of the Northfield Reservoir No. 5 of the municipal water system and the completion and installation of appurtenant recreational facilities by the United States Forest Service in the Northfield area and when recreational use of the City-owned land and adjacent forest reserve land in said Northfield area has been authorized and commenced, and when the water of the North Slope portion of the municipal watershed and water system has been provided with complete filtration and chlorination treatment for all users of domestic water from this watershed and the United States Forest Service agrees to cooperate in the development and use of the North Slope watershed or part thereof for recreational use and all appurtenant facilities including access and service roads, sanitary facilities and parking, recreational and camping areas are provided for such use, the City Council may allow recreational use in such part of the watershed provided that the use is legally allowable and is consistent with the maintenance of proper health, safety, fire protection, and conservation standards.

(1967) (Ed. note: Formerly section 166.)

## **APPENDIX.**<sup>21</sup>

### **PART 4. OPEN MEETINGS LAW**

**24-6-401. Declaration of Policy.** It is declared to be a matter of statewide concern and the policy of this state that the formation of public policy is public business and may not be conducted in secret.

**Source:** Entire section amended, L. 91, p. 815, § 1, effective June 1.

**Law reviews.** For article, "Home Rule Municipalities and Colorado's Open Records and Meetings Laws", see 18 Colo. Law. 1125 (1989).

### **24-6-402. Meetings--Open to Public.**

(1)For the purposes of this section:

(a)"Local public body" means any board, committee, commission, authority, or other advisory, policy-making, rule-making, or formally constituted body of any political subdivision of the state and any public or private entity to which a political subdivision, or an official thereof, has delegated a governmental decision-making function but does not include persons on the administrative staff of the local public body.

(b)"Meetings" means any kind of gathering, convened to discuss public business, in person, by telephone, or by other means of communication.

(c)"Political subdivision of the state" includes, but is not limited to, any county, city, city and county, town, home rule city, home rule county, home rule city and county, school district, special district, local improvement district, special improvement district, or service district.

(d)"State public body" means any board, committee, commission, or other advisory, policy-making, rule-making, decision-making, or formally constituted body of any state agency, state authority, or the general assembly, the governing board of any state institution of higher education including the regents of the University of Colorado, and any public or private entity to which the state, or an official thereof, has delegated a governmental decision-making function but does not include persons on the administrative staff of the state public body.

(2)(a)All meetings of two or more members of any state public body at which any public business is discussed or at which any formal action may be taken are declared to be public meetings open to the public at all times.

(b)All meetings of a quorum or three or more members of any local public body, whichever is fewer, at which any public business is discussed or at which any formal action may be taken are declared to be public meetings open to the public at all times.

(c)Any meetings at which the adoption of any proposed policy, position, resolution, rule, regulation, or formal action occurs or at which a majority or quorum of the body is in attendance, or is expected to be in attendance, shall be held only after full and timely notice to the public. In addition to any other means of full and timely notice, a local public body shall be deemed to have given full and timely notice if the notice of the meeting is posted in a designated public place with the boundaries of

the local public body no less than twenty-four hours prior to the holding of the meeting. The public place or places for posting such notice shall be designated annually at the local public body's first regular meeting of each calendar year. The posting shall include specific agenda information where possible.

(d)(I) Minutes of any meeting of a state public body shall be taken and promptly recorded, and such records shall be open to public inspection. The minutes of a meeting during which an executive session authorized under subsection (3) of this section is held shall reflect the general topic of the discussion at the executive session.

(II) Minutes of any meeting of a local public body at which the adoption of any proposed policy, position, resolution, rule, regulation, or formal action occurs or could occur shall be taken and promptly recorded, and such records shall be open to public inspection. The minutes of a meeting during which an executive session authorized under subsection (4) of this section is held shall reflect the general topic of the discussion at the executive session.

(e) This part 4 does not apply to any chance meeting or social gathering at which discussion of public business is not the central purpose.

(f) The provisions of paragraph (c) of this subsection (2) shall not be construed to apply to the day-to-day oversight of property or supervision of employees by county commissioners. Except as set forth in this paragraph (f), the provisions of this paragraph (f) shall not be interpreted to alter any requirements of paragraph (c) of this subsection (2).

(3)(a) The members of a state public body subject to this part 4, upon affirmative vote of two-thirds of the entire membership of the body, may hold an executive session only at a regular or special meeting and for the sole purpose of considering any of the matters enumerated in paragraph (b) of this subsection (3) or the following matters; except that no adoption of any proposed policy, position, resolution, rule, regulation, or formal action shall occur at any executive session which is not open to the public:

(I) The purchase of property for public purposes, or the sale of property at competitive bidding, if premature disclosure of information would give an unfair competitive or bargaining advantage to a person whose personal, private interest is adverse to the general public interest. No member of the state public body shall use this paragraph (a) as a subterfuge for providing covert information to prospective buyers or sellers. Governing boards of state institutions of higher education including the regents of the University of Colorado may also consider the acquisition of property as a gift in an executive session, only if such executive session is requested by the donor.

(II) Conferences with an attorney for the state public body concerning disputes involving the public body that are the subject of pending or imminent court action. Governing boards of state institutions of higher education including the regents of the University of Colorado may also confer with an attorney concerning specific claims or grievances or for purposes of receiving legal advice on specific legal questions. Mere presence or participation of an attorney at an executive session of a governing board of a state institution of higher education including the regents of the University of Colorado is not sufficient to satisfy the requirements of this subsection (3).

(III) Matters required to be kept confidential by federal law or rules or state statutes;

(IV) Specialized details of security arrangements where disclosure of the matters discussed might reveal information that could be used for the purpose of committing, or avoiding prosecution for, a violation of the law;

(V)Determining positions relative to matters that may be subject to negotiations with employees or employee organizations; developing strategy for and receiving reports on the progress of negotiations; and instructing negotiators;

(VI)With respect to the Board of Regents of the University of Colorado and the Board of Directors of the University of Colorado Hospital Authority created pursuant to article 21 of title 23, C.R.S., matters concerning the modification, initiation, or cessation of patient care programs at the university hospital operated by the University of Colorado Hospital Authority pursuant to part 5 of article 21 of title 23, C.R.S., (including the University of Colorado Psychiatric Hospital), and receiving reports with regard to any of the above, if premature disclosure of information would give an unfair competitive or bargaining advantage to any person or entity.

(b)All meetings held by members of a state public body subject to this part 4 to consider the appointment or employment of a public official or employee or the dismissal, discipline, promotion, demotion, or compensation of, or the investigation of charges or complaints against, a public official or employee shall be open to the public unless said applicant, official, or employee requests an executive session. Governing boards of institutions of higher education including the regents of the University of Colorado may, upon their own affirmative vote, hold executive sessions to consider the matters listed in this paragraph (b). Executive sessions may be held to review administrative actions regarding investigation of charges or complaints and attendant investigative reports against students where public disclosure could adversely affect the person or persons involved, unless the students have specifically consented to or requested the disclosure of such matters. An executive session may be held only at a regular or special meeting of the state public body and only upon the affirmative vote of two-thirds of the entire membership of the body.

(c)Notwithstanding the provisions of paragraphs (a) and (b) of this subsection (3), the State Board of Parole created in part 2 of article 2 of title 17, C.R.S., may proceed in executive session to consider matters connected with any parole proceedings under the jurisdiction of said board; except that no final parole decisions shall be made by said board while in executive session. Such executive session may be held only at a regular or special meeting of the State Board of Parole and only upon the affirmative vote of two-thirds of the membership of the board present at such meeting.

(4)The members of a local public body subject to this part 4, upon the affirmative vote of two-thirds of the quorum present, may hold an executive session only at a regular or special meeting and for the sole purpose of considering any of the following matters; except that no adoption of any proposed policy, position, resolution, rule, regulation, or formal action shall occur at any executive session which is not open to the public:

(a)The purchase, acquisition, lease, transfer, or sale of any real, personal, or other property interest; except that no executive session shall be held for the purpose of concealing the fact that a member of the local public body has a personal interest in such purchase, acquisition, lease, transfer, or sale;

(b)Conferences with an attorney for the local public body for the purposes of receiving legal advice on specific legal questions. Mere presence or participation of an attorney at an executive session of the local public body is not sufficient to satisfy the requirements of this subsection (4);

(c)Matters required to be kept confidential by federal or state law or rules and regulations;

(d)Specialized details of security arrangements or investigations;

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

(f) Personnel matters except if the employee who is the subject of the session has requested an open meeting, or if the personnel matter involves more than one employee, all of the employees have requested an open meeting. With respect to hearings held pursuant to the "Teacher Employment, Compensation, and Dismissal Act of 1990", article 63 of title 22, C.R.S., the provisions of section 22-63-302 (7) (a), C.R.S., shall govern in lieu of the provisions of this subsection (4).

(g) Consideration of any documents protected by the mandatory nondisclosure provisions of part 2 of article 72 of title 24, commonly known as the "Open Records Act";

(h) Discussion of individual students where public disclosure would adversely affect the person or persons involved.

(5) Prior to the time the members of public body convene in executive session, the chairman of the body shall announce the general topic of the executive session as enumerated in subsections (3) and (4) of this section.

(6) The limitations imposed by subsections (3), (4), and (5) of this section do not apply to matters which are covered by section 14 of article V of the state constitution.

(7) The secretary or clerk of each state public body shall maintain a list of persons who request notification of all meetings or of meetings when certain specified policies will be discussed and shall provide reasonable advance notification of such meetings.

(8) No resolution, rule, regulation, ordinance, or formal action of a state or local public body shall be valid unless taken or made at a meeting that meets the requirements of subsection (2) of this section.

(9) The courts of record of this state shall have jurisdiction to issue injunctions to enforce the purposes of this section upon application by any citizen of this state. In any action in which the court finds a violation of this section, the court shall award the citizen prevailing in such action costs and reasonable attorney fees. In the event the court does not find a violation of this section, it shall award costs and reasonable attorney fees to the prevailing party if the court finds that the action was frivolous, vexatious, or groundless.

(10) Any provision of this section declared to be unconstitutional or otherwise invalid shall not impair the remaining provisions of this section, and, to this end, the provisions of this section are declared to be severable.

**Source:** (2.3)(f) amended, L. 89, p. 1004, § 4, effective October 1; entire section amended, L. 91, p. 815, § 2, effective June 1; (3)(a)(VI) amended, L. 91, p. 586, § 6, effective October 1; (2)(f) added, L. 92, p. 972, § 1, effective April 23.

#### FOOTNOTE REFERENCE

1. Cf., Colo. Const. art. XX §1.

2. *Clough v. City of Colorado Springs*, 70 Colo. 87, 197 P.896 (1921).

3. *County Commissioners of El Paso County, et al. v. City of Colorado Springs*, 66 Colo. 111, 180 P.301 (1919).

4. *Clough v. City of Colorado Springs, ibid.*

5. The truth or falsity of a declaration by Council that an emergency exists is a legislative rather than a judicial question. *Shields v. City of Loveland*, 74 Colo. 27, 218 P.913 (1923). Absent a showing that Council acted arbitrarily or capriciously, a reviewing court is bound by Council's determination of an emergency. *U.S. Disposal Systems, Inc. v. City of Northglenn*, Colo. 567 P.2d 365 (1977).

6. Mayor replaced City Manager by amendment to the Charter adopted November 2, 2010.
7. At the General Municipal Election in April 1993 an additional Council Appointee was created; "Utilities Director." This removed the control of the Utilities from the City Manager to the Utilities Director.
8. Ed. note: It is the City Manager's responsibility to draft and submit the annual budget. See § 4-20(h). November 2, 2010 Mayor assumed budget responsibilities § 4-40(i).
9. Home rule municipalities are empowered to assess property and levy taxes and municipal, county, or state officials may collect said taxes. Colo. Const. art. XX §6(g).
10. Colo. Const. art. XX §4.
11. Power to regulate municipal elections: Colo. Const. art. XX §6(d).
12. Cf., Colo. Const. art. V, art. XXI.
13. A reservation of power in the people of a city by its Charter providing for referendum must be liberally construed in favor of the people's right to exercise such power. Any limitations on the referendum power must be strictly construed and should not be extended either by implication or inference. *Brooks v. Zabka*, 168 Colo. 265, 450 P.220 (1924).
14. *Webb v. Dorlac*, 75 Colo. 49, 224 P.220 (1924).
15. *Webb v. Dorlac*, 75 *supra*.
16. With regard to initiated constitutional amendments which conflict, see *In re Interrogatories*, 189 Colo. 1, 536 P.2d 308 (1975). Cf., C.R.S. §1-40-113 (1973).
17. Power to define and regulate municipal officers, agencies, and employments. Colo. Const. art. XX §6(a).
18. A municipal Civil Service Commission cannot exercise any power that is not expressly conferred by the power that created it, nor can it assume an enlarged power by making its own rules. *Bratton v. Dice*, 93 Colo. 593, 27 P.2d 1028 (1933).
19. "Municipal Home Rule Act of 1971," C.R.S. §31-2-201 *et. seq.* (1973).
20. Cf., *In re Interrogatories*, 189 Colo. 1, 536 P.2d 308 (1975); C.R.S. §1-40-113 (1973).
21. The "Open Meetings Law" in effect at the time of the April 1993 General Municipal Election was derived from Colorado Senate Bill 91-33 (effective date 6/1/91), Colorado Senate Bill 91-225 (effective date 6/1/91) and Colorado House Bill 92-1167 (effective date 4/23/92). The complete text of these three bills are contained in Bradford Publishing Company's, 1992 Cumulative Supplement, Volume 10A, 1988 Replacement Volume to the Colorado Revised Statutes.