

HOME RULE CHARTER COMMISSION
January 14, 2019
Castle Pines City Hall
360 Village Square Lane
5:30-8:30 pm

AGENDA

- 1) Convene Meeting
- 2) Roll Call
- 3) Public Comment (3 Minute limit)
- 4) Approval of Minutes from January 7, 2019
- 5) Review and Approval of Amended Sections
 - a) Article XIII Eminent Domain
 - b) Section 15.2 Continuation of Present Appointed Officers and Employees;
Treasurer Position
- 6) Review of Charter
- 7) Adjourn



City of Castle Pines, Colorado Minutes

Home Rule Charter
Commission

Members

Geoff Blue
David Brennan
Erik Bowman
Ron Cole
James Coudeyras
Doug Gilbert
Bill Hodges
Charley Heard
Jean Henry
Jeffrey Huff
Fredrick Lee
Carol Lewis
James Mulvey

MEETING OF THE HOME RULE CHARTER COMMISSION
Castle Pines City Hall, 360 Village Square Lane, Castle Pines, CO 80108
Monday, January 7, 2019 - 5:30 PM

1. CONVENE MEETING

The meeting of the Home Rule Charter Commission of the City of Castle Pines, Colorado, was called to order by Chairperson Geoff Blue at 5:30 p.m.

2. ROLL CALL

Those present were: Geoff Blue
Dave Brennan
Erik Bowman
Ron Cole
James Coudeyras
Doug Gilbert
Bill Hodges
Charley Heard
Fredrick Lee
Jim Mulvey

Those absent were: Jean Henry
Jeffrey Huff
Carol Lewis

Also present with the Commission:
Michael Penny, City Manager
Linda Michow, City Attorney
Tobi Basile, City Clerk
Meghan White, City of Castle Pines Intern

3. PUBLIC COMMENT

- There was no public comment.

5. APPROVAL OF MINUTES

- Minutes from the December 17, 2018 were approved.

6. REVIEW AND APPROVAL OF AMENDED SECTIONS

- a) Section 11.7 Scope of Annual Budget: Adopted without further changes.
- b) Section 11.14 Capital Program: Adopted without further changes.

7. INTRODUCTION AND DISCUSSION OF PROPOSED PROVISIONS

- a) Article XII Bonded Indebtedness: Adopted without changes.
- b) Article XIII Eminent Domain: Changes were made for approval at the next meeting.
- c) Section 14.1 Existing Franchises: Adopted without changes.
- d) Section 14.2 Term; Non-exclusivity: Adopted without changes.
- e) Section 14.3 Franchise Fees Not an Exemption: Adopted with changes.
- f) Section 15.1 Existing Legislative Actions and Determinations and Voter Approvals: Adopted without changes
- g) Section 15.2 Continuation of Present Appointed Officers and Employees; Treasurer Position: Changes were made for approval at the next meeting.
- h) Section 15.3 Existing Contractual Obligations: Adopted without changes.
- i) Section 15.4 Bequests, Gifts, and Donations: Adopted without changes.
- j) Section 15.5 Contracts for Purchases, Leases, Services and Construction of Public Works: Adopted with changes.



City of Castle Pines, Colorado – Minutes, cont'd

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- k) Section 15.6 Conveyance of Interests in Real Property: Adopted with changes.
 - l) Section 15.7 Amendment: Adopted without changes.
 - m) Section 15.8 Severability: Adopted without changes.
 - n) Section 15.9 Interpretation: Adopted with changes.
 - o) Section 15.10 Effective Date of Charter: Adopted without changes.

8. ADJOURNMENT

- The meeting was adjourned at 6:48 p.m.

RESPECTFULLY SUBMITTED:

APPROVED:

Tobi Basile, CMC, City Clerk

Geoff Blue, Chairperson

ARTICLE XIII EMINENT DOMAIN

The City shall have the power of eminent domain, within and outside the limits of the City, for all public purposes subject to constitutional limitations. Any exercise of the power of eminent domain by the City Council shall be by ordinance. In invoking the power of eminent domain, the City Council shall recognize that the taking of private property for a public purpose is a serious action that should be invoked only after careful consideration of its effect on the rights of affected property owners. ~~Any ordinance authorizing the exercise of the power of eminent domain by the City shall require an affirmative vote of the City Council.~~

Section 15.2 Continuation of Present Appointed Officers and Employees; Elimination of Treasurer Position

- a) All employees and appointed officers and all board, commission, committee or authority members of the City at the time of the effectiveness of this Charter shall continue in such employment or office under the terms of the original employment or appointment.

- b) The elective office of Treasurer shall terminate upon the completion of the term of office of the currently elected Treasurer holding office at the time of the effectiveness of this Charter, or in the event of a vacancy in the office of Treasurer, whichever occurs first. Duties of the Treasurer shall be assumed by the City Manager as set forth in sSection 8.3 of this Charter.

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CERTIFICATE OF ADOPTION OF PROPOSED HOME RULE CHARTER

The undersigned members of the City of Castle Pines Home Rule Charter Commission, under the authorization of Article XX of the Colorado Constitution and the Municipal Home Rule Act of 1971, do hereby certify that the following is the proposed Home Rule Charter as finally approved and adopted by the members of the Charter Commission on the XX day of XX, 20XX. The Charter Commission members would like to sincerely thank the citizens of Castle Pines for supporting the Commission through the election process and entrusting us with the privilege of drafting our community Charter. We believe that this Charter is a sustainable foundation for the future of our community and allows our elected officials the flexibility necessary to govern over time, while providing recourse for the citizenry to act if the actions of the council are outside the support of the community. For this reason, we whole heartily endorse this Charter and respectfully submit it to the voters at the Special Election to be held on May 14, 2019.

Signature Page

PREFATORY SYNOPSIS

PREAMBLE

We, the people of the City of Castle Pines, Colorado, under the authority of the Constitution of the State of Colorado, and in order to exercise the rights, privileges and responsibilities of self-government granted to us by the said Constitution, do ordain and establish this Home Rule Charter for the City of Castle Pines, Colorado.

ARTICLE I GENERAL PROVISIONS

Section 1.1 Name and Boundaries

The municipal corporation of the City of Castle Pines in Douglas County, State of Colorado, shall remain and continue as a political and corporate entity under this Charter and shall continue to be known as the City of Castle Pines, with boundaries the same as presently established, until changed in a manner authorized by law.

Section 1.2 Powers

The City shall have all the power of local self-government and home rule and all power possible for a city to have under the Constitution of the State of Colorado except as provided by this Charter.

Section 1.3 Rights and Liabilities

By the name of the City of Castle Pines, the municipal corporation shall have perpetual succession; shall own, possess and hold all property, real and personal heretofore owned, possessed and held by the City and does assume and shall manage and dispose of all trusts in any way connected therewith; shall succeed to all the rights and liabilities of the City; shall acquire all benefits and does assume and shall pay all bonds, obligations and indebtedness of the City; may sue and defend, purchase, lease, receive, hold and enjoy or sell and dispose of real and personal property; may establish public works and provide public utilities and other public services as permitted by law; and shall have a common seal and alter the same at pleasure.

Section 1.4 Form of Government

The municipal government provided by this Charter shall be a "Council-Manager" form of government. Pursuant to the Charter provisions and subject only to limitations imposed by the Constitution of the State of Colorado, all powers shall be vested in an elected City Council, which shall enact local legislation, adopt budgets, determine policies and appoint the City Manager who shall execute the laws and administer the City government. All powers of the City shall be exercised in the manner prescribed by this Charter or, if the manner be not so prescribed, then in such manner as may be prescribed by ordinance, resolution or motion, or as provided by other applicable law.

ARTICLE II ELECTIVE OFFICES

Section 2.1 City Council and Mayor

The City Council shall consist of the Mayor and six (6) Council members, one (1) of whom shall serve as Mayor Pro Tem. Two (2) of the Council members shall be elected from each of the three (3) districts. The Mayor shall be elected at large from the entire City.

Section 2.2 Limits on City Elective Offices

In addition to the limits on other elective offices set forth in Section 2.7 of this Charter, no person shall be eligible to stand for election for more than one City elective office at any single City election. A candidate may hold any City elective office of any kind and run for another City elective office of any kind at the same time, but if elected, the candidate must resign his current elective office and fill the City elective office to which the candidate was subsequently elected.

Section 2.3 Council Districts

(a) The City is hereby divided into three (3) districts. Changes in the boundaries of districts may be made by ordinance adopted by the City Council, which changes shall be effective for purposes of any regular or special municipal election only if made at least one hundred and eighty (180) days prior to any such election. Districts shall conform with constitutional requirements.

Proposed by Jean Henry:

Topic: Redistricting

Section 2.3(a): The City is hereby divided into three (3) districts. Districts shall be contiguous and compact and shall have approximately the same number of voters. Changes in the boundaries of districts shall may be made by Ordinance adopted by the City Council, which changes shall be effective for purpose of any regular or special municipal election only if enacted made at least one hundred and eighty (180) days prior to any such election. Districts shall be contiguous and compact and shall have approximately the same number of voters.

Concern(s)

a. Concern: Language says "...may be made...". Is there a Colorado law that mandates redistricting when the population becomes imbalanced?

Staff Response: Constitutional principles and case law dictate that districts should be contiguous and compact with approximately same number of voters, as the provision currently provides.

Can the City Council/City Manager obviate Section 2.3a by merely allowing 180 days to lapse?

Staff Response: Yes, but there will be an ordinance further defining redistricting requirements.

b. Concern: I believe federal law requires equal number of voters and prohibits discrimination on the basis of race. In addition, I believe Colorado law requires compact, contiguous districts which preserves political subdivisions and communities of interest. As far as I can tell, there is no prohibition against drawing districts that favor a particular political party.

Proposal:

a. If covered by Colorado or Federal law, no action required. If not covered, change language from "may" to "shall".

b. ADD language to Section 2.3(a) prohibiting partisan considerations in redistricting.

Staff Response: Municipal elections are required to be non-partisan, so it would be confusing to include language about partisan considerations as such considerations are not appropriate or relevant.

(b) No change in the boundary of any district shall operate to exclude any Council member from office before the expiration of the term for which the incumbent was elected or appointed.

Proposed by Jean Henry:

Topic: Redistricting

Section 2.3(b): No change in the boundary of any district shall operate to exclude any council member from office before the expiration of the term for which the incumbent was elected or appointed.

Concern: Voters triggering the redistrict action may be under represented for 2 years if previously elected council member is no longer in the district.

Proposal: Add language mandating that the previously elected council member be required to continue representing the district to which he/she was elected regardless of the district in which he/she now resides.

Staff Response: This has been discussed by charter commission and may be reopened if desired.

Section 2.4 Terms of Office

(a) Each person holding City elective office at the time of the effectiveness of this Charter shall continue to hold such elective office for the term for which such person was elected or appointed and subject to the same limitations on terms of office in existence prior to the effectiveness of this Charter.

(b) The term of office for each Council member and Mayor shall commence upon their taking the oath of office at the ensuing organizational meeting of the City Council held at the first regular meeting of the City Council in the January following the election and shall continue during the term for which they shall have been elected until their successors shall have been elected and duly qualified. An organizational meeting of the City Council shall be held at the first regular or special meeting of the City Council in January following the election year.

(c) The Mayor and each Council member shall be elected for a term of four (4) years.

(d) Terms of office are considered consecutive unless they are at least four (4) years apart.

Section 2.5 Mayor - Powers and Duties

The Mayor shall preside at all meetings of the City Council and shall exercise such powers and perform such other duties as are or may be conferred and imposed upon them by this Charter or the ordinances of the City. The Mayor shall have all the powers, rights and privileges of a Council Member. The Mayor shall have no power of veto. The Mayor shall be recognized as the head of the City government for all ceremonial, dignitary and legal purposes, and the Mayor shall execute and authenticate legal instruments requiring the Mayor's signature as such official.

Section 2.6 Mayor Pro-Tem

The City Council shall elect one of its Council Members to serve as Mayor Pro-Tem. The Mayor Pro Tem shall be elected by a majority of the members of City Council present at said meeting and may be removed by a majority of members of City Council in office at the time a vote is taken. In the absence or disability of the Mayor, the Mayor Pro Tem shall preside at meetings of City Council and shall have all powers and duties of the Mayor. The Mayor Pro Tem shall have all the powers, rights and privileges of a Council Member.

Section 2.7 Qualifications

(a) To be eligible to hold elective office, either by election or by appointment, a person, at the time of their nomination and election or appointment, shall be a registered elector as defined by the laws of the State of Colorado, and registered elector of the City and, for those holding the office of Council member, a resident of the district they represent. To be eligible to hold elective office, a person shall have resided within the City at the time of election or appointment for one (1) year immediately preceding such election or appointment.

(b) Each person holding elective office, either by election or by appointment, shall maintain their primary residency in the City and district (if elected by district), throughout their term of office. If any person holding elective office shall move from the City or from the district (if elected by district), during their term of office, their seat shall be vacant and such vacancy shall be filled by the City Council as provided by this Charter.

(c) No person holding elective Office, either by election or by appointment, shall be an employee of the City during their term of office.

(d) No person holding City elective office, either by election or by appointment, shall hold any other elective position with a federal, state, county or municipal governmental entity, including an office on a new charter commission to be formed in accordance with Part 2 of Article 2 of Title 31, C.R.S., as may be amended from time to time, during their term of office.

Section 2.8 Vacancies

(a) An official shall continue to hold their elective office until their successor is duly qualified except when such office is vacated as set forth in this Section. An elective office shall become vacant whenever any person fails to qualify within thirty (30) days after the commencement of his term, or retain qualification for City Elective Office as set forth in Section 2.7, or is recalled, removed, dies, becomes incapacitated, resigns, or is judicially declared incompetent or ceases to be a resident of the City and district (if elected by district).

(b) Within ninety (90) days of a vacancy in the office of Mayor, the City Council shall fill the vacancy by appointment or by calling for a special election to fill the vacancy.

(1) If filled by appointment, the person appointed to fill the vacated office of Mayor shall hold such office only until the term of office of a successor elected at the next Regular City Election has commenced.

(2) If filled by special election, the person elected to fill the vacated office of Mayor shall hold such office only until the expiration of the term of office held by the Mayor whose office was vacated.

(c) Within ninety (90) days of a vacancy in the office of a Council member, the City Council shall fill the vacancy by appointment or by calling for a special election to fill the vacancy.

(1) If filled by appointment or special election, the person appointed or elected to fill the vacated office of Council member shall hold such office until the expiration of the term of such vacated office.

Section 2.9 Compensation

City Council shall receive such compensation and associated benefits as are created by ordinance and may be amended from time to time by ordinance; provided, however, that

the compensation and associated benefits of any member of City Council shall not be increased or decreased in any term of office during which the increase or decrease is approved by the City Council.

Section 2.10 Powers of City Council

The City Council shall constitute the legislative and governing body of the City and shall have all legislative powers and functions of municipal government, except as otherwise provided in the Constitution of the State of Colorado or this Charter and shall have the power and authority to adopt such ordinances, resolutions and motions, as it shall deem proper.

Section 2.11 Oath of Office

Every person holding elected office, before entering upon the duties of such office, shall take an oath or affirmation of office that the officer will support the Constitution and the laws of the United States and of the State of Colorado and this Charter and the ordinances of the City and will faithfully perform the duties of his office upon which the officer is about to enter.

Section 2.12 Standards of Conduct

The City Council shall adopt an ordinance governing disclosure of conflicts of interest, recusals from voting and other standards or code of conduct or ethics that shall supersede statutory or constitutional provisions governing or addressing the same matters.

Section 2.13 Removal from Office

- (a) By an affirmative vote of two-thirds (2/3) of the members of the City Council in office, the Mayor or any Council member may be removed from office for good cause as defined by ordinance.

- (b) No removal shall be made without notice to such elected official which contains a charge in writing and the facts upon which the charge is based and an opportunity of a public hearing before the City Council, which public hearing shall be held no sooner than ten (10) calendar days after the date the notice is given.

Proposed by Doug Gilbert:

(a) By an affirmative vote of two-thirds (2/3) of the members of the City Council, the Mayor or any Council Member may be removed from office for good cause as defined by ordinance.

(b) No removal shall be made without notice to such elected official which contains a charge in writing and the facts upon which the charge is based and an opportunity of a public hearing before the City Council, which public hearing shall be held no sooner than ten (10) calendar days after the date the notice is given. To support a decision to remove an elected official, City Council must provide written findings and conclusions that the charges have been substantiated by clear and convincing evidence.

ARTICLE III MEETINGS OF CITY COUNCIL

Section 3.1 Regular City Council Meetings

The City Council shall meet regularly at least once each month at a day and hour and place to be fixed by the procedures and rules of order of each City Council.

Section 3.2 Special Meetings

Special meetings of the City Council shall be called by the City Clerk with at least twenty-

four (24) hours' notice to each member of the City Council and to the public. Special meetings shall be called in accordance with the procedures and rules of order of the City Council and the requirements of this Charter and the Colorado Open Meetings Law, as now in effect and as may be amended from time to time.

Section 3.3 Emergency Meetings

An emergency meeting may be called in the event of an immediate danger or threat to the public health, welfare, peace, safety or property for the purpose of preservation or protection of the public health, welfare, peace, safety or property. Unless it is impractical, all members of the City Council shall be notified of such meeting, and such meeting may be held if a quorum exists. Maximum practical notice, including posted notice, shall be given to the public stating the purpose, time, place and manner of any such meeting.

Section 3.4 Study Sessions

The City Council may hold study sessions as deemed necessary in accordance with its procedures and rules of order. No quorum shall be required at any study session and no legally binding or formal action shall be taken at any such session.

Section 3.5 Open Meetings

All meetings of the City Council shall be open to the public. At City Council meetings, the public shall have a reasonable opportunity to be heard except for those meetings that are designated as study sessions. In compliance with the Colorado Open Meetings Law, as now in effect and as may be amended from time to time, the City Clerk shall keep a record of the proceedings of each meeting.

Section 3.6 Executive Sessions

Executive sessions may be held. Executive sessions shall be held in compliance with the Colorado Open Meetings Law, as now in effect and as may be amended from time to time.

Section 3.7 Quorum

A majority of members of the City Council in office shall constitute a quorum. Except for study sessions, a quorum shall be required at all City Council meetings where business is conducted.

Proposed by Jean Henry:

Topic: Quorum

Section 3.7 Quorum. A majority of members of the city Council in office shall constitute a quorum. Except for study sessions, a quorum shall be required at all meetings where business is conducted.

Concern: While unlikely, a majority of members could conceivably be only 2 if there is a mass resignation or other event. This impacts both regular and special meetings.

Proposal: If the number of City Council members falls below 5, authority to pass ordinances and/or resolutions be limited to community welfare and security issues only.

Staff Response: If the commission desires to revisit Section 3.7, the number of members should be 4 and not 5, as that represents a majority of 7 members.

Section 3.8 Procedures and Rules of Order

The City Council shall prescribe the procedures and rules of order governing meetings, which rules shall remain in effect until amended in accordance with the provisions of the

adopted procedures and rules of order.

ARTICLE IV POSTING OF MEETINGS

The City Council shall adopt a resolution which establishes public notice and posting requirements in accordance with the Colorado Open Meetings Law, as now in effect and as may be amended from time to time, including designating public places for such postings and such designation shall be deemed automatically readopted at the City Council's first regular meeting of each calendar year unless otherwise determined by the City Council.

Proposed by Jean Henry:

Topic: Transparency

Section 3.5 Open Meetings.

All meetings of the City council shall be open to the public. At City Council meetings, the public shall have a reasonable opportunity to be heard except for those meetings that are designated as study sessions. In compliance with the Colorado Open Meetings Law, as now in effect and as may be amended from time to time the City Clerk shall keep a record of the proceedings of each meeting.

Concern: The Open Meeting Law (OML) REQUIRES **ONLY** that notice of a meeting be "posted" 24 hours in advance of non-emergency meetings. While I have no concern that the current City Manager/City Council is committed to transparency, we are creating a charter that ideally will last for 10-30 years without amendment. Realistically, we do not have a clue as to the future City Manager / Council Members' commitment to transparency. In addition, the subject of transparency has been a source of significant and expressed concerns in Castle Pines both in elections and social media. To ignore this issue in the Charter would be both irresponsible and foolish.

Proposal: Add language which effectively says "...City Council will broadly communicate meetings with appropriate advance notification as determined by City Council resolution or ordinance which may be amended by time to time."

Staff Response: Article IV, Posting of Meetings, requires the City Council to adopt a resolution establishing public notice and posting requirements.

ARTICLE V ELECTIONS

Section 5.1 Laws Governing Elections

Special and general municipal elections shall be governed by the Colorado Municipal Election Code of 1965 as now in effect and as may be amended from time to time, except as the City Council may prescribe by ordinance or resolution calling an election.

Section 5.2 Municipal Elections

(a) A general municipal election shall be held on the date in November of each odd-numbered year to coincide with the election date of the Douglas County coordinated election.

(b) Any special municipal election may be called by resolution or ordinance of the City Council at least sixty (60) days in advance of such election. The resolution or ordinance

calling a special municipal election shall set forth the purpose or purposes of such election.

Section 5.3 Nonpartisan Elections

All municipal elections shall be nonpartisan. No municipal election ballot shall contain any language referring to any political party affiliation.

**ARTICLE VI
RECALL, INITIATIVE AND REFERENDUM**

Section 6.1 Right of Recall

(a) Any person holding elective office may be recalled at any time after one hundred eighty (180) days in office by the electors entitled to vote for a successor of such incumbent.

(b) The procedures for recall shall be those set forth in Title 31, Article 4, Part 5, C.R.S., as now in effect and as may be amended from time to time, except that the City Council may, by ordinance and consistent with this Charter, amend such procedures.

(c) A recall petition shall be signed by registered electors entitled to vote for a successor to the incumbent in number equal to at least twenty-five percent (25%) of the entire vote cast at the last preceding regular City election for all candidates for the office to which the incumbent sought to be recalled was elected, but in no case shall a recall petition be signed by less than one hundred (100) registered electors.

Section 6.2 Right of Initiative

(a) The power of initiative to propose any legislative ordinance to the City Council is reserved to the voters of the City in accordance with the provisions of Article V, Section 1 of the Constitution of the State of Colorado insofar as such provisions are applicable.

(b) For ordinances to be referred by initiative, a petition shall be signed in a number equal to at least ten percent (10%) of the registered electors for a regular election and shall be signed in a number equal to at least fifteen percent (15%) of the registered electors for a special election.

(c) After a final determination of petition sufficiency, the City Council shall have forty-five (45) days to adopt the proposed ordinance or refer the proposed ordinance to the registered electors of the City at an election.

Section 6.3 Right of Referendum

(a) The power of referendum to require reconsideration by the City Council of any legislative ordinance, except an emergency ordinance passed in accordance with this Charter, is reserved to the voters of the City in accordance with the provisions of Article V, Section 1 of the Constitution of the State of Colorado insofar as such provisions are applicable.

(b) A petition for a referendum shall be signed in a number equal to at least ten percent (10%) of the registered electors of the City.

Section 6.4 Procedures for Initiative and Referendum

The procedures for initiative and referendum shall be those set forth in Title 31, Article 11,

C.R.S., as may be amended from time to time, except that the City Council may, by ordinance and consistent with this Charter, amend such procedures.

ARTICLE VII COUNCIL ACTIONS

Section 7.1 Legislative Actions

The City Council shall have the authority to enact ordinances consistent with this Charter to provide for the safety, preserve the health, promote the prosperity, and improve the order, comfort, and convenience of the City and its residents.

Section 7.2 Ordinance Required

In addition to such acts of the City Council as are required by other provisions of this Charter to be by ordinance, the following actions shall also require an ordinance: borrowing of money, levying new taxes, increasing an existing tax, increasing existing franchise fees, creating new franchise fees, or establishing a rule or regulation for the violation of which a penalty is imposed.

Section 7.3 Voting

For passage, every action shall require the affirmative vote of a majority of the City Council present. Every member of the City Council, when present, shall vote upon ordinances, resolutions, and motions unless such member of the City Council shall have a legally recognized conflict of interest.

Section 7.4 Form of Ordinance

The enacting clause of all ordinances shall be: "THE CITY COUNCIL OF THE CITY OF CASTLE PINES, COLORADO, ORDAINS".

Section 7.5 Procedure for Passage of Ordinances

The procedure for passage of an ordinance, other than an emergency ordinance, shall be as follows.

(a) Introduction (first reading) at any regular or special meeting and vote by the City Council in accordance with the voting requirements established by this Charter to move the proposed legislation forward to second reading.

(b) If passed upon first reading, publicizing in accordance with the requirements, methods and procedures for publicizing ordinances as adopted by the City Council by ordinance.

(c) Consideration on second reading at a meeting not earlier than six (6) days after first reading that shall include:

- i. Public hearing; and
- ii. Vote of the City Council.

(d) After final passage, publicizing in accordance with the requirements, methods and procedures for publicizing ordinances as adopted by the City Council by ordinance.

(e) Unless a later date is specified in the text of the ordinance, an ordinance other than an emergency ordinance shall take effect and be enforced thirty (30) days after final publication.

Section 7.6 Procedure for Passage of Emergency Ordinances

Emergency ordinances are legislative enactments for which immediate effectiveness is deemed necessary for the preservation of the public peace, health or safety. Emergency ordinances shall take effect immediately upon passage, after one reading, by an affirmative vote of three-fourths (3/4) of the members of the City Council in office. A public comment period shall be required within thirty (30) days following adoption of an emergency ordinance for the sole purpose of providing an opportunity for public comment.

Section 7.7 Enactment of Codes and Amendments Thereof by Reference

The City Council may enact any Colorado statute, or any standard code promulgated or enacted by any municipality, county, state or federal agency, or by a recognized trade or professional organization, by reference thereto in an enacting ordinance and without publishing such statutes or codes in full in the manner provided in Section 7.5 of this Charter. In the event that any such statute or code, after being adopted by reference, is revised or amended by the agency or organization by which it was enacted or promulgated, then any such revision or amended version may be adopted by reference by an ordinance passed in the manner provided by this Charter. Any penalty clause in any code or statute to be adopted by reference shall be set forth in full and published in the enacting ordinance in order to be effective.

Section 7.8 Severability of Ordinances

Unless an ordinance shall expressly provide to the contrary, if any portion of an ordinance or the application thereof to any person or circumstances shall be found to be invalid by a court, such invalidity shall not affect the remaining portions or applications of the ordinance 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.

Section 7.9 Official Records of Legislative Enactments

(a) All ordinances shall be kept and maintained by the City Clerk in such form as is sufficient to assure reasonable access to the public. It shall be the duty of the Mayor and City Clerk to authenticate such records, but the failure to so authenticate any ordinance shall not invalidate it or suspend its operation.

(b) The City Council shall cause the permanent ordinances to be codified.

ARTICLE VIII ADMINISTRATIVE SERVICES

Section 8.1 Appointment and Qualifications of City Manager

The City Council shall hire a City Manager who shall be the chief administrative officer of the City and who shall serve at the pleasure of the City Council. The City Manager shall be chosen by the City Council on the basis of executive and administrative qualifications with particular emphasis on experience and training with respect to the duties of the office and shall have the minimum qualifications, if any, as may be set by the City Council by ordinance. No person holding or who has held City elective office shall be hired as City Manager during or within one (1) year after the termination of the term of such elected official.

Section 8.2 Dismissal of City Manager

The City Council may terminate the employment of the City Manager upon the affirmative vote of a majority of the City Council at any regular or special meeting called for that purpose and subject to the City Manager's employment agreement, if any. The action

of the City Council in removing the City Manager shall be final, it being the intention to vest all authority and fix all responsibility for such removal in the City Council.

Section 8.3 Powers and Duties of City Manager

The City Manager shall be responsible to and report directly to the City Council on the proper administration of all affairs of the City placed in his charge, and to that end the City Manager shall have the powers and duties as set forth by the City Council by ordinance, including, but not limited to:

- (a) Enforcing or supervising the enforcement of all laws of the City; and
- (b) Hiring personnel and supervising and overseeing all aspects of City functions and activities, service contracts and personnel and departments that report to the City Manager; and
- (c) Performing or supervising the performance of budget-related duties, accounting duties and financial and risk planning, reporting and management; and
- (d) Reporting regularly to the City Council on the functioning of all City departments, services, activities, performance measures, and financial matters;
- (e) Hiring or retaining a chief financial officer who shall perform such duties as may be prescribed by the City Manager;
- (f) Hiring or retaining a City Clerk who shall perform such duties as may be prescribed by the City Manager; and
- (g) Performing such other duties as set forth in the ordinances of the City or by direction of the City Council.

Section 8.4 Relationship of City Council to Administrative Services

Neither the City Council nor any member thereof shall have authority to require the hiring, promotion, suspension, transfer or termination of any person by the City Manager. Except for the purpose of making specific inquiries, all members of the City Council shall deal with administrative personnel or consultants through the City Manager and no member of the City Council shall give orders to any employee of the City.

ARTICLE IX JUDICIARY AND LEGAL

Section 9.1 Municipal Court

(a) There shall be a Municipal Court of record that shall have exclusive original jurisdiction to hear and determine all cases arising under this Charter or the ordinances of the City. The powers of and the procedure in such Municipal Court and the manner of enforcement of its orders and judgments, shall be such as is provided for under this Charter, the laws of the State of Colorado and the ordinances of the City with respect to municipal courts of records.

(b) In accordance with state law, the Municipal Court shall be presided over and its functions exercised by one (1) or more municipal judges, who shall be attorney(s)-at-law authorized to practice in Colorado and otherwise qualified and appointed by the City Council.

(c) A municipal judge shall receive compensation not dependent upon the outcome of the matters to be decided by them and as fixed by the City Council by resolution or ordinance from time to time.

(d) The City Council shall provide for the enforcement of its ordinances by fine or imprisonment or both, within the limits established from time to time by State law.

Section 9.2 City Attorney

(a) The City Attorney shall be appointed by and shall serve at the pleasure of the City Council. The City Attorney shall be the legal representative of the City as directed by the City Council.

(b) The City Attorney shall be an attorney-at-law authorized to practice in Colorado and be otherwise qualified as determined by City Council.

ARTICLE X BOARDS AND COMMISSIONS

Section 10.1 Right to Establish

To the extent not otherwise required by this Charter, the City Council shall have authority to create and disband boards, commissions and committees and confer upon the same such powers and duties as it deems advisable by resolution or by ordinance.

Section 10.2 Membership

To the extent the number and qualifications of members of any board, commission or committee is not otherwise required by this Charter, members of such boards, commissions and committees shall be appointed in accordance with a resolution or an ordinance setting forth the number of members, qualifications, terms, appointment and removal procedures and compensation, if any, for each board, commission or committee.

ARTICLE XI FINANCIAL MANAGEMENT

Section 11.1 Revenue

Subject to applicable limitations in the Colorado Constitution and in this Charter, the City Council shall have all powers now or hereafter granted to municipalities of any kind in the State to raise revenue by any power of any kind, including but not limited to taxes, rates, fees, licenses, tolls, penalties and charges. Any voter approvals waiving or amending any requirements of the Colorado Constitution in force at the time of effectiveness of this Charter shall continue in force and effect.

Section 11.2 Prior Voter Approval

No tax rate increase or levy of any new tax shall be effective without prior voter approval.

Section 11.3 Setting Fees for City Services

In adopting any new City-imposed fee or changing the amount of any existing City-imposed fee for any service rendered by the City (specifically excluding franchise fees), the City Council shall determine the amount of such fee by resolution based on the direct and indirect costs incurred by the City in providing the service for which the fee is charged.

Section 11.4 Fiscal Year

The fiscal year of the City and all of its agencies shall begin on the first day of January and end on the thirty-first (31st) day of December of each year.

Section 11.5 Proposed Annual Budget

A proposed budget for the ensuing fiscal year shall be presented to the City Council by September 30th of each year.

Section 11.6 Budget Hearing

The City Council shall hold a public hearing on the proposed budget each year. Copies of the proposed budget shall be available to the public at least seven (7) days prior to such hearing. Notice of the time and place of such hearing shall be published once at least seven (7) days prior to such hearing in accordance with Article IV.

Section 11.7 Scope of Annual Budget

- (a) The City shall adopt a budget in accordance with State laws.
- (b) The budget adopted by the City Council shall contain, at minimum:
 - (1) an estimate of anticipated revenue from all sources for the ensuing year;
 - (2) an estimate of the general fund cash surplus at the end of the current fiscal year or of the deficit to be made up by appropriation;
 - (3) The estimated expenditures necessary for the operation of the departments, offices and agencies of the City;
 - (4) debt service requirements for the ensuing fiscal year; and
 - (5) an estimate of the sum required to be raised by the tax levy for the ensuing fiscal year and the rate of levy necessary to produce such sum.
- (c) All estimates shall be in detail showing revenues by source and expenditures by departments, organizational units, activities, character and object.

Section 11.8 Certification of Tax Levy

In accordance with the requirements of Colorado law, the City Council shall fix the amount of tax levy, which shall be assessed upon each dollar of assessed valuation of all taxable property within the corporate limits of the City and shall cause the same to be certified to the County as required by law.

Section 11.9 General Fund

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

Section 11.10 Special Funds

Additional funds, which shall be known as special funds, may be created by ordinance to provide for monies to be held or used for special purposes as the City Council may determine, including but not limited to enterprise funds or special purpose funds.

Section 11.11 Adoption of Budget and Appropriation

Not later than the fifteenth (15th) day of December of each year, the City Council shall adopt a resolution for the budget and for the annual appropriations. No budget shall be deemed adopted unless a public hearing is held prior to the vote of the City Council and there is an affirmative vote of a majority of the City Council to adopt such budget and appropriations. Copies of the budget as adopted shall be public records and shall be made available to the public and shall be publicized in accordance with an ordinance adopted by the City Council.

Section 11.12 Supplemental Appropriations

The City Council may make supplemental appropriations in accordance with procedures set forth by ordinance.

Section 11.13 Publicizing of Expenditures

Expenditures authorized to be made need not be published, but the City shall maintain a record on file of same, which shall at all times be available for public inspection.

Section 11.14 Capital Program

(a) The City Council shall adopt a multi-year capital program in conjunction with the annual budget.

(b) Copies of the capital program plan shall be made available for public inspection.

Section 11.15 Independent Audits

The City Council shall provide for an annual independent audit of all accounts of the City to be performed by a certified public accountant experienced in municipal accounting. The auditor selected to perform any audit on behalf of the City shall have no direct personal interest in the financial affairs of the City or of any person holding elective office. Unless another date is provided by ordinance, the annual audit shall be completed within six (6) months of the close of the fiscal year. Copies of any audit undertaken in accordance with this Section shall be available for public inspection.

**ARTICLE XII
BONDED INDEBTEDNESS**

The City may, subject to applicable limitations in the Colorado Constitution, borrow money or enter into other obligations and issue securities or other evidences of such obligations in such form and manner as determined by the City Council to be in the best interests of the City.

**ARTICLE XIII
EMINENT DOMAIN**

The City shall have the power of eminent domain, within and outside the limits of the City, for all public purposes subject to constitutional limitations. Any exercise of the power of eminent domain by the City Council shall be by ordinance. In invoking the power of eminent domain, the City Council shall recognize that the taking of private property for a public purpose is a serious action that should be invoked only after careful consideration of its effect on the rights of affected property owners.

ARTICLE XIV

FRANCHISES

Section 14.1 Existing Franchises

All franchise ordinances of the City in effect at the time that this Charter is adopted shall remain in full force and effect, according to their provisions and terms, until the expiration date provided in such ordinances.

Section 14.2 Term; Non-exclusivity

No franchise shall be granted for a period of longer than twenty (20) years. Upon the expiration of any franchise, the right to use the public streets, ways or places granted thereby shall cease unless a new or extended franchise is granted. No exclusive franchise shall ever be granted.

Section 14.3 Franchise Fees Not an Exemption

Nothing contained herein shall exempt any grantee or assignee of a franchise from any lawful assessment upon such grantee's property or from any lawful licenses, charges or other impositions levied by the City Council not related to the franchise privilege. Failure to pay any franchise fee may result in forfeiture of the franchise at the option of the City Council.

ARTICLE XV MISCELLANEOUS PROVISIONS

Section 15.1 Existing Legislative Actions and Determinations and Voter Approvals

All prior actions, including resolutions, ordinances, bylaws and rules and regulations taken by the City Council or bylaws, rules or regulations or decisions or determinations adopted by any appointed board, authority or commission of the City, are hereby ratified and approved and shall be considered the lawful action of said City Council or board, authority or commission. All ordinances and resolutions of the City in force at the time this Charter becomes effective shall continue in force except insofar as they conflict with the provisions of this Charter, or shall be amended or repealed by ordinance enacted under authority of this Charter. In the event of any apparent inconsistencies between this Charter and said ordinances or resolutions, this Charter shall prevail. Any voter approvals affecting any actions of the City in force at the time this Charter becomes effective shall continue in force and effect except insofar as they conflict with the provisions of this Charter.

Section 15.2 Continuation of Present Appointed Officers and Employees; Elimination of Treasurer Position

- a) All employees and appointed officers and all board, commission, committee or authority members of the City at the time of the effectiveness of this Charter shall continue in such employment or office under the terms of the original employment or appointment.
- b) The elective office of Treasurer shall terminate upon the completion of the term of office of the elected Treasurer holding office at the time of the effectiveness of this Charter, or in the event of a vacancy in the office of Treasurer, whichever occurs first. Duties of the Treasurer shall be assumed by the City Manager as set forth in section 8.3

Section 15.3 Existing Contractual Obligations

This Charter shall not affect any contractual relationships of the City existing on the

effective date of this Charter.

Section 15.4 Bequests, Gifts and Donations

The City Council, on behalf of the City, 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 purposes of such bequests, gifts and donations, with the power to manage, sell, lease or otherwise dispose of the same in accordance with the terms of the bequest, gift or trust.

Section 15.5 Procedures for Entering into Contracts

The City Council may establish by resolution or ordinance the procedures for entering into contracts of any type.

Section 15.6 Conveyance of Interests in Real Property

The City Council by ordinance may purchase, sell or exchange any interest in real property.

Section 15.7 Amendment

This Charter may be amended in the manner provided by Article XX of the Constitution of the State of Colorado at any general election or special election called for such purpose (1) upon questions that may be submitted to the electors by a majority of the City Council or (2) upon questions that may be submitted by the electors. Unless the procedures are amended by the City Council by ordinance, the Charter may be amended in accordance with the procedures set forth in State statute. If provisions of two (2) or more proposed amendments adopted or approved at the same election conflict, the amendment receiving the highest affirmative vote shall become effective.

Section 15.8. Severability

If any provision, article, section, sentence, clause or part of this Charter, or the application thereof to any person or circumstances be held by any court of competent jurisdiction to be unconstitutional or invalid, such holding shall not affect, impair or invalidate the Charter as a whole or any part hereof other than the part so held to be invalid, and to this end the provisions of this Charter are declared to be severable.

Section 15.9 Interpretation

Where any question exists as to the meaning of any portion of this Charter, it shall be interpreted consistently with the Charter's purpose to reserve to the City and its citizens the broadest possible powers of home rule and self-government available under the Constitution, as limited only by the specific language of this Charter and the Constitution of the State of Colorado.

Section 15.10 Effective Date of Charter

This Charter shall become effective immediately upon voter approval and canvassing at a regular or special election held for the purpose of considering this Charter.