

City of Loveland Charter

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MUNICIPAL CHARTER
for the
CITY OF LOVELAND
STATE OF COLORADO

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PREFATORY SYNOPSIS

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

The Commission members have sought to prepare a Charter which provides a structure for full financial accountability to the taxpayers, the effective, efficient, and fiscally responsible conduct of the City government, and full participation in the affairs of the City by every member of the community.

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

Special mention should be made of the place of the Charter in relation to other applicable laws. The Bill of Rights and other protections afforded citizens by the United States Constitution are, of course, primary. The Constitution of the State of Colorado also contains specific limitations on the City's home rule powers. For example, the Taxpayer's Bill of Rights (TABOR), Article X, Section 20 of the State Constitution, requires a vote of the people on such matters as the imposition of new taxes by the City, the incurring of debts by the City, and the retention or spending of certain revenues by the City. Article XI prohibits the City from lending or pledging its credit in aid of any private person or entity. Article XX empowers the State, rather than the City, to act on matters which are of "statewide" concern. The Commission recognizes that the Charter is subordinate to, and must keep faith with, these federal and state enactments which limit the City's home rule powers.

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

With the foregoing principles in mind, the following summarizes some of the key provisions of the Charter as proposed by the Home Rule Charter Commission on March 5, 1996; future amendments may not be reflected in this summary.

ARTICLE 1 - DEFINITIONS

This article defines words and phrases used throughout the Charter.

ARTICLE 2 - GENERAL PROVISIONS

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

ARTICLE 3 - CITY COUNCIL

This article provides for the organization and qualifications of the City Council. Eight Council members will continue to be elected, two from each ward. In lieu of a Council member at-large, a Mayor will be elected by the voters at large; no longer will the Mayor be selected by the members of the Council. However, the Mayor will be considered a member of the Council, and will have no greater powers than any Council member. Four-year overlapping terms of office continue for Council members; the Mayor's term is two years. A vacancy in office will be filled by the voters at a regular or special election, although an interim Council appointment will be permitted until the election. To preserve the right of the citizens to vote for (or vote out of office) the candidates of their choice, term limitations are not imposed.

ARTICLE 4 - COUNCIL PROCEDURE

This article establishes meeting procedures for the Council. All regular and special meetings must be open to the public, and persons must be given a reasonable opportunity to be heard. The matters for which an executive session may be held are specified, as is the procedure for going into an executive session; both generally follow the State statutes. The procedure for adopting regular and emergency ordinances is established; an emergency ordinance will be adopted on one reading rather than two.

ARTICLE 5 - CODE OF ETHICS

This article establishes minimum ethical requirements for the Council, boards and commissions, and employees. The requirements are stricter than State statutes in that no exceptions are provided for the rule that an individual having a conflict of interest in a matter may not vote on the matter. An individual with a conflict of interest also may not participate in any discussion of the matter, or any executive session concerning the matter, and may not attempt to influence other members' votes. A City employee with a conflict of interest in a matter may not take any official action concerning the matter.

ARTICLE 6 - ELECTIONS

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

ARTICLE 7 - INITIATIVE, REFERENDUM, AND RECALL

This article reserves to the voters the power to initiate proposed ordinances, and the power to require adopted ordinances to be referred to a public vote. The number of registered electors required to sign an initiative or referendum petition remains at five percent of the total number of registered electors. This article also reserves to the voters the power to recall the Mayor or any Council member.

ARTICLE 8 - CITY MANAGER

This article establishes the qualifications and functions of the City Manager. It grants City employees the right to be discharged only for cause. It calls for the City Council to deal with municipal employees solely through the City Manager. It establishes that the City Manager alone has ultimate responsibility for all matters within the Manager's responsibility.

ARTICLE 9 - LEGAL AND JUDICIARY

This article provides for the qualifications and functions of the City Attorney and each Municipal Court judge.

ARTICLE 10 - BOARDS AND COMMISSIONS

This article continues all existing boards and commissions, and provides for other matters in relation to boards and commissions. Boards and commissions must follow the executive session procedures specified for the Council in Article 4.

ARTICLE 11 - FINANCE, BUDGET, AND AUDIT

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

ARTICLE 12 - MUNICIPAL BORROWING AND TAXATION

This article addresses debts and taxation. Because of constitutional requirements, including TABOR and local government debt provisions which predate TABOR (Article X, Section 6), voter approval will be required for the incurring of debts. Because a debt limit is not specifically addressed in the Charter, the debt limit established by State statute continues to apply (that statute, C.R.S. §31-15-302, establishes the limit at three percent of the actual value of taxable property in the City, excluding debts incurred in supplying water). Voter approval will also be required for tax matters in accordance with TABOR.

ARTICLE 13 - CITY-OWNED UTILITIES

City-owned utilities are addressed in this article. Utility rates will continue to be established by the City Council. Each utility's accounts must be kept separately. Although loans from utility funds to other City funds will be allowed, such loans will require the affirmative vote of a majority of the entire Council, and must be repaid with interest.

ARTICLE 14 - FRANCHISES AND PERMITS

A maximum fifteen-year duration is established by this article for franchises (which are granted to non-City owned utilities and others requiring long-term occupation of City rights-of-way). The right of referendum is guaranteed on all franchises. Other permits and licenses for the temporary use or occupation of the rights-of-way may be granted on a revocable basis.

ARTICLE 15 - MISCELLANEOUS PROVISIONS

Among other miscellaneous matters addressed by this article are a voter approval requirement for the sale of park lands; a bond or insurance requirement for City personnel involved in handling City funds; a penalty for willful violation of the Charter; and the establishment of competitive bidding requirements.

ARTICLE 16 - TRANSITIONAL PROVISIONS

Among the transitional matters addressed by this article are the effective date of the Charter; the repeal of legislation inconsistent with the Charter and continuation of legislation not inconsistent with the Charter; and the continuation of City employees, the Mayor and Council members, and board and commission members.

ARTICLE 17. CAMPAIGNS

This article regulates campaign finance in City elections. This article requires candidates for City office, issue committees and political committees to register with the City Clerk and to file with the Clerk certain reports. Campaign finance reports are to be posted on the City's website. Contribution limitations are also imposed in this article. The City Clerk's administrative duties are identified and penalties for violations under this article are defined.

In conclusion, the Commission believes that this Charter provides a structure for a responsible government for the City of Loveland, now and in the future, that will maintain and enhance the quality of life of the citizens, assure fiscal responsibility and accountability, continue the growth and progress of the City, and continue to be responsive to the needs and concerns of the citizens.

ARTICLE 1

DEFINITIONS

SECTION 1-1 -- DEFINITIONS

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

- (a) "Board or commission" or "board and commission" means the boards and commissions established by or pursuant to this Charter.
- (b) "City" means the City of Loveland, Colorado.
- (c) "Council" or "City Council" means the body constituting the City Council of the City.
- (d) "Council member" means each member of the City Council except the Mayor.
- (e) "Emergency ordinance" means an ordinance which, in the opinion of the City Council, is necessary for the immediate preservation of the public property, health, welfare, peace, or safety.
- (f) "Employee" means each compensated person in the service of the City who is designated as an employee in the personnel rules and regulations of the City.
- (g) "Entire Council" means all of the nine (9) members of the Council provided for in Section 3-1(b).

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

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

(j) "Member of the Council" means the Mayor and each Council member.

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

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

- (1) Publication in a newspaper; or
- (2) In the event of an emergency, or when no such newspaper is available, posting.

Anything published by such posting because of an emergency shall subsequently be actually published in a newspaper.

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

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

(o) "Special election" or "special City election" means a City election held at a time other than a regular election.

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

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

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

ARTICLE 2

GENERAL PROVISIONS

SECTION 2-1 -- NAME, BOUNDARIES

The Colorado municipal corporation now existing as the "City of Loveland" shall remain and continue to be a body politic and corporate under the same name and with the same boundaries until lawfully changed.

SECTION 2-2 -- PURPOSE OF CHARTER

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

SECTION 2-3 -- FORM OF GOVERNMENT

The municipal government provided by this Charter shall be known as a Council-Manager government.

SECTION 2-4 -- POWERS OF THE CITY

(a) The City shall have all the power of local self-government and home rule and all power possible for the City under the State Constitution. All such powers shall be exercised in a manner consistent with the United States Constitution, the State Constitution, and this Charter.

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

(c) The enumeration of specific powers in this Charter shall not be considered as limiting or excluding any other power under Article XX of the State Constitution. All powers shall be exercised in the manner set forth in this Charter or, if not provided for in this Charter, in such manner as shall be provided by ordinance.

SECTION 2-5 -- AMENDMENTS TO THE CHARTER

This Charter may be amended in the manner provided in the State Constitution and the State statutes pertaining to home rule charter amendments. Proceedings to amend the Charter may be initiated by the filing of a petition meeting the requirements of the State statutes, or by the adoption of an ordinance by the City Council submitting the proposed amendment to a vote of the registered electors of the City.

SECTION 2-6 -- CHARTER AMENDMENTS ONLY BY MEASURES EXPRESSING A SINGLE SUBJECT

(a) No measure proposing an amendment to this Charter shall be submitted to the registered electors of the city if the measure contains more than one subject.

(b) The City Clerk shall approve for petition circulation measures proposing Charter amendments only when such measures contain a single subject.

(c) As used in this section, the single subject requirement means that the matters in the measure submitted for voter approval are necessarily or properly connected and are not disconnected or incongruous.

(Added at the election held November 4, 1997)

ARTICLE 3

CITY COUNCIL

SECTION 3-1 -- CITY COUNCIL

(a) The City Council shall be the governing body of the City, and shall have such powers as are possessed by the City and not conferred by this Charter on others. All such powers shall be exercised in the manner prescribed in this Charter or, if not provided for herein, in such manner as shall be provided by ordinance.

(b) The City Council shall consist of eight (8) Council members nominated and elected, two (2) from each ward, and a Mayor nominated and elected from the City at large.

(c) The first election of a Mayor from the City at large, as provided in Subsection (b) of this section, shall be at the next regular City election at which a Council member-at-large would have been elected if this Charter had not been adopted.

SECTION 3-2 -- MAYOR, MAYOR PRO TEM

(a) The Mayor shall be a member of the City Council and shall have the same voting powers as any Council member.

(b) The Mayor shall preside over meetings of the City Council, and shall be recognized as the head of the City government for all ceremonial purposes.

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

SECTION 3-3 -- MAYOR AND COUNCIL MEMBERS - QUALIFICATIONS

(a) Each Council member shall be a registered elector of the City who has resided in his or her respective ward for a period of at least twelve (12) consecutive months immediately preceding the election; except that, in case the boundaries of the ward are changed pursuant to Section 6-4 or as a result of annexation, residence for the prescribed time period, within territory added to the ward, shall be deemed to meet the residency requirements for the ward to which the territory was added.

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

(c) No person who has been convicted of embezzlement of public funds, bribery, perjury, solicitation of bribery, subornation of perjury, or a willful violation of this Charter, shall be nominated or elected as Mayor or Council member.

(d) Except as provided in this subsection, no person who is an employee of the City, or a City board or commission member, may serve as Mayor or Council member. Any such person who runs for and is elected as Mayor or Council member shall be deemed to have resigned from the position of City employee, or City board or commission member, on the date of taking office under Section 3-5. Nothing in this subsection shall prohibit the Council from appointing the Mayor or a Council member, after taking office, to a City board or commission if the person is eligible to be so appointed pursuant to the ordinance establishing the board or commission.

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

(f) The Mayor and each Council member shall continue to meet the requirements of this section throughout the term of office.

SECTION 3-4 -- TERM LIMITS

There shall be no limit on the number of terms which may be served by the Mayor or by any Council member, other than that which exists through the exercise by the registered electors of the right to retain or not to retain any person in office.

SECTION 3-5 -- TERM OF OFFICE; TIME OF TAKING OFFICE; OATH

(a) Each Council member shall be elected for a four (4) year term. Council members' terms shall be staggered within each ward. The Mayor shall be elected for a two (2) year term.

(b) The Mayor and each Council member shall take office at the first regular or special meeting of the Council following their election, and shall continue in office until their successors have been elected and take office, or a vacancy is earlier established. **(Amended at the election of November 3, 1998)**

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

SECTION 3-6 -- COMPENSATION.

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

SECTION 3-7 -- VACANCIES

(a) A vacancy shall exist if, during the term of office, the Mayor or a Council member dies, is judicially declared incompetent, resigns, is recalled without the election of a successor, no longer meets one (1) or more of the qualifications specified in Section 3-3, or has had more than three (3) consecutive unexcused absences from regular meetings of the Council.

(b) An absence from a regular meeting shall be considered unexcused only if the Council so determines by motion. The motion shall set forth the reasons for the determination.

(c) The fourth consecutive unexcused absence shall be deemed to constitute a vacation of the office effective on the date of the motion of the Council determining that such absence was unexcused.

(d) Except as otherwise provided in Subsections (e), (f), and (g) of this section, any vacancy which occurs in the office of Mayor or Council member shall be filled, for the remainder of the term, at a special election which shall be scheduled and held as provided in Section 6-3.

(e) If a regular City election will be held within one hundred eighty (180) days after the vacancy occurs, no special election shall be scheduled, and the vacancy shall be filled at that regular election.

(f) If a general statewide election will be held within one hundred eighty (180) days after the vacancy occurs, the vacancy shall be filled at a special election which shall be held on the date of that statewide election.

(g) The City Council, by a majority vote of the remaining members, may appoint a person who meets the qualifications of Section 3-3 to hold the office until the vacancy is filled by election pursuant to Subsection (d), (e), or (f). The term of the appointment shall not exceed one hundred eighty (180) days.

ARTICLE 4

COUNCIL PROCEDURE

SECTION 4-1 -- MEETINGS

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

(b) The Council shall cause written minutes of its regular and special meetings to be taken and retained in the records of the City.

SECTION 4-2 -- SPECIAL MEETINGS AND BUSINESS AT SPECIAL MEETINGS

(a) Special meetings shall be called by the City Clerk on the request of the Mayor and any three (3) Council members.

(b) A special meeting shall be held on at least twenty-four (24) hours written notice to each member of the Council, served personally or left at the member's usual place of residence. The notice need not be served if the member has waived the notice in writing.

(c) The Council shall not take action on any item of business at any special meeting of the Council unless it has been stated in the notice of the meeting.

SECTION 4-3 -- QUORUM

A majority of the members of the Council holding office at the time shall be a quorum for the transaction of business at all Council meetings.

SECTION 4-4 -- MEETINGS TO BE PUBLIC; EXECUTIVE SESSIONS

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

(b) Notice of each regular and special meeting shall be posted at least twenty-four (24) hours in advance of the meeting. The notice shall include specific agenda information to the extent available.

(c) No formal action, no final policy decision, no rule, regulation, resolution, or ordinance, and no action approving a contract or calling for the payment of money, shall be adopted or approved except at a regular or special meeting. Subject to these requirements, a meeting may be recessed into an executive session by the affirmative vote of two-thirds (2/3) of the members of the Council present, for the following purposes only:

(1) To determine a position relative to issues subject to negotiation, to receive reports on negotiation progress and status, to develop negotiation strategy, and to instruct negotiators;

(2) To consider the acquisition or disposal of property if, in the judgment of the Council, premature disclosure of information might give any person an unfair competitive or bargaining advantage;

(3) For matters of attorney-client privilege, to receive legal advice from an attorney representing the City, and for matters required by law to be kept confidential;

(4) For matters critical to the personal safety of the members of the Council and for matters involving the protection and security of City property;

(5) For personnel matters; and

(6) To consider additional matters for which an executive session is permitted under the State statutes concerning the meetings of local public bodies.

(d) The general subject matter of any executive session shall be stated in the motion calling for the session.

(e) Except as authorized by the City Council, as required or permitted by judicial order, or as otherwise required or permitted by law, no participant in any executive session shall reveal any information gained as a result of the session. In addition to any other means available pursuant to law, a participant who is in doubt about the application of this subsection may seek a judicial order by requesting an in camera hearing in the District Court of Larimer County.

SECTION 4-5 -- COUNCIL ACTS

The Council shall act only by ordinance, resolution, or motion. Each action shall be recorded in the minutes of the meeting. The Council may select the appropriate form for its action, except where a particular form is required by the Charter. A true copy of every ordinance and resolution as adopted shall be numbered and retained in the records of the City.

SECTION 4-6 -- VOTING

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

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

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

(d) No member of the Council shall vote on any matter in which the member has a conflict of interest, as defined in Section 5-1.

(e) Except as provided in Subsections (c) and (d) of this section, each member of the Council who is present shall vote on each matter. Any refusal to vote, except when an abstention is required by Subsections (c) or (d) of this section, shall be recorded as an affirmative vote.

SECTION 4-7 -- ACTION BY ORDINANCE REQUIRED

In addition to such acts of the Council as are required by the State Constitution or this Charter to be by ordinance, every act of the Council making an appropriation, authorizing the borrowing of money, imposing a tax or increasing a tax rate, approving the transfer of fee ownership in real property owned by the City, approving the sale of water rights owned by the City, or establishing any regulation for violation of which a fine, imprisonment, or both may be imposed, shall be by ordinance.

SECTION 4-8 -- FORM OF ORDINANCE

(a) Every ordinance shall be introduced in printed form. The enacting clause of all ordinances shall be: BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOVELAND, COLORADO.

(b) Except as otherwise provided in this Charter, all ordinances shall take effect ten (10) days after publication following final adoption. Unless otherwise specifically provided in the ordinance,

every ordinance shall be deemed to contain a severability clause whether stated therein or not.
(Amended at the election held November 3, 1998)

SECTION 4-9 -- ORDINANCES - ADOPTION PROCEDURE

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

- (1) The ordinance shall be introduced by motion at a regular or special meeting of the Council.
- (2) The ordinance shall be read in full or by title.
- (3) After the first reading, the Council shall vote to amend, adopt, or reject the ordinance, or take such other action as it deems appropriate.
- (4) If the ordinance is adopted on first reading, it shall be published in full.
- (5) The ordinance shall be introduced by motion at a second regular or special meeting of the Council held not earlier than four (4) days after the first publication.
- (6) Prior to taking final action on the ordinance, the Council shall permit public comments on the ordinance, then shall vote to amend, finally adopt, or reject the ordinance, or take such other action as it deems appropriate.
- (7) Upon final adoption, the ordinance shall be published either in full or by title only, as the Council may direct; however, if the ordinance is amended prior to final adoption and is published by title only, the amendment shall be published in full.
- (8) The ordinance shall be signed by the Mayor and attested by the City Clerk, and affidavits of publication shall be retained with the ordinance in the City's records.

(b) Every ordinance published by title shall contain a notice that copies of the ordinance are available at the office of the City Clerk.

SECTION 4-10 -- EMERGENCY ORDINANCES

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

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

SECTION 4-11 -- CODIFICATION

The Council shall cause ordinances of a general and permanent nature to be codified. The codification, or any revisions to the codification, may be adopted by reference as provided in Section 4-12.

SECTION 4-12 -- ADOPTION OF CODES BY REFERENCE

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

adopting a code by reference shall contain a notice that copies of the code are available at the office of the City Clerk. Any penalty clause in such a code may be adopted only if set forth in full in the adopting ordinance.

SECTION 4-13 -- PUBLIC RECORDS

All public records of the City shall be open for inspection by any person in accordance with the State statutes concerning public records.

SECTION 4-14 - FINES AND PENALTIES FOR ORDINANCE VIOLATIONS

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

ARTICLE 5

CODE OF ETHICS

SECTION 5-1 - CONFLICTS OF INTEREST - GENERAL

(a) A "conflict of interest" for purposes of this Article, means:

(1) any pecuniary, property, or commercial benefit of any person covered by this Article or of any parent, spouse, or child of such person; or

(2) any personal or private interest of any person covered by this Article, in any matter proposed or pending before the Council, board or commission, as applicable. However, a "conflict of interest" does not include any matter involving the common public interest, or any matter in which a similar benefit is conferred upon or is available to all persons or property similarly situated.

(Amended at the election held November 3, 1998)

(b) No person subject to the requirements of this Article shall fail to comply with the applicable disclosure and non-action requirements of this Article.

SECTION 5-2 - DISCLOSURE AND NON-ACTION - MATTERS INVOLVING CONFLICT OF INTEREST

(a) If the Mayor, any Council member, or any member of a board or commission has a conflict of interest with regard to any matter before the Council, board, or commission, as applicable, he or she shall follow the disclosure and other requirements of this section.

(b) At or before the time the matter is heard, the member shall disclose the interest to the Council, board, or commission, as applicable. The member shall not vote on or otherwise take any formal action concerning the matter, shall not participate in any executive session concerning the matter, and shall refrain from attempting to influence any other member in voting on the matter.

SECTION 5-3 - CITY EMPLOYEES; OTHER PROVISIONS CONCERNING CONFLICTS OF INTEREST

(a) No City employee shall take any official action concerning any matter as to which the employee has a conflict of interest.

(b) Neither the Mayor, any Council member, any board or commission member, nor any employee, shall use for personal or private gain, or for any other personal or private purposes,

any information which is not available to the public and which is obtained by reason of the person's position with the City, or disclose any such information except as required by law.

(c) The provisions of this Article shall be in addition to any applicable conflict of interest provisions of the State statutes that are at least as restrictive as this Article, and shall supersede any such conflict of interest provisions of the State statutes that are less restrictive than this Article.

ARTICLE 6

ELECTIONS

SECTION 6-1 -- COLORADO MUNICIPAL ELECTION LAWS ADOPTED

City elections shall be governed by the State statutes contained in the Colorado Municipal Election Code, except as otherwise provided by this Charter or by ordinance. All regular and special elections shall be nonpartisan. **(Amended at the election held November 3, 1998)**

SECTION 6-2 -- REGULAR ELECTIONS

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

SECTION 6-3 -- SPECIAL ELECTIONS

A special election shall be called by a resolution adopted at least thirty (30) days prior to the election. The resolution calling a special election shall set forth the purpose of the election.

SECTION 6-4 -- WARDS

(a) The City shall be divided into four (4) wards, the boundaries of which shall be changed only by a resolution adopted by the affirmative vote of a majority of the entire Council.

(b) The boundaries of the wards established pursuant to this section shall not be changed more often than once in six (6) years, unless change is necessary to conform to constitutional apportionment requirements. Territory added to the City shall become a part of such ward or wards as may be determined by ordinance; but this shall not prevent apportionment to conform to constitutional requirements.

(c) Notwithstanding any other provision of this Charter, no change in ward boundaries shall create a vacancy during the term of any Council member in office at the time of the change.

SECTION 6-5 -- CONDUCT OF ELECTIONS

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

ARTICLE 7

INITIATIVE, REFERENDUM, AND RECALL

SECTION 7-1 -- INITIATIVE

(a) The registered electors of the City may initiate a proposed ordinance, pursuant to the initiative power reserved by Article V, Section 1(9) of the State Constitution, as to any legislative matter which is subject to said initiative power. Any initiated measure shall be in the form of an

ordinance. The ordinance shall be initiated pursuant to the State statutes which establish procedures for a municipal initiative, except as otherwise provided in this Charter.

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

(c) The City Clerk shall not count as valid any signature on an initiative petition if the date of the signature is prior to the date the form of the petition was approved by the City Clerk.

(d) The City Clerk shall not count as valid any signature on an initiative petition if more than ninety (90) days have elapsed between the date the form of the petition was approved by the City Clerk and the date of the signature.

SECTION 7-2 -- REFERENDUM

(a) The registered electors may require an adopted ordinance to be referred to them at an election, pursuant to the referendum power reserved by Article V, Section 1(9) of the State Constitution, to the extent the ordinance constitutes a legislative matter which is subject to said referendum power. Such an ordinance shall be referred pursuant to the State statutes which establish procedures for a municipal referendum, except as otherwise provided in this Charter. The referendum power shall not apply to an emergency ordinance.

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

(c) The City Clerk shall not count as valid any signature on a referendum petition if the date of the signature is prior to the date the form of the petition was approved by the City Clerk.

SECTION 7-3 -- RECALL

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

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

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

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

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

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

SECTION 7-4 -- PROHIBITED ACTION BY COUNCIL

(a) No initiated ordinance adopted by the registered electors of the City may be substantively amended or repealed by the Council during a period of one (1) year after the date of the election on the initiated ordinance, unless the amendment or repeal is approved by the affirmative vote of two-thirds (2/3) of the entire Council.

(b) No referred ordinance repealed by the registered electors of the City may be readopted by the Council during a period of one (1) year after the date of the election on the referred ordinance, unless the readoption is approved by the affirmative vote of two-thirds (2/3) of the entire Council.

SECTION 7-5 -- WITHDRAWAL OF PETITION

An initiative, referendum, or recall petition may be withdrawn at any time prior to thirty (30) days preceding the day scheduled for a vote, by filing with the City Clerk a written request for withdrawal signed by a majority of the persons who are designated in the petition as representing the signers on matters affecting the petition. Upon the filing of such request, the petition shall have no further force or effect and all proceedings thereon shall be terminated.

SECTION 7-6 -- PETITION FORMS TO BE PROVIDED

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

SECTION 7-7 -- SINGLE-SUBJECT REQUIREMENT -- INITIATED AND REFERRED MEASURES

(a) No measure proposing an amendment to the ordinances of the city by means of a petition for initiative or referendum shall be submitted to the registered electors of the City if the measure contains more than one subject.

(b) The City Clerk shall approve for petition circulation measures proposing referred ordinances or initiated ordinances only when such measures contain a single subject.

(c) As used in this section, the single subject requirement means that the matters in the measure submitted for voter approval are necessarily or properly connected and are not disconnected or incongruous. **(Added at the election held November 4, 1997)**

ARTICLE 8

CITY MANAGER

SECTION 8-1 -- APPOINTMENT, QUALIFICATIONS, EVALUATION AND REMOVAL

(a) The City Council, by the affirmative vote of two-thirds (2/3) of the entire Council, shall appoint a City Manager to serve at the pleasure of the Council.

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

(c) The City Manager shall become a resident of the City or the Community Influence Area as defined in the Comprehensive Plan adopted by the City Council on May 2, 2000, as amended from time to time, within six ((6) months of appointment, and shall remain a resident of such area throughout the Manager' appointment . **(Amended at the election held November 7, 2000.**

(d) The City Council shall evaluate the City Manager's performance at least annually.

(e) The removal of the City Manager shall require the affirmative vote of two-thirds (2/3) of the entire Council.

SECTION 8-2 -- ACTING CITY MANAGER

The City Council shall designate a qualified City employee to serve as Acting City Manager during the Manager's absence or disability, or during times when the position is vacant.

SECTION 8-3 -- EXCLUSIVE SERVICE TO CITY

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

SECTION 8-4 -- POWERS AND DUTIES OF MANAGER

The City Manager shall be the chief administrative officer of the City. The City Manager shall have the following powers and duties:

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

(b) Establish and implement personnel rules and regulations for City employees. Such rules and regulations shall provide for the selection, promotion, and retention of City employees on the basis of ability, training, experience, and performance. In addition, such rules and regulations shall provide that no City employee shall be discharged, except for cause, from a position of employment which the employee has held for six (6) months or longer, unless the City employee is a police officer, in which case this timer period shall be one (1 year) year or longer. . Nothing in this subsection shall preclude the establishment or application of rules and regulations for a layoff, a reduction in force, or an administrative reorganization, or the establishment of temporary or seasonal positions of employment. **(Amended at the election held November 6, 2001)**

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

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

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

(f) Except as to the Municipal Court and the office of the City Attorney, exercise supervision and control over all City departments, and make recommendations to the City Council concerning the establishment, consolidation or abolition of such departments.

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

(h) Be responsible for informing the public on City functions and activities.

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

SECTION 8-5 -- COUNCIL'S RELATIONSHIP TO EMPLOYEES

(a) Neither the Council, the Mayor, nor any Council member, shall dictate or interfere with the appointment of, or the duties of, any City employee subordinate to the City Manager or to the City Attorney, or prevent or interfere with the exercise of judgment in the performance of the employee's City responsibilities. The Council, the Mayor, and each Council member, shall deal with such employees solely through the Manager or the City Attorney, as applicable, and shall not give orders or reprimands to any such employee.

(b) The City Manager alone shall be responsible to the City Council for the proper administration of all matters placed in the Manager's charge by or pursuant to this Charter.

ARTICLE 9

LEGAL AND JUDICIARY

SECTION 9-1 - CITY ATTORNEY

(a) The City Council, by the affirmative vote of two-thirds (2/3) of the entire Council, shall appoint a City Attorney to serve at the pleasure of the Council.

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

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

(d) The removal of the City Attorney shall require the affirmative vote of two-thirds (2/3) of the entire Council.

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

(f) Employees subordinate to the City Attorney shall be subject to the personnel rules and regulations established pursuant to Section 8-4(b), but supervision and control over such employees shall be exercised by the City Attorney.

(g) The City Council shall evaluate the City Attorney's performance at least annually.

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

SECTION 9-2 - MUNICIPAL COURT; MUNICIPAL JUDGE

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

(b) The City Council shall appoint, by the affirmative vote of two-thirds (2/3) of the entire Council, a presiding municipal judge and such deputy municipal judges as the Council deems necessary. Each municipal judge shall be appointed for a two (2) year term.

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

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

(e) The removal of any judge during the term of office shall require the affirmative vote of two-thirds (2/3) of the entire Council. Any such removal shall only be for cause as specified in the statutes applicable to the removal of municipal judges, and for any other conduct which would constitute a violation of the Colorado Code of Judicial Conduct, as from time to time amended, if committed by a judge subject to such Code.

ARTICLE 10

BOARDS AND COMMISSIONS

SECTION 10-1 -- EXISTING BOARDS AND COMMISSIONS

Each board and commission existing at the time this Charter is adopted shall continue, except as otherwise provided by ordinance. The City Council may, by ordinance, establish, consolidate or abolish any board or commission, except that the Planning Commission and the Board of Adjustment and Appeals may not be abolished.

SECTION 10-2 -- BOARDS AND COMMISSIONS - GENERAL

(a) Except as otherwise provided by this Charter or by ordinance, each board and commission shall be advisory in character. The selection, term, and responsibilities concerning each board and commission shall be as established by ordinance. The policies and other matters concerning each board and commission shall be as established by resolution. **(Amended at the election held November 3, 1998)**

(b) The appointment or removal of any board or commission member who is required by ordinance to be appointed by the City Council shall require the affirmative vote of a majority of the entire Council. A member appointed by the City Council shall serve at the pleasure of the Council.

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

(d) No board or commission shall hold any executive session except in accordance with procedures which shall be consistent with those established in Section 4-4, and only for the purposes specified in Section 4-4.

ARTICLE 11

FINANCE, BUDGET, AND AUDIT

SECTION 11-1 -- FISCAL YEAR

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

SECTION 11-2 -- ANNUAL BUDGET ESTIMATES

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

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

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

SECTION 11-3 -- CAPITAL BUDGET ESTIMATES

As a part of the proposed budget or as a separate report attached thereto, the City Manager shall also present a program of proposed capital projects for the ensuing fiscal year and the four (4) fiscal years thereafter. Estimates of the cost of such projects shall be submitted together with suggested methods of financing the same. The City Manager may recommend the omission or deferment of projects.

SECTION 11-4 -- PUBLIC HEARINGS

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

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

SECTION 11-5 -- COUNCIL ACTION ON BUDGET

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

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

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

(d) Notwithstanding any other provision of this Charter, an ordinance adopting or amending the budget, making any appropriation, or levying the ad valorem property tax, shall be effective upon final adoption.

SECTION 11-6 - BUDGET CONTROL

(a) Except as otherwise provided in this Charter or by ordinance, procedures concerning

supplemental appropriations, transfers, contingencies, and other matters pertaining to the budget, shall be as set forth in the State statutes concerning the budgets of local governments.

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

(c) Nothing in this section shall prevent the City from entering into a multiple-year contract in the manner provided by law.

(d) The City Council, by resolution, may authorize a maximum amount which the City Manager may transfer from any unused balance of any general fund appropriation or portion thereof from one (1) department or other spending unit to another. Except as otherwise provided in this Charter, the transfer of monies from one (1) fund to another shall only be made by an ordinance amending the budget as adopted.

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

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

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

SECTION 11-7 -- INDEPENDENT AUDIT

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

ARTICLE 12

MUNICIPAL BORROWING AND TAXATION

SECTION 12-1 -- FORMS OF BORROWING

Subject to any applicable limitations in the Colorado Constitution, the City may borrow money and issue securities or enter into other obligations to evidence such borrowing in any form and in any manner determined by the Council to be advantageous to the City.

SECTION 12-2 -- MUNICIPAL TAXATION

The City Council may adopt, by ordinance, such taxes as are not prohibited for home rule municipalities by the Colorado Constitution, subject to any applicable limitations in said Constitution, including any applicable voter approval requirements.

ARTICLE 13

CITY-OWNED UTILITIES

SECTION 13-1 -- AUTHORITY AND POWERS - UTILITIES

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

SECTION 13-2 -- UTILITY RATES AND FINANCES

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

(b) Such rates, fees, and charges shall be sufficient, in the Council's judgment, to provide good service to the customers, pay all bonded indebtedness, pay legally required refunds, cover the cost of operation, maintenance, additions, extensions, betterments, and improvements, provide a reasonable return on the City's investment in utility properties and capital investments, and reimburse the general fund for administrative services and overhead provided and incurred by the City on behalf of each utility, together with a sum which, in the Council's judgment, is equivalent to that which would have been obtained from a franchise fee or utility occupation tax on the utility.

(c) The provisions of this section shall be subject at all times to the performance by the City of all covenants and agreements made by it in connection with the issuance, sale or delivery of any bonds of the City, payable out of the revenues derived from the operation of its water, sewer, electric, and other utilities, whether such revenue bonds be heretofore or hereafter issued.

SECTION 13-3 -- SEPARATE UTILITY ACCOUNTS

(a) The accounts of each utility owned and operated by the City shall be kept separate and distinct from all other accounts of the City.

(b) Loans from a utility account to another City account shall be allowed with the Council's approval, but shall require the affirmative vote of a majority of the entire Council. All loans will require a term to be specified and the payment of interest thereon. The interest rate shall be adjusted annually to a rate equal to the average return of City investments for the preceding twelve (12) months.

ARTICLE 14

FRANCHISES AND PERMITS

SECTION 14-1 -- NEW FRANCHISES AND RENEWALS

(a) No franchise shall be granted or renewed for a longer period than fifteen (15) years.

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

SECTION 14-2 -- REVOCABLE PERMITS OR LICENSES

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

ARTICLE 15

MISCELLANEOUS PROVISIONS

SECTION 15-1 -- INTERPRETATION

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

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

SECTION 15-2 -- SEVERABILITY OF CHARTER PROVISION

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

SECTION 15-3 -- CONVEYANCE OF REAL PROPERTY OWNED AND USED FOR PARK PURPOSES

Fee ownership in any land which is owned or acquired by the City, and which is used by the City for park purposes, shall not be conveyed except upon the approval of the registered electors of the City voting thereon at a regular or special election.

SECTION 15-4 -- BONDING

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

SECTION 15-5 -- BEQUESTS, GIFTS AND DONATIONS.

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

SECTION 15-6 -- SATURDAYS, SUNDAYS AND HOLIDAYS

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

SECTION 15-7 -- PENALTY FOR VIOLATION OF CHARTER

Any willful violation of a provision of this Charter shall be deemed a misdemeanor and may be prosecuted in the Municipal Court. Any person convicted of such a violation may be punished by imprisonment for a term not to exceed the maximum term of imprisonment that the Municipal Court is authorized to impose pursuant to Section 4-14, by a fine in an amount not to exceed the

maximum fine that the Municipal Court is authorized to impose pursuant to Section 4-14, or by both such fine and imprisonment.

SECTION 15-8 -- COMPETITIVE BIDDING

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

ARTICLE 16

TRANSITIONAL PROVISIONS

SECTION 16-1 -- EFFECTIVE DATE OF CHARTER

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

SECTION 16-2 -- PRIOR CITY LEGISLATION

All ordinances, resolutions, rules, and regulations of the City which are not inconsistent with this Charter, and which are in force and effect on the effective date of this Charter, shall continue in full force and effect until repealed or amended. Any provision of any ordinance, resolution, rule, or regulation which is inconsistent with this Charter is hereby repealed.

SECTION 16-3 -- CONTINUATION OF PERSONNEL

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

SECTION 16-4 -- CONTINUATION OF TERMS OF OFFICE - MAYOR, COUNCIL MEMBERS, AND BOARD AND COMMISSION MEMBERS

Notwithstanding any other provision of this Charter, the terms of office of the Mayor and each Council member, and of the members of each City board and commission, serving prior to the effective date of this Charter, shall continue as if this Charter had not been adopted.

SECTION 16-5 -- SAVING CLAUSE

Neither the adoption of this Charter nor the amendment or repeal of any ordinance, resolution, rule, or regulation, or portion thereof, inconsistent with this Charter, shall be construed to destroy any property right, contract right, or right of action of any nature or kind, civil or criminal, vested in or against the City by virtue of any such ordinance, resolution, rule, or regulation, or portion thereof, or any other provision of law theretofore existing or otherwise accruing to the City. All such rights shall vest in and inure to the City or to any persons asserting any such claims against the City as fully and as completely as though this Charter had not been adopted, and as though there had been no amendment or repeal of any ordinance, resolution, rule, regulation, or portion thereof. Such rights shall include but not be limited to:

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

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

ARTICLE 17

CAMPAIGNS

SECTION 17-1 -- LEGISLATIVE DECLARATION

The citizens of the City of Loveland hereby find and declare that large campaign contributions to political candidates allow wealthy contributors and special interest groups to exercise a disproportionate level of influence over the political process; that large campaign contributions create the potential for corruption and the appearance of corruption; that the rising costs of campaigning for political office prevent qualified citizens from running for political office; and that the interests of the public are best served by full and timely disclosure of campaign contributions, strong enforcement of campaign laws, and limiting campaign contributions

SECTION 17-2 -- DEFINITIONS

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this Section:

- (a) *Ballot issue, ballot question or issue* shall mean any measure put to a vote of the registered electors of the City by the City Council at any election held under the provisions of this Charter. For purposes of this Article 17, *ballot issue, ballot question or issue* shall also mean any measure for which recall, initiative or referendum proceedings have been commenced pursuant to Article 7 of this Charter.
- (b) *Candidate* shall mean any person who seeks nomination or election to the office of Mayor or Councilmember at any City election. A person is a candidate if the person has publicly announced an intention to seek such election or has filed nominating petitions for the office of Mayor or Councilmember. *Candidate* shall also mean any elected official who is the subject of recall proceedings pursuant to Section 7-3 of this Charter.
- (c) *Candidate committee* shall mean a person, including the candidate, or persons with the common purpose of receiving contributions and making expenditures under the authority of a candidate. A candidate shall have only one (1) candidate committee. A candidate committee shall be considered open and active until the committee has filed a termination report with the City Clerk.
- (d) *Contribution* shall mean:
 - (1) The payment, loan, pledge or advance of money, or guarantee of a loan, made to any candidate committee, issue committee or political committee;
 - (2) Any payment made to a third party for the benefit of any candidate committee, issue committee or political committee;
 - (3) Anything of value given, directly or indirectly, to a candidate committee for the purpose of promoting the candidate's nomination, retention, recall or election; or
 - (4) With regard to a contribution for which the contributor receives compensation or consideration of less than equivalent value to such contribution, including, but not limited to, items of perishable or nonpermanent value, goods, supplies, services or participation in a campaign-related event, an amount equal to the value in excess of such compensation or consideration as determined by the candidate committee, issue committee or political committee.

Contribution shall not include services provided without compensation by individuals volunteering their time on behalf of a candidate, candidate committee, political committee or issue committee.

- (e) *Contribution in kind* shall mean the fair market value of a gift or loan of any item of real or personal property, other than money, made to or for any candidate committee, issue committee or political committee for the purpose of influencing the passage or defeat of any issue or the nomination, retention, election or defeat of any candidate. Personal services shall be considered a contribution in kind by the person paying compensation therefore. In determining the value to be placed on contributions in kind, a reasonable estimate of fair market value shall be used. *Contribution in kind* shall not include an endorsement of a candidate or an issue by any person and shall not include the payment of compensation for legal and accounting services rendered to a candidate, candidate committee, political committee or issue committee if the person paying for the services is the regular employer of the individual rendering the services and the services are solely for the purpose of ensuring compliance with the provisions of this Article or other county state of federal requirements.
- (f) *Expenditure* shall mean the payment, distribution, loan or advance of any money by any candidate committee, political committee or issue committee. *Expenditure* shall also include the payment, distribution, loan or advance of any money by a person for the benefit of a candidate committee, political committee or issue committee that is made with the prior knowledge and consent of an agent of the committee. An expenditure occurs when the actual payment is made or when there is a contractual agreement and the amount is determined.
- (g) *Independent expenditure* shall mean the payment of money by any person for the purpose of advocating the election, defeat or recall of a candidate, which expenditure is not controlled by, or coordinated with, any candidate or any agent of such candidate. *Independent expenditure* shall include expenditures for political messages which unambiguously refer to any specific public office or candidate for such office, but shall not include expenditures made by persons, other than political committees, in the regular course and scope of their business and political messages sent solely to their members.
- (h) *Issue committee* shall mean:
 - (1) Two (2) or more persons who are elected, appointed or chosen, or have associated themselves, for the purpose of accepting contributions and making expenditures to support or oppose any ballot issue or ballot question; or
 - (2) Any partnership, committee, association, corporation, labor organization or other organization or group of persons that has accepted contributions or made expenditures to support or oppose any ballot issue or ballot question. For purposes of this Paragraph (2), the term *expenditure* shall not include expenditures made by persons in the regular course and scope of their business or in connection with communications sent solely to their members. The term *expenditure* also does not include a contribution, as defined in this Section.

Issue committee shall not include political committees or candidate committees as otherwise defined in this Section.

- (i) *Person* shall mean any individual, partnership, committee, association, or other organization or group of persons. *Person* shall not include corporations, labor unions or political parties.

- (j) *Political committee* shall mean two (2) or more persons who are elected, appointed or chosen, or have associated themselves, for the purpose of making contributions to candidate committees, issue committees or other political committees, or for the purpose of making independent expenditures. *Political committee* shall not include:
 - (1) Issue committees or candidate committees as otherwise defined in this Section; or
 - (2) Any partnership, committee, association, corporation, labor organization or other organization or group of persons previously established for a primary purpose outside of the scope of this Article.
- (k) *Political message* shall mean a message delivered by telephone, any print or electronic media or other written material which advocates the election or defeat of any candidate or which unambiguously refers to such candidate.
- (l) *Termination report* shall mean a final report prepared by a candidate committee, issue committee or political committee and filed with the City Clerk which discloses the committee's contributions received, expenditures made and obligations entered into, when the following conditions have been met:
 - (1) The committee no longer intends to receive contributions or make expenditures; and
 - (2) A zero (0) balance exists in the account established and maintained under Subsection 17-5(g) and the committee has no outstanding debts or obligations.
- (m) *Unexpended campaign contributions* shall mean the balance of funds on hand in any candidate committee, issue committee or political committee following an election, less the amount of all unpaid monetary obligations incurred prior to the election.

SECTION 17-3 -- CANDIDATE AFFIDAVIT; DISCLOSURE STATEMENT; FAILURE TO FILE

- (a) When any individual becomes a candidate, such individual shall certify, by affidavit filed with the City Clerk within ten (10) days, that the candidate is familiar with the provisions of this Article.
- (b) Each candidate shall file a financial disclosure statement pursuant to Municipal Code Section 2.14.010.I with the City Clerk within ten (10) days after filing acceptance of nomination.
- (c) Failure of any person to file the affidavit or disclosure statement required under this Section shall result in the disqualification of such person as a candidate for the office being sought. Disqualification shall occur only after the City Clerk has sent a notice to the person by certified mail, return receipt requested, addressed to the person's last known residence address. The notice shall state that the person will be disqualified as a candidate if the person fails to file the appropriate document within five (5) business days of receipt of the notice.
- (d) The requirements of this Section shall not apply to any elected official who is the subject of recall proceedings.

SECTION 17-4 -- REGISTRATION OF COMMITTEES

All candidate committees, political committees and issue committees shall register with the City Clerk before accepting or making any contributions. Such registrations may be amended as necessary. Registration shall include a statement listing:

- (1) The committee's full name, spelling out any acronyms used therein;
- (2) A natural person authorized to act as a registered agent;
- (3) A street address and telephone number for the principal place of operations; and
- (4) All affiliated candidates and committees;
- (5) The purpose or nature of interest of the committee.

SECTION 17-5 -- CAMPAIGN CONTRIBUTIONS

- (a) *Limits.* No person may make contributions and/or contributions in kind totaling more than one hundred dollars (\$100.00) to the candidate committee of any candidate for the office of Mayor or for any position on the City Council. No person shall make a contribution or contribution in kind in the name of another person or knowingly permit one's name to be used by another person to effect such a contribution or contribution in kind. These limitations shall apply to all contributions or contributions in kind, whether made directly to a candidate committee or indirectly via earmarked gifts passed through an intermediary, except that these limitations shall not apply to:
- (1) Contributions or contributions in kind made by a candidate to his or her own candidate committee;
 - (2) Independent expenditures; or
 - (3) Monetary loans that are: (a) personally guaranteed in writing by the candidate or the candidate's immediate family, or (b) secured by real or personal property owned by the candidate or the candidate's immediate family.
- (b) *Adjustment of limits.* At the beginning of each calendar year in those years ending in the numeral five (5) or the numeral zero (0), as there becomes available from the Bureau of Labor Statistics of The United States Department of Labor the necessary Consumer Price Index data, the City Clerk shall determine and the City Council approve, unless the City Clerk is determined by the City Council to have acted arbitrarily or capriciously, an adjustment to the limits set forth in Subsection (a) of this Section in proportion to the rise or fall of the Consumer Price Index since the last such adjustment or, in the case of 2010, since enactment of this Article.

If any such adjustment amount is not a multiple of five dollars (\$5.00) such amount shall be adjusted to the nearest multiple of five dollars (\$5.00).

Each amount so adjusted shall be in effect until the next adjustment.

- (c) *Joint contributions.* No person shall make a contribution jointly with another person through the issuance of a check drawn on a jointly owned account unless: (i) the total amount of the joint contribution is less than the maximum amount that can be contributed by one (1) person under the contribution limits established in Subsection (a) of this Section or (ii) the check is signed by all owners of the account, in which event the amount of the total contribution shall be allocated equally among all such persons unless a different allocation is specified on the face of the check. No candidate committee, issue committee or political committee shall knowingly accept a contribution made in violation of this Subsection (b).

- (d) *Contributions in excess of limits.* No later than ten (10) business days after receiving a contribution in excess of the limits set forth in this Section, the candidate committee that received the contribution shall remit the excess to the contributor.
- (e) *Prohibited contributors.* No candidate committee or political committee shall knowingly accept contributions from any person who is not a citizen of the United States, or from a foreign government, corporation, labor union, or political party.
- (f) *Contributions from one (1) candidate committee to another.*
 - (1) No candidate committee shall make a contribution or contribution in kind to, or accept a contribution or contribution in kind from, a candidate committee of another candidate.
 - (2) No candidate committee shall accept a contribution or contribution in kind from a candidate committee of the same candidate that was established or maintained for a federal, state or county election campaign or office.
- (g) *Recordkeeping.* All contributions received by a candidate committee, issue committee or political committee shall be deposited and maintained in a financial institution in a separate account whose title shall include the name of the committee. All records pertaining to such accounts shall be maintained by the committee for ninety (90) days following any election in which the committee received contributions unless a complaint has been filed under Section 17-11 alleging a violation of the provisions of this Article, in which case they shall be maintained until final disposition of the complaint and any consequent court proceedings. Such records shall be subject to inspection at any hearing held pursuant to this Article.
- (h) *Reimbursements prohibited.* No person shall make a contribution to a candidate committee, issue committee or political committee with the expectation that some or all of the amounts of such contribution will be reimbursed by another person. No person shall be reimbursed for a contribution made to any candidate committee, issue committee or political committee, nor shall any person make such reimbursement. An unexpended campaign contribution returned to a contributor by a candidate committee pursuant to Section 17-8 (a)(4) shall not be considered a reimbursement.

SECTION 17-6 -- DISCLOSURE; FILING OF REPORTS

- (a) All candidate committees, political committees and issue committees shall report to the City Clerk their contributions and contributions in kind received, including the name, address, occupation and employer of each person who has made contributions or contributions in kind in the amount equal to or greater than twenty dollars (\$20.00) or more; expenditures made; and obligations entered into by the committee.
- (b) For purposes of complying with the requirements of this Section, an issue committee consisting of an organization whose primary purpose is not to support or oppose ballot issues shall report only those contributions accepted, expenditures made and obligations entered into for the purpose of supporting or opposing a ballot issue or ballot question. Such issue committee shall not be required to report donations, membership dues or any other payments received unless such amounts are used or to be used for the purpose of supporting or opposing a ballot issue or ballot question.
- (c) Reports shall be filed with the City Clerk on the twenty-first day, fourteenth day, and on the Friday before the election, thirty (30) days after the election, and annually on the first day of the month in which the anniversary of the election occurs until such time as a

termination report is filed. If the reporting day falls on a weekend or legal holiday, the report shall be filed by the close of the next business day.

- (d) The reports required by this Section shall include the balance of funds at the beginning of the reporting period, the total of contributions received, the total of expenditures made during the reporting period and the name and address of the financial institution used by the committee or party.
- (e) All reports shall be submitted on forms provided by the City Clerk and shall be complete in all respects. Reports shall be current in all respects as of two (2) days prior to the date upon which each such report is to be filed.
- (f) A report required to be filed by this Article is timely if the original report is received by the City Clerk not later than the close of business on the due date or if a copy of the report is filed by fax on or before the date due and the original report is filed not later than the close of business on the next business day. For the purpose of this provision, the *original report* shall mean a copy containing an original signature of the person completing the report.
- (g) Any report that is deemed by the City Clerk to be incomplete or inconsistent with the requirements of this Article shall be accepted on a conditional basis, and the committee treasurer shall be notified in writing as to any deficiencies found. Such notice may be delivered in person, by mail, by fax, or, if an electronic mail address is on file with the City Clerk, by electronic mail. The committee treasurer shall have seven (7) business days from the date of delivery of such notice to file an amended report that cures the deficiencies. Any such amended report shall supersede the original report filed for the reporting period.
- (h) Any candidate committee, political committee or issue committee which has not accepted any contributions or contributions in kind, made any expenditures, or entered into any obligations during a reporting period, shall file a report with the City Clerk on the days specified in Subparagraph (c) above certifying that the committee has not accepted any contributions or contributions in kind, made any expenditures or entered into any obligations during the relevant reporting period.

SECTION 17-7 -- REPORTS TO BE PUBLIC RECORD

- (a) Upon receipt of any campaign report submitted pursuant to this Article, the City Clerk shall make available such report for public inspection. The campaign report filed with the City Clerk fourteen (14) days prior to the election pursuant to Section 17-6 above shall be posted by the City Clerk on the city's official website in a manner that makes it easily identifiable, which posting shall occur no less than seven (7) days prior to the election. The campaign report filed with the City Clerk thirty (30) days after the election pursuant to Section 17-6 above shall also be posted on the city's official website by the City Clerk, which publication shall occur no more than seven (7) days after the City Clerk's receipt of the report.
- (b) No information contained in any campaign report submitted pursuant to this Article shall be sold or used by any person for the purpose of soliciting contributions or for any commercial purpose.

SECTION 17-8 -- UNEXPENDED CAMPAIGN CONTRIBUTIONS

- (a) Unexpended campaign contributions to a candidate committee may be:
 - (1) Contributed to a political party;

- (2) Contributed to a candidate committee established by the same candidate for a subsequent campaign for the same office, subject to the limitations set forth in Section 17-5(e), if the candidate committee making such a contribution is affirmatively closed by the candidate no later than ten (10) days after the date such a contribution is made;
- (3) Donated to a charitable organization recognized by the Internal Revenue Service; or
- (4) Returned to the contributors.

In no event shall contributions to a candidate committee be used for personal purposes not reasonably related to supporting the election or retention of the candidate.

- (b) A candidate committee for a former officeholder or a person not elected to office shall expend all of the unexpended campaign contributions retained by such candidate committee, for the purposes specified in Subsection (a) of this Section, no later than one (1) year from the date such officeholder's term expired or from the date of the election at which such person was a candidate for office, whichever is later.
- (c) Unexpended contributions to an issue committee or political committee may be donated to any charitable organization recognized by the Internal Revenue Service or returned to the contributor.

SECTION 17-9 -- INDEPENDENT EXPENDITURES

Any person or political committee making independent expenditures totaling more than one hundred dollars (\$100.00) shall deliver notice in writing of such independent expenditures to the City Clerk no later than three (3) business days after the day that such funds are obligated. Said notice shall include the following information:

- (1) The name, address, telephone number, occupation and employer of the person making the independent expenditures;
- (2) The name of the candidate(s) whom the independent expenditures are intended to support or oppose;
- (3) The name and address of the vendor(s) providing the property, materials or services;
- (4) A detailed description of the independent expenditures;
- (5) The amount of the independent expenditures; and
- (6) The date the funds were obligated.

For the purposes of this provision, funds shall be considered to have been obligated as soon as an agreement is reached for the provision of the property, materials or services in question, regardless of when payment is to be made for such property or services.

SECTION 17-10 -- DUTIES OF CITY CLERK

The City Clerk shall:

- (1) Prepare forms and instructions to assist candidates and the public in complying with the reporting requirements of this Article;
- (2) Develop a filing and indexing system consistent with the purposes of this Article;

- (3) Keep a copy of any report or statement required to be filed by this Article for a period of one (1) year from the date of filing. In the case of candidates who were elected, those candidate's reports and filings shall be kept for one (1) year after the candidate leaves office;
- (4) Make reports and statements filed under this Article available for public inspection and copying no later than the end of the next business day after the date of filing;
- (5) Upon request by the Secretary of State, transmit records and statements filed under this Article to the Secretary of State;
- (6) Notify any person who has failed to fully comply with the provisions of this Article; and
- (7) Report apparent violations of this Article to the City Manager.

SECTION 17-11 -- VIOLATIONS PROCEDURES AND PENALTIES

- (a) Any person who knowingly violates or fails to comply with any of the provisions of this Article commits a misdemeanor and is subject to a fine or imprisonment in accordance with ordinances adopted by the City Council pursuant to Section 4-14.
- (b) Failure to comply with the provisions of this Article shall have no effect on the validity of any election.

SECTION 17-12 -- SEVERABILITY

If any provision of this Article or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Article which can be given effect without the invalid provision or application, and to this end the provisions of this Article are declared to be severable.

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