

SUBTITLE A - CONSTITUTION OF COLORADO

Footnotes:

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Editor's note— Printed herein is Article XX of the Constitution of Colorado which was added November 4, 1902 (See Laws 1901, p. 97). Amendments are indicated by history notes in parentheses following the amended sections.

ARTICLE XX. - HOME RULE CITIES AND TOWNS

[City and County of Denver]

Section 1. - Incorporated.

The municipal corporation known as the city of Denver and all municipal corporations and that part of the quasi-municipal corporation known as the county of Arapahoe, in the state of Colorado, included within the exterior boundaries of the said city of Denver as the same shall be bounded when this amendment takes effect, are hereby consolidated and are hereby declared to be a single body politic and corporate, by the name of the "City and County of Denver." By that name said corporation shall have perpetual succession, and shall own, possess, and hold all property, real and personal, theretofore owned, possessed, or held by the said city of Denver and by such included municipal corporations, and also all property, real and personal, theretofore owned, possessed, or held by the said county of Arapahoe, and shall assume, manage, and dispose of all trusts in any way connected therewith; shall succeed to all the rights and liabilities, and shall acquire all benefits and shall assume and pay all bonds, obligations, and indebtedness of said city of Denver and of said included municipal corporations and of the county of Arapahoe; by that name may sue and defend, plead and be impleaded, in all courts and places, and in all matters and proceedings; may have and use a common seal and alter the same at pleasure; may purchase, receive, hold, and enjoy or sell and dispose of, real and personal property; 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 gifts, bequests, and donations, with power to manage, sell, lease, or otherwise dispose of the same in accordance with the terms of the gift, bequest, or trust; shall have the power, within or without its territorial limits, to construct, condemn and purchase, purchase, acquire, lease, add to, maintain, conduct, and operate water works, light plants, power plants, transportation systems, heating plants, and any other public utilities or works or ways local in use and extent, in whole or in part, and everything required therefore, for the use of said city and county and the inhabitants thereof, and any such systems, plants, or works or ways, or any contracts in relation or connection with either, that may exist and which said city and county may desire to purchase, in whole or in part, the same or any part thereof may be purchased by said city and county which may enforce such purchase by proceedings at law as in taking land for public use by right of eminent domain, and shall have the power to issue bonds upon the vote of the taxpaying electors, at any special or general election, in any amount necessary to carry out any of said powers or purposes, as may by the charter be provided.

The provisions of section 3 of article XIV of this constitution and the general annexation and consolidation statutes of the state relating to counties shall apply to the city and county of Denver. Any contiguous town, city, or territory hereafter annexed to or consolidated with the city and county of Denver, under any such laws of this state, in whatsoever county the same may be at the time, shall be detached per se from such other county and become a municipal and territorial part of the city and county of Denver, together with all property thereunto belonging.

The city and county of Denver shall alone always constitute one judicial district of the state.

As amended by the People, November 5, 1974—Effective upon proclamation of the Governor, December 20, 1974.

Any other provisions of this constitution to the contrary notwithstanding:

No annexation or consolidation proceeding shall be initiated after the effective date of this amendment pursuant to the general annexation and consolidation statutes of the state of Colorado to annex lands to or consolidate lands with the city and county of Denver until such proposed annexation or consolidation is first approved by a majority vote of a six-member boundary control commission composed of one commissioner from each of the boards of county commissioners of Adams, Arapahoe, and Jefferson counties, respectively, and three elected officials of the city and county of Denver to be chosen by the mayor. The commissioners from each of the said counties shall be appointed by resolution of their respective boards.

No land located in any county other than Adams, Arapahoe, or Jefferson counties shall be annexed to or consolidated with the city and county of Denver unless such annexation or consolidation is approved by the unanimous vote of all the members of the board of county commissioners of the county in which such land is located.

Any territory attached to the city and county of Denver or the city of Lakewood or the city of Aurora during the period extending from April 1, 1974, to the effective date of this amendment, whether or not subject to judicial review, shall be detached therefrom on July 1, 1975, unless any such annexation is ratified by the boundary control commission on or before July 1, 1975.

Nothing in this amendment shall be construed as prohibiting the entry of any final judgment in any annexation judicial review proceeding pending on April 1, 1974, declaring any annexation by the city and county of Denver to be invalid.

The boundary control commission shall have the power at any time by four concurring votes to detach all or any portion of any territory validly annexed to the city and county of Denver during the period extending from March 1, 1973, to the effective date of this amendment.

All actions, including actions regarding procedural rules, shall be adopted by the commission by majority vote. Each commissioner shall have one vote, including the commissioner who acts as the chairman of the commission. All procedural rules adopted by the commission shall be filed with the secretary of state.

This amendment shall be self-executing.

(Amended November 5, 1974 per Laws 1974, p. 457)

Section 2. - Officers.

The officers of the city and county of Denver shall be such as by appointment or election may be provided for by the charter; and the jurisdiction, term of office, duties and qualifications of all such officers shall be such as in the charter may be provided; but the charter shall designate the officers who shall, respectively, perform the acts and duties required of county officers to be done by the constitution or by the general law, as far as applicable. If any officer of said city and county of Denver shall receive any compensation whatever, he or she shall receive the same as a stated salary, the amount of which shall be fixed by the charter, or, in the case of officers not in the classified civil service, by ordinance within limits fixed by the charter, and paid out of the treasury of the city and county of Denver in equal monthly payments; provided, however, no elected officer shall receive any increase or decrease in compensation under any ordinance passed during the term for which he was elected.

(Amended November 7, 1950 per Laws 1951, p. 232)

Case Law annotation— Charter may provide that the mayor shall designate officers to perform acts and duties of county officers. *People ex rel. Fairall v. Sabin*, 227 P. 565 (Colo. 1924).

Exclusive power has been granted to the city to create and set duties of sheriff. The power to create office and duties must be in the Charter. *International Brotherhood of Police Officers, Local # 127 v. City and County of Denver*, 185 Colo. 50, 521 P. 2d 916 (Colo. 1974).

Section 3. - Transfer of government.

Immediately upon the canvass of the vote showing the adoption of this amendment, it shall be the duty of the governor of the state to issue his proclamation accordingly, and thereupon the city of Denver, and all municipal corporations and that part of the county of Arapahoe within the boundaries of said city, shall merge into the city and county of Denver, and the terms of office of all officers of the city of Denver and of all included municipalities and of the county of Arapahoe shall terminate; except, that the then mayor, auditor, engineer, council (which shall perform the duties of a board of county commissioners), police magistrate, chief of police and boards, of the city of Denver shall become, respectively, said officers of the city and county of Denver, and said engineer shall be ex-officio surveyor and said chief of police shall be ex-officio sheriff of the city and county of Denver; and the then clerk and ex-officio recorder, treasurer, assessor and coroner of the county of Arapahoe, and the justices of the peace and constables holding office within the city of Denver, shall become, respectively, said officers of the city and county of Denver, and the district attorney shall also be ex-officio attorney of the city and county of Denver.

The foregoing officers shall hold the said offices as above specified only until their successors are duly elected and qualified as herein provided for; except that the then district judges, county judge and district attorney shall serve their full terms, respectively, for which elected.

The police and firemen of the city of Denver, except the chief of police as such, shall continue severally as the police and firemen of the city and county of Denver until they are severally discharged under such civil service regulations as shall be provided by the charter; and every charter shall provide that the department of fire and police and the department of public utilities and works shall be under such civil service regulations as in said charter shall be provided.

Section 4. - First charter.

- (1) The charter and ordinances of the city of Denver as the same shall exist when this amendment takes effect, shall, for the time being only, and as far as applicable, be the charter and ordinances of the city and county of Denver; but the people of the city and county of Denver are hereby vested with and they shall always have the exclusive power in the making, altering, revising or amending their charter and, within ten days after the proclamation of the governor announcing the adoption of this amendment the council of the city and county of Denver shall, by ordinance, call a special election, to be conducted as provided by law, of the qualified electors in said city and county of Denver, for the election of twenty-one taxpayers who shall have been qualified electors within the limits thereof for at least five years, who shall constitute a charter convention to frame a charter for said city and county in harmony with this amendment. Immediately upon completion, the charter so framed, with a prefatory synopsis, shall be signed by the officers and members of the convention and delivered to the clerk of said city and county who shall publish the same in full, with his official certification, in the official newspaper of said city and county, three times, and a week apart, the first publication being with the call for a special election, at which the qualified electors of said city and county shall by vote express their approval or rejection of the said charter. If the said charter shall be approved by a majority of those voting thereon, then two copies thereof (together with the vote for and against) duly certified by the said clerk, shall, within ten days after such vote is taken, be filed with the secretary of state, and shall thereupon become and be the charter of the city and county of Denver. But if the said charter be rejected, then, within thirty days thereafter, twenty-one members of a new charter convention shall be elected at a special election to be called as above in said city and county, and they shall proceed as above to frame a charter, which shall in like manner and to the like end be published and submitted to a vote of said voters for their approval or rejection. If again rejected, the procedure herein designated shall be repeated (each special election for members of a new charter convention being within thirty days after each rejection) until a charter is finally approved by a majority of those voting thereon, and certified (together with the vote for and against) to the secretary of state as aforesaid, whereupon it shall become the charter of the said city and county of Denver and shall become the

organic law thereof, and supersede any existing charters and amendments thereof. The members of each of said charter conventions shall be elected at large; and they shall complete their labors within sixty days after their respective election.

- (2) Every ordinance for a special election of charter convention members shall fix the time and place where the convention shall be held, and shall specify the compensation, if any, to be paid the officers and members thereof, allowing no compensation in case of non-attendance or tardy attendance, and shall fix the time when the vote shall be taken on the proposed charter, to be not less than thirty days nor more than sixty days after its delivery to the clerk. The charter shall make proper provision for continuing, amending or repealing the ordinances of the city and county of Denver.
- (3) All expenses of charter conventions shall be paid out of the treasury upon the order of the president and secretary thereof. The expenses of elections for charter conventions and of charter votes shall be paid out of the treasury upon the order of the council.
- (4) Any franchise relating to any street, alley, or public place of the said city and county shall be subject to the initiative and referendum powers reserved to the people under section 1 of article V of this constitution. Such referendum power shall be guaranteed notwithstanding a recital in an ordinance granting such franchise that such ordinance is necessary for the immediate preservation of the public peace, health, and safety. Not more than five percent of the registered electors of a home rule city shall be required to order such referendum. Nothing in this section shall preclude a home rule charter provision which requires a lesser number of registered electors to order such referendum or which requires a franchise to be voted on by the registered electors. If such a referendum is ordered to be submitted to the registered electors, the grantee of such franchise shall deposit with the treasurer the expense (to be determined by said treasurer) of such submission.

The council shall have power to fix the rate of taxation on property each year for city and county purposes.

(Amended November 6, 1984 per Laws 1984, p. 1145; Amended November 4, 1986 per Laws 1986, p. 1239)

Section 5. - New charters, amendments or measures.

The citizens of the city and county of Denver shall have the exclusive power to amend their charter or to adopt a new charter, or to adopt any measure as herein provided.

It shall be competent for qualified electors in number not less than five per cent of the next preceding gubernatorial vote in said city and county to petition the council for any measure, or charter amendment, or for a charter convention.

The council shall submit the same to a vote of the qualified electors at the next general election not held within thirty days after such petition is filed; whenever such petition is signed by qualified electors in number not less than ten per cent of the next preceding gubernatorial vote in said city and county, with a request for a special election, the council shall submit it at a special election to be held not less than thirty nor more than sixty days from the date of filing the petition; Provided, That any question so submitted at a special election shall not again be submitted at a special election within two years thereafter.

In submitting any such charter, charter amendment or measure, any alternative article or proposition may be presented for the choice of the voters, and may be voted on separately without prejudice to others.

Whenever the question of a charter convention is carried by a majority of those voting thereon, a charter convention shall be called through a special election ordinance as provided in section four (4) hereof, and the same shall be constituted and held and the proposed charter submitted to a vote of the qualified electors, approved or rejected, and all expenses paid, as in said section provided.

The clerk of the city and county shall publish, with his official certification, for three times, a week apart, in the official newspaper, the first publication to be with his call for the election, general or special, the full text of any charter, charter amendment, measure, or proposal for a charter convention, or alternative article or proposition, which is to be submitted to the voters.

Within ten days following the vote the said clerk shall publish once in said newspaper the full text of any charter, charter amendment, measure or proposal for a charter convention, or alternative article or proposition, which shall have been approved by a majority of those voting thereon, and he shall file with the secretary of state two copies thereof (with the vote for and against) officially certified by him, and the same shall go into effect from the date of such filing.

He shall also certify to the secretary of state, with the vote for and against, two copies of every defeated alternative article or proposition, charter, charter amendment, measure or proposal for a charter convention.

Each charter shall also provide for a reference, upon proper petition therefor, of measures passed by the council to a vote of the qualified electors, and for the initiative by the qualified electors of such ordinances as they may by petition request.

The signatures to petitions in this amendment mentioned need not all be on one paper.

Nothing herein or elsewhere shall prevent the council, if it sees fit, from adopting automatic vote registers for use at elections and references.

No charter, charter amendment or measure adopted or defeated under the provisions of this amendment shall be amended, repealed or revived, except by petition and electoral vote.

And no such charter, charter amendment or measure shall diminish the tax rate for state purposes fixed by act of the general assembly, or interfere in any wise with the collection of state taxes.

The city council, or board of trustees, or other body in which the legislative powers of any home rule city or town may then be vested, on its own initiative, may submit any measure, charter amendment, or the question whether or not a charter convention shall be called, at any general or special state or municipal election held not less than 30 days after the effective date of the ordinance or resolution submitting such question to the voters.

(Amended November 7, 1950, per Laws 1951, pp. 232, 233)

Section 6. - Home rule for cities and towns.

The people of each city or town in this state, having a population of two thousand inhabitants as determined by the last preceding census taken under the authority of the United States, the State of Colorado or said city or town, are hereby vested with, and they shall always have, power to make, amend, add to or replace the charter of said city or town, which shall be its organic law and extend to all of its local and municipal matters.

Such charter and the ordinances made pursuant thereto in such matters shall supersede within the territorial limits and other jurisdiction of said city or town any law of the state in conflict therewith.

Proposals for charter conventions shall be submitted by the city council or board of trustees, or other body in which the legislative powers of the city or town shall then be vested, at special elections, or at general state or municipal elections, upon petitions filed by qualified electors, all in reasonable conformity with section 5 of this article, and all proceedings thereon or thereafter shall be in reasonable conformity with sections 4 and 5 of this article.

From and after the certifying to and filing with the Secretary of State of a charter framed and approved in reasonable conformity with the provisions of this article, such city or town and the citizens thereof, shall have the powers set out in sections 1, 4 and 5 of this article, and all other powers necessary, requisite or proper for the government and administration of its local and

municipal matters, including power to legislate upon, provide, regulate, conduct and control:

- (a) The creation and terms of municipal offices, agencies and employments; the definition, regulation and alteration of the powers, duties, qualifications and terms of tenure of all municipal officers, agents and employees;
- (b) The creation of police courts; the definition and regulation of the jurisdiction, powers and duties thereof, and the election or appointment of police magistrates therefor;
- (c) The creation of municipal courts; the definition and regulation of the jurisdiction, powers and duties thereof, and the election or appointment of the officers thereof;
- (d) All matters pertaining to municipal elections in such city or town, and to electoral votes therein on measures submitted under the charter or ordinances thereof, including the calling or notice and the date of such election or vote, the registration of voters, nominations, nomination and election systems, judges and clerks of election, the form of ballots, balloting, challenging, canvassing, certifying the result, securing the purity of elections, guarding against abuses of the elective franchise, and tending to make such elections or electoral votes non-partisan in character;
- (e) The issuance, refunding and liquidation of all kinds of municipal obligations, including bonds and other obligations of park, water and local improvement districts;
- (f) The consolidation and management of park or water districts in such cities or towns or within the jurisdiction thereof; but no such consolidation shall be effective until approved by the vote of a majority, in each district to be consolidated, of the qualified electors voting therein upon the question;
- (g) The assessment of property in such city or town for municipal taxation and the levy and collection of taxes thereon for municipal purposes and special assessments for local improvements; such assessment, levy and collection of taxes and special assessment to be made by municipal officials or by the county or state officials as may be provided by the charter;
- (h) The imposition, enforcement and collection of fines and penalties for the violation of any of the provisions of the charter, or of any ordinance adopted in pursuance of the charter.

It is the intention of this article to grant and confirm to the people of all municipalities coming within its provisions the full right of self-government in both local and municipal matters, and the enumeration herein of certain powers shall not be construed to deny to such cities and towns, and to the people thereof, any right or power essential or proper to the full exercise of such right.

The statutes of the state of Colorado, so far as applicable, shall continue to apply to such cities and towns, except in so far as superseded by the charters of such cities and towns or by ordinance passed pursuant to such charters.

All provisions of the charters of the city and county of Denver and the cities of Pueblo, Colorado Springs and Grand Junction, as heretofore certified to and filed with the secretary of state, and of the charter of any other city heretofore approved by a majority of those voting thereon and certified to and filed with the secretary of state, which provisions are not in conflict with this article and all elections and electoral votes heretofore had under and pursuant thereto, are hereby ratified, affirmed and validated as of their date.

Any act in violation of the provisions of such charter, or of any ordinance thereunder, shall be criminal and punishable as such when so provided by any statute now or hereafter in force.

The provisions of this section 6 shall apply to the city and county of Denver.

This article shall be in all respects self-executing.

(Amended November 5, 1912 per Laws 1913, p. 669)

Case Law annotation— Exclusive power has been granted to the city to create and set duties of sheriff. The power to create office and duties must be in the Charter. *International Brotherhood of Police Officers, Local # 127 v. City and County of Denver*, 185 Colo. 50, 521 P. 2d 916 (1974).

Section 7. - School districts consolidated.

The city and county of Denver shall alone always constitute one school district, to be known as District No. 1, but its conduct, affairs and business shall be in the hands of a board of education consisting of such members, elected in such manner as the general school laws of the state shall provide, and until the first election under said laws of a full board of education which shall be had at the first election held after the adoption of this amendment, all the directors of School District No. 1 and the respective presidents of the school boards of School Districts Nos. 2, 7, 17 and 21, at the time this amendment takes effect, shall act as such board of education, and all districts or special charters now existing are hereby abolished.

The said board of education shall perform all the acts and duties required to be performed for said districts by the general laws of the state.

Except as inconsistent with this amendment, the general school laws of the state shall, unless the context evinces a contrary intent, be held to extend and apply to the said "District No. 1."

Upon the annexation of any contiguous municipality which shall include a school district or districts or any part of a district, said school district or districts or parts shall be merged in said "District No. 1," which shall then own all the property thereof, real and personal, located within the boundaries of such annexed municipality, and shall assume and pay all the bonds, obligations and indebtedness of each of the said included school districts and a proper proportion of those of partially included districts; Provided, however, That the indebtedness, both principal and interest, which any school district may be under at the time when it becomes a part, by this amendment or by annexation, of said "District No. 1," shall be paid by said school district so owing the same by a special tax to be fixed and certified by the board of education to the council which shall levy the same upon the property within the boundaries of such district, respectively, as the same existed at the time such district becomes a part of said "District No. 1," and in case of partially included districts such tax shall be equitably apportioned upon the several parts thereof.

Section 8. - Conflicting constitutional provisions declared inapplicable.

Anything in the Constitution of this state in conflict or inconsistent with the provisions of this amendment is hereby declared to be inapplicable to the matters and things by this amendment covered and provided for.

Section 9. - Procedure and requirements for adoption.

- (1) Notwithstanding any provision in sections 4, 5, and 6 of this article to the contrary, the qualified electors of each city and county, city and town of the state are hereby vested with the power to adopt, amend, and repeal a home rule charter.
- (2) The general assembly shall provide by statute procedures under which the qualified electors of any proposed or existing city and county, city, or town may adopt, amend, and repeal a municipal home rule charter. Action to initiate home rule shall be by petition, signed by not less than five per cent of the qualified electors of the proposed or existing city and county, city, or town, or by proper ordinance by the city council or board of trustees of a town, submitting the question of the adoption of a municipal home rule charter to the qualified electors of the city and county, city, or town. No municipal home rule charter, amendment thereto, or repeal thereof, shall become effective until approved by a majority of the qualified electors of such city and county, city, or town voting thereon. A new city or town may acquire home rule status at the time of its incorporation.
- (3) The provisions of this article as they existed prior to the effective date of this section, as they relate to procedures for the initial adoption of home rule charters and for the amendment of existing home rule charters, shall continue

to apply until superseded by statute.

- (4) It is the purpose of this section to afford to the people of all cities, cities and counties, and towns the right to home rule regardless of population, period of incorporation, or other limitation, and for this purpose this section shall be self-executing. It is the further purpose of this section to facilitate adoption and amendment of home rule through such procedures as may hereafter be enacted by the general assembly.

(Amended November 3, 1970 per Laws 1969, p. 1250)

State Law reference— Municipal home rule act of 1971, C.R.S. 1973, 31-2-201 et seq.

SUBTITLE B - CHARTER

ARTICLE I. - GENERAL PROVISIONS

PART 1. - CORPORATE MATTERS

§ 1.1.1 - Boundaries.

The boundaries of the City and County, with the powers of annexation, shall be as defined by the constitution and the laws of the State of Colorado.

(Charter 1960, C6.9; Charter 1904, § 1)

§ 1.1.2 - Seal.

The Council shall provide by ordinance for an appropriate seal for the City and County.

(Charter 1960, C6.3; Charter 1904, § 39)

§ 1.1.3 - Saving clause.

Except as otherwise provided herein, all ordinances in force at the time of adoption of this Charter, including all ordinances of each of the former municipalities included within the boundaries of the City and County of Denver and laws of that territory formerly in Arapahoe County, not inconsistent herewith, shall remain in full force and effect until expiration or amended or repealed by the City Council. All rights, obligations, legal actions, claims, contracts and other instruments, actions and causes of action shall continue and remain unaffected by any change in government or by the adoption of this Charter.

(Charter 1960, A10.15; Charter 1904, § 350; amended September 9, 1980)

§ 1.1.4 - Construction of Charter.

This Charter shall be construed as a whole and receive a liberal construction to carry out the intents and purposes herein set forth, and the sections or portions of Sections of the Charter shall be so construed as to harmonize with one another.

(Charter 1960, C6.7; amended May 17, 1916; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02)

§ 1.1.5 - Severability.

In the event any Section or part of a Section of this Charter shall be declared unconstitutional or invalid, the validity of the remaining Sections and parts of Sections shall not be affected thereby.

(Charter 1960, C6.7-1; amended May 17, 1916; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02)

§ 1.1.6 - General penalty clause.

Violation of any provision of this Charter for which no punishment has been provided therein shall be considered an offense to be prosecuted by the City Attorney. Upon conviction, such offense shall be punishable in accordance with the general penalty provided for municipal ordinance violations.

(Charter 1960, A10.11; Charter 1904, § 340; amended September 9, 1980; Ord. No. 676-02, § 1, 8-26-02, elec. 11-5-02)

§ 1.1.7 - City liability for torts.

In any suit or action brought against the City and County of Denver or any of its officers, employees, or duly appointed members of boards or commissions of the City and County of Denver, where the claim against the City and County of Denver or any of its officers, employees or members of a board or commission arises from an act or omission of such officer, employee or member occurring during the performance of his or her duties and within the scope of his or her employment, the defense of such suit shall be governed by the provisions of the Colorado Governmental Immunity Act, as amended or as the same may be hereinafter amended, or by the provisions of Section 29-5-111, Colorado Revised Statutes, 1973, Liability of Peace Officers, as amended or as the same may be hereinafter amended. The City and County of Denver shall not be liable for any punitive or exemplary damages.

(Charter 1960, A10.8; added September 9, 1980)

§ 1.1.8 - Reserved.

Editor's note— Ord. No. 428-02, § 1, adopted June 3, 2002 and passed at election Aug. 13, 2002, repealed section 1.1.8 in its entirety. Former section 1.1.8 pertained to notice of personal injuries and derived from the Charter of 1960, A10.9; and the Charter of 1904, § 342; amended September 9, 1980.

§ 1.1.9 - City recovery of damages from a culpable private party.

If a person, corporation or other entity shall recover judgment against the City and County for damages sustained by reason of a defect in the streets, avenues, alleys or public places, the City and County shall have the right to recover the amount of the judgment from a person, corporation or other entity who may have caused such defect.

(Charter 1960, A10.10; Charter 1904, § 344; amended September 9, 1980)

§ 1.1.10 - Public records.

All boards and commissions shall keep a record of their proceedings, their meetings, and all their official documents, and records shall be public. Public access to records shall be as provided by state law.

(Charter 1960, C5.4; Charter 1904, § 155; Ord. No. 676-02, § 1, 8-26-02, elec. 11-5-02)

§ 1.1.11 - Proof of ordinances, rules and regulations.

All ordinances, rules and regulations may be proved by a copy thereof certified by the Clerk and Recorder under the seal of the City and County or printed in book or pamphlet form by authority of the City and County.

(Charter 1960, A10.12; Charter 1904, § 338; amended September 9, 1980)

§ 1.1.12 - Plats.

No territory within the City and County of Denver shall be so platted as to dedicate any street, alley or other public highway without approval of the City Council. No territory shall be platted unless all taxes and special assessments thereon shall have been paid.

(Charter 1960, A10.14; Charter 1904, § 345; amended September 9, 1980)

§ 1.1.13 - Franchises.

- (A) No franchise relating to any street, alley or public place of the City and County shall be granted except upon the vote of the qualified taxpaying electors, and the question of its being granted shall be submitted to such vote upon deposit with the Treasurer of the expense (to be determined by the Treasurer) of such submission by the applicant for said franchise.
- (B) All franchises or privileges hereafter granted to corporations or individuals shall be limited to twenty years from the granting of the same.
- (C) No ordinance submitting any franchise shall be put on its final passage, in either board, within thirty days of its introduction or initiation, nor until the bill therefor has been published not less than five consecutive times in an official publication. No exclusive franchise shall be granted.

(Charter 1960, C3.1, C3.2, C3.3; Charter 1904, § § 265, 266, 267; amended May 8, 2001; Ord. No. 676-02, § 1, 8-26-02, elec. 11-5-02)

§ 1.1.14 - Reserved.

Editor's note— Ord. No. 428-02, § 1, adopted June 3, 2002 and passed at election Aug. 13, 2002, repealed section 1.1.14 in its entirety. Former section 1.1.14 pertained to privately owned public utilities and derived from the Charter of 1960, C3.4, C3.4-1; amended June 16, 1953.

PART 2. - OFFICERS AND EMPLOYEES

§ 1.2.1 - General municipal policy.

The administration of the City and County of Denver shall be nonpolitical, with economy and good service as its aim and purpose. All appointments are to be made solely upon merit and ability. It is the intent of the City and County of Denver that its officers, officials, and employees adhere to high levels of ethical conduct so that the public will have confidence that persons in positions of public responsibility are acting for the benefit of the public.

(Charter 1960, C6.8; amended May 17, 1916; Ord. No. 427-02, § 1, 6-3-02, elec. 8-13-02; Ord. No. 136-03, § 1, 2-24-03, elec. 5-6-03)

§ 1.2.2 - Oath of office.

Before entering upon the duties of office, every officer elected or appointed shall take and subscribe before a Judge of a Court of Record, and file with the Clerk of the City and County, an oath or affirmation supporting the constitutions of the United States and of the State of Colorado, the Charter and ordinances of the City and County, and indicating that the officer will faithfully perform the duties of the office.

(Charter 1960, C5.2; Charter 1904, § 151; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02)

§ 1.2.3 - Officer becoming ineligible.

In case any officer of the City and County shall become ineligible during the officer's term of office, the office shall thereby become vacant.

(Charter 1960, C5.11; Charter 1904, § 180; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02)

§ 1.2.4 - Bonds of officers.

Except as otherwise provided in the Charter, official bonds shall be given by officers and employees in such amounts and under such conditions as may be provided by law or by ordinance.

(Charter 1960, C5.3, C5.3-1; Charter 1904, § 152; Ord. No. 426-02, § 1, 6-3-02, elec. 8-13-02; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02; Ord. No. 676-02, § 1, 8-26-02, elec. 11-5-02)

§ 1.2.5 - Bonds required in civil actions.

When in any action in a court of the City and County of Denver officers of the City may be required to give any bond in their official capacity, such bond shall be accepted without sureties if subscribed by the Mayor or other officers, with the seal of the City and County, and attested by the Clerk and Recorder.

(Charter 1960, A10.13; Charter 1904, § 339; amended September 9, 1980)

§ 1.2.6 - Services required by ordinance.

All officers, boards and commissions in addition to their specified duties, shall render such other service as may be required by ordinance.

(Charter 1960, C5.4; Charter 1904, § 155)

§ 1.2.7 - Reserved.

Editor's note— Ord. No. 676-02, § 1, adopted August 26, 2002, and adopted by the electorate on November 5, 2002, amended the Code by repealing former § 1.2.7. Former § 1.2.7 pertained to officers delivering books, etc. to successors; and derived from the Charter of 1960, C5.9; and the Charter of 1904, § 160.

§ 1.2.8 - Holding other office or employment.

- (A) *Employees and Appointed Charter Officers.* No employee or appointed Charter officer shall have other employment or hold any public office that is incompatible with his or her duties. Every employee and appointed officer shall notify his or her appointing authority in writing before accepting any other employment or public office; newly hired employees and appointed officers shall report any outside employment or office immediately upon being hired or appointed.
- (B) *Elected Charter Officers.* Elected officers of the City shall not hold any other public elective office or any employment that is incompatible with their duties. Elected officers shall not hold any other employment with the City. Elected officers shall waive any additional compensation when they serve upon the governing board or body of any public body or any municipal or quasi-municipal corporation within which or part of which the City or a part of it is located, or of which the City is an interested or constituent member.

(Charter 1960, C5.13; amended June 5, 1962; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02; Ord. No. 136-03, § 1, 2-24-03, elec. 5-6-03)

§ 1.2.9 - Ethics and Conflicts of Interest.

- (A) No officer or employee shall have any interest arising by contract or other relationship that creates a substantial conflict of interest with respect to his or her duties, unless the conflict can be avoided by abstention or disqualification from participating in a transaction without adversely affecting the interests of the City. Every employee and appointed officer shall report prior to writing to his or her appointing authority any business activity or situation that may be or may become a substantial conflict of interest.
- (B) No officer or employee shall have a direct interest in a contract or similar instrument with the City if he or she participated in approving or establishing the contract or instrument or its terms or conditions; provided, however, that subject to the conditions that may be established by ordinance or other applicable law, any officer or employee may purchase City property or financial instruments in a public sale at a fixed price or a public auction.
- (C) The City Council shall establish by ordinance a Code of Ethics for officers, employees, and members of boards and commissions relating to the use of public office for private gain, employment and supervision of family members, gifts, conflicts of interest, prior employment, outside employment, subsequent employment, and other ethics matters not inconsistent with the Charter. The Code of Ethics shall also establish a Board of Ethics to inform and assist officers, employees, and members of boards and commissions in interpreting the provisions of the Code of Ethics, investigate complaints, issue advisory opinions and waivers, assist agencies in conducting ongoing ethics programs, and perform other duties, not inconsistent with the Charter, as may be provided by ordinance. The Mayor and the Council shall each appoint an equal number of members of the Board of Ethics, and if the Board consists of an odd number of members, one member shall be nominated by the Mayor and confirmed by ordinance. If there is a conflict between the Code of Ethics and another rule or regulation, the Code of Ethics shall prevail but nothing herein shall be construed to impair the power of appointing authorities to adopt standards of conduct more stringent than the Code of Ethics for employees under their control.

(Charter 1960, C5.13; amended June 5, 1962; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02; Ord. No. 136-03, § 1, 2-24-03, elec. 5-6-03)

§ 1.2.10 - Contributions for political purposes.

No officer or employee shall initiate any disciplinary action against, discharge or change the rank or compensation of any officer or employee, or promise or threaten to do so for giving, withholding or neglecting to make contributions or any service for any political purpose. No person shall, in any room or building occupied for the discharge of official duties, solicit or receive any contribution for political purposes.

(Charter 1960, C5.74; Charter 1904, § 205; amended November 4, 1986)

§ 1.2.11 - Appointment and compensation of employees.

All persons in the employ of the City and County of Denver, other than appointed officers, are hereby declared to be employees and shall be appointed by the Mayor, Department Head or, other appointing authority subject to any applicable merit system requirements and their compensation shall be fixed by ordinance or in accordance with collective bargaining contracts. The heads of the various departments and all commissions, boards, and officers shall appoint all necessary help and employees under their control, subject to the requirements of Article 9 of this Charter.

(Charter 1960, C5.17; amended May 17, 1916; amended June 15, 1971; amended September 14, 1982; amended March 20, 1995; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02; Ord. No. 676-02, § 1, 8-26-02, elec. 11-5-02)

§ 1.2.12 - Officials or employees confined to lawful salary.

No official or employee shall solicit or receive any pay, commission, money or anything of value, or derive any benefit, profit or advantage, directly or indirectly for the performance of official duties except lawful compensation or salary as such officer or employee. No officer or salaried employee of the city and county shall accept or use, unless authorized by law or ordinance to do

so for some public purpose, directly or indirectly, from any railroad, telegraph, telephone company, or from any owner of any public utility franchise in the city and county, any pass, frank, free ticket, free service or other services upon terms more favorable than those granted to the public generally. Any violation of this section shall ipso facto work a vacancy in the office or employment of such persons so offending.

(Charter 1960, C5.14; amended February 14, 1913; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02; Ord. No. 676-02, § 1, 8-26-02, elec. 11-5-02)

§ 1.2.13 - Reserved.

Editor's note— Ord. No. 676-02, § 1, adopted August 26, 2002, repealed § 1.2.13, which pertained to a prohibition against other compensation and derived from the Charter of 1960, A5.11; the Charter of 1904, § 221; and Ord. No. 428-02, adopted June 3, 2002, approved by the electorate August 13, 2002.

§ 1.2.14 - Reserved.

Editor's note— Ord. No. 426-02, § 1, adopted June 3, 2002 and passed at election Aug. 13, 2002, repealed section 1.2.14 in its entirety. Former section 1.2.14 pertained to fees and compensation of county officers and derived from the Charter of 1960, C5.7; and the Charter of 1904 § 159.

§ 1.2.15 - Pay periods.

All salaries and compensation of all officers and employees shall be payable at periods of time as may be provided by ordinance. Any Charter or ordinance changes relating to pay schedules shall not affect any rights or benefits that have vested prior to the enactment of such changes, even if that should require the maintenance of dual payroll systems by the City.

(Charter 1960; C5.16, C5.17; amended February 17, 1914; amended November 3, 1998; amended November 7, 2001; Ord. No. 676-02, § 1, 8-26-02, elec. 11-5-02)

ARTICLE II. - MAYOR AND EXECUTIVE DEPARTMENTS

PART 1. - ELECTION AND SUCCESSION

§ 2.1.1 - Term and qualifications.

The Mayor shall be elected for a term of four (4) years, and until a successor is elected and qualified. The Mayor shall be a citizen of the United States; a resident of the City and County of Denver for the two (2) years immediately preceding the election and during the term of office; a qualified elector of the City and County of Denver; at least thirty (30) years of age and shall devote full time to the duties of the office.

(Charter 1960, A1.1-1; amended May 17, 1916; amended May 19, 1959; amended May 15, 1973; amended May 17, 1983; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02; Ord. No. 409-13, § 1, 8-26-13, elec. 11-5-13; Ord. No. 782-19, § 1, 8-26-19, elec. 11-5-19)

§ 2.1.2 - Deputy Mayor.

The Mayor shall designate a member of the cabinet, as the term is defined in Section 2.2.10, to be the Deputy Mayor. The designation shall be filed with the City Clerk. The designation shall be valid for one (1) year unless a vacancy in the office occurs, in which case the Mayor shall appoint another member of the cabinet to be the Deputy Mayor. The Deputy Mayor shall serve at the

pleasure of the Mayor. Whenever the Mayor is unable, from any cause, to perform the duties of the office, then the officer of the City and County of Denver who is highest on the following list and who is not unable from any cause to discharge the duties of Mayor shall be the acting Mayor: Deputy Mayor, President of the Council.

(Charter 1960, A1.1-2; amended May 17, 1916; amended May 19, 1959; amended April 29, 1991; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02)

§ 2.1.3 - Vacancy in the Office of Mayor; succession of acting Mayor.

In the event a vacancy occurs in the office of Mayor, the Deputy Mayor shall resign his or her office and shall become acting Mayor; except that:

- (A) If the Deputy Mayor refuses or is unable to discharge the duties of the office of Mayor, the person shall not resign as Manager; and the president of the Council shall resign the position of Council President, shall become acting Mayor and shall, while holding such office, set aside the duties of a member of Council, while retaining the Council seat; or
- (B) If the president of Council refuses or is unable to discharge the duties of the Office of Mayor, the Council shall elect one of their number acting Mayor.
- (C) An acting Mayor shall hold such office until a successor of the Mayor last elected pursuant to the provisions of Article VIII of this Charter is elected and qualified, in accordance with the provisions of Section 2.1.4 of this Charter.
- (D) Whenever the Deputy Mayor or President of the Council becomes the acting Mayor, he or she shall not have the authority to appoint a new Deputy Mayor. The President of City Council shall be the next in line to assume the duties of acting Mayor.

(Charter 1960, A1.1-3; amended May 17, 1916; amended May 17, 1959; amended September 14, 1982; amended April 29, 1991. Subsections (A) and (D) added September 14, 1982; amended April 29, 1991. Subsections (B) and (C) added September 14, 1982; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02)

§ 2.1.4 - Vacancy election.

- (A) When the Office of Mayor is vacated, the Council shall declare by resolution that a vacancy exists. Such vacancy shall be filled by a special election, except as otherwise provided herein, which shall be called by the Council to be held not less than one hundred twenty (120) days nor more than one hundred thirty (130) days after the Council declares that such vacancy exists, unless another City-wide election has been scheduled to be held within one hundred sixty (160) days after such vacancy is declared; and the candidate receiving the greatest number of votes at said election shall qualify and take such office immediately, and shall hold such office for the unexpired portion of the term in which the vacancy occurs.
- (B) The procedure for nomination and election, except as provided herein, shall be governed by the provisions of Article VIII of this Charter.
- (C) When such vacancy in the Office of Mayor occurs within the final six (6) months of a term of office, the provisions of this Section 2.1.4 shall not apply; and the acting Mayor provided for in Section 2.1.3 of this Charter shall discharge the duties of the Mayor as provided thereunder for the unexpired portion of the term in which the vacancy occurs.

(Charter 1960, C5.21-2; added September 14, 1982)

PART 2. - POWERS AND DUTIES OF MAYOR

§ 2.2.1 - Creation of Office of Mayor; general powers.

There shall be, and hereby is, created the office of Mayor. The Mayor shall be the chief executive; the Mayor shall possess, have and exercise, all the executive and administrative powers granted to the City and County of Denver by Article XX of the Constitution of the State of Colorado, and all executive and administrative powers contained in the Charter of the City and County of Denver, and otherwise existing by operation of law, except as hereinafter delegated to the departments hereinafter created, and except the powers granted to other elective officers by the Charter of the City and County of Denver.

(Charter 1960, A1.1; amended May 17, 1916; amended May 19, 1959; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02)

§ 2.2.2 - Enforcement of laws; messages to Council; remit fines.

The Mayor shall be the chief executive and enforce all laws and ordinances. The Mayor shall from time to time give the Council information on the condition of the City and County and recommend such measures as he or she may deem expedient. The Mayor may remit fines and penalties imposed for the violation of any ordinance, and shall report such remissions to the Council at its next meeting, with his or her reasons.

(Charter 1960, A1.2; Charter 1904, § 25; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02)

§ 2.2.3 - Enforcement of contracts.

The Mayor shall see that all contracts and agreements with the City and County are faithfully kept and fully performed. The head of every department and commission shall report to the Mayor all facts and information known to him or her concerning the violation of any contract or agreement with the City and County.

(Charter 1960, A1.3; Charter 1904, § 26; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02)

§ 2.2.4 - Execution of contracts, bonds and other instruments; service of process.

All contracts or other instruments of writing, requiring the assent of the City and County, shall be subscribed by the Mayor, or acting Mayor, as the case may be, under the seal of the City and County, and attested by the Clerk. The Mayor may designate the Manager of Finance to subscribe bonds, other securities and other similar multi-year financial obligations and any and all documents related thereto on behalf of the City and County. Either a manual or facsimile signature of the Mayor or acting Mayor, the Manager of Finance, and the Clerk and either a manual or facsimile impression of the seal of the City and County of Denver may be used on any bonds, other securities and other similar multi-year financial obligations of the City and County. All legal process against the City and County shall be served upon the Mayor or acting Mayor.

(Charter 1960, A1.5; Charter 1904, § 29; amended May 17, 1983; Ord. No. 426-02, § 1, 6-3-02, elec. 8-13-02; Ord. No. 582-06, § 1, 8-22-06, elec. 11-7-06)

§ 2.2.5 - Reserved.

Editor's note— Ord. No. 582-06, § 1, adopted Aug. 22, 2006 and passed at election Nov. 7, 2006, repealed section 2.2.5 in its entirety. Former section 2.2.5 pertained to the annual audit and derived from the Charter of 1960, A1.6; amended May 17, 1955; amended May 15, 1973; Ord. No. 426-02, § 1, adopted June 3, 2002 and passed at election Aug. 8, 2002.

§ 2.2.6 - Administrative appointments.

- (A) The Mayor shall appoint the heads of all administrative departments, and shall appoint all commissions, boards and officers, under the Mayor's control; and the appointees shall hold said appointments so long as their services are satisfactory to the Mayor.

(B) *Reserved.*

(C) The heads of all departments, all officers and employees not transferred or assigned to a department or office herein created, and not by this Charter expressly provided for, shall be appointed and their duties fixed by the Mayor; and the Mayor may assign them or transfer them from or to any department, or office.

(Charter 1960, C5.20; amended May 17, 1916; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02; Ord. No. 676-02, § 1, 8-26-02, elec. 11-5-02)

§ 2.2.7 - Appointment of County officers.

- A. *Mayor's authority to appoint.* In case no officer has been specially mentioned to perform the duties of any County officer, or in case any new County office is created, then such office shall be filled by appointment by the Mayor, who shall appoint thereto some official of the City and County, who shall thereafter perform the acts and duties required by the constitution or by the general laws to be done by such County officer.
- B. *Appointment of subordinate County officers.* Whenever the constitution or general laws of the State permit the appointment of a deputy, undersheriff or other subordinate to perform the whole or any part of the duties or powers conferred upon any County officer, the commissioner or other officer herein named upon whom the powers and duties of such County officer have been conferred may appoint such deputy or deputies, undersheriff or other subordinate, and where under the constitution or general laws no such deputy or other subordinate can be named by such County officer to perform such duties, then the commissioner or other officer herein named upon whom the powers and duties of such County officer have been conferred shall perform such duties personally.

(Charter 1960, C5.15, C5.22; Subsection (A), Charter 1904, § 156; Subsection (B), amended February 14, 1913.)

§ 2.2.8 - Assignment of powers and duties not particularly delegated by Charter.

Wherever in the Charter a right, duty, or power is granted to any commissioner, or officer, or employee, which right, duty, or power, is not herein delegated to any particular department, office, or officer, such right, duty or power shall be assigned by the Mayor to some department head, or officer.

(Charter 1960, C5.18; Amended May 17, 1916)

§ 2.2.9 - Filling of certain vacancies in elective or appointive offices.

Any and all vacancies in any elective or appointive offices, occasioned by death, resignation or otherwise, and not otherwise provided for, shall be filled by the Mayor.

(Charter 1960, C5.21; amended May 17, 1916)

§ 2.2.10 - Mayor's cabinet.

- (A) The Mayor and the cabinet, which shall consist of the Manager of the Department of Transportation and Infrastructure, the Manager of the Department of Finance, the Manager of the Department of Parks and Recreation, the Manager of the Department of Environmental Health, the Manager of the Department of Safety, the Manager of the Department of General Services, the Manager of the Department of Human Services, the Manager of the Department of Aviation, the Manager of the Department of Community Planning and Development, and the City Attorney, shall formulate the general administrative policies of the City and County, and each Manager and Officer in its department, shall be responsible for and have full power to carry out such policies.
- (B) All inspectors, including the license inspectors or collectors, shall be under the control of the Mayor and the cabinet, who shall assign them to their respective departments, and define and consolidate their duties so far as good service will permit.

- (C) The Mayor and the cabinet shall have power to make rules and regulations for all employees under their control, to increase their number from time to time as in their judgment the service may require; provided that they do not exceed amount of money appropriated for any department during the year.
- (D) Notwithstanding the use of the word "Manager" to denote the officers in charge of the principle departments under the Mayor as set forth in this Article II, the Mayor may order a different or additional title to be utilized by these officers for the purpose of standardizing and modernizing official titles consistent with best practices.

(Charter 1960, A1.7, A1.9; Amended May 17, 1916; amended May 15, 1973; amended November 3, 1992; amended August 19, 1996; amended November 3, 1998; Ord. No. 427-02, § 1, 6-3-02, elec. 8-13-02; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02; Ord. No. 582-06, § 1, 8-22-06, elec. 11-7-06; Ord. No. 407-13, § 2, 8-26-13, elec. 11-5-13; Ord. No. 529-19, § 1, 6-24-19, elec. 11-5-19)

§ 2.2.11 - Investigations of departments and offices.

The Mayor and any member of the cabinet may and are hereby authorized to conduct public investigations of their several departments (and the Mayor in all other departments and offices). Each officer may hear and determine all charges affecting the work of the department under investigation, or the honesty, competency, and integrity of its employees; prescribe the rules, method, and procedure of such investigations; administer oaths and affirmations at such hearings; and issue subpoenas to compel the attendance of witnesses or, the production of books, papers, vouchers, and other written instruments.

(Charter 1960, A1.10; amended May 17, 1916; amended May 15, 1973; amended November 3, 1992; amended August 19, 1996; amended November 3, 1998; Ord. No. 427-02, § 1, 6-3-02, elec. 8-13-02; Ord. No. 676-02, § 1, 8-26-02, elec. 11-5-02)

PART 3. - TRANSPORTATION AND INFRASTRUCTURE

Footnotes:

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Editor's note— Ord. No. 529-19, § 1, adopted June 24, 2019, repealed art. II, pt. 3, §§ 2.3.1—2.3.3 and enacted a new pt. 3 as set out herein. Former pt. 3 pertained to public works and derived from §§ A2.1—A2.3 of the 1960 Charter, amended May 17, 1955; amended November 3, 1964; amended May 15, 1973; amended September 14, 1982; amended April 29, 1991; amended November 3, 1992; amended May 8, 2001; Ord. No. 428-02, § 1, adopted June 3, 2002, election August 13, 2002; Ord. No. 608-05, § 1, adopted August 9, 2005, election November 1, 2005; and Ord. No. 407-13, § 2, adopted August 26, 2013, election November 5, 2013.

§ 2.3.1 - Department of Transportation and Infrastructure created.

There shall be and hereby is created a Department of Transportation and Infrastructure.

(Ord. No. 529-19, § 1, 6-24-19, elec. 11-5-19)

§ 2.3.2 - Manager of Transportation and Infrastructure.

The Manager of Transportation and Infrastructure (hereinafter called the "Manager") shall be the officer in full charge and control of the Department and shall devote full time to the duties of the office. The Manager shall be appointed by the Mayor and hold office at the pleasure of the Mayor. The Manager shall be a member of the Mayor's cabinet and shall be a member of the Board of Equalization.

(Ord. No. 529-19, § 1, 6-24-19, elec. 11-5-19)

§ 2.3.3 - Powers and duties of Department of Transportation and Infrastructure.

The following duties and powers are hereby vested in the Department of Transportation and Infrastructure.

- (A) *General public improvements.* Management and control of the designing, planning, construction, and reconstruct public improvements, including such remodeling thereof as requires designing or structural changes, for the City for all departments, agencies, boards, commissions, and authorities thereof except the Board of Water Commissi Department of Aviation. Such designing, planning, construction, reconstruction, and remodeling may be perform Department, under contracts let by the Department, or with the permission of the Manager and to the extent anc provided by ordinance or resolution of the Council, by any person, firm, or corporation entirely at the expense of or corporation, all subject, however, to the following limitations: No general public improvement shall be designe constructed, reconstructed, or remodeled without prior approval of the department, agency, board, commission, charged with the operation of such general public improvement; no rights-of-way for streets, alleys, highways, or thoroughfares shall be established, changed, or vacated and no site for any public purpose shall be accepted unti by ordinance or resolution of the Council; the Mayor may assign to another department, agency, board, commiss the designing, planning, construction, reconstruction, or remodeling of a specific general public improvement, or which event the department, agency, board, commission, or authority to which the assignment is made shall be g controlled by all limitations and provisions imposed on the Department of Transportation and Infrastructure.
- (i) All construction, reconstruction or remodeling of general public improvements not performed by the Department, or with the permission of the Manager and to the extent and in the manner provided by ordinance or resolution of the Council by a person, firm, or corporation entirely at his or her, their, or its expense, shall be performed under contracts let by the Department without any action of the Council except in the passage of the original ordinance or resolution authorizing the improvements or contracts. All such contracts shall be: (1) let to the lowest, responsive, qualified bidder, or if not let in that manner; (2) let through a competitive selection process. All solicitations for such contracts shall be advertised in an official publication or in some other manner as provided by Charter or ordinance, provided however, that if public advertisement is impracticable, proposals shall be requested from at least three (3) qualified bidders or proposers. The right to reject any or all bids is reserved. No such contract for more than fifty thousand dollars shall be made without a bond for its faithful performance, with sufficient surety or sureties. No other surety than a surety company approved by the Manager and Mayor shall be accepted. Any other mode of letting such contracts shall be illegal and void.
 - (ii) The aggregate payments under any such contract shall not exceed the aggregate estimate of the City Engineer or the amounts appropriated. Upon notice and for substantial cause, the work under such contract may be suspended or terminated forthwith by the Mayor or the Manager. Every such contract shall be subject to the provisions of this Charter and the provisions of any ordinance or resolution authorizing the improvements or contracts.
 - (iii) In the letting of such contracts, the Department may impose such conditions upon bidders and proposers with regard to bonds and securities and such guarantees of good faith and responsibility on the part of the bidders and proposers for the faithful completion of the work or keeping the same in repair and providing for any other material matter or thing in connection therewith as may be considered "in the best interests of the City and County," as the same may be defined by ordinance. In the absence of an ordinance, "in the best interests of the City and County" shall be determined by the Manager. The terms "qualified," "responsible" and "responsive," and "competitive selection process" as used in this Section, may also be defined by ordinance or, in the absence of an ordinance, determined by the Manager.
 - (iv) Upon default in the performance of any such contract, the Department may advertise and let a contract for the uncompleted work in like manner, without further ordinance or resolution, and charge the cost thereof to the original contractor upon his or her contract; and when a deficiency shall in such case occur, the Manager, with the approval of the mayor, may advance the amount thereof out of any available fund in the City and County and recover the same by suit on the original contract and bond.
- (B) *Supervision and management of local public improvement districts.* Supervision and management of all

proceedings relating to local public improvement districts.

- (C) *Control of public ways, thoroughfares and other public facilities.* Supervision and control of all streets, alleys, highways, thoroughfares, sewers, bridges, viaducts, tunnels, off-street parking and other like structures wherever located, including the supervision of lighting and all facilities for the lighting thereof, to conduct traffic engineering studies of pedestrian and vehicular movements thereon, to mark streets and related structures and to provide, operate and maintain traffic signals and controls.
- (D) *Non-motorized transportation facilities.* Supervision and control of all pedestrian facilities, bikeways, non-motorized trails and other like structures, except those that are maintained and operated under the authority of or by agreement with the Department of Parks and Recreation.
- (E) *Transportation services.* Planning, design, construction, maintenance and operation of mass transportation systems and other public transportation services, either individually or jointly with the Regional Transportation District or any other public or private entity.
- (F) *Safety programs.* Planning, design, construction, maintenance, and operation of programs and public improvements related to enhancing and improving the safety of all users of the right-of-way, including pedestrians, bicyclists, and motor vehicle operators.
- (G) *Surveying functions.* Management and control of all functions assigned by general law to the County Surveyor.
- (H) *Custody of documents.* Custody of all plats, maps, records, notes, surveys, papers, files and documents heretofore or hereafter belonging to the Office of the City Engineer, the Office of the County Surveyor and the Department of Improvements and Parks or pertaining to surveys of the City and County; provided, however, that all such documents, including all private memoranda made by the City Engineer or any of his or her assistants relating to surveys or to the City Engineer's data of the City and County, shall remain the property of the City and County and shall be transmitted in their entirety to successors in office.
- (I) *Employment of professional and technical personnel.* In the manner and pursuant to terms and conditions fixed by the Mayor and the cabinet, to employ qualified professional or technical personnel for the performance of the duties imposed on or the powers vested in the Department and to employ such professional or technical personnel for any other department, agency, board, commission or authority to which is assigned any duty or power of the Department.
- (J) *Rules and Regulation.* The Council shall provide, by ordinance, for the enforcement of the rules and regulations of the Department.

(Ord. No. 529-19, § 1, 6-24-19, elec. 11-5-19)

§ 2.3.4 - Division of Public Works.

There shall be and hereby is created within the Department of Transportation and Infrastructure a Division of Public Works. The following duties and powers are hereby vested in the Division of Public Works.

- (A) *Operation of certain municipal facilities.* Management, operation, and control of all public utilities belonging to the City and County (except the water works system and plant) and of all facilities owned by the City and County for sewage, trash, garbage, and offal disposal, and management and control of the operation, care, repair, and maintenance of all structures in which and all land on which those facilities are located and operated, except for solid or hazardous waste disposal sites under the management and control of the Manager of Public Health and Environment.
- (B) *Collection of sewage, trash, garbage, offal and other offensive substances.* Management and control of the collection, removal and disposition of all sewage, trash, garbage, offal and other offensive substances either by the Department or under contracts let by the Department. For the purposes of this Section, and in the manner

and pursuant to terms and conditions fixed by the Mayor and the cabinet and subject to ordinance or resolution approval by the Council, the Department may enter into such contracts as in the judgment of the Manager are to the best interests of the City and County.

- (C) *Privately owned sewers.* To permit or not permit private sewers to be constructed or reconstructed and attached to municipal sewers, either temporarily or permanently; provided, however, that no expense shall be incurred by the City and County in constructing, reconstructing or maintaining such private sewers.
- (D) Management and control of the designing, planning, construction, and reconstruction of the facilities described in subsection (A) of this section, in accordance with the requirements set forth in section 2.3.3(A).
- (E) Employ qualified professional or technical personnel for the performance of the duties imposed on or the powers vested in the Division by this section in accordance with the requirements set forth in section 23.3(F).

(Ord. No. 529-19, § 1, 6-24-19, elec. 11-5-19)

PART 4. - PARKS AND RECREATION

§ 2.4.1 - Department of Parks and Recreation created.

There shall be and hereby is created a Department of Parks and Recreation to be composed of, but not limited to, a Division of Parks and a Division of Recreation.

(Charter 1960, A4.1; amended May 17, 1955)

§ 2.4.2 - Manager of Parks and Recreation.

The Manager of Parks and Recreation (hereinafter called the "Manager") shall be the officer in full charge and control of the Department, shall devote full time to the duties of the office, shall be a member of the Mayor's Cabinet, shall be appointed by the Mayor and shall hold office at the pleasure of the Mayor.

(Charter 1960, A4.2; amended May 17, 1955; amended May 15, 1973; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02)

§ 2.4.3 - Board of Parks and Recreation.

There is hereby created a Board of Parks and Recreation (hereinafter called the "Board") consisting of nineteen members. One of the members shall be a member of the Board of School District No. 1 designated by the Board of the School District. Five members of the Board shall be appointed by the Mayor. Thirteen of the members shall represent the thirteen City Council members and shall be appointed by the thirteen Councilmembers. The appointees of the eleven district Council members shall reside in the district of the appointing member. The appointees of the two at-large Councilmembers shall each reside in the City and County of Denver. Members shall serve at the pleasure of their respective appointing authorities. Members of the Board shall serve without pay. The Board shall advise the Manager with respect to the policy and operation of the Department and shall review and comment on the proposed annual budget for the Department.

(Charter 1960, A4.3, A4.3-1; Amended May 17, 1955; amended May 19, 1987)

§ 2.4.4 - Powers and duties of Department of Parks and Recreation.

The following duties and powers are hereby vested in the Department of Parks and Recreation.

- (A) *Park and other recreational facilities.* Management, operation and control of all facilities, either within or without the territorial limits of the City and County, owned by the City and County for park and recreational

purposes, including the right to make reasonable charges, subject to ordinance approval, for the use of any special facility or activity and management and control of the operation, care, repair and maintenance of all structures in which and all land on which those facilities are located and operated. At the request of the Department, Council shall provide, by ordinance, for the enforcement of the rules and regulations of the Department.

- (B) *Building line restrictions around parks and parkways.* To establish a building line or lines, determining the distance at which all structures may be erected upon any private premises fronting any park or parkway and, in the name of the City and County, to prevent the erection and require the removal of all structures outside said lines. No permit shall be issued authorizing the erection of any structure outside the building line so established.
- (C) *Licenses, privileges and concessions.* In the manner and pursuant to terms and conditions fixed by the Mayor's cabinet, to grant or refuse the license or privilege of operating concessions in or of selling goods and services in all parks and recreational facilities and on the streets and sidewalks within three hundred feet of the boundary of any park or recreational facility.
- (D) *Landscaping of public ways and thoroughfares.* Landscaping and beautification, together with such horticultural maintenance as appears desirable in the public interest, of suitable portions of any public ways, thoroughfares, pleasure driveways and similar facilities as determined by agreement with the Department of Transportation and Infrastructure.
- (E) *Gifts.* Management and control of all real or personal property, including all rents, issues and profits thereof, granted, bequeathed, devised or conveyed to the City and County for the purpose of the creation, improvement or ornamentation of any park, boulevard, pleasure way, parkway or recreational facility or for the establishment or maintenance therein of museums, zoological or other gardens, collections of natural history, observatories or recreational facilities; provided, however, that no such gifts shall be accepted without the prior approval of the Mayor and Council.
- (F) *Cooperative agreements.*
 - (i) To conduct negotiations for cooperative agreements with School District No. 1 and other public and private agencies for the development of park and recreational facilities, programs and activities and for the establishment and maintenance of the museums, zoological or other gardens, collections of natural history and observatories. Such agreements may provide for such grants-in-aid or appropriations from the General Fund as may be made from time to time by Council, and the Manager, subject to approval by ordinance, may delegate his or her functions in connection with these matters.
 - (ii) And the Council may place the public playgrounds under the supervision and control of the School Board of the City and County.

(Charter 1960, A4.4, C6.2; amended May 17, 1955. Paragraph (F)(ii) amended February 14, 1913; amended May 17, 1916; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02 Ord. No. 407-13, § 2, 8-26-13, elec. 11-5-13; Ord. No. 529-19, § 1, 6-24-19, elec. 11-5-19)

§ 2.4.5 - Sale and leasing of parks.

Without the approval of a majority of those registered electors voting in an election held by the City and County of Denver, no park or portion of any park belonging to the City as of December 31, 1955, shall be sold or leased at any time, and no land acquired by the City after December 31, 1955, that is designated a park by ordinance shall be sold or leased at any time, provided, however, that property in parks may be leased for park purposes to concessionaires, to charitable or nonprofit organizations, or to governmental jurisdictions. All such leases shall require the approval of Council as provided for in Article III of this Charter. No land acquired by the City after December 31, 1955, shall be deemed a park unless specifically designated a park by ordinance.

(Charter 1960, A4.5; amended May 17, 1955; amended May 17, 1983; amended August 19, 1996)

§ 2.4.6 - Franchises within parks prohibited.

No franchise, license or permit for the construction or maintenance of any railway shall ever be granted within the limits of any park or lengthwise upon any parkway nor shall any franchise for the maintenance of any other special privilege within any park be granted; provided, however, that the foregoing shall not be a limitation upon the right of the Department to grant licenses for the operation of concessions or for the sale of goods or services in or near park and recreational facilities and to designate specific areas, structures or parts of structures or to authorize the construction and maintenance of facilities or structures in which licensees or concessionaires shall operate and function.

(Charter 1960, A4.6; amended May 17, 1955)

§ 2.4.7 - Use of historic structures in parks.

Where a structure, which is of historic or architectural importance, is located in a designated park and is not suitable for use by the Department of Parks and Recreation for its programs, the Council of the City and County of Denver, upon application of the Manager of Parks and Recreation or a member of City Council, may provide for compatible non-park usage of the structure.

(Charter 1960, A4.7; added November 2, 1993)

PART 5. - FINANCE

Footnotes:

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Editor's note— Ord. No. 582-06, § 1, adopted Aug. 22, 2006 and passed at election Nov. 7, 2006, changed the title of part 5 from "revenue" to "finance."

§ 2.5.1 - Department of Finance created; departmental powers and duties.

There shall be, and hereby is, created a Department of Finance, which shall have full charge and control of, exercise all powers, perform all the acts and duties now required or that may hereafter be required by the Constitution or general laws of this State to be exercised or performed by the County Assessor and County Treasurer and such other powers and duties related to the financial operations and interests of the City and County as are provided in this Part 5.

(Charter 1960, A5.1; amended May 17, 1916; Ord. No. 426-02, § 1, 6-3-02, elec. 8-13-02; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02; Ord. No. 582-06, § 1, 8-22-06, elec. 11-7-06)

§ 2.5.2 - Manager of Finance.

The Manager of Finance, acting as the chief financial officer of the City and County, shall be in full charge and control of the department, and shall devote full time to the duties of the office.

(Charter 1960, A5.1-1; amended May 17, 1916; Ord. No. 426-02, § 1, 6-3-02, elec. 8-13-02; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02; Ord. No. 582-06, § 1, 8-22-06, elec. 11-7-06)

§ 2.5.3 - Powers and duties of the Manager of Finance.

(A) *Accountant and Comptroller.* The Manager of Finance shall perform the duties of general accountant and comptroller of the City and County, and shall perform the following specific functions:

- (i) The Manager shall establish, maintain and enforce accounting policies, practices and procedures to be utilized by all departments and agencies of the City and County.

- (ii) The Manager shall make available information as to the exact condition of the treasury and of every appropriation thereof, upon demand of the Mayor, of the Auditor, of the Council or any committee thereof, or of any department or commission of the City and County. The council may by ordinance provide additional procedures for periodic reporting by the Manager.
 - (iii) The Manager shall prepare the comprehensive annual financial report summarizing the condition and results of all funds and financial activities of the city as of December 31 of each fiscal year, which report shall be subject to audit by the independent auditor of the City and County as provided in Article V of the Charter.
 - (iv) The Manager shall countersign and register all contracts of the City and County involving the receipt or disbursement of funds, and shall register and sign all checks or warrants authorizing a draw upon the accounts of the City and County. Either a manual or facsimile signature of the Manager of Finance may be used on any such contracts, checks or warrants. The Council may by ordinance require a review by the Auditor of certain disbursements from the accounts of the City prior to the disbursement being authorized by the Manager.
- (B) *Designation of Treasurer and Assessor.* The Manager of Finance shall appoint a Treasurer to exercise the powers and duties assigned by the Charter and ordinances of the City and County to the treasurer and by the constitution and general laws of the state to county treasurers. The Manager of Finance shall appoint an Assessor to exercise the powers and duties assigned by the constitution and general laws of the state to county assessors.
- (C) *Bank Depository; Investment of funds.* The Manager of Finance shall, with the approval of the Mayor, select one or more banking or savings and loan institutions for deposit of public funds. Before any deposit shall be made, the bank or savings and loan institution shall pledge sufficient collateral as required by law. The Manager is authorized to invest the funds in his or her custody or possession in the following securities: obligations of the United States Government, obligations of the United States Government agencies and United States Government sponsored corporations, prime bankers acceptances, prime commercial paper, certificates of deposit issued by banks and savings and loan institutions, repurchase agreements, security lending agreements, highly rated municipal securities, money market funds that purchase only the types of securities specified herein, any investment type in which the Colorado state treasurer is allowed to invest state moneys if otherwise compliant with the Department's investment policy, and other similar securities as may be authorized by ordinance.
- (D) *Investment of deferred compensation funds.* Compensation deferred from the salaries of City officers and employees shall be administered and invested as provided by ordinance. The City and County of Denver, its officers, employees and Manager of Finance shall not be liable for any loss due to the investment or failure of investment of monies and assets of the deferred compensation plan, nor shall the City or any of its officers, employees or the Manager of Finance be required to replace any loss which may result from such investment or failure of investment of any such monies or assets.
- (E) *Debt management.* The Manager of Finance shall manage the debt and financial obligations incurred by the City and County.
- (F) *Debt Collection.* The Manager of Finance shall be responsible for collecting or causing to be collected any debts or other financial obligations owed to the City and County.
- (G) *Budget.* The Manager of Finance shall assist the Mayor in the preparation of the budget and in carrying out the budgetary procedures set forth in Article VII of the Charter, and shall manage the implementation of the budget on a year to year basis.
- (H) *Risk Management.* The Manager of Finance shall administer any risk management and insurance program of the City and County, including any self-insurance fund; provided, however, the Mayor may assign a specific segment of risk management and insurance programs to another department whenever such assignment is in the interest of economy, organization, administration and efficiency of the City and County as a whole.
- (I) *Rulemaking.* The Manager is authorized to adopt and enforce rules and regulations concerning the financial operations and interests of the City and County, consistent with the powers and duties assigned by the Charter or

any ordinance adopted pursuant to the Charter.

- (j) *Other Duties Assigned by Ordinance.* The Manager of Finance shall, in addition to performing the duties herein assigned, perform such other duties not inconsistent with the provisions of this Charter, as the Council may by ordinance require.

(Charter 1960, A5.5, A5.6, A5.9, A5.9-1, A5.13; Subsection (A), Charter 1904, § 54; amended September 11, 1956; amended May 15, 1973; amended November 2, 1999. Subsection (B), Charter 1904, § 55; amended May 15, 1973; amended November 2, 1999. Subsection (C), Charter 1904, § 58; amended May 19, 1931; amended May 15, 1973; amended September 14, 1982; amended November 8, 1988. Subsection (D) added September 14, 1982. Subsection (E), Charter 1904, § 223; amended May 15, 1973; Ord. No. 426-02, § 1, 6-3-02, elec. 8-13-02; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02; Ord. No. 582-06, § 1, 8-22-06, elec. 11-7-06 Ord. No. 407-13, § 2, 8-26-13, elec. 11-5-13)

§ 2.5.4 - Powers and duties of Treasurer.

- (A) *Receipt and payment of money.* The Treasurer shall receive, receipt for and keep the money of the City and County and pay out the same only in accordance with rules promulgated by the Manager of Finance as provided in Section 2.5.3 (j) and any other applicable law or regulation.
- (B) *All revenue reported to and recorded by Treasurer.* All revenues arising from taxes, licenses, fees, fines, penalties and forfeitures, and from any other source whatsoever, which may be collected or received by any officer or employee of the City and County, or any department thereof, in their official capacity or for the performance of any official duty, shall be reported to and recorded by the treasurer in accordance with procedures established by the Manager of the Department of Finance.
- (C) *Other duties.* The Treasurer shall, in addition to performing the duties herein specifically required, perform such other duties not inconsistent with the laws of the State and this Charter as the Council may by ordinance require.

(Charter 1960, A5.2, A5.3, A5.4, A5.10, A5.11, A5.17; Subsection (A), Charter 1904, § 51. Subsection (B) Charter 1904 § 221. Subsection (C), Charter 1904, § 52; amended November 2, 1999. Subsection (D), Charter 1904, § 53. Subsection (E), Charter 1904, § 237. Subsection (F), Charter 1904, § 59.; Ord. No. 426-02, § 1, 6-3-02, elec. 8-13-02; Ord. No. 582-06, § 1, 8-22-06, elec. 11-7-06)

§ 2.5.5 - Powers and duties of assessor.

The assessor shall assess all taxable property within the City and County at the time and in the manner prescribed by the general laws of the State and provisions of this Charter, and shall perform such other duties not inconsistent with such laws and the provisions of this Charter as the Council may by ordinance require.

(Charter 1960, A5.20; Charter 1904, § 46; Ord. No. 582-06, § 1, 8-22-06, elec. 11-7-06)

PART 6. - SAFETY

§ 2.6.1 - Department of Safety created; departmental powers and duties.

There shall be and hereby is created a Department of Safety which shall have, subject to the supervision and control of the Mayor, full charge and control of the departments of sheriff, fire and police.

(Charter 1960, A9.1; amended October 26, 1971; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02 Ord. No. 408-13, § 2, 8-26-13, elec. 11-5-13)

§ 2.6.2 - Manager of Safety.

The Manager of Safety shall be the officer in full charge of said department, subject to the supervision and control of the Mayor, shall devote full time to the duties of the office, and may appoint a Deputy Manager of Safety, who shall in addition to any other duties assigned perform such functions and exercise such powers of the Manager as the Manager may specifically assign to such Deputy.

(Charter 1960, A9.2; amended October 26, 1971; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02)

§ 2.6.3 - Ordinance enforcement by persons other than police officers.

The Manager of Safety may, at the Manager's sole discretion, commission person other than police officers to enforce specific ordinances of the City for specific periods of time, with or without pay from the City. To the extent such persons are employees of the City, they shall perform any and all assigned enforcement duties under the supervision of their appointing authority. To the extent such persons are authorized volunteers of the City, they shall perform any and all assigned enforcement duties under the supervision of the department or agency for which the person is providing volunteer services. Such persons shall not be considered members of the classified service, shall not be considered peace officers within the meaning of state law, nor shall they have the power to effect arrests as peace officers under state law.

(Charter 1960, A9.6, A9.7; amended October 26, 1971; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02; Ord. No. 138-03, § 1, 2-24-03, elec. 5-6-03; Ord. No. 408-13, § 2, 8-26-13, elec. 11-5-13)

§ 2.6.4 - Sheriff Department.

The Sheriff Department shall be composed of the Sheriff, who shall be appointed by the Mayor; Deputy Sheriff Division Chiefs and Deputy Sheriff Majors, all of whom shall be appointed by the Sheriff with the approval of the Manager of Safety; and Deputy Sheriffs and other employees, as may be necessary to perform the duties of the department, all of whom shall be appointed by the Manager of Safety pursuant to Career Service requirements. The salary, benefits and other compensation of the Sheriff, Deputy Sheriff Division Chiefs, and Deputy Sheriff Majors shall be established by ordinance. The Sheriff shall, subject to the supervision of the Manager of Safety, have full charge and custody of the jails of the city and county and the prisoners in the jails, transport prisoners, and execute writs and attend the several courts of record held in the city and county. In addition thereto, the Sheriff and the Sheriff Department shall exercise and perform the powers and duties now required or that may hereafter be required by the Constitution or the general laws of the state to be performed by the county sheriff, to the extent any such powers or duties are approved by the Manager of Safety. The Manager of Safety shall be deemed the appointing authority pursuant to Career Service requirements for purposes of hiring, discipline and termination of Deputy Sheriffs and other employees within the Sheriff Department.

(Charter 1960, A9.3, A9.3-1; Subsection (A), added March 25, 1991; Subsection (B), amended October 26, 1971, amended March 25, 1991; Ord. No. 676-02, § 1, 8-26-02, elec. 11-5-02; Ord. No. 665-03, § 1, 8-25-03, elec. 11-4-03 Ord. No. 408-13, § 2, 8-26-13, elec. 11-5-13)

§ 2.6.5 - Police Department.

- (A) *Who constitutes.* The Police Department shall be composed of the Chief of Police, who shall be appointed by the Mayor, and such subordinate police officers appointed pursuant to Civil Service requirements and employees appointed pursuant to Career Service requirements, as may be necessary to preserve the peace, protect persons and property, and enforce laws and ordinances.
- (B) *Duties.* It shall be the duty of the police force to suppress all riots, disturbances and breaches of the peace and apprehend any and all persons in the act of committing any offense against the laws of the State or of the ordinances, and forthwith bring such persons before the proper court or other competent authority for examination, and at all times diligently and faithfully enforce all such laws, ordinances and regulations for the

preservation of good order and the public welfare as the Council may enact, and upon due and reasonable suspicion arrest any person or persons who may be guilty of a breach of any of the ordinances or of any crime against the State or the United States.

(Charter 1960, A9.4, A9.4-1, amended October 26, 1971; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02)

§ 2.6.6 - Fire Department.

The Fire Department shall be composed of the Chief of the Fire Department, who shall be appointed by the Mayor and such other subordinates appointed pursuant to Civil Service requirements and employees appointed pursuant to Career Service requirements, as may be necessary to protect the City and County against fire and to provide other emergency services as designated by the Manager of Safety.

(Charter 1960, A9.5; amended October 26, 1971; amended May 19, 1987; Ord. No. 138-03, § 1, 2-24-03, elec. 5-6-03; Ord. No. 408-13, § 2, 8-26-13; elec. 11-5-13)

§ 2.6.7 - Office of Independent Monitor.

(A) *Office created.*

- (i) There is hereby created the office of the independent monitor ("monitor's office") for the City and County of Denver. This office shall consist of a full-time monitor with appropriate professional and support staff. For purposes of this section, "monitor" means the head of the office of the independent monitor.
- (ii) The monitor's office shall actively monitor and participate in any investigations as may be prescribed in ordinance of uniformed personnel; make recommendations to the manager of safety regarding administrative action, including possible discipline, for such uniformed personnel; make recommendations regarding policy issues; and address any other issues of concern to the community, the members of the citizen oversight board ("board") created pursuant to subsection (B) of this section, the manager of safety, the chief of police, or the sheriff. For purposes of this article, "uniformed personnel" means all members of the classified service of the Denver police department, all sworn members of the Denver sheriff department, and members of the Denver fire department who are authorized to carry and use firearms on duty.
- (iii) The monitor shall establish standards of professional conduct and a comprehensive training program for its own staff in order to evaluate whether internal investigations have been properly conducted and to make recommendations as to the sustaining of rule violations, the imposition of disciplinary sanctions, and changes in policy and training.
- (iv) The monitor shall exercise such other powers and duties as may be provided by ordinance.

(B) *The citizen oversight board.* There is hereby created the citizen oversight board, the size, qualifications, composition and appointment of which shall be as provided by ordinance. The functions of the board shall be to:

- (i) Assess the effectiveness of the monitor's office;
- (ii) Make policy-level recommendations regarding discipline, use of force, and other policies; rules; hiring; training; community relations; and the compliant process;
- (iii) Address any other issues of concern to the community, members of the board, the monitor, the manager of safety, the chief of police, the sheriff, or the fire chief;
- (iv) Make recommendations as to specific cases as may be prescribed in ordinance; and
- (v) Exercise such other powers and duties as may be provided by ordinance.

(Ord. No. 567-16, § 1, 8-15-16, elec. 11-8-16)

§ 2.7.1 - Department of Excise and Licenses created; powers and duties.

There shall be and hereby is created a Department of Excise and Licenses which shall have the duty of determining the qualifications of applicants for licenses, of determining whether such licenses should be issued, renewed or suspended pursuant to law, and of ordering such licenses revoked, except for those licenses issued in connection with motor vehicles. The Department shall provide as nearly as practicable for the consolidation of the clerical functions of receiving applications for licenses, and fees therefor, of the issuance of license certificates upon order of the department or agency charged with the substantive administration of such licensing functions. No license or permit shall issue until the fee therefor has been paid to the Treasurer.

(Charter 1960, A9.8; amended October 26, 1971; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02; Ord. No. 676-02, § 1, 8-26-02, elec. 11-5-02)

§ 2.7.2 - Director of Excise and Licenses.

The Director of Excise and Licenses shall be in full charge and control of the Department, shall devote full time to the duties of the office, shall be appointed by the Mayor, and shall hold office at the pleasure of the Mayor.

(Charter 1960, A9.9; amended October 26, 1971; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02)

§ 2.7.3 - Regulation of licenses and excises to be prescribed by ordinance.

What excise taxes shall be imposed, and the purposes thereof, and what license fees shall be exacted, for regulatory or revenue purposes, and what calling or occupation shall be licensed, and the conditions upon which licenses and permits shall be issued shall, except as otherwise provided by the Charter be prescribed by general ordinance.

(Charter 1960, A9.10; amended October 26, 1971)

§ 2.7.4 - Licensing authority for alcohol beverages.

Under any designation by state law of any County officers to perform the functions of a licensing authority in any regulatory or licensing program pertaining to malt, vinous or spirituous liquors, or fermented malt beverages, the Director of Excise and Licenses shall perform the functions of such licensing authority; provided, however, that said Director is authorized to appoint one or more hearing officers, who shall be employees of the Department to conduct such hearings as may be assigned, to consult with the Director with respect thereto, and to certify the record or a summary thereof as required by the Director along with his or her recommended findings, conclusions and decision. Any party to such hearing shall have an opportunity to file with the Director written objections to any such summary, and to the recommended findings, conclusions and decisions of the hearing officer, prior to the Director's decision thereon.

(Charter 1960, A9.10-1; amended October 26, 1971; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02)

PART 9. - GENERAL SERVICES

§ 2.9.1 - Department of General Services created.

There shall be and hereby is created a Department of General Services.

(Charter 1960, A12.1; amended March 20, 1956; Ord. No. 681-02, § 1, 8-26-02, elec. 11-5-02)

§ 2.9.2 - Manager of General Services.

The Manager of General Services (hereinafter called the "Manager") shall be the officer in full charge and control of the Department and shall devote full time to the duties of the office. The Manager shall be a member of the Mayor's Cabinet, shall be appointed by the Mayor, and shall hold office at the pleasure of the Mayor.

(Charter 1960, A12.2; amended March 20, 1956; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02)

§ 2.9.3 - Powers and duties of Department of General Services.

There is hereby vested in the Department the following duties and powers.

- (A) *Control of purchasing.* Exclusive management and control of the purchasing of all supplies, equipment and personal property and services in connection therewith, for the City and County and for all departments, agencies, boards, commissions and authorities thereof, except the City Council, and the power to establish and control standards and specifications for such supplies, equipment and personal property after consultation with the requisitioning department, agency, board or commission.
 - (i) Standards and specifications established by the Department shall, so far as practicable, permit and encourage competitive bidding.
 - (ii) Purchases shall be made at such times and in such quantities as deemed most advantageous by the department. Except as may otherwise be provided by ordinance, no supplies, equipment or personal property shall be purchased unless there is a requisition therefor approved in a manner as may be provided by ordinance by the head of the department, agency, board, commission or authority requesting the purchase. Purchases shall be made from the lowest, responsive, qualified bidder or, in the case of a request for proposal, purchases shall be made as provided by ordinance; provided, however, that if bidding or requesting proposals is impracticable, purchases may be made by the department in such manner as shall be provided by ordinance. The right to reject any or all bids is reserved.
- (B) *Control of centralized services.* The Department shall have the management, operation and control of all facilities owned or established by the City and County to provide centralized, departmental services common to several departments, agencies, boards, commissions or authorities and which services have been consolidated and centralized by the Mayor for operational and administrative efficiency, including, by way of illustration and not by way of limitation, the following: Bulk or general warehousing, storage and issuing of supplies, equipment and personal property; printing and duplicating; messenger and delivery; addressing and mailing; and telephone service; provided, however, that the Mayor may assign to another department, agency, board, commission or authority a specific centralized activity or facility which is unrelated to the general scope of duties of the Department, and further, the Mayor may assign a specific segment of a centralized service to another department, whenever such assignment is in the interest of economy, organization, administration and efficiency of the City as a whole.
- (C) *Custody and disposition of surplus supplies, equipment and personal property.* Exclusive custody and disposition, in the manner fixed by the Department as representing the best interests of the City and County, of all supplies, equipment and personal property not in use and declared surplus by the City and County and all departments, agencies, boards, commissions or authorities thereof; provided, however, that the sale of supplies, equipment and personal property shall be made through competitive sealed bids, public auction, established markets, or posted prices. Posted prices shall be based upon the fair market value of supplies, equipment and personal property as determined by the Manager or by professional appraisal of the same. Sales of surplus supplies, equipment and personal property through competitive sealed bids, public auction, and established markets shall be made to the highest responsible bidder. The right to reject any or all bids is

reserved. The Department, on behalf of the City and County, may donate surplus property to charitable or nonprofit organizations, School District No. 1, or to other governmental jurisdictions; provided however, that no such donation shall be made without the prior approval of the Mayor and Council.

- (D) *Control of municipal office buildings.* The Department shall have the management and control of the occupancy and of the operation, care, repair and maintenance, either by the Department or under contracts let by the Department, of all structures or parts of structures owned or leased by the City and County and used for general municipal offices, and of all land on which such structures are located and operated, including such remodeling thereof as does not require reconstruction, change of design or structural change. The Department shall have the management and control all of centralized services established by the City and County to provide for the operation, care, repair or maintenance of other buildings owned or leased by the City and County when such services have been consolidated and centralized by the Mayor for operational and administrative efficiency.
- (E) *Concessions.* Exclusive power and authority to grant or refuse the license or privilege of operating concessions in or of selling goods and services in the facilities, structures and parts of structures under the management, operation and control of the Department.
- (F) *Official publications.* Exclusive management and control, by contract or otherwise, of the manner and method for designating official publications to be used for the official advertising of the City and County and for all departments, agencies, boards commissions and authorities thereof. The manner of publication may include print, electronic, and other media as appropriate to comply with applicable law and meet the various publication needs of the City, and shall be made annually unless the Manager determines that an annual designation has become impracticable.

(Charter 1960, A12.3; amended March 20, 1956; amended September 10, 1974; amended November 6, 1984; amended September 14, 1982; amended April 17, 1995; amended May 4, 1999; amended November 7, 2000; amended May 8, 2001; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02; Ord. No. 681-02, § 1, 8-26-02, elec. 11-5-02; Ord. No. 772-19, § 1, 8-26-19, elec. 11-5-19)

§ 2.9.4 - Purchasing contracts.

Liability in the City and County to pay for services or materials purchased by the Department shall arise only by reason of a written Purchase Order, an award pursuant to a bidder's proposal, a request for proposal issued by the Department with the authority of the Manager, or a regularly executed written contract.

- (A) *Letting of contracts by the Department.* Written contracts for the purchase of supplies, equipment, personal property and services shall be let by the Department, whenever deemed advisable by the Manager when the complexities of specifications and conditions warrant; in instances of extensive services, repairs and maintenance; and whenever a written Purchase Order is deemed insufficient protection to the City and County.
- (B) *Contracts subject to Charter.* Every contract let by the Department shall be subject to the provisions of this Charter and of any ordinances authorizing the contract and shall contain a clause to that effect.

(Charter 1960, A12.4; amended March 20, 1956; amended September 14, 1982; amended May 8, 2001; Ord. No. 681-02, § 1, 8-26-02, elec. 11-5-02)

§ 2.9.5 - Reserved.

Editor's note— Ord. No. 681-02, § 1, adopted August 26, 2002, and approved by the electorate November 5, 2002, amended the code by repealing former § 2.9.5 in its entirety. Former § 2.9.5 pertained to subscribing of contracts and other instruments requiring the assent of the City and County; and derived from the Charter of 1960, A12.5, as amended March 20, 1956 and May 17, 1983.

PART 10. - HUMAN SERVICES

§ 2.10.1 - Department of Human Services; powers and duties.

The Department of Human Services shall exercise all administrative functions of the City and County of Denver as to:

- (A) Public assistance and human service programs.
- (B) Administration of grants for welfare and relief purposes.
- (C) Conduct of functions assigned by law to County welfare or human service agencies.
- (D) Conduct and administration of such additional matters and programs which shall from time to time be determined by ordinance, pursuant to this Charter hereinafter enacted.
- (E) The Department of Human Services shall be the successor to the former Department of Welfare, which was subsequently known as the Department of Social Services, and any reference in this Charter or the ordinances of the City and County of Denver to the "Department of Welfare" or the "Department of Social Services" shall mean the Department of Human Services.

(Charter 1960, A15.1; amended September 10, 1974; amended November 3, 1998)

§ 2.10.2 - Manager of Human Services.

The Manager of Human Services shall be the officer in full charge and control of the Department, shall devote full time to the duties of the office, shall be appointed by, dismissed by, and be responsible to the Mayor.

(Charter 1960, A15.3; amended September 10, 1974; amended November 3, 1998; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02)

§ 2.10.3 - Board of Human Services.

The Board of Human Services, hereinafter referred to as the Board, shall consist of seven (7) members duly appointed by the Mayor. At least one member of the Board of Human Services shall be appointed from the recipient community. Members duly appointed and serving on the previous Board of Welfare on the effective date hereof shall continue to hold their offices on the Board of Human Services, for the respective terms of their appointments. At the expiration of each such term, their successors shall be named for five (5) year terms by the Mayor. Every vacancy on the Board shall be filled within thirty (30) days by the Mayor for the unexpired term. The Board shall advise the Manager with regard to the policy and operation of the Department, and shall review and comment on the proposed annual budget for the Department of Human Services.

(Charter 1960, A15.2, A15.2-1; amended September 10, 1974; amended November 3, 1998)

§ 2.10.4 - Budget.

The annual budget of the Department for the ensuing fiscal year shall be prepared by the Manager in consultation with the Board and shall be transmitted by the Manager to the Mayor, after review by the Board, together with the comments and recommendations of the Board.

(Charter 1960, A15.4; amended September 10, 1974; amended November 3, 1998)

PART 11. - AVIATION

§ 2.11.1 - Department of Aviation created.

There shall be and hereby is established the Department of Aviation.

(Charter 1960, A16.1; added November 3, 1992)

§ 2.11.2 - Manager of Aviation.

The Manager of Aviation, hereinafter called the "Manager," shall be the officer in full charge and control of the Department and shall devote full and entire time to the duties of the Office of Manager. The Manager shall be appointed by the Mayor and shall hold that office at the pleasure of the Mayor and shall be a member of the Mayor's cabinet.

(Charter 1960, A16.2; added November 3, 1992)

§ 2.11.3 - Powers and duties of Department of Aviation.

The following duties and powers are hereby vested in the Department of Aviation:

- (A) Supervision and management of Denver municipal airport system. Management, operation, and control of the following facilities, whether located within or outside the boundaries of the City: 1) the presently existing Stapleton International Airport; 2) Denver International Airport; 3) all other airports, heliports, or functionally similar facilities; and 4) all other facilities relating to or otherwise used in connection with the foregoing or their replacements, including without limitation, buildings, structures, terminals, parking and ground transportation facilities, roadways, land, hangars, warehouses, runways, shops, hotels, motels, and administrative offices. Management, operation and control shall include the authority to dispose of any real property owned by the City and County which is determined by the Manager no longer to be necessary for the operation of the airport system, on such terms and conditions as the Manager may decide consistent with the best interests of the airport system.
- (B) Airport improvements. Management and control of the designing, planning, construction, reconstruction, and remodeling of all airport facilities. The designing, planning, construction, reconstruction, and remodeling may be performed by either the Department, or with the permission of the Manager and to the extent and in the manner provided by ordinance, by any person, firm, or corporation entirely at the expense of the person, firm, or corporation, all subject however to the following limitations: no airport improvements shall be designed, planned, constructed, reconstructed or remodeled without the prior approval of the Department.
 - (i) All construction, reconstruction, or remodeling of airport facilities not performed by the Department, or with the permission of the Manager, by a person, firm, or corporation entirely at the expense of the person, firm, or corporation, shall be performed under contracts let by the Department. All such contracts shall be: (1) let to the lowest, responsible, responsive, qualified bidder, or, if not let in that manner; (2) let through a competitive selection process. All solicitation for such contracts shall be advertised in an official publication or in some other manner as provided by Charter or ordinance, provided however, that if public advertisement is impracticable, proposals shall be requested from at least three (3) qualified bidders or proposers. The right to reject any or all bids is reserved. No such contract for more than Fifty Thousand Dollars shall be made without a bond for its faithful performance, with sufficient surety. No other surety than a surety company approved by the Manager and Mayor shall be accepted. Any other mode of letting such contracts shall be illegal and void.
 - (ii) The aggregate payments under any such contract shall not exceed the amounts appropriated. Upon notice, for substantial cause, or for the convenience of the City and County, the work under such contract may be suspended or terminated forthwith by the Mayor or the Manager. Every such contract shall be subject to the provisions of this Charter and the provisions of any ordinance authorizing the improvements or contracts.

- (iii) In the letting of such contracts, the Department may impose such conditions upon bidders and proposers and securities and such guarantees of good faith and responsibility on the part of the bidders and proposer completion of the work or keeping the same in repair and providing for any other material matter or thing in therewith as may be considered "in the best interests of the City and County," as the same may be defined in the absence of an ordinance, "in the best interests of the City and County" shall be determined by the Manager. "responsible," "responsive," and "competitive selection process," as used in this Section, may also be defined in the absence of an ordinance, determined by the Manager.
 - (iv) Upon default in the performance of any such contract, the Department may advertise and let a contract for the uncompleted work in like manner, without further ordinance, and charge the costs thereof to the original contractor upon his or her contract; and when a deficiency shall in such case occur, the Manager, with the approval of the Mayor, may advance the amount thereof out of any available fund dedicated exclusively to the municipal airport system, and recover the same by suit on the original contract and bond.
- (C) *Employment of professional and technical personnel.* In the manner pursuant to terms and conditions fixed by the Mayor and the Cabinet, to employ qualified professional or technical personnel for the performance of the duties imposed on or the powers invested in the Department. The Manager of Aviation may, at the Manager's sole discretion, appoint up to five persons to serve at the pleasure of the Manager in executive or other managerial positions within the Department.

(Charter 1960, A16.3; added November 3, 1992; amended May 8, 2003; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02; Ord. No. 407-13, § 2, 8-26-13, elec. 11-5-13)

PART 12. - PUBLIC HEALTH AND ENVIRONMENT

§ 2.12.1 - Department of Public Health and Environment; powers and duties.

The Department of Public Health and Environment shall administer and exercise control over all programs and functions pertaining to the physical and mental health of the people, and all environmental programs and functions of the City and County of Denver, including the following specifically enumerated functions and such additional functions and programs which shall from time to time be determined by ordinance, provided that such additional functions and programs shall not be inconsistent with this Charter:

- (A) Investigation and control of communicable diseases.
- (B) Regulation of publicly and privately owned institutions for the purposes of maintaining sanitation and public health standards.
- (C) Promulgation and enforcement of regulatory measures and rules necessary for protection of the health of the people.
- (D) Operation of facilities for the physical and mental health of the citizens of the City and County of Denver and others.
- (E) Operation of the morgue.
- (F) Conducting and performing functions assigned by law to coroners of counties.
- (G) Performance of functions assigned by law to local health departments, health administrators, the environmental health department, or the health officer of the City and County of Denver.
- (H) Management, operation, and control of solid or hazardous waste disposal sites owned or operated by the City and County of Denver, and management and control of the operation, care, repair, and maintenance of all structures in which and all land on which those sites are located and operated.

(I) Management and operation of environmental compliance and remediation programs of the City and County of D (Charter 1960, A8.1; amended August 19, 1996; Ord. No. 895-17, § 1, 8-28-2017, elec. 11-7-17)

§ 2.12.2 - Manager of Department of Public Health and Environment; appointment, powers and duties.

The Manager of Public Health and Environment shall administer the functions of the department, devoting the Manager's entire time to the duties of the office. The Manager shall be appointed by the Mayor with the advice of the Board but shall be subject to dismissal by the Mayor without the consent of the Board.

- (A) *Coroner.* The Manager shall appoint a coroner with the advice of the Board of Public Health and Environment to perform the duties required by law of a County coroner. The coroner may not be dismissed by the Manager without the consent of the Board.
- (B) *Budget.* The annual budget for the Department of Public Health and Environment shall be prepared by the Manager in consultation with the Board and shall be transmitted by the Manager to the Mayor.
- (C) *Authority to enter dwellings and structures.* Upon probable cause, supported by oath or affirmation, a warrant may be issued by any Denver County Court Judge authorizing the Manager or his or her designee to enter any dwelling for public health reasons that do not constitute an emergency. The Manager may if the public health is endangered by environmental or other hazards constituting an emergency enter dwellings and other structures in accordance with the law in such case provided.
- (D) *Contracts with Denver Health and Hospital Authority.* The Manager may through intergovernmental agreement contract with the Denver Health and Hospital Authority created by and operating pursuant to Article 29, title 25, of the Colorado Revised Statutes for health and medical services under such terms and conditions as the City may by ordinance or resolution of the Council approve.

(Charter 1960, A8.4, A8.5, A8.6; amended August 19, 1996; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02; Ord. No. 608-05, § 1, 8-9-05, elec. 11-1-05; Ord. No. 895-17, § 1, 8-28-2017, elec. 11-7-17)

§ 2.12.3 - Board of Public Health and Environment; composition.

The Board of Public Health and Environment, hereinafter referred to as the Board, shall consist of nine (9) members, each of whom shall be appointed by the Mayor and each of whom shall be confirmed by the Council. The terms of each member shall be for five (5) years and shall be staggered as provided in the Mayor's appointments. Vacancies in the Board shall be filled for the unexpired term by a qualified person appointed by the Mayor within sixty (60) days of the occurrence of the vacancy with the same confirmation by Council, and members may succeed themselves in office. Members of the Board shall serve without pay. Appointment to the Board shall be made so that no business or professional group constitutes a majority of the Board. At least one member of the Board shall be a non-professional who is not in public employment.

(Charter 1960, A8.2; amended August 19, 1996; Ord. No. 895-17, § 1, 8-28-2017, elec. 11-7-17)

§ 2.12.4 - Board of Public Health and Environment; functions.

Functions of the Board of Public Health and Environment shall include the following:

- (A) To determine the policies to be followed in the exercise of the functions of the department.
- (B) To adopt regulations necessary for the protection of the health of the people, developing such procedures for adopting such regulations as the Board shall deem appropriate and necessary.
- (C) To hear complaints of persons affected by decisions of the Manager of Public Health and Environment and to review such decisions for consistency with the policies and regulations of the department, affirming those decisions that are and modifying or reversing those that are not.

(Charter 1960, A8.3; amended August 19, 1996; Ord. No. 895-17, § 1, 8-28-2017, elec. 11-7-17)

§ 2.12.5 - Powers of health inspectors.

All health inspectors, in the line of their respective duties, shall have the same powers as police officers.

(Charter 1960, C5.6; Charter 1904, § 159; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02)

PART 13. - COMMUNITY PLANNING AND DEVELOPMENT

§ 2.13.1 - Department created.

There is hereby established the Department of Community Planning and Development.

(Ord. No. 427-02, § 1, 6-3-02, elec. 8-13-02)

§ 2.13.2 - Manager of Community Planning and Development—Appointment.

The Manager of Community Planning and Development shall be the officer in full charge and control of the Department and shall devote full time to the duties of the Office of Manager. The Manager shall be appointed by the Mayor, shall hold that Office at the pleasure of the Mayor and shall be a member of the Mayor's cabinet.

(Ord. No. 427-02, § 1, 6-3-02, elec. 8-13-02)

§ 2.13.3 - Powers and duties.

The Department of Community Planning and Development shall exercise the following powers and duties:

- A. Administer City zoning laws and other laws regulating land development and construction within the City.
- B. Assist the City Council in the preparation and adoption of the City's Comprehensive Plan for the long-range development or redevelopment of the City and any supplements or amendments thereto.
- C. Implement the City's adopted Comprehensive Plan and any supplements or amendments thereto through the review of public and private development and redevelopment projects where such projects would affect or be within the terms of the adopted Comprehensive Plan.
- D. Advise the Mayor and other City officers and employees as to the contents of the six-year capital improvements programs required under Section 7.1.2 where such programs would affect or be within the terms of the adopted Comprehensive Plan.
- E. Advise the Mayor and other City officers and employees on all matters involving the disposition or acquisition by the City of any interest in real property where such actions would affect or be within the terms of the adopted Comprehensive Plan.
- F. Coordinate with any regional planning commission or agency on all land planning matters affecting the City.
- G. Advise the Mayor and City Council on proposed amendments to the Zoning Ordinance, Zoning Map amendments, other land development and construction regulations, development plans, and subdivision of real property.
- H. Perform such other functions as may be assigned by the Mayor or required by ordinance.

(Ord. No. 427-02, § 1, 6-3-02, elec. 8-13-02)

ARTICLE III. - CITY COUNCIL

PART 1. - ELECTION, QUALIFICATION AND DISQUALIFICATION, SUCCESSION

§ 3.1.1 - Composition of City Council; terms.

There shall be elected one Councilmember by the voters of each of the eleven Council Districts, and two to be elected at-large by the qualified electors of the City and County of Denver, all for a term of four (4) years or until their successors are duly qualified as in the Charter provided.

(Charter 1960, B1.1; amended September 10, 1968; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02)

§ 3.1.2 - Council districts; change of boundaries.

The City and County of Denver shall be divided by ordinance into eleven Council Districts. The boundaries of these districts may be changed by ordinances, but they shall be as compact as can be, shall contain contiguous territory, and shall be divided as equally as practical so that they contain equal population, based on the most recent United States decennial census, or other official population studies or reports. Said boundaries shall be changed, by ordinance, at least once every ten years, in accordance with the requirements hereof. Council Districts shall be comprised of whole election precincts.

(Charter 1960, B1.3, C1.15-1; amended May 17, 1916; amended September 10, 1968; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02)

§ 3.1.3 - Qualifications.

Each Councilmember shall be a citizen of the United States; a resident of the City and County of Denver for the two (2) years immediately preceding the member's election and during the term of office; a qualified elector of the City and County of Denver; at least twenty-five (25) years of age and if elected from a Council District, the second year of residency shall have been within the district and the Councilmember must reside in the district during the term of office.

(Charter 1960, B1.1-1; amended May 17, 1916; amended September 10, 1968; amended May 17, 1983; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02; Ord. No. 409-13, § 1, 8-26-13, elec. 11-5-13; Ord. No. 782-19, § 1, 8-26-19, elec. 11-5-19)

§ 3.1.4 - Reserved.

Editor's note— Ord. No. 136-03, § 1, adopted Feb. 24, 2003 and passed at election May 6, 2003, repealed section 3.1.4 in its entirety. Former section 3.1.4 pertained to conflicts of interest; prohibition against holding other offices or employment, and derived from the Charter of 1960, B1.2; amended February 14, 1913; amended May 17, 1916; amended April 29, 1991.

§ 3.1.5 - Malfeasance.

No person who has been convicted of willful evasion of City or State taxes; or who has been convicted of malfeasance in office, bribery or other corrupt practices, shall be qualified for membership in the Council.

(Charter 1960, B1.2-1; amended February 14, 1913; amended May 17, 1916; amended April 29, 1991)

§ 3.1.6 - Absence from meetings.

If any member of the Council shall be absent for three successive regular sessions and fail to attend the fourth meeting, unless excused by a vote of the Council, the councilmember shall cease to be a member thereof and his or her place shall be filled as though a vacancy had occurred.

(Charter 1960, B1.8; amended February 14, 1913; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02; Ord. No. 608-05, § 1, 8-9-05, elec. 11-1-05)

§ 3.1.7 - Vacancies in the Office of District Councilmember.

When any District Councilmember is unable, by reason of resignation, unexcused absence as provided in Section 3.1.6 of this Charter, moving from the district in which the Councilmember resided when elected, or death, to perform the duties of office for the time remaining prior to expiration of his or her term of office, the Council shall declare by resolution that a vacancy exists. Such vacancy shall be filled by a special election within the Council District, which shall be called by the Council to be held not less than 30 days nor more than 60 days after the Council declares that such vacancy exists, unless another City-wide election has been scheduled to be held within 90 days after such vacancy is declared; and the candidate receiving the greatest number of votes at said election shall qualify and take such office immediately, and shall hold such office for the unexpired portion of the term in which the vacancy occurs.

(Charter 1960, C5.21-1; added May 15, 1979; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02; Ord. No. 782-19, § 1, 8-26-19, elec. 11-5-19)

§ 3.1.8 - Vacancies in the Office of Councilmember-at-large.

When any Councilmember-at-large is unable, by reason of resignation, death, moving from the City and County of Denver, or unexcused absence as provided in Section 3.1.6 of this Charter, to perform the duties of the office for the time remaining prior to expiration of the term of office, the Council shall declare by resolution that a vacancy exists. Notwithstanding any provision of Section 8.2.3 of this Charter, such vacancy shall be filled by a special election, which shall be called by the Council to be held not less than 120 days nor more than 130 days after the Council declares that such vacancy exists unless another City-wide election has been scheduled to be held within 160 days after such vacancy is declared; and the candidate receiving the greatest number of votes at said election shall qualify and take such office immediately and shall hold such office for the unexpired portion of the term in which the vacancy occurs. If two (2) vacancies exist in the office of councilmember-at-large, then the two (2) candidates who have received the greatest number of votes cast for that office shall fill such vacancies as provided in this Section.

(Charter 1960, C5.21-3; added September 18, 1989; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02; Ord. No. 782-19, § 1, 8-26-19, elec. 11-5-19)

PART 2. - COUNCIL POWERS

§ 3.2.1 - All legislative power vested in Council.

All legislative powers possessed by the City and County of Denver, conferred by Article XX of the Constitution of the State of Colorado, or contained in the Charter of the City and County of Denver, and otherwise existing by operation of law, except as otherwise provided by this Charter shall be vested in a Council consisting of thirteen members. No enumeration of particular powers granted to the Council shall be construed to impair any general grant of power herein contained, nor to limit any such grant to powers of the same class or classes as those so enumerated.

(Charter 1960, B1.1, B1.12-1; amended September 10, 1968; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02)

§ 3.2.2 - Executive or administrative functions.

Whenever an executive or administrative function or duty shall be required to be performed by ordinance, the same shall be performed by the executive department and not by the legislative.

(Charter 1960, B1.6; amended May 17, 1916; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02)

§ 3.2.3 - General Police Power.

The Council shall have the power to enact and provide for the enforcement of all ordinances necessary to protect life, health and property; to declare, prevent and summarily abate and remove nuisances; to preserve and enforce good government, general welfare, order and security of the City and County and the inhabitants thereof; to enact by ordinance uniform maximum fines and/or imprisonment for the violation of each and every ordinance or regulation and minimum fines for the violation of ordinances or regulations; to provide for the County Court, in its discretion, to grant probation, and/or to defer judgment and sentencing upon a plea of guilty, and/or to conditionally suspend sentences, all for a period not to exceed two (2) years after conviction or plea; to establish procedures under which the County Court may permit the installment payment of fines; the Council, or a committee thereof duly authorized by it, shall have power to investigate any Department of the City and County and the official acts and conduct of any officer thereof, and may compel the attendance and testimony of witnesses and the production of books and documents.

(Charter 1960, B1.12-1; amended March 20, 1956; amended September 14, 1982; amended August 9, 1988)

§ 3.2.4 - Appropriations.

Except as otherwise provided in this Charter, the Council shall have power to appropriate all money necessary for the expenses of the City and County and to transfer the unexpended balance of such appropriation not needed for the purpose for which it was made.

(Charter 1960, B1.12; amended March 20, 1956)

§ 3.2.5 - Eminent domain.

Whenever the Council, by ordinance, shall designate any property as being required for public use, the City and County may exercise the power of eminent domain and condemn the designated property either permanently or temporarily. It shall not be a bar to any such proceeding that the lands or rights-of-way to be taken have once been taken for public use. The manner of proceeding, the ascertainment of the compensation to be paid, the assessment of benefits or damages, the collection of such benefits and payment of such damages, shall be as provided by general law.

(Charter 1960, A3.1, A3.2, A3.3; amended May 17, 1955)

§ 3.2.6 - Leases and contracts.

The Council shall have the additional powers to approve or disapprove, by ordinance or resolution, leases or other instruments selling or granting the use of City-owned property to other parties, and certain contracts, under the following conditions:

- (A) *Definitions.* For the purposes of this section the following definitions shall apply:
- (i) The term "real property" shall include interests in land and any improvements and facilities attached thereto, except public rights-of-way.
 - (ii) The term "lease" shall include all agreements, permits, contracts, licenses, easements or other instruments whereby the City grants the exclusive use of all or a portion of real property now or hereafter owned by the City for an indefinite period of time or for a specific period in excess of thirty (30) days.
 - (iii) The term "personal property" shall include tangible and intangible personal property other than cash and investments invested by the Manager of Finance under Section 2.5.3 of the Charter.
 - [(iv)] The term "contract" shall include any contract or other instruments of writing requiring the assent of the

City and County, as provided in section 2.2.4.

- (B) *Leasing of city-owned real property.* The Mayor of the City and County of Denver shall be and is hereby authorized to initiate actions to effect the lease of real property owned by the city, when such lease will serve a public purpose, for such considerations and upon such terms as in the Mayor's judgment shall appear proper. All leases of real property owned by the city, or amendments to existing leases, before their execution by city officials, shall be authorized by the Denver City Council acting by ordinance or resolution. The ordinance or resolution shall state the public purpose to be served by the lease or amendment.
- (C) *Sale or conveyance of city-owned real property.* The Mayor of the City and County of Denver shall be and is hereby authorized to initiate actions to effect the sale or conveyance of real property owned by the City upon such terms as in the Mayor's judgment shall appear proper. All contracts providing for the sale or conveyance of real property owned by the city, or amendments to such contracts, before their execution by city officials, shall be authorized by the Denver City Council acting by ordinance or resolution.
- (D) *Intergovernmental Agreements.* Contracts between the City and County of Denver and any other government entity shall require the approval of the City Council acting by ordinance or resolution, prior to their execution by City officials, if the contract or instrument:
 - (i) Provides for tax revenue sharing between the city and any other governmental entity;
 - (ii) Contains any commitment by the mayor or other official to seek legislative action by the City Council or otherwise implicates the legislative authority of the Council; or
 - (iii) Requires the approval of the City Council pursuant to any other law.
- (E) *Approval of certain contracts by Council.* Contracts which will require or result in the payment or receipt by the City of one-half million dollars (\$500,000.00) or more, and those in which personal property valued at one-half million dollars (\$500,000.00) or more will be sold or transferred by or to the City, and those in which a provider of services to the City will receive a percentage of generated revenues, shall require the approval of the City Council acting by ordinance or resolution, prior to their execution by City officials.
- (F) *Failure by Council to act.* If the Council fails to act, within thirty (30) days, either affirmatively or negatively on a proposed ordinance or resolution submitted for its approval under the foregoing provisions, the sale, lease, or contract to which the proposed ordinance or resolution pertains may be executed by City officials as though the ordinance or resolution had been enacted.
- (G) *Other powers subordinate.* The powers granted elsewhere in this Charter to administrative departments and agencies and to other branches of the government of the City and County of Denver pertaining to the execution of such sales, leases, or contracts shall be subordinate to the power of council to approve the same, or to withhold such approval, before the same are executed.
- (H) *Waiver of submission requirement.* The Council, acting by ordinance, may waive in whole or in part the requirement that certain leases and contracts be submitted for the approval of the Council as provided in this section.

(Charter 1960, B1.12-2; added November 2, 1982; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02; Ord. No. 677-02, § 1, 8-26-02, elec. 11-5-02; Ord. No. 608-05, § 1, 8-9-05, elec. 11-1-05; Ord. No. 582-06, § 1, 8-22-06, elec. 11-7-06)

§ 3.2.7 - Temporary permits.

The Council may grant a license or permit at any time, in or to any street, alley or public place, provided such license or permit shall be revocable at any time, and such right to revoke shall be expressly reserved in every license or permit which may be granted hereunder.

(Charter 1960, C3.5; Charter 1904, § 269)

§ 3.2.8 - Cable television permits.

The Council may grant a permit or permits at any time for the installation and operation of a cable television system or systems, in or to any street, alley or public place in the City and County of Denver; provided, that any such permit shall be revocable for any violation of the terms and conditions of the permit at any time, and that the right to make such revocation shall be expressly reserved in every such permit which may be granted hereunder.

- (A) *Authority of the Council.* The authority conferred upon the Council hereunder shall include the authority to act, in the name and on behalf of the City and County of Denver, on all matters pertaining to the installation and operation of a cable television system in the City and County of Denver. No additional authorization relating to such matters shall be required to be submitted to a vote at any election.
- (B) *Powers of the Council.* The authority of the Council to grant a permit or permits hereunder shall include, but shall not be limited to, the following:
- (i) To determine the nature and extent of cable television services to be provided for the City and County of Denver, and to be offered to the citizens thereof;
 - (ii) To determine the means by which, and the terms under which, such cable television services shall be provided;
 - (iii) To determine the geographic area or areas of cable television service in the City and County of Denver;
 - (iv) To solicit, receive and evaluate proposals from applicants for a permit or permits hereunder;
 - (v) To fix the rates for the services rendered by the permittee or permittees;
 - (vi) To fix the permit fee or permit fees payable to the City and County of Denver;
 - (vii) To provide for the regulation of services for which a permit hereunder is granted;
 - (viii) To perform any undertaking, project or legislative act relating to a permit hereunder;
 - (ix) To authorize the proper officials of the City and County of Denver to enter into and execute any agreement relating to any system or service for which a permit hereunder is granted;
 - (x) To authorize the utilization, by the proper officials of the City and County of Denver, of any financial instrument relating to any system or service for which a permit hereunder is granted, except as otherwise provided in this Charter;
 - (xi) Such other authority as may be appropriate to carry out the purposes of this Section of this Charter.
- (C) *Permit term limits.* Any permit granted hereunder shall be limited to a term not to exceed 20 years.
- (D) *Area of service.* Any permit granted hereunder shall plainly specify the boundaries of the area of service in the City and County of Denver to which the same shall apply.
- (E) *Limitation on applications for permits.* The Council shall not accept a proposal from an applicant for a permit hereunder except in response to a written solicitation issued by the Council for such proposals. No such proposal shall be accepted by the Council unless submitted by an applicant to the Council within the time limits set forth in the solicitation.
- (F) *Indemnification by permittee.* Any permit granted hereunder shall be conditioned upon the Permittee indemnifying and saving harmless the City and County of Denver, its officers, employees, and agents against any and all claims for damages to property or injuries to or death of any person or persons, including property and employees or agents of the City, and further to indemnify and save harmless the City, its officers, employees and agents, from any and all claims, costs, demands, suits, actions, or proceedings of any kind or nature resulting from or arising out of the operations in connection with the permit, including operations of subcontractors and acts or omissions of employees or agents of the Permittee.
- (G) *Disposition of former Charter authorities.* Section 1.1.13 shall have no application to the Cable Television System of the City and County of Denver.

(H) *Subscribing of Contracts.* Nothing herein contained shall be construed to amend or repeal that portion of this Charter that all contracts or other instruments of writing requiring the assent of the City and County of Denver shall be signed by the Mayor or Acting Mayor, under the Seal of the City and County of Denver, attested by the City Clerk, and countersigned and registered by the Auditor.

(Charter 1960, C3.6; added September 9, 1980)

§ 3.2.9 - Zoning.

- (A) *Grant of power.* For the purpose of promoting health, safety, morals or the general welfare of the community, the Council of the City and County of Denver is hereby empowered to regulate and restrict the height, number of stories and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts and other open spaces, the density of population and the location and use of buildings, structures and land for trade, industry, residence or other purposes.
- (B) *Districts.* For any or all of said purposes, the Council may divide the City and County of Denver into Districts of such manner, shape and area as may be deemed best suited to carry out the purposes of this Charter; and within such districts it may regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures or land. All such regulations shall be uniform for each class or kind of buildings throughout each district, but the regulations in one District may differ from those in other Districts.
- (C) *Purposes in view.* Such regulations shall be made in accordance with a Comprehensive Plan prepared by the Department of Community Planning and Development and the City Council as provided in subsection 2.13.3(B) and adopted by ordinance.
- (D) *Method of procedure.* The Council shall provide for the manner in which such regulations and restrictions and the boundaries of such districts shall be determined, established and enforced, and from time to time amended, supplemented or changed. However, no such regulation, restriction or boundary shall become effective until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. At least fifteen days' notice of the time and place of such hearing shall be published in an official publication in the City and County of Denver.
- (E) *Changes.* Such regulations, restrictions and boundaries may from time to time be amended, supplemented, changed, modified or repealed. In case, however, of a protest against such change, signed by the owners of twenty per cent or more, either of the area of the lots included in such proposed change or of the area to a distance of two hundred feet from the perimeter of the area proposed for change, such amendment shall not become effective except by the favorable vote of ten of the members of the Council of the City and County of Denver. The provisions of the previous Section relative to public hearings and official notice shall apply equally to all changes or amendments.
- (F) *Remedies.* In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land is used in violation of this Charter, or of any ordinance, or other regulation made under authority conferred hereby, the proper local authorities of the municipality, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, to restrain, correct or abate such violation, to prevent the occupancy of said building, structure or land, or to prevent any illegal act, conduct or business or use in or about such premises.
- (G) *Conflict with other laws.* Whenever the regulations made under authority of this Section require a greater width or size of yards, courts or other open spaces, or require a lower height of buildings or less number of stories, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required in any other statute or local ordinance or regulation, the provisions of the regulations made under authority of this Section shall govern. Wherever the provisions of any other statute or local ordinance or regulation require a greater width

or size of yards, courts, or other open spaces, or require a lower height of building or a less number of stories, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required by the regulations made under authority of this Section, the provisions of such statute or local ordinance or regulation shall govern.

- (H) *Board of Adjustment; creation by Council.* The Council may provide for the appointment of a Board of Adjustment, and in the regulations and restrictions adopted pursuant to the authority of this amendment may provide that the said Board of Adjustment may, in appropriate cases and subject to appropriate conditions and safeguards make special exceptions to the terms of the ordinance in harmony with its general purpose and intent and in accordance with general or specific rules therein contained.
- (I) *Board of Adjustment; appointments.* The Board of Adjustment shall consist of five (5) members, each member to be appointed for a term of five (5) years. The appointing authority may remove a member for cause, upon written charges and after public hearing. Vacancies shall be filled by the appointing authority for the unexpired term of any member whose term becomes vacant.
- (J) *Board of Adjustment; powers.* The Board of Adjustment shall have the following powers:
- (i) To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of this Section or of any ordinance adopted pursuant thereto.
 - (ii) To hear and decide special exceptions to the terms of the ordinance upon which such Board is required to pass under such ordinance.
 - (iii) To authorize upon appeal in specific cases such variance from the terms of the ordinance as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of the ordinance will result in unnecessary hardship and so that the spirit of the ordinance shall be observed and substantial justice done.
 - (iv) In exercising the above-mentioned powers, the Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken. The concurring vote of four members of the Board shall be necessary to reverse any order, requirement, decision or determination of any such administrative official or to decide in favor of the applicant on any matter upon which it is required to pass under any such ordinance or to effect any variation in such ordinance.
- (K) *Board of Adjustment; procedures.* The Board shall adopt rules in accordance with the provisions of any ordinance adopted pursuant to this Section. Meetings of the Board shall be held at the call of the Chairperson and at such other times as the Board may determine. Such Chairperson, or in his or her absence, the acting Chairperson may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the Office of the Board and shall be a public record.
- (L) *Board of Adjustment; appeals to Board.* Appeals to the Board of Adjustment may be taken by any person aggrieved or by any officer, department, board or bureau of the municipality affected by any decision of an administrative officer. Such appeal shall be taken within a reasonable time, as provided by the rules of the Board by filing with the officer from whom the appeal is taken and with the Board of Adjustment a notice of appeal, specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken.
- (M) *Board of Adjustment; effect of appeal.* An appeal stays all proceedings in furtherance of the action appealed from unless the officer from whom the appeal is taken certifies to the Board of Adjustment after the notice of appeal

shall have been filed with the officer that by reason of facts stated in the certificate a stay would in his or her opinion cause imminent peril to life or property. In such cases proceedings shall not be stayed except by a restraining order, which may be granted by the Board of Adjustment or by a court of record on application on notice to the officer from whom the appeal is taken and on due cause shown.

- (N) *Board of Adjustment, notice and hearing of appeals.* The Board of Adjustment shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or by attorney.
- (O) *Board of Adjustment; appeals to court.*
- (i) Any person or persons jointly or severally aggrieved by any decision of the Board of Adjustment or any taxpayer, or any officer, department, board or bureau of the municipality may present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within thirty days after the filing of the decision in the Office of the Board.
 - (ii) Upon the presentation of such petition the court may allow a writ of certiorari directed to the Board of Adjustment to review such decision of the Board of Adjustment, and shall prescribe therein the time wherein which a return thereto must be made and served upon the relator's attorney, which shall not be less than ten days and may be extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may on application, on notice to the Board and on due cause shown grant a restraining order.
 - (iii) The Board of Adjustment shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or of such portions thereof as may be called for by such writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.
 - (iv) If upon the hearing it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take such evidence as it may direct, and report the same to the court with the referee's findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.
 - (v) Costs shall not be allowed against the Board unless it shall appear to the court that it acted with gross negligence or in bad faith or with malice in making the decision appealed from.

(Charter 1960, B1.13, B1.14, 1.15, B1.16, B1.17, B1.19, B1.20, B1.21; amended May 15, 1923; amended September 10, 1968; amended May 8, 2001; Ord. No. 427-02, § 1, 6-3-02, elec. 8-13-02; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02)

PART 3. - COUNCIL PROCEDURES

§ 3.3.1 - President of Council.

The City Council shall annually elect one of its members president.

(Charter 1960, B1.1-1; Ord. No. 676-02, § 1, 8-26-02, elec. 11-5-02)

§ 3.3.2 - Council meetings.

The Council shall meet in the Council chambers each Monday in regular session except as otherwise may be provided by ordinance, and at such other times as it may be called together by the Mayor or any three members upon twenty-four hours written notice; shall sit with open doors; make rules governing its procedure; keep a public record of all its proceedings, in which

every vote shall be entered by roll call.

(Charter 1960, B1.7; amended September 10, 1968; Ord. No. 608-05, § 1, 8-9-05, elec. 11-1-05)

§ 3.3.3 - Reserved.

Editor's note— Ord. No. 608-05, § 1, adopted Aug. 9, 2005 and approved at an election held on Nov. 1, 2005 repealed section 3.3.3 in its entirety. Former section 3.3.3 pertained to holidays and derived from the Charter of 1960, B1.7-1; amended February 14, 1913; amended May 19, 1959.

§ 3.3.4 - Quorum.

Seven members shall constitute a quorum, however a smaller number may adjourn from time to time and compel the attendance of absentees, and seven votes shall be necessary to adopt any ordinance or resolution.

(Charter 1960, B1.4; amended May 17, 1916; amended September 10, 1968; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02)

§ 3.3.5 - Ordinances and resolutions.

- (A) *When required.* The Council shall act only by ordinance in matters of legislation or appropriations, or when action by ordinance is otherwise required by this charter, by ordinance, or by general law; and may act by ordinance or resolution in other matters.
- (B) *Single subject.* All ordinances or resolutions, except ordinances making appropriations, shall be confined to one subject, which shall be clearly expressed in the title. If any subject shall be embraced in any ordinance which shall not be expressed in the title, such ordinance shall be void only as to so much thereof as shall not be so expressed. Ordinances making appropriations shall be confined to the subject of appropriations.
- (C) *Amendment of ordinances by reference to title prohibited.* No ordinance shall be revised or amended, or the provisions thereof extended or conferred by reference to title only. So much thereof as is revised, amended, extended or conferred, shall be re-enacted at length.
- (D) *[Reserved.]*
- (E) *Enacting clause.* The style of all ordinances shall be: "Be it enacted by the Council of the City and County of Denver."
- (F) *Procedures for passage by Council.* No ordinance shall be passed except by bill. The title of each bill, when the bill is introduced, shall be read aloud before the Council. No bill shall be passed until after the expiration of five calendar days from and after the introduction of same, nor until one publication of the title and a description of the bill shall have been made. If any amendment alters the title or description, a new title and description shall be published in like manner before final passage of the bill. No bill shall be so altered or amended as to change its original purpose. No ordinance shall take effect until sufficient notice thereof has been published by authority of Council in an official publication. The procedures for passage of a resolution shall be as provided for in the rules of the Council or by ordinance.
- (G) *Presentation to Mayor; approval or veto; override of veto.* Every ordinance passed by the Council shall be presented to the Mayor within forty-eight hours thereafter. If the Mayor approves such ordinance, he or she shall sign it within five days after receiving it. If the Mayor disapproves, the ordinance shall be returned to the Council within five days with the Mayor's objections in writing. If then nine of the members vote to pass the same over the Mayor's veto, it shall become an ordinance, notwithstanding the objections of the Mayor. If the Mayor does not return the ordinance with written objections within the time specified, it shall take effect as if the Mayor had approved it.
- (H) No veto of ordinances submitting Charter amendments or calling Charter convention. Notwithstanding the foregoing subsection (G), the Mayor shall not have power to disapprove an ordinance submitting to a vote of the qualified electors a Charter amendment, or a proposal for a Charter convention.

- (I) *Mayor to sign; Clerk to attest.* The Mayor shall sign all ordinances and the Clerk shall in like manner attest and affix the City and County to all ordinances and to such resolutions and motions as the Council shall direct.
- (J) *Effective date.* Ordinances passed by the City Council shall become effective after final passage and final publication or on the date specified in the ordinance.

(Charter 1960, A10.4; B1.5, B1.5-1, B1.9, B1.10, B1.11, C2.4-1; Subsections (A), (B), (C) (F) and (I), amended February 14, 1913; Subsection (D) amended September 9, 1980; Subsection (E), Charter 1904, § 14; Subsection (F), amended August 12, 1986, amended November 8, 1988, amended May 8, 2001; Subsection (G) and (H), amended May 17, 1916, amended September 10, 1968, amended May 17, 1977; Subsection (J) amended May 15, 1979, amended August 11, 1992; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02; Ord. No. 679-02, § 1, 8-26-02, elec. 11-5-02; Ord. No. 608-05, § 1, 8-9-05, elec. 11-1-05)

§ 3.3.6 - Optional referral of ordinance to vote of the people.

City Council may submit any ordinance to a vote of the people at a general or special election without any petition being required. The Mayor shall have the power to disapprove an ordinance making such submission, as provided in Subsection 3.3.5(G) of this Charter. The manner of preparing the general ballot and handling of election results for a referred ordinance shall follow procedures established for an initiative and a referendum. City Council shall not amend or repeal a referred ordinance adopted by a vote of the people within one year after final passage. After the first year and up to ten (10) years following final passage of the referred ordinance, the referred ordinance adopted by a vote of the people may be amended or repealed by City Council only by two-thirds (2/3) vote. Whenever City Council amends or repeals a referred ordinance adopted by a vote of the people, City Council may do so only after it holds a public hearing.

(Charter 1960, C2.6; added August 11, 1992)

ARTICLE IV. - COUNTY COURT

PART 1. - APPOINTMENT, RETENTION AND SUCCESSION OF JUDGES

§ 4.1.1 - Number of Judges; qualifications; term of office.

The County Court of the City and County of Denver shall be presided over by such number of County Judges as shall be fixed by ordinance. Each County Judge shall be a qualified elector of the City and County of Denver, be licensed as an attorney at law in the State of Colorado, and have a minimum of five years' experience as a licensed practicing attorney. Except as set forth in Subsection 4.1.4(F), the term of Office of County Court Judges for the City and County of Denver shall be four years, whether by appointment or election.

(Charter 1960, A13.8; amended November 3, 1964; amended September 12, 1972; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02)

§ 4.1.2 - Oath of office.

Before entering upon the duties of the office, each Judge of the County Court of the City and County of Denver shall take and subscribe before a Judge of a court of record and file with the Clerk of the City and County of Denver an oath or affirmation of support for the Constitution of the United States and of the State of Colorado and the Charter and ordinances of the City and County of Denver and indicating that the Judge will faithfully perform the duties of the office.

(Charter 1960, A13.9; amended November 3, 1964; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02)

§ 4.1.3 - Reserved.

Editor's note— Ord. No. 428-02, § 1, adopted June 3, 2002 and passed at election Aug. 13, 2002, repealed section 4.1.3 in its entirety. Former section 4.1.3 pertained to a transition provision and derived from the Charter of 1960, A13.8-1; amended November 3, 1964.

§ 4.1.4 - Filling of vacancies; Judicial Nomination Commission.

Vacancies occurring in the County Court of the City and County of Denver shall be filled as provided by this Section.

- (A) There is hereby created a Denver County Court Judicial Nomination Commission, established for the purpose of presenting nominations to the Mayor of persons for appointment to fill vacancies occurring on the Bench of the County Court of the City and County of Denver.
- (B) The Judicial Nomination Commission shall be composed of seven voting members, plus as an ex-officio member in a nonvoting advisory capacity, the Presiding Judge of the County Court of the City and County of Denver.
- (C) The membership of the Judicial Nomination Commission shall be made up as follows:
 - (i) Four of the members shall be qualified electors of the City and County of Denver, who are not licensed attorneys, and three of the members shall be qualified electors of the City and County of Denver, who are licensed attorneys engaged in the practice of law.
 - (ii) No more than four members shall be members of the same political party.
 - (iii) No member shall hold any official position in any political organization.
 - (iv) No member shall be related by blood or marriage within the third degree to any other member.
 - (v) No member shall have previously been or at the time of appointment be a member of any other commission established by this Section.
- (D) The members of the Judicial Nomination Commission shall be appointed by the Mayor for a term of four years, except that in 2005 three members may be appointed for two-year terms, and thereafter for four-year terms, for the purpose of staggering terms. If the Mayor shall fail to make an appointment to the Commission within 45 days of receiving notice from the Presiding Judge that a vacancy exists, the Presiding Judge may fill the vacancy. Vacancies shall be filled for the remainder of any unexpired term.
- (E) Members of the Judicial Nomination Commission shall not receive any salary or compensation for their services as a member. Any member who is related by blood or marriage within the third degree to an applicant shall be disqualified from considering that applicant.
- (F) The functions and duties of the Judicial Nomination Commission shall be as follows:
 - (i) Whenever a vacancy occurs on the Bench of the County Court, the Commission shall certify to the Mayor a list of three or more nominees. In case of more than one vacancy, the list shall contain not less than two more nominees than there are vacancies to be filled. The list shall be submitted not later than thirty days after creation of a new judgeship, removal of a judge as provided herein, death, retirement, tender of resignation of a judge, failure of an incumbent to file a declaration under Section 4.1.5, or certification of a negative vote on the question of retention in office under Section 4.1.5 hereof. If the Mayor shall fail to make the appointment (or all of the appointments in case of multiple vacancies) from such list within fifteen days from the day it is submitted to the Mayor, the appointment (or the remaining appointments in case of multiple vacancies) shall be made by the Presiding Judge of the County Court from the same list within the next fifteen days. A judge appointed under the provisions of this subsection shall hold office for a provisional term of two years and then until the second Tuesday in January following the next biennial November state election.
 - (ii) The nominations and appointments to vacancies on the County Court shall be based solely upon merit,

legal experience, ability, and integrity.

- (iii) The identity of applicants and the deliberations of the Commission shall be confidential and privileged. The identity of nominees certified to the Mayor shall be public information.
- (iv) The Commission's function is to aid and advise the appointing authority. If the Commission has not presented its nominations under this subsection to the Mayor within thirty (30) days of a vacancy occurring, the Mayor may thereafter fill such vacancy on the Mayor's own motion, applying the standards set forth in this subsection.
- (v) The Commission shall publish and make available to the public such procedural rules as it may adopt for the conduct of its business.

(Charter 1960, A13.8-2, A13.8-3, A13.8-4; amended November 3, 1964; amended August 9, 1988; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02; Ord. No. 682-02, § 1, 8-26-02, elec. 11-5-02)

§ 4.1.5 - Retention election.

A Judge of the County Court who shall desire to retain judicial office for a succeeding term shall file with the Election Commission not more than six months nor less than three months prior to the next biennial November state election next prior to the expiration of the Judge's then term of office, a declaration of intent to run for another term. Failure to file such a declaration within the time specified shall create a vacancy at the expiration of the then term of office. Upon the filing of such declaration, a question shall be placed upon the appropriate ballot at such election as follows:

"Shall Judge _____ of the County Court be retained in office? Yes _____ No _____."

If at least fifty percent of those voting on the question vote "Yes," the Judge is thereupon retained for a four year term commencing on the second Tuesday in January of the year next succeeding the year in which the election was held. If a majority of those voting on the question vote "No," this will cause a vacancy to exist in that office as of the expiration of that term of office. If a vacancy occurs, a new Judge shall be appointed in accordance with the provisions of Section 4.1.4. The qualified and registered electors of the City and County of Denver shall have the right to vote on the question of retention in the office of the Judge.

(Charter 1960, A13.8-6; amended November 3, 1964; Ord. No. 682-02, § 1, 8-26-02, elec. 11-5-02)

§ 4.1.6 - Mandatory retirement at age seventy-two.

Judges of the County Court shall retire at the end of the term during which they reach age seventy-two (72), and the judicial office shall be vacant.

(Charter 1960, A13.8-7; amended November 3, 1964; amended September 18, 1989)

PART 2. - COUNTY COURT JURISDICTION AND POWERS

§ 4.2.1 - General powers and duties.

There shall be and hereby is created a County Court of the City and County of Denver, which court shall perform all acts and duties required by the constitution or general laws of the State of Colorado now or hereafter required to be performed by County Courts, and all acts and duties required by the constitution or general laws of the State of Colorado or the Charter or ordinances of the City and County of Denver now or hereafter required to be performed by the Municipal Court. The County Court of the City and

County of Denver in the exercise of the jurisdiction described in Section 4.2.5 hereof shall be a court of record if so provided by the general laws of the State of Colorado, and in the exercise of the jurisdiction described in Section 4.2.6 hereof may be a court of record if so provided by ordinance.

(Charter 1960, A13.1; amended November 3, 1964)

§ 4.2.2 - Other duties prescribed by ordinance.

The County Court of the City and County of Denver shall perform such other duties not inconsistent with the provisions of this Charter as the Council may by ordinance require.

(Charter 1960, A13.13; amended November 3, 1964; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02)

§§ 4.2.3, 4.2.4 - Reserved.

Editor's note— Ord. No. 428-02, § 1, adopted June 3, 2002 and passed at election Aug. 13, 2002, repealed sections 4.2.3, 4.2.4 in their entirety. Former sections 4.2.3, 4.2.4 pertained to transition provisions of 1904 and 1965, respectively, and derived from the Charter of 1960, A13.14, amended November 3, 1964, C5.8; the Charter of 1904, § 352.

§ 4.2.5 - Jurisdiction; State laws.

The County Court of the City and County of Denver shall have such civil, criminal, and appellate jurisdiction as now or hereafter may be provided by the constitution or general laws of the State of Colorado to be had or exercised by County Courts.

(Charter 1960, A13.2; amended November 3, 1964)

§ 4.2.6 - Jurisdiction; City laws.

The County Court of the City and County of Denver shall have original jurisdiction of all cases arising under the Charter or ordinances of the City and County of Denver with full power to enforce the same and to punish violations thereof by the imposition of such fines and penalties as may be thereby provided, and all proceedings in such cases shall be in accordance with the procedure established by ordinance, or, with respect to matters of procedure not so established by ordinance, as may be established by rules of said court.

(Charter 1960, A13.3; amended November 3, 1964)

§ 4.2.7 - Modifying judgments, decrees or orders.

While sitting separately, the courts held by the several Judges shall be known as the County Court of the City and County of Denver, and shall have the same power to vacate or modify its own judgments, decrees or orders rendered or made while so held, as if said Court were composed of a single Judge.

(Charter 1960, A13.10; amended November 3, 1964; Ord. No. 682-02, § 1, 8-26-02, elec. 11-5-02)

§ 4.2.8 - Subpoenas, summonses, warrants, etc.; general powers.

The County Court of the City and County of Denver and the Judges thereof shall have the power to preserve and enforce order in its immediate presence and to compel the attendance of witnesses and to issue subpoenas, summonses, warrants, writs, orders, and all other process in cases within its jurisdiction arising under the constitution or laws of the State of Colorado or the Charter or

ordinances of the City and County of Denver with full power to enforce the same. Any witness who fails to appear in response to a subpoena may be punished for contempt of court and the said court shall also have the general power to punish for contempt of court.

(Charter 1960, A13.4; amended November 3, 1964)

§ 4.2.9 - Subpoenas; issuance on behalf of other City and County agencies and officers.

Wherever in the Charter a board, commission, officer or agency is granted authority to issue subpoenas or compel the attendance of witnesses; upon failure of any witness to comply with such subpoena, the board, commission, officer, agency or party serving the subpoena may petition the County Court of the City and County of Denver for enforcement; in which event, the County Court may enter an order as in other civil actions compelling the witness to attend and testify under penalty of punishment for contempt in case of contumacious failure to comply with the order of the court. The hearing on the petition for enforcement shall take precedence of all matters except older matters of the same character.

(Charter 1960, C6.12; added August 9, 1988)

§ 4.2.10 - Jury trials; summoning of jurors.

In any action pending before the County Court of the City and County of Denver in which a party thereto is entitled to a jury trial by the Constitution or general laws of the State of Colorado, such party may have a jury summoned to try the same. The Council shall have the power by ordinance to provide for the summoning of jurors and to fix the fees to be charged by the County Court of the City and County of Denver and the fees to be paid to jurors serving in such Court. The Council shall have the power by ordinance to determine whether any fees or costs charged for jury trials by or in said court shall be assessed to or against any party thereto, and if so, in what amounts.

(Charter 1960, A13.5, A13.6; amended November 3, 1964; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02)

§ 4.2.11 - Appeals from County Court.

Appeals may be taken from all judgments of the County Court of the City and County of Denver to such courts as may be provided by the general laws of the State of Colorado, and such appeals shall be taken and determined in such manner as provided by the laws of the State of Colorado and the ordinances of the City and County of Denver.

(Charter 1960, A13.7; amended November 3, 1964)

PART 3. - COURT ADMINISTRATION

§ 4.3.1 - Designation of Presiding Judge by Mayor.

One of the County Judges shall be designated by the Mayor on or before the first day of January of each year as Presiding Judge and shall be charged with the general supervision of the County Courts of the City and County of Denver. The Presiding Judge shall with the concurrence of the majority of the Judges make and adopt rules and regulations which are not inconsistent with law, the Charter and ordinances of the City and County of Denver or the Colorado Rules of Civil or Criminal Procedure for conducting the business of said court, and by rule may provide for classification, arrangement and distribution of the business of the court among the several Judges thereof. Each judge of the court shall attend to the business of the court assigned to him or her under such rule. Such rules shall be reduced to writing.

(Charter 1960, A13.11; amended November 3, 1964; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02)

§ 4.3.2 - Appointment of officers and employees by Presiding Judge.

The Presiding Judge shall appoint the necessary court officers and administrative employees of the court including the Chief Clerk, whose appointments shall be subject to Career Service regulations. The Presiding Judge may appoint magistrates who shall hold such appointments so long as their services are satisfactory to the Presiding Judge.

(Charter 1960, A13.12; amended November 3, 1964; amended November 2, 1993; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02; Ord. No. 682-02, § 1, 8-26-02, elec. 11-5-02)

§ 4.3.3 - Magistrates.

The magistrates under the supervision and control of the Presiding Judge of the County Court may preside over proceedings arising under the Charter and ordinances of the City and County of Denver and under the Constitution and general laws of the State of Colorado. The powers and duties of magistrates shall be established by ordinance. Such powers and duties shall not include conducting jury trials unless magistrates are authorized to do so by the Constitution or general laws of the State of Colorado. Until their separation, referees appointed in accordance with previous Charter authority shall continue to enjoy powers and duties equal to those of magistrates.

(Charter 1960, A13.15; added May 19, 1987; amended November 2, 1993)

§ 4.3.4 - Assignment of retired and resigned Judges.

Whenever deemed necessary to the prompt disposition of judicial business of the County Court, the Presiding Judge may assign a retired Judge of the County Court or a Judge of any Colorado State Court who resigned in good standing or retired Judge of any other Colorado State Court who consents, temporarily to perform judicial duties of the County Court.

(Charter 1960, A13.16; added May 19, 1987; amended April 1, 1991)

PART 4. - JUDICIAL PERFORMANCE AND DISCIPLINE

§ 4.4.1 - Judicial Discipline Commission.

- (A) *Commission created.* There is hereby created a Denver County Court Judicial Discipline Commission established for the purposes of recommending to the Mayor censure, reprimand, or other discipline on Judges of the County Court of the City and County of Denver and recommending to the Mayor the suspension, removal, or retirement from office of any Judge of the County Court of the City and County of Denver. The Commission may also recommend to the Presiding Judge of the County Court the discipline or removal of any magistrate of the County Court of the City and County of Denver.
- (B) *Composition.* The Judicial Discipline Commission shall be composed of seven voting members, plus, as an ex-officio member in a nonvoting advisory capacity, the Presiding Judge of the County Court of the City and County of Denver. The membership of the Commission shall be made up as follows:
- (i) Three of the members shall be registered electors of the City and County of Denver who are not acting or retired Judges or Justices and are not licensed attorneys; two of the members shall be Judges of the Bench of the District Court in and for the City and County of Denver; and two of the members shall be registered electors who are licensed attorneys engaged in the practice of law, none of whom shall be an acting or retired Judge or Justice.
 - (ii) No more than four members shall be affiliated with the same political party.
 - (iii) No member shall hold any official position in any partisan political organization.

- (iv) No member shall be related by blood or marriage to any other member.
 - (v) No member shall have previously been or at the time of appointment be a member of the Judicial Nominating Commission established by this Article.
- (C) *Appointment and term.* The members of the Commission shall be appointed by the Mayor for a term of four years, except that in 2003 three members may be appointed for two-year terms, and thereafter for four-year terms, for the purpose of staggering terms. If the Mayor shall fail to make an appointment to the Commission within 45 days of receiving notice from the Presiding Judge that a vacancy exists, the Presiding Judge may fill the vacancy. Vacancies shall be filled for the remainder of any unexpired term.
- (D) *Compensation; disqualification.* The members of the Commission shall not receive any salary or compensation for their services as a member. Any member who is related by blood or marriage within the third degree to a judge shall be disqualified from considering any matter concerning that judge.

(Charter 1960, A13.8-5; amended November 3, 1964; amended April 1, 1991; amended November 2, 1993; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02; Ord. No. 682-02, § 1, 8-26-02, elec. 11-5-02)

§ 4.4.2 - Proceedings before Judicial Discipline Commission.

- (A) *Investigations and hearings required.* Removal or retirement for the reasons set forth in Section 4.4.3 shall be had only after the Judicial Discipline Commission has held an investigation and hearing in accordance with due process of law.
- (B) *Confidentiality.* All papers filed with and proceedings before the Commission shall be privileged and confidential, unless the Commission files with the Mayor a recommendation that a County Court Judge be publicly censured, suspended, removed, or retired, at which time the recommendation, together with the record, shall be public.
- (C) *Subpoenas.* The Commission shall have subpoena power, and the County Court of the City and County of Denver shall have the power to enforce any subpoena so issued.
- (D) *Procedural rules.* The Commission shall publish and make available to the public such procedural rules as it may adopt for the conduct of its business.
- (E) *Recommendations made to Mayor.* The Mayor shall accept or reject the recommendation of the Commission within five days of receipt. If the Mayor accepts the Commission's recommendation, the judge shall be publicly censured, suspended, removed, or retired from office by the Mayor. If the Mayor rejects the Commission's recommendation, no action shall be taken.

(Charter 1960, A13.8-9; amended November 3, 1964; amended September 12, 1972; amended April 1, 1991; Ord. No. 682-02, § 1, 8-26-02, elec. 11-5-02)

§ 4.4.3 - Grounds for discipline of County Court Judge.

- (A) *General grounds.* The grounds for discipline of a County Court Judge shall include:
 - (i) Willful misconduct in office, including misconduct which, although not related to judicial duties, brings the judicial office into disrepute or is prejudicial to the administration of justice;
 - (ii) Willful or persistent failure to perform judicial duties, including incompetent performance of judicial duties;
 - (iii) Habitual intemperance, including extreme or immoderate personal conduct, recurring loss of temper or control, abuse of alcohol, or the use of illegal narcotic or dangerous drugs; and
 - (iv) Any conduct that constitutes a violation of any canon of the Colorado Code of Judicial Conduct.
- B. *Removal for disability.* The grounds for removal or retirement of a County Court Judge shall include disability interfering with the performance of Judicial duties which is, or is likely to become, of a permanent character.
- C. *Failure to cooperate with investigation.* Failure or refusal of a County Court Judge to cooperate or the intentional

misrepresentation of a material fact during any stage of a disciplinary proceeding may constitute willful misconduct in office.

(Charter 1960, A13.8-9; amended November 3, 1964; amended September 12, 1972; amended April 1, 1991)

§ 4.4.4 - Suspension or removal of Judges by Mayor.

Whenever a County Judge has been convicted in any court of record of this state or of the United States or of any state of a felony or other offense involving moral turpitude, the Mayor shall enter an order suspending said Judge from office, and the payment of salary of said Judge shall also be suspended from the date of such order. If said conviction becomes final, the Mayor shall enter an order removing said Judge from office and declaring the office vacant with salary of the Judge to cease from the date of the order of suspension. If said conviction is reversed with directions to enter a judgment of acquittal or if reversed for a new trial, which subsequently results in a judgment of dismissal or acquittal, the Mayor shall enter an order terminating the suspension of said Judge and said Judge shall be entitled to full compensation for the period of suspension. A plea of guilty or nolo contendere to such a charge shall be equivalent to a final conviction for the purpose of this section.

(Charter 1960, A13.8-8; amended November 3, 1964; Ord. No. 682-02, § 1, 8-26-02, elec. 11-5-02)

§ 4.4.5 - Effect of order for removal or retirement.

Upon an order for retirement, the Judge shall thereby be retired with the same rights and privileges as if the Judge had retired pursuant to statute, and the Judge's salary shall cease on the date of the order. On the date of entry of an order for retirement or for removal the Office of the Judge shall be deemed vacant.

(Charter 1960, A13.8-9; added April 1, 1991)

ARTICLE V. - AUDITOR

PART 1. - ELECTION AND SUCCESSION

§ 5.1.1 - Vacancy in the Office of Auditor.

When any Auditor is unable, by reason of resignation, death, or moving from the City and County of Denver, to perform the duties of the office for the time remaining prior to expiration of his or her term of office, the Council shall declare by resolution that a vacancy exists. Notwithstanding any provision of Section 8.2.3 of this Charter, such vacancy shall be filled by a special election, which shall be called by the Council to be held not less than 120 days nor more than 130 days after the Council declares that such vacancy exists unless another City-wide election has been scheduled to be held within 160 days after such vacancy is declared; and the candidate receiving the greatest number of votes at said election shall qualify and take such office immediately and shall hold such office for the unexpired portion of the term in which the vacancy occurs. Prior to such election for the office of the Auditor, the Mayor shall appoint a qualified person as acting Auditor with confirmation by council resolution.

(Charter 1960, C5.21-3; added September 18, 1989; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02; Ord. No. 782-19, § 1, 8-26-19, elec. 11-5-19)

§ 5.1.2 - Qualifications of Auditor.

The Auditor shall be elected for a term of four (4) years, and until a successor is elected and qualified. The Auditor shall be a citizen of the United States; a resident of the City and County of Denver for the two (2) years immediately preceding the election and during the term of office; a qualified elector of the City and County of Denver; at least thirty (30) years of age and shall devote full time to the duties of the office.

(Ord. No. 782-19, § 1, 8-26-19, elec. 11-5-19)

PART 2. - POWERS AND DUTIES

§ 5.2.1 - General powers and duties of Auditor.

- (A) *Internal Auditing.* The Auditor shall conduct financial and performance audits of the City and County and its departments and agencies in accordance with generally accepted governmental auditing standards promulgated by the United States Comptroller General. The Auditor shall conduct audits of individual financial transactions, contracts and franchises of the City and County; and shall generally audit the financial and accounting systems and procedures administered by the Manager of Finance and other departments and agencies of the City and County, including records systems, revenue identification and accounting, and payment practices, for compliance with generally accepted accounting principles, best financial management practices, and any applicable laws and regulations governing the financial practices of the City and County. The results of any audit shall be reported by the Auditor to the Audit Committee as provided in Section 5.2.2.
- (B) *Annual Work Plan; special audits.* On or before the third Monday of October of each year, the Auditor shall submit to the Mayor and City Council, for information only, an audit work plan for the ensuing fiscal year. The work plan shall identify the particular departments, agencies, programs, contracts, franchises or other matters that the Auditor has scheduled for auditing in the ensuing fiscal year. Special audits or emergency audits may be requested by the Mayor or the City Council or proposed by the Auditor at any time; provided, however that the ultimate decision to perform any audit shall be at the sole discretion of the Auditor.
- (C) *Access to records.* The Auditor shall have access at all times to all of the books, accounts, reports, vouchers, or other records or information maintained by the Manager of Finance or by any other department or agency of the City and County. In verifying any of the audits made, the Auditor shall have the right to ascertain the amounts on deposit in any bank or depository belonging to the City and County or any department or agency thereof, and shall have the right to audit said accounts on the books of any such bank or depository.
- (D) *Contracts.* Unless excepted by the Audit Committee as provided in section 5.2.2(C), the Auditor shall countersign and register all contracts of the City and County in order to see that no liability is incurred, money is disbursed, or the property of the City and County is disposed of contrary to law.
- (E) *Audit Committee.* The Auditor shall chair the Audit Committee as provided in Section 5.2.2, and shall assist that Audit Committee in carrying out the powers and duties provided therein.
- (F) *Other Duties Assigned by Ordinance.* The Auditor shall perform such other duties not inconsistent with the provisions of this Charter, as the Council may by ordinance require. The Council shall provide by ordinance procedures to require the confidentiality of preliminary audit findings, to require the public dissemination of final audit findings by and through the Audit Committee, and to require response by departments and agencies to audit findings. No ordinance shall compromise the independence of the Auditor as required by generally accepted government auditing standards promulgated by the Comptroller General of the United States.
- (G) *Appointment of Deputy.* The Auditor may appoint a Deputy, who shall in addition to any other duties assigned perform such functions and exercise such powers of the Auditor as the Auditor may specifically assign to such Deputy.

(Charter 1960, A7.1; Charter 1904, § 47; amended May 17, 1983; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02; Ord. No. 137-03, § 1, 2-24-03, elec. 5-6-03; Ord. No. 582-06, § 1, 8-22-06, elec. 11-7-06; Ord. No. 458-11, § 1, 8-29-11, elec. 11-1-11)

§ 5.2.2 - Audit Committee.

There shall be an Audit Committee chaired by the Auditor and consisting of the Auditor and six other members, two of whom shall be appointed by the Mayor, the Council, and the Auditor, respectively. With the exception of the Auditor, no member of the Audit Committee shall hold any other office or employment with the City and County while serving on the Audit Committee. Members of the Audit Committee shall be appointed on the basis of education or experience in accounting, auditing, financial management, or related fields of expertise. The powers and duties of the Audit Committee shall consist of the following:

- (A) *Independent External Audit.* The Audit Committee shall annually commission an independent external audit of the finances of the City and County, to be conducted in accordance with generally accepted government auditing standards; provided, however, that the contract for the independent external auditor shall be subject to approval by the Council and execution by the Mayor as otherwise provided in this charter. The Audit Committee shall supervise the work of the independent external auditor, shall receive reports of the independent external auditor, and shall communicate the findings and recommendations of the independent external auditor to the Mayor, the Manager of Finance, the Council, and the general public.
- (B) *Internal Audit.* The Audit Committee shall receive the results of the internal audits conducted by the Auditor in accordance with section 5.2.1 (A) and shall communicate findings and recommendations to the Mayor, Manager of Finance and Council and the general public.
- (C) *Contracts.* The Audit Committee shall determine what, if any, exceptions shall be made to the requirements of section 5.2.1 (D) concerning the Auditor's countersigning of contracts of the City and County and section 10.1.8 concerning the Auditor's countersigning of contracts of the Board of Water Commissioners. Any such exception shall be based upon the type, amount or materiality of the contracts.
- (D) *Auditor's Annual Work Plan.* The Audit Committee shall review the Auditor's annual work plan prior to the Auditor's submission of the plan to the Mayor and the City Council as required by section 5.2.1 (B).
- (E) *Complaints.* The Audit Committee shall establish procedures for the receipt, retention and treatment of complaints regarding accounting, internal accounting controls, or auditing matters.
- (F) *Other Duties Assigned by Ordinance.* The Audit Committee shall perform such other duties not inconsistent with the provisions of this Charter, as the Council may by ordinance require.

(Charter 1960, A7.2; Charter 1904, § 48; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02; Ord. No. 137-03, § 1, 2-24-03, elec. 5-6-03; Ord. No. 582-06, § 1, 8-22-06, elec. 11-7-06)

§ 5.2.3 - Appropriations to support Auditor and Audit Committee.

The Council shall appropriate sufficient funds to the Auditor and the Audit Committee to enable the Auditor and the Audit Committee to exercise the powers and duties set forth herein, and to obtain suitable offices, supplies, and employees to perform these powers and duties.

(Ord. No. 582-06, § 1, 8-22-06, elec. 11-7-06)

§ 5.2.4 - Reserved.

Editor's note— Ord. No. 582-06, § 1, adopted Aug. 22, 2006 and passed at election Nov. 7, 2006, repealed section 5.2.4 in its entirety. Former section 5.2.4 pertained to reports by the auditor to the council, and derived from the Charter of 1960, A7.4; Charter of 1904, § 50; Ord. No. 428-02, § 1, adopted June 3, 2002, passed at election Aug. 13, 2002; Ord. No. 137-03, § 1, adopted Feb. 24, 2003, passed at election May 6, 2003.

Secs. 5.2.5—5.2.8. - Reserved.

Editor's note— Ord. No. 137-02, § 1, adopted Feb. 24, 2003 and passed at election May 6, 2003, repealed sections 5.2.5—5.2.8 in their entirety. Former sections 5.2.5—5.2.8 pertained to reports to auditor and derived from the Charter of 1960, A7.5, A7.5-1, A7.6, A7.7, A7.9; the Charter of 1904, §§ 227—229, 231; amended November 3, 1998; Ord. No. 428-02, § 1, adopted June 3, 2002 and passed at election Aug. 13, 2002.

§ 5.2.9 - Reserved.

Editor's note— Ord. No. 582-06, § 1, adopted Aug. 22, 2006 and passed at election Nov. 7, 2006, repealed section 5.2.9 in its entirety. Former section 5.2.9 pertained to auditing of payroll and other employment matters, and derived from the Charter of 1960, A7.8; Charter of 1904, § 230; amended November 3, 1998; Ord. No. 428-02, § 1, adopted June 3, 2002, passed at election Aug. 13, 2002; Ord. No. 137-03, § 1, adopted Feb. 24, 2003, passed at election May 6, 2003.

§ 5.2.10 - Reserved.

Editor's note— Ord. No. 582-06, § 1, adopted Aug. 22, 2006 and passed at election Nov. 7, 2006, repealed section 5.2.10 in its entirety. Former section 5.2.10 pertained to actions against persons failing to pay account due the city, and derived from the Charter of 1960, A7.10, A7.10-1; Charter of 1904, § 232; Ord. No. 137-03, § 1, adopted Feb. 24, 2003, passed at election May 6, 2003.

ARTICLE VI. - CITY ATTORNEY

§ 6.1.1 - Attorney of the City and County of Denver.

The Attorney of the City and County of Denver shall be the officer in full charge and control of the Department of Law. The City Attorney shall be an attorney-at-law admitted to practice in the State of Colorado and shall have a minimum of five years' experience in the active practice of law. The City Attorney shall be the appointing authority for all employees of the Department of Law.

(Charter 1960, A10.2; Charter 1904, § 33; amended September 9, 1980; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02)

§ 6.1.2 - Special counsel.

The City Attorney, with the approval of the Mayor, may employ special counsel. Such special counsel shall serve under the direction of the City Attorney, and compensation shall be paid from the appropriation of the Department of Law. When disputes arise between units of City government, and such disputes cannot be resolved short of litigation, the City Attorney shall determine which of said units, in his or her opinion, is legally correct, and the other party to the dispute shall be advised to retain special counsel for representation at its own expense, or subject to approval of City Council, the expense shall be paid from the appropriation of the Department of Law.

(Charter 1960, A10.5; Charter 1904, § 36; amended September 9, 1980; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02; Ord. No. 676-02, § 1, 8-26-02, elec. 11-5-02)

§ 6.1.3 - Functions of the Department of Law.

The Department of Law shall exercise all functions of the City and County of Denver as to:

- (A) Representing the City and County of Denver, or any officer acting in his or her official capacity, or any employee acting within the scope of his or her employment, or any duly appointed member of a board or commission acting within the scope of his or her duties, in all civil litigation where the City and County of Denver, or said officer or said employee has been made a party;

- (B) Serving as counsel and legal advisor of the Mayor, the City Council or any committee or member thereof, the Auditor or any officer of the City and County, all departments, boards, commissions and officers concerning any legal matters affecting the City's interest;
- (C) Preparing and approving as to form all contracts, deeds, bonds and other legal instruments to be executed in the name of or made to or with the City and County of Denver;
- (D) Drafting such legislation and rendering such formal opinions as specified in Section 3.3.5(D) and as may be requested by the Mayor, the City Council, the Auditor or any other officer of the City and County, acting in his or her official capacity;
- (E) Conducting the functions assigned to County attorneys by the general statutes of the State;
- (F) Appearing in behalf of the people of the City and County of Denver in all actions and proceedings involving the alleged violation of any Charter provision, ordinance or rule and regulation of the City and County of Denver.

(Charter 1960, A10.1; Amended May 17, 1916; amended September 9, 1980; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02)

§ 6.1.4 - Institution of suits.

When directed by the Mayor or City Council in writing, the City Attorney shall institute any suit, action or proceeding on behalf of the City and County or any agency thereof, when such suit, action or proceeding would be consistent with the ethical canons of the legal profession.

(Charter 1960, A10.3; added September 9, 1980)

§ 6.1.5 - Dockets and records.

The City Attorney shall maintain official documents of all cases of the City and County rendered in State or Federal court, properly indexed and numbered, which shall include records of proceedings in such cases, copies of briefs, written opinions and official correspondence, except for those cases involving the alleged violation of any Charter provision, ordinance, or rule and regulation of the City and County of Denver.

(Charter 1960, A10.6; Charter 1904, § 34; amended September 9, 1980; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02)

§ 6.1.6 - Annual report.

The City Attorney shall issue an annual report concerning the activities and functions of the Department of Law.

(Charter 1960, A10.7; Charter 1904, § 35; amended September 9, 1980)

ARTICLE VII. - BUDGET AND FINANCE

PART 1. - BUDGET

§ 7.1.1 - Fiscal year.

The fiscal year of the City and County shall commence on the first day of January and end on the last day of December of each year.

(Charter 1960, A6.1; amended November 2, 1982)

§ 7.1.2 - Budget calendar; budget estimates; capital improvements program.

On or before May 1 of each year the Mayor shall prepare a budget calendar and procedures for the preparation of the budget. On or before July 1 of each year, all agencies, offices, departments, boards, commissions and other spending agencies of the City and County shall prepare and submit to the Mayor and City Council estimates of their expenditure requirements and estimated revenues for the ensuing fiscal year. The estimates of expenditures shall be based upon specific work programs which shall be set forth in detail sufficient to justify the proposed expenditures. The proposed expenditures shall be further classified so as to set forth the data by funds, character and object of expenditures and such other details as the Mayor or City Council may require. Revenue estimates shall be classified as to funds and sources of income in such detail as may be required by the Mayor or City Council. Changes in ordinances establishing taxes, fees, charges and other types of Revenue may be proposed. The Manager of Finance shall certify to the Mayor and City Council the amount of money to be raised by taxation to pay the interest on general obligation bonded indebtedness and to provide for the sinking fund. The Mayor shall develop long range plans for capital improvements and shall prepare a six-year capital improvements program.

(Charter 1960, A6.7; amended November 2, 1982; Ord. No. 582-06, § 1, 8-22-06, elec. 11-7-06)

§ 7.1.3 - Preparation of the budget.

On or before September 15 of each year, the Mayor shall brief the City Council on the tentative revenue and expenditure plans for the ensuing year and the major program changes related thereto. After receiving and considering the City Council's recommendations, the Mayor shall prepare and submit to the City Council, on or before the third Monday in October of each year, a proposed budget which shall include but need not be limited to: a general statement describing the important features of the budget; statements by funds showing estimates of expenditures, receipts, opening and closing balances compared with the last completed fiscal year and the current year; statements of expenditures and work programs of the various agencies, offices, departments, boards, commissions and other spending agencies; the amount to be raised by taxation to pay interest on general obligation bonded indebtedness and to provide for the sinking fund; and the amounts to be expended during the ensuing year for capital improvement projects and the sources of Revenue for financing such projects. Revenue estimates that depend on ordinances that set tax rates, fees, charges and other similar sources of receipts shall be based on already enacted ordinances excluding the ordinance to establish the mill levy under Section 7.4.2 for City and County purposes.

(Charter 1960, A6.8; amended November 2, 1982)

§ 7.1.4 - Balanced budget; emergencies; contingency reserve.

The budget proposed by the Mayor shall not propose expenditures in excess of estimated opening balances and anticipated income; however, in estimating, the Mayor may reduce the anticipated income from property taxes by an amount for uncollectible taxes. In the general fund the budget estimates for the ensuing year shall include an amount as a year-end closing balance which amount shall not be expended except for emergencies approved by a two-thirds vote of Council, within the fiscal year to which the proposed budget applies but may be considered as income available for expenditures in preparation of the proposed budget for the following year. The proposed budget for the general fund shall also include an amount, not less than two (2) per cent of the total estimated expenditures set forth in the general fund for the ensuing year, for the payment of any expense, the necessity of which is caused by any casualty, accident or unforeseen contingency, after the passage of the annual appropriation ordinance. Revenues received during the year in excess of those projected, or an opening balance larger than projected, will automatically be added to the contingency reserve.

(Charter 1960; A6.8-1; amended November 2, 1982)

§ 7.1.5 - Budget hearing.

Upon receipt of the proposed budget, prepared and submitted by the Mayor, the Council shall by motion cause to be published a notice showing that such budget is open for inspection by the public at such office as may be designated, that the Council shall hold a public hearing on such proposed budget on a certain date which shall not be later than the fourth Monday in October; and that any interested citizen may inspect such proposed budget and file or register any objections thereto at any time prior to or at the public hearing on the budget, which objections, if any, shall be taken into consideration by the Council.

(Charter 1960, A6.9; amended November 2, 1982)

§ 7.1.6 - Amendment and adoption of budget by Council.

After the public hearing on the proposed budget, but no later than the adjournment of the first regular Council meeting held in November, the Council may amend the budget by motion to revise, alter, increase, or decrease any items; any amendment shall require the vote of a majority of the members of Council. Not later than noon on the Friday immediately following the first regular Council meeting held in November, the Mayor shall submit to Council a list of the amendments and the items revised, altered, increased, or decreased, stating which of the amendments the Mayor accepts or rejects. If the Mayor rejects an amendment it shall not take effect unless, not later than the adjournment of the second regular council meeting in November, the Council overrides the rejection with a vote of at least two-thirds of its members. The Council shall thereupon adopt by motion the budget, as amended; or if no amendments were approved, the budget as proposed, which budget shall set forth the expenditures to be made in the ensuing fiscal year and the sources and anticipated amounts of revenue to fund such expenditures. The aggregate expenditures in the various funds including the contingency reserves and closing balances shall not exceed the estimated opening balances and anticipated revenues for each fund.

(Charter 1960, A6.9-1; amended November 2, 1982; amended March 25, 1991; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02)

§ 7.1.7 - Failure by Council to adopt budget.

If the Council fails to adopt a budget by the required date, the proposed budget, with any amendments which became effective pursuant to Section 7.1.6, shall become the official budget as if adopted by Council.

(Charter 1960, A6.9-2; amended November 2, 1982; amended March 25, 1991)

§ 7.1.8 - Budget allotment and work programs.

On or before the fifteenth day of December in each year, the various agencies, offices, departments, boards, commissions and other spending agencies shall submit to the Mayor revised budget expenditure plans, work programs and budget allotments in accordance with the budget and appropriations adopted by the Council. The Mayor shall review the allotments and may revise, alter or change the allotments but may not increase or reduce the total amount for the spending agency. The Mayor shall file a copy of the approved allotments with necessary supporting documents with the Manager of Finance and shall file copies of the expenditure plans, work programs and allotments with the Council. The Manager of Finance shall allow lawful expenditures for the spending agencies to be made from the appropriations on the basis of the approved allotments and not otherwise. The approved allotments may be revised during the budget year in the same manner as the original allotments were made.

(Charter 1960, A6.13; amended November 2, 1982; Ord. No. 582-06, § 1, 8-22-06, elec. 11-7-06)

§ 7.1.9 - Additional budget procedures provided by Council.

The Council may provide by ordinance for additional procedures to implement the budget process set forth herein.

(Charter 1960, A6.12; amended November 2, 1982)

PART 2. - APPROPRIATIONS

§ 7.2.1 - Annual appropriation ordinance.

Not later than the fourth Monday of November in each year, the Council shall enact an ordinance making appropriations for the ensuing fiscal year. The amounts appropriated for the various agencies, departments, boards, commissions, and other spending agencies shall not exceed the amounts therefor fixed in the budget adopted by the Council. The income as anticipated in the budget, and as provided by the tax levy ordinance, shall be allocated in the amounts and according to the funds specified in the budget for the purpose of meeting the expenditures authorized by the appropriation ordinance.

(Charter 1960, A6.10; amended November 2, 1982)

§ 7.2.2 - Contracts and liabilities subject to appropriation.

No officer or employee of the City and County nor any board, commission or other spending agency shall make any contract or do anything binding on nor impose upon the City and County any liability to pay money until a definite amount of money shall have been identified in a current appropriation, or in a fund not subject to appropriation, for the liquidation of all pecuniary liabilities so incurred; provided, that the provisions of this Section shall not apply to or limit the authority conferred in relation to bonded indebtedness.

(Charter 1960, A6.14; amended November 2, 1982)

§ 7.2.3 - Year-end lapsing of appropriations; exceptions.

All appropriations shall lapse at the end of the year to the extent that they shall not have been expended or encumbered, except appropriations for capital projects which shall run until the projects are completed or any balances rescinded by ordinance.

(Charter 1960, A6.13; amended November 2, 1982)

PART 3. - FUNDS AND FUND TRANSFERS

§ 7.3.1 - Apportionment of Revenues into funds; transfers.

The income and revenue paid into the treasury shall be apportioned to and kept in appropriate funds as established by ordinance, and such money, including the several funds now in the treasury, shall not be used for any purpose other than that for which the same were raised, provided that surplus and unused money in any fund may during the fiscal year be transferred from one fund to another by ordinance only, except as otherwise provided in this Charter.

(Charter 1960, A5.14; Charter 1904, § 234; Ord. No. 426-02, § 1, 6-3-02, elec. 8-13-02)

§ 7.3.2 - Recommendation by Mayor and cabinet to transfer funds; action by Council.

The Mayor and the cabinet may recommend an ordinance to the City Council transferring funds from one administrative department or office to another, when in their judgment the public service requires it, and the City Council shall act thereon in the same manner as provided in the Charter for the Mayor's annual appropriation ordinance.

(Charter 1960, A1.8; amended May 17, 1916; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02)

§ 7.3.3 - General fund.

The general funds shall consist of moneys received into the treasury and not specifically apportioned to any other fund.

(Charter 1960, A5.15; Charter 1904, § 235)

§ 7.3.4 - Reserved.

Editor's note— Ord. No. 426-02, § 1, adopted June 3, 2002 and passed at election Aug. 13, 2002, repealed section 7.3.4 in its entirety. Former section 7.3.4 pertained to other funds and derived from the Charter of 1960, A5.16; and the Charter of 1904, § 236.

PART 4. - TAXATION

§ 7.4.1 - Property tax levy; mill levy limitation.

The Council, after deducting the amount collectible from other sources, shall levy upon all taxable property, real and personal, within the limits of the City and County, the amount of taxes for City and County purposes necessary to provide for the payment during the ensuing fiscal year, of all properly authorized demands upon the treasury, not exceeding fifteen (15) mills on the dollar for all general City and County purposes upon the total assessed valuation of said property, and shall also, in addition thereto, levy the State and school district taxes. The foregoing limitation of fifteen (15) mills shall not apply to taxes which shall annually be levied by the Council for the payment of any general obligation bonded indebtedness of the City and County, now existing or hereafter created, or interest thereon, nor for sinking fund, nor for the indebtedness of any municipal corporation or quasi municipal corporation heretofore consolidated with or hereafter incorporated with, or annexed to, the City and County, or of the interest thereon; nor to special assessments for local improvements.

(Charter 1960, A6.2; amended November 2, 1982)

§ 7.4.2 - Assessment roll certified to Council; levies certified to assessor; warrant for collection certified to Treasurer.

It shall be the duty of the Assessor, as soon as the assessment roll is ready in each year for the extension of taxes, in accordance with general law, to certify the total amount of property assessed within the limits of the City and County to the Council, whereupon the Council shall proceed to make the proper levy in mills upon the dollar valuation to meet the expenses of the City and County, and cause the total levies, including school, State and special levies, to be certified by the Clerk to the Assessor, who shall extend the same upon the tax list of the current year, whereupon the Assessor shall issue a general warrant to the Treasurer for collection.

(Charter 1960, A6.4; amended November 2, 1982; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02)

§ 7.4.3 - Levies fixed by Council.

All fixed and declared levies named and contained in this Charter are hereby declared to be the maximum levies that may be made for purposes for which they were created and adopted, and the Council or the existing taxing power which shall be authorized to make and establish the tax levy at any time for any or all purposes is hereby authorized and empowered to make such levy or levies for any or all purposes as in the judgment of said Council or taxing power it or they may determine shall be necessary, but in no event shall any levy exceed the fixed and declared rate; and in every such levy the Council or taxing power shall have discretionary power to fix a minimum or less rate.

(Charter 1960, A6.3; amended November 2, 1982)

§ 7.4.4 - Collection of taxes governed by State law.

The Treasurer shall collect said taxes in the same manner and at the same time as State taxes are collected, and all laws of the State for the assessment and collection of general taxes, including laws for the sale of property for taxes and the redemption of the same, shall apply, and have as full effect for the collection of taxes for the City and County as for such general taxes, except as modified by this Charter or by ordinance.

(Charter 1960, A6.5; amended November 2, 1982; Ord. No. 426-02, § 1, 6-3-02, elec. 8-13-02; Ord. No. 582-06, § 1, 8-22-06, elec. 11-7-06)

§ 7.4.5 - State and school taxes.

All taxes levied for State and school purposes upon persons and property within the City and County shall be collected by the Treasurer and paid out by him or her in conformity with the general laws of the State.

(Charter 1960, A6.6; amended November 2, 1982; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02; Ord. No. 582-06, § 1, 8-22-06, elec. 11-7-06)

§ 7.4.6 - Board of Equalization.

There is hereby created a Board of Equalization to consist of the President of Council or the President's designee, the Manager of Transportation and Infrastructure or the Manager's designee, the Manager of Finance or the Manager's designee, the Clerk and Recorder or the Clerk and Recorder's designee, and the Manager of General Services or the Manager of General Services' designee, any three of whom shall constitute a quorum for the transaction of business, to perform all the duties and functions in reference to the equalization, reduction, abatement and rebate of general taxes required by the constitution and general laws of the State to be performed by County Commissioners, except the levying of the taxes, which shall be levied by the Council.

(Charter 1960, A5.21; amended May 17, 1916; amended May 19, 1959; amended May 8, 2001; Ord. No. 426-02, § 1, 6-3-02, elec. 8-13-02; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02; Ord. No. 582-06, § 1, 8-22-06, elec. 11-7-06; Ord. No. 407-13, § 2, 8-26-13, elec. 11-5-13; Ord. No. 529-19, § 1, 6-24-19, elec. 11-5-19)

PART 5. - INDEBTEDNESS

§ 7.5.1 - Procedures for incurring indebtedness; voter approval requirement.

No loan shall be made and no bonds shall be issued for any purpose, except in pursuance of an ordinance authorizing the same, which ordinance shall be irrevocable until the indebtedness therein provided for and the bonds issued in pursuance thereof shall have been fully paid. No general obligation bonds shall be issued until the question of issuing the bonds shall have been submitted to a vote of the qualified electors of the City and County of Denver and a majority of those voting upon the question by ballot shall have voted in favor of issuing such bonds.

(Charter 1960, A6.15, A6.15-1; amended November 2, 1982)

§ 7.5.2 - Debt limit.

The City and County of Denver shall not become indebted for general obligation bonds, to any amount which, including indebtedness, shall exceed three (3) per cent of the actual value as determined by the last final assessment of the taxable property within the City and County of Denver; provided, however, that in determining the limitation of the City and County's power to incur indebtedness, there shall not be included within the estimate bonds issued by the Board of Water Commissioners.

(Charter 1960, A6.17-2; amended November 2, 1982)

§ 7.5.3 - Form and procedures for bonds and other securities.

The form and procedures for the issuance of bonds, other securities, and other similar obligations of the City and County of Denver shall be as provided by ordinance.

(Charter 1960, C6.8-3; added May 17, 1983; Ord. No. 426-02, § 1, 6-3-02, elec. 8-13-02)

§ 7.5.4 - Reserved.

Editor's note— Ord. No. 426-02, § 1, adopted June 3, 2002 and passed at election Aug. 13, 2002, repealed section 7.5.4 in its entirety. Former section 7.5.4 pertained to payment of interest on bonds and sinking fund and derived from the Charter of 1960, A6.11; amended November 2, 1982.

PART 6. - ASSESSMENT DISTRICTS

Footnotes:

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Editor's note— Ord. No. 608-05, § 1, adopted Aug. 9, 2005 and approved at an election held on Nov. 1, 2005 repealed part 6, sections 7.6.1—7.6.19, and part 7, sections 7.7.1—7.7.19, in their entirety and replaced them with a new part 6, sections 7.6.1, 7.6.2. Former parts 6 and 7 pertained to similar material and derived from the Charter of 1960, A2.4—A2.18, A2.20, A2.23, A2.29, A2.30—A2.37, A2.44, A2.45; amended November 7, 1978; amended June 16, 1987; amended November 8, 1988; amended November 3, 1992; amended March 13, 1995; amended August 26, 1996; amended November 3, 1998; amended May 8, 2001; Ord. No. 426-02, § 1, adopted June 3, 2002, elec. Aug. 13, 2002; Ord. No. 428-02, § 1, adopted June 3, 2002, elec. Aug. 13, 2002)

§ 7.6.1 - Local public improvement districts.

The City and County shall have the power to contract for and make local public improvements, to assess the cost thereof wholly or in part upon the property especially benefited. Any procedures necessary to implement this power, to the extent not governed by this Charter, shall be established by ordinance. In all cases when the cost of a local public improvement is to be assessed wholly or in part upon the property benefited, the improvement shall be initiated and proposed by filing a petition therefor with the Department of Transportation and Infrastructure; or the Manager of Transportation and Infrastructure, without receiving a petition therefor, may initiate and propose such local public improvements. In all cases when the cost of a local public improvement is to be assessed wholly or in part upon the property benefited, the cost shall be assessed in proportion to benefits received, subject to any provision for reduction or waiver of assessments as may be provided by ordinance.

(Ord. No. 608-05, § 1, 8-9-05, elec. 11-1-05; Ord. No. 529-19, § 1, 6-24-19, elec. 11-5-19)

§ 7.6.2 - Local maintenance districts.

The City and County of Denver shall have the power to create local maintenance districts, conferring special benefits upon real property within such districts and general benefits to the City and County at large under provisions as the City and County may by ordinance provide, for the continuing care, operation, security, repair, maintenance and replacement of local public improvements. The City and County shall also have the power to consolidate or dissolve local maintenance districts according to procedures as may be provided by ordinance. In all cases when the costs of the continuing care, operation, security, repair, maintenance and replacement of local public improvements are to be assessed wholly or in part upon the real property benefited, the district therefor shall be initiated and proposed by filing a petition therefor with the Department of Transportation and Infrastructure; or, in the alternative, the Manager of Transportation and Infrastructure without receiving a petition therefor may initiate and propose the establishment of such a District. In all cases when the costs of the continuing care, operation, security, repair, maintenance and

replacement of local public improvements are to be assessed wholly or in part upon the real property to be benefited, the costs shall be assessed on said real property in proportion to the benefits received, subject to any provision for reduction or waiver of assessments as may be provided by ordinance.

(Ord. No. 608-05, § 1, 8-9-05, elec. 11-1-05; Ord. No. 529-19, § 1, 6-24-19, elec. 11-5-19)

PART 7. - [RESERVED]

Footnotes:

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Editor's note— See Editor's note at Part 6.

§§ 7.7.1—7.7.19. - [Reserved.]

ARTICLE VIII. - CLERK AND RECORDER

PART 1. - GENERAL PROVISIONS

Footnotes:

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Editor's note— Ord. No. 851-06, § 1, adopted Dec. 26, 2006, and passed at election Jan. 30, 2007, repealed part 1, sections 8.1.1—8.1.8, in its entirety and replaced it with a new part 1, sections 8.1.1—8.1.4. Former part 1 pertained to the election commission and derived from the Charter of 1960, C1.11—C1.14, C1.19, C1.23, C1.24, C2.2-7; amended May 17, 1915; amended May 27, 1915; amended September 10, 1974; amended May 15, 1979; amended May 17, 1983; amended August 11, 1992; Ord. No. 428-02, § 1, adopted June 3, 2002, elec. Aug. 13, 2002; Ord. No. 679-02, § 1, Aug. 26, 2002, elec. Nov. 5, 2002.

§ 8.1.1 - Office of Clerk and Recorder created; qualifications.

There is hereby created the Office of Clerk and Recorder. The Clerk and Recorder shall be a citizen of the United States; a resident of the City and County of Denver for the two (2) years immediately preceding his or her election and during the term of office; a qualified elector of the City and County of Denver and at least twenty-five years of age.

(Ord. No. 851-06, § 1, 12-26-06, elec. 1-30-07; Ord. No. 782-19, § 1, 8-26-19, elec. 11-5-19)

§ 8.1.2 - Powers and duties of Clerk and Recorder.

- (A) *In general.* The Clerk and Recorder shall have full charge and control of, exercise all the powers, and perform all the duties required of the City Clerk as provided for in the Charter and ordinances of the City and County of Denver and shall exercise all the powers and perform all the acts and duties now required or that may be hereafter required by the Constitution, or general laws of this State to be exercised or performed by the County Clerk and Recorder; excepting, however, powers and duties in relation to the registration of motor vehicles, which shall be performed by the Manager of Revenue or such other officer as shall be designated by the Mayor. The Council shall appropriate sufficient funds to the Clerk and Recorder to enable the Clerk and Recorder to fulfill any duty or meet any requirement or obligation imposed by state law upon a county clerk and recorder, including, by way of example, any duty to record deeds and other instruments affecting title to real property in a timely and efficient manner.
- (B) *Record keeping.* The Clerk and Recorder shall keep a record of the proceedings of City Council and shall have the custody of the seal of the City and County, the original rolls of ordinances, original contracts, title deeds to public property, all official indemnity or security bonds, except his or her own bond, which shall be filed and placed in the

custody of the auditor, and other records, papers and documents not required to be deposited with any other officer.

- (C) *Attesting and certifying documents.* The Clerk and Recorder shall attest all public instruments and official acts of the Mayor, or acting Mayor, and all instruments requiring the seal of the City and County, by signature and the seal of the City and County; and shall also certify under the Clerk's hand and the seal of the City and County all copies of such original documents, records and papers in the Clerk's office as may be required by any officer or person, and shall charge such fees, for the use of the City and County, as may be provided by general law or by ordinance; provided, however, that a facsimile of the signature of the Clerk or a facsimile of the seal of the City and County of Denver, or both, may be used on bonds, other securities and other similar obligations of the City and County of Denver unless issued in book entry form without the delivery of physical securities as further provided in Section 7.5.3 and other provisions of this Charter. Copies of all papers filed in the office of the Clerk, and transcripts of the records of the Council, and any record in the office of the Clerk, duly certified by him or her, under the corporate seal of the City and County, shall be received as evidence in all courts of this State. The obligation of the Clerk and Recorder to attest documents on behalf of the Mayor as provided herein shall be absolute and unconditional, and attestation of such documents shall be deemed a ministerial act over which the clerk shall exercise no discretion whatsoever. Upon presentation of any document by the Mayor or acting Mayor to the Clerk and Recorder as provided herein, the Clerk and Recorder shall forthwith attest and return the document to the Mayor.
- (D) *Appointment and employment of deputies and assistants.*
- (1) The Clerk and Recorder shall appoint a Deputy, to serve at the pleasure of the Clerk and Recorder, who shall have power to perform the duties of the Clerk. The Clerk and Recorder may also employ such other assistants within his or her appropriation as are now or hereafter may be authorized by ordinance.
 - (2) The Clerk and Recorder shall employ a Director of Elections to assist the Clerk and Recorder in exercising the powers and duties set forth in Parts 2 and 3 of this Article VIII.
 - (3) The Clerk and Recorder may appoint two additional persons, to serve at the pleasure of the Clerk and Recorder, who shall exercise such powers of the Clerk as the Clerk may specifically assign to such appointees.
 - (4) The Clerk and Recorder shall, without additional compensation, perform all the acts and duties now required or hereafter required by the general laws of this state to be exercised or performed by the public trustee for the City and County of Denver, or may employ a deputy to perform such acts and duties.
- (E) *Elections.* The conduct, management, and control of the registration of voters, and of the holding of elections, canvassing the returns thereof and issuing certificates of election, and of all other matters pertaining to elections in the City and County of Denver shall be vested exclusively in and exercised by the Clerk and Recorder. The powers secured under this section are plenary and self-executing. The Clerk and Recorder may adopt rules governing the conduct of elections consistent with the requirements of the Constitution and election laws of the State and with the Charter or any ordinance adopted pursuant to the Charter.
- (F) *Other duties required by ordinance.* The Clerk and Recorder shall perform such other duties, not inconsistent with the duties imposed by the Charter, as the council may by ordinance direct.

(Ord. No. 851-06, § 1, 12-26-06, elec. 1-30-07; Ord. No. 409-13, § 1, 8-26-13, elec. 11-5-13; Ord. No. 837-18, § 1, 8-20-18, elec. 11-6-18)

§ 8.1.3 - Vacancy in the Office of Clerk and Recorder.

When any Clerk and Recorder is unable, by reason of resignation, death, or moving from the City and County of Denver, to perform the duties of the office for the time remaining prior to expiration of his or her term of office, the Council shall declare by resolution that a vacancy exists. Notwithstanding any provision of Section 8.2.3 of this Charter, such vacancy shall be filled by a special election, which shall be called by the Council to be held not less than 120 days nor more than 130 days after the Council declares that such vacancy exists unless another City-wide election has been scheduled to be held within 160 days after such

vacancy is declared; and the candidate receiving the greatest number of votes at said election shall qualify and take such office immediately and shall hold such office for the unexpired portion of the term in which the vacancy occurs. Prior to such election for the office of the Clerk and Recorder, the Deputy Clerk and Recorder appointed pursuant to Section 8.1.2(D)(1) shall serve as the acting Clerk and Recorder.

(Ord. No. 851-06, § 1, 12-26-06, elec. 1-30-07; Ord. No. 782-19, § 1, 8-26-19, elec. 11-5-19)

§ 8.1.4 - Reserved.

Editor's note— Ord. No. 409-13, adopted August 26, 2013, and approved by the electorate November 5, 2013, repealed § 8.1.4 which pertained to transition provision and derived from Ord. No. 851-06, adopted December 26, 2006 (election Jan. 30, 2007).

PART 2. - CONDUCT OF ELECTIONS

§ 8.2.1 - Applicability of State election laws.

Denver City and County elections shall be governed by election laws of the State as now existing or hereafter amended or modified except as otherwise provided by this Charter, or by ordinance pursuant to this Charter hereinafter enacted.

(Charter 1960, C1.1; amended September 10, 1974)

§ 8.2.2 - General election.

A general City and County election shall be held on the first Tuesday in May of every odd-numbered year. On the first Tuesday of May, 1995 and on the same day every four (4) years thereafter, the general election shall be held for the purpose of electing a Mayor, an Auditor, thirteen Councilmembers, and the Clerk and Recorder; and for the submission of any initiative, referendum, Charter amendment, or other referred measure to the voters. On the first Tuesday of May, 2005 and on the same day every four (4) years thereafter, the general election shall be held for the purpose of conducting vacancy elections in accordance with the requirements of this Charter and for the submission of any initiative, referendum, Charter amendment, or other referred measure to the voters.

(Charter 1960, C1.2-1; amended May 17, 1916; amended September 10, 1935; amended November 4, 1952; amended September 10, 1974; amended August 11, 1992; Ord. No. 679-02, § 1, 8-26-02, elec. 11-5-02; Ord. No. 851-06, § 1, 12-26-06, elec. 1-30-07)

§ 8.2.3 - Special elections.

Special City and County elections shall be held when called by the City Council. No more than two special City and County election shall be called in any calendar year upon any date other than the date of a scheduled citywide election; provided, however, that this limitation shall not apply to any special election that is required to be held within a specified time period pursuant to this Charter or State law. The setting of special City and County elections by the City Council shall be subject to any election law of the State governing the scheduling of special municipal elections.

(Charter 1960, C1.4; amended September 10, 1974; Ord. No. 679-02, § 1, 8-26-02, elec. 11-5-02)

§ 8.2.4 - Qualifications of elective officers.

Except as herein otherwise provided, when elected, officers shall be citizens of the United States; residents of the City and County of Denver for the two (2) years immediately preceding their elections; qualified to register to vote in the City and County of Denver and at least twenty-five (25) years of age.

(Charter 1960, C5.1; Charter 1904, § 149; amended May 17, 1983; Ord. No. 679-02, § 1, 8-26-02, elec. 11-5-02; Ord. No. 409-13, § 1, 8-26-13, elec. 11-5-13)

§ 8.2.5 - Term of office.

The term of all elective offices shall commence on the third Monday of July following the election and the office-holders shall hold their respective office for a term of four (4) years or until their successors are duly qualified as in the Charter provided.

(Charter 1960, C1.3; amended September 10, 1974; amended August 11, 1992; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02)

§ 8.2.6 - Limitation on consecutive terms of office.

Elected officers shall serve no more than three consecutive four-year terms in their respective offices. If, in order to fill a vacancy in an elective office, the officer first takes office by way of succession, appointment or special election occurring more than two years prior to a general City and County election, the officer shall thereafter serve no more than two consecutive four-year terms in that same office. For purposes of this Section, terms are considered consecutive unless they are at least four years apart. The limitation set forth in this Section shall apply to all officers who are first elected, appointed, or succeed to a particular office on or after January 1, 2001. Any officer who has first been elected, appointed, or succeeds to a particular office prior to January 1, 2001 shall be subject to the limitation on consecutive terms set forth in Section 11(2) of Article XVIII of the Colorado Constitution.

(Charter 1960, C1.3-1; added November 7, 2000)

§ 8.2.7 - Nomination of candidates.

The name of a candidate for district Councilmember shall be placed upon the ballot when a verified petition of not less than one hundred (100) signatures of registered electors, who reside in the district in which the candidate resides, shall have been filed in the candidate's behalf at least fifty-five (55) days before the day of election in the manner and form and under the conditions established by the Clerk and Recorder, unless otherwise provided by ordinance in pursuance of this Charter. The name of a candidate for Mayor, Auditor, Clerk and Recorder or Councilmember-at-large shall be placed upon the ballot when a verified petition of not less than three hundred (300) signatures of registered electors shall have been filed in the candidate's behalf at least fifty-five (55) days before the day of election in the manner and form and under the conditions established by the Clerk and Recorder.

(Charter 1960, C1.5; amended February 14, 1913; amended September 10, 1974; amended August 9, 1988; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02; Ord. No. 679-02, § 1, 8-26-02, elec. 11-5-02; Ord. No. 851-06, § 1, 12-26-06, elec. 1-30-07)

§ 8.2.8 - Reserved.

Editor's note— Ord. No. 409-13, adopted Aug. 26, 2013, and approved by voters at an election held Nov. 5, 2013, deleted provisions pertaining to the acceptance of nomination; withdrawal, which had been codified as § 8.2.10, and derived from the 1960 Charter; as amended on Feb. 14, 1913; Sept. 10, 1974; Aug. 11, 1992; Ord. No. 679-02, adopted Aug. 26, 2002 (election Nov. 5, 2002); and Ord. No. 851-06, adopted Dec. 26, 2006 (election Jan. 30, 2007).

§ 8.2.9 - Reserved.

Editor's note— Ord. No. 409-13, adopted Aug. 26, 2013, and approved by voters at an election held Nov. 5, 2013, deleted provisions pertaining to the preparation of ballots, which had been codified as § 8.2.9, and derived from the 1960 Charter; as amended on Feb. 14, 1913; Sept. 10, 1935; Aug. 11, 1992; Ord. No. 679-02, adopted Aug. 26, 2002 (election Nov. 5, 2002); and Ord. No. 851-06, adopted Dec. 26, 2006 (election Jan. 30, 2007).

§ 8.2.10 - Reserved.

Editor's note— Ord. No. 409-13, adopted Aug. 26, 2013, and approved by voters at an election held Nov. 5, 2013, deleted provisions pertaining to the form of ballot questions, which had been codified as § 8.2.10, and derived from the 1960 Charter; as amended Sept. 10, 1974; Ord. No. 428-02, adopted June 3, 2002 (election Aug. 13, 2002); and Ord. No. 679-02, adopted Aug. 26, 2002 (election Nov. 5, 2002).

§ 8.2.11 - Reserved.

Editor's note— Ord. No. 679-02, § 1, adopted August 26, 2002, and approved by the electorate November 5, 2002, repealed § 8.2.11, which pertained to sample ballots and derived from the Charter of 1960, C1.8; amended February 14, 1913; September 10, 1974; and August 9, 1988)

§ 8.2.12 - Election precincts.

It shall be the duty of the Clerk and Recorder to divide the City and County into election precincts.

(Charter 1960, C1.15; amended September 10, 1974; Ord. No. 679-02, § 1, 8-26-02, elec. 11-5-02; Ord. No. 851-06, § 1, 12-26-06, elec. 1-30-07)

§ 8.2.13 - Reserved.

Editor's note— Ord. No. 409-13, adopted Aug. 26, 2013, and approved by voters at an election held Nov. 5, 2013, deleted § 8.2.13 which pertained to the election judges and derived from the 1960 Charter; amended Sept. 10, 1974; and by Ord. No. 679-02, adopted Aug. 26, 2002 (election Nov. 5, 2002).

§ 8.2.14 - Reserved.

Editor's note— Ord. No. 409-13, adopted Aug. 26, 2013, and approved by voters at an election held Nov. 5, 2013, deleted § 8.2.14 which pertained to the election watchers and derived from the 1960 Charter; amended Sept. 10, 1974; and by Ord. No. 679-02, adopted Aug. 26, 2002 (election Nov. 5, 2002); Ord. No. 851-06, adopted Dec. 26, 2006 (election Jan. 30, 2007).

§ 8.2.15 - Campaign contributions and expenditures.

All candidates shall report contributions and expenditures to the Clerk and Recorder prior to and subsequent to the day of election. Procedures, including but not limited to the amounts, identification of contributors, and dates of filing, for the reporting of contributions and expenditures shall be established by ordinance; and, in the absence of an ordinance, shall be governed by election laws of the State. Limitations on contributions and expenditures may be established by ordinance. It shall be unlawful to fail to comply with the provisions of this section and a violation of any of the provisions of this section by any candidate shall disqualify such candidate from holding the office for which he or she is a candidate.

(Charter 1960, C1.9; amended February 14, 1913; amended September 10, 1974; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02; Ord. No. 679-02, § 1, 8-26-02, elec. 11-5-02)

§ 8.2.16 - Reserved.

Editor's note— Ord. No. 409-13, adopted Aug. 26, 2013, and approved by voters at an election held Nov. 5, 2013, deleted § 8.2.16 which pertained to voting and counting equipment and derived from the 1960 Charter; amended May 15, 1951; Sept. 10, 1974; and by Ord. No. 679-02, adopted Aug. 26, 2002 (election Nov. 5, 2002); Ord. No. 851-06, adopted Dec. 26, 2006 (election Jan. 30, 2007).

§ 8.2.17 - Reserved.

Editor's note— Ord. No. 409-13, adopted Aug. 26, 2013, and approved by voters at an election held Nov. 5, 2013, deleted provisions pertaining to write-in votes, which had been codified as § 8.2.17, and derived from the 1960 Charter; added Aug. 11, 1992; Ord. No. 482-02, adopted June 3, 2002 (election Aug. 13, 2002); Ord. No. 679-02, adopted Aug. 26, 2002 (election Nov. 5, 2002); and Ord. No. 851-06, adopted Dec. 26, 2006 (election Jan. 30, 2007).

§ 8.2.18 - Reserved.

Editor's note— Ord. No. 679-02, § 1, adopted August 26, 2002, and approved by the electorate November 5, 2002, repealed § 8.2.18, which pertained to sealing of voting machines and ballot boxes and derived from the Charter of 1960, C1.2-5; amended May 17, 1916; September 10, 1935; November 4, 1952; and September 10, 1974.

§ 8.2.19 - Number of votes required for election.

To be elected Mayor, Auditor, Clerk and Recorder, or District Councilmember, a person shall have received a majority of the votes cast for such office at either a general City and County election or at a run-off election as herein provided. To be elected Councilmember-at-large, each person shall have received either the greatest number of votes or the next greatest number of votes at the general City and County election as herein provided. Present elected officials shall serve the term for which they are elected.

(Charter 1960, C1.2; amended May 17, 1916; amended September 10, 1935; amended November 4, 1952; amended September 10, 1974; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02; Ord. No. 851-06, § 1, 12-26-06, elec. 1-30-07)

§ 8.2.20 - Counting of votes; declaration of results.

After the official abstract of votes cast for all candidates, ballot issues and questions has been certified, the following persons shall be declared elected and entitled to a certificate of election:

- (A) The candidate for the Office of Mayor who has received a majority of the votes cast for that office.
- (B) The candidate for the Office of Auditor who has received a majority of the votes cast for that office.
- (C) Each candidate for the office of District Councilmember who has received a majority of the votes cast for that office in the respective districts.
- (D) The two (2) candidates for the office of Councilmember-at-large who have received the greatest number of votes cast for that office.
- (E) The candidate for the Office of Clerk and Recorder who has received a majority of the votes cast for that office.

(Charter 1960, C1.2-2; amended May 17, 1916; amended September 10, 1935; amended November 4, 1952; amended September 10, 1974; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02; Ord. No. 679-02, § 1, 8-26-02, elec. 11-5-02; Ord. No. 851-06, § 1, 12-26-06, elec. 1-30-07; Ord. No. 409-13, § 1, 8-26-13, elec. 11-5-13)

§ 8.2.21 - Run-off elections.

If, at a general City and County election, no candidate receives a majority of the votes cast for Mayor, for Auditor, for Clerk and Recorder, or for district Councilmember in the respective districts, a run-off election shall be held on the first Tuesday in June following the general election. The run-off election shall be held in the same manner as a general election, except:

- (A) Certification of candidates and publication of election notice shall be on or before the tenth (10th) day before election.
- (B) If a run-off election for Mayor is required, the two (2) persons with the highest number of votes for Mayor in the general City and County election shall appear on the ballot as candidates for Mayor.
- (C) If a run-off election for Auditor is required, the names of the two (2) persons with the highest number of votes

for Auditor in the general City and County election shall appear on the ballot as candidates for Auditor.

- (D) In each Council district in which a run-off election is required, the names of the two (2) persons with the highest number of votes for district Councilmember of the respective district in the general City and County election shall appear on the ballot.
- (E) If a run-off election for Clerk and Recorder is required, the names of the two (2) persons with the highest number of votes for Clerk and Recorder in the general City and County election shall appear on the ballot as candidates for Clerk and Recorder.
- (F) The names of candidates shall be arranged in the same order as the candidates filed their nomination petitions, with the first name being that of the first person to file.
- (G) After the official abstract of votes cast for all candidates has been certified, the candidates receiving the greatest number of votes cast at said election for the respective offices shall be declared elected and entitled to a certificate of election.

(Charter 1960, C1.2-3, C1.2-4; amended May 17, 1916; amended September 10, 1935; amended November 4, 1952; amended September 10, 1974; amended August 9, 1988; amended August 11, 1992; Ord. No. 679-02, § 1, 8-26-02, elec. 11-5-02; Ord. No. 851-06, § 1, 12-26-06, elec. 1-30-07; Ord. No. 409-13, § 1, 8-26-13, elec. 11-5-13)

§ 8.2.22 - Reserved.

Editor's note— Ord. No. 679-02, § 1, adopted August 26, 2002, and approved by the electorate November 5, 2002, repealed § 8.2.22, which pertained to canvass of returns, and derived from the Charter of 1960, C1.18; amended September 10, 1974.

§ 8.2.23 - Conflicting ballot questions adopted at same election.

Should there be submitted at any election different amendments, measures, or alternative articles or propositions, with more than one to be adopted, and there be any conflict between the same, then the amendment, measure, alternative article or proposition receiving the largest number of adoptive votes shall prevail.

(Charter 1960, C1.10; amended February 14, 1913; amended September 10, 1974; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02)

§ 8.2.24 - Contested elections.

All cases of contested elections shall be tried under the procedure prescribed by Colorado Municipal Election Code, except as otherwise provided herein or by ordinance.

(Charter 1960, C1.22; amended September 10, 1974)

§ 8.2.25 - Appointment of Hearing Officers.

The Clerk and Recorder shall appoint qualified persons as hearing officers to investigate and hold hearings to ascertain facts and information concerning elections; initiative, referendum and recall petitions; and the conduct of candidates.

(Ord. No. 851-06, § 1, 12-26-06, elec. 1-30-07)

§ 8.2.26 - Subpoena powers.

The Clerk and Recorder or any hearing officer appointed by the Clerk and Recorder shall have authority to issue subpoenas to compel the attendance and testimony of witnesses, with or without documentary evidence, and the production of books and documents at any hearing held under Parts 2 or 3 of this Article VIII or under the authority of any provision of law. The Clerk and

Recorder shall also have authority to issue subpoenas in conducting investigations authorized by this Article or under authority of any provision of law.

(Ord. No. 851-06, § 1, 12-26-06, elec. 1-30-07)

[§ 8.2.27 - Reserved.]

§ 8.2.28 - Reserved.

Editor's note— Ord. No. 409-10, adopted Aug. 26, 2013, and passed at election on Nov. 5, 2013, deleted § 8.2.28 which pertained to the Clerk and Recorder as candidates and derived from Ord. No. 851-06, adopted Dec. 26, 2006 (election Jan. 30, 2007).

§ 8.2.29 - Appropriations to support elections.

The Council shall appropriate sufficient funds to the Clerk and Recorder to enable the Clerk and Recorder to conduct elections and to obtain suitable offices, supplies, and employees to perform his or her duties.

(Ord. No. 851-06, § 1, 12-26-06, elec. 1-30-07)

PART 3. - INITIATIVE, REFERENDUM AND RECALL

§ 8.3.1 - Rights of initiative, referendum and recall reserved to the people.

- (A) The people of the City and County of Denver reserve the right to propose and enact ordinances—by initiative; to require that existing ordinances be referred to a vote of the electorate—by referendum; and to recall elected officials. The right of initiative, referendum or recall shall be exercised by petition of the registered electors of the City and County of Denver. Such petitions shall be filed with the Clerk and Recorder as follows: a petition for an initiated ordinance may be filed at any time; a petition for referendum shall be filed within ninety (90) days after final passage and publication of an ordinance; and a petition for recall shall be filed no less than six (6) months after, nor less than one (1) year before a regularly scheduled municipal election in which the office in question has been or will be filled.
- (B) An ordinance may be initiated by petition of registered electors numbering at a minimum two (2) percent of the total number of active registered electors as of January 1 each odd-numbered year.
- (C) An enacted ordinance may be referred by petition of registered electors numbering at a minimum two (2) percent of the total number of active registered electors as of January 1 each odd-numbered year.
- (D) Recall may be exercised by petition of registered electors entitled to vote for a successor and numbering at a minimum twenty-five (25) per cent of the vote cast for that office in the municipal election in which the official was elected. For Councilmember-at-large, registered electors shall number at a minimum ten (10) per cent of the total vote cast for the offices of Councilmember-at-large at the election at which the official was elected.
- (E) City Council shall not amend or repeal an initiated ordinance adopted by a vote of the people within six (6) months after final passage. After the first six months and within ten (10) years following final passage of any initiated ordinance adopted by a vote of the people, the initiated ordinance may be amended or repealed by City Council only by two-thirds (2/3) vote. Whenever City Council amends or repeals an initiated ordinance adopted by a vote of the people, City Council may do so only after it holds a public hearing.
- (f) City Council shall not reenact an ordinance repealed by a referendum within one (1) year after repeal by a vote of the people. After the first year and up to ten (10) years following repeal of an ordinance by a referendum, the repealed ordinance may be reenacted by City Council only by two-thirds (2/3) vote. Whenever City Council reenacts

an ordinance repealed by a referendum, City Council may do so only after it holds a public hearing.

(Charter 1960, C2.1; amended May 15, 1979; amended August 11, 1992; Ord. No. 678-02, § 1, 8-26-02, elec. 11-5-02; Ord. No. 851-06, § 1, 12-26-06, elec. 1-30-07; Ord. No. 409-13, § 1, 8-26-13, elec. 11-5-13; Ord. No. 661-18, § 1, 7-30-18, elec. 11-6-18)

§ 8.3.2 - Provisions applicable to all petitions.

- (A) *Petitioners' committee.* Any five (5) registered electors of the City and County of Denver may begin proceedings for initiative, referendum or recall by filing with the Clerk and Recorder an affidavit constituting themselves as a petitioners' committee for such purpose and specifying the intent of the committee to circulate either an initiative, a referendum, or a recall petition. The petitioners' committee shall be responsible for circulating and filing the petition. For recall of a Councilmember from a council district, members of the petitioners' committee shall be residents of that district.
- (B) *Contents of affidavit, ballot title, and petition sample.* The affidavit shall contain the notarized signatures of each member of the petitioners' committee; shall state the names, addresses, and telephone numbers of each member of the petitioners' committee and an address to which notices to the committee shall be sent; and shall specify one member of the committee to serve as the primary contact. Any affidavit for an initiative or referendum shall specify in full the text of the ordinance to be initiated or referred and shall include a ballot title which shall contain in summary form the major provisions of the ordinance, which shall be true and impartial and shall not be an argument, nor likely to create bias, either for or against the measure. The title for an initiative shall begin with the words: "Shall the voters for the City and County of Denver adopt...." unless different wording is required by the State Constitution. The title for a referendum shall begin with the words: "Shall the voters of the City and County of Denver repeal...." unless different wording is required by the State Constitution. Any affidavit for a recall shall state the name of the elected official to be recalled and a statement of the grounds upon which recall is sought. The petitioners' committee shall append to any affidavit a sample petition form in a style and format that complies with the requirements of this Charter and of the Clerk and Recorder.
- (C) *Review and approval of affidavit, ballot title and petition sample by Clerk and Recorder.* The affidavit, ballot title, and petition sample shall be reviewed by the Clerk and Recorder: for a determination of compliance with the requirements of this Charter, with any and all other applicable State or City and County laws, and with the rules of the Clerk and Recorder. In reviewing the ballot title, the Clerk and Recorder shall consider the public confusion that might be caused by a misleading title. The Clerk and Recorder shall have three (3) full working days from the time of the filing of the affidavit to review the affidavit, petition sample, and ballot title. At the end of the three (3) working days, the Clerk and Recorder must either accept or reject the affidavit, petition sample, or ballot title. If the affidavit, petition sample, or ballot title is rejected, the Clerk and Recorder shall make written findings specifying the defects in the affidavit, petition sample, or ballot title. The petitioners' committee, if not satisfied with the decision of the Clerk and Recorder, may institute legal proceedings with the appropriate court. No petition shall be circulated nor shall any signatures be procured until such affidavit, petition sample, and ballot title are approved by the Clerk and Recorder.

(Charter 1960, C2.2; amended May 15, 1979, amended August 11, 1992; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02; Ord. No. 678-02, § 1, 8-26-02, elec. 11-5-02; Ord. No. 851-06, § 1, 12-26-06, elec. 1-30-07; Ord. No. 275-08, § 1(A), elec. 8-12-08; Ord. No. 409-13, § 1, 8-26-13, elec. 11-5-13)

§ 8.3.3 - Reserved.

Editor's note— Ord. No. 409-13, adopted Aug. 26, 2013, and approved by voters at an election held Nov. 5, 2013, deleted provisions pertaining to initiative procedures, which had been codified as § 8.3.3, and derived from the 1960 Charter; as amended May 15, 1979; Aug. 11, 1992; May 8, 2001; Ord. No. 678-02, adopted Aug. 26, 2002 (election Nov. 5, 2002); Ord. No. 851-06, adopted Dec. 26, 2006 (election Jan. 30, 2007); and Ord. No. 275-08, adopted June 9, 2008 (election Aug. 12, 2008).

§ 8.3.4 - Reserved.

Editor's note— Ord. No. 409-13, adopted Aug. 26, 2013, and approved by voters at an election held Nov. 5, 2013, deleted provisions pertaining to referendum procedures, which had been codified as § 8.3.4, and derived from the 1960 Charter; as amended May 15, 1979; Aug. 11, 1992; May 8, 2001; Ord. No. 678-02, adopted Aug. 26, 2002 (election Nov. 5, 2002); Ord. No. 851-06, adopted Dec. 26, 2006 (election Jan. 30, 2007); and Ord. No. 275-08, adopted June 9, 2008 (election Aug. 12, 2008).

§ 8.3.5 - Recall procedures.

- (A) *Resignation of incumbent.* Should the incumbent resign from office prior to the recall election and at least one other candidate is on the recall ballot, the election shall be held to fill the office. If no candidates are on the ballot, the office shall be declared vacant and filled by the Mayor for the remainder of the term.
- (B) *Setting of recall election.* Within forty-five (45) days after certification of the petition the City Council shall call a special election to be held not less than sixty (60) days nor more than ninety (90) days after such certification, unless another Citywide election has been scheduled within one hundred twenty (120) days after certification.

(Charter 1960, C2.5; amended May 15, 1979; amended August 11, 1992; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02; Ord. No. 851-06, § 1, 12-26-06, elec. 1-30-07; Ord. No. 409-13, § 1, 8-26-13, elec. 11-5-13)

§ 8.3.6 - Charter amendment procedures.

Except as otherwise provided in this Charter, procedures for amendment of this Charter upon petition of the registered electors of the City and County of Denver or upon referral by the City Council shall be governed by the laws of the State adopted pursuant to the authority of Section 9 of Article XX of the Colorado Constitution.

(Ord. No. 678-02, § 1, 8-26-02, elec. 11-5-02)

§ 8.3.7 - Review and comment procedures for initiated ordinances and Charter amendments.

A draft of the text of any proposed initiated Charter amendment or ordinance shall be submitted by the proponents to the City Council staff and the City Attorney for review and comment. No later than ten (10) business days after submission of the draft text, unless withdrawn by the proponents, the City Council staff and the City Attorney shall jointly render their comments to the proponents of the proposed measure at a meeting open to the public, which shall be held after full and timely notice to the public. Such meeting shall be held prior to submission of the measure by the proponents to the Clerk and Recorder as required by this Charter or by State Law. Neither the City Council staff nor the City Attorney shall have any power to require any amendment, modification, or other alteration of the text of any such proposed measure, or to impose any procedural requirements on the proponents whatsoever.

(Ord. No. 678-02, § 1, 8-26-02, elec. 11-5-02; Ord. No. 851-06, § 1, 12-26-06, elec. 1-30-07; Ord. No. 661-18, § 1, 7-30-18, elec. 11-6-18)

ARTICLE IX. - EMPLOYMENT

PART 1. - CAREER SERVICE

Footnotes:

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Editor's note— Ord. No. 665-03, § 1, adopted Aug. 25, 2003 and passed at election Nov. 4, 2003, repealed part 1, sections 9.1.1—9.1.6, 9.1.8, 9.1.9 and part 2, sections 9.2.1—9.2.6, in their entirety and replaced them with new part 1, section 9.1.1 and new part 2, sections 9.2.1—9.2.3. Former parts 1 and 2 pertained to similar material and derived from the Charter of 1960, C5.19, C5.19-1, C5.19-1(1), C5.19-2, C5.19-2(1), C5.23—C5.25, C5.25-1,

C5.25-2, C5.26—C5.31; as amended May 17, 1916; May 15, 1951; September 14, 1954; September 11, 1956; May 20, 1969; October 26, 1971; May 15, 1973; November 6, 1973; September 12, 1978; September 14, 1982; August 9, 1988; September 18, 1989; March 25, 1991; November 3, 1992; November 2, 1993; March 20, 1995; August 19, 1996; November 3, 1998; Ord. No. 428-02, § 1, adopted June 3, 2002, elec. Aug. 13, 2002; Ord. No. 676-02, § 1, adopted Aug. 26, 2002, elec. Nov. 5, 2002.

§ 9.1.1 - Career Service personnel system.

- A. There shall be and is hereby created a Career Service personnel system, which shall be directed by a Career Service Board of five (5) members appointed by the Mayor and confirmed by the City Council for staggered terms fixed by ordinance. The Board shall, pursuant to its own rulemaking procedures, adopt, administer and enforce rules necessary to foster and maintain a merit-based personnel system according to the principles set forth in this Part 1, including but not limited to rules concerning the conduct of competitive examinations of competence, probationary periods, grievance procedures, and appeals from actions of appointing authorities to the Board and any hearing officers appointed by the Board. The Board and any hearing officers appointed by the Board shall have the power to issue subpoenas. The Board shall perform such other duties in relation to the Career Service personnel system as may be assigned by ordinance consistent with this Charter.
- B. All appointments and promotions of employees in the Career Service shall be made solely on the basis of merit and ability. Dismissals, suspensions or disciplinary demotions of non-probationary employees in the Career Service shall be made only for cause, including the good of the service. The Career Service personnel system shall provide for equal employment opportunity without regard to race, color, creed, national origin, gender, sexual orientation, age, disability, or political affiliation or any other status protected by federal, state or local laws.
- C. The City Council shall by ordinance enact a classification and pay plan and attendant pay rates for all classifications in the Career Service and all classifications not in the Career Service except elected and appointed Charter officers, the ranks of the classified service in the Police and Fire Departments, Deputy Sheriffs, Deputy Sheriff Majors, Deputy Sheriff Division Chiefs, and the Sheriff, based upon the duties of the several classifications. The pay rates as reflected in the pay plan shall provide like pay for like work within such classifications. The Council shall also by ordinance enact benefits for employees in such classifications. The Council shall enact such ordinances after recommendations are made as provided in subsection (D) of this section. Nothing in this section shall be deemed to prohibit the payment of incentives for outstanding performance by employees within such classifications according to standards and procedures established by ordinance.
- D. In order to attract and retain a qualified and competent work force, the policy of the City and County of Denver shall be to provide generally prevailing compensation to employees in the Career Service personnel system. The City Council shall by ordinance require either the Career Service Board or such other entity as may be designated by the Council to conduct or obtain annually surveys of generally prevailing pay rates, which shall include a fair sample of public and private sector employers and jobs throughout the Denver metropolitan area or other appropriate geographical areas. The Council shall also by ordinance require either the Board or such other entity as may be designated by the Council to survey benefits paid to or on behalf of employees by public and private employers in the Denver metropolitan area or other appropriate geographical areas. Surveys of pay rates and benefits shall utilize established technically and professionally sound methodologies. At least annually, either the Board or such other entity as may be designated by Council to perform or obtain pay surveys shall make pay rate recommendations to the Mayor and the Council based upon the findings of the surveys. Either the Board or such other entity as may be designated by the Council to conduct benefit surveys shall make benefit recommendations to the Mayor and the Council whenever deemed necessary by the Mayor, the Council, the Board, or other designated entity. The Mayor and the Council may accept, reject or modify any pay rate or benefit recommendation in determining the budget and appropriations of the City, and in determining pay rates and benefits to be approved by ordinance. The City Council shall provide by ordinance for an independent audit of survey methodologies and

recommendations regarding pay rates and benefits not less than once every four years. Notwithstanding any provision of this subsection (D), the Council may establish by ordinance additional or alternative procedures and requirements for surveying and obtaining recommendations regarding pay rates and benefits.

- E. The Career Service shall comprise all employees of the City and their positions except:
- (i) elected officers;
 - (ii) members of the Mayor's cabinet;
 - (iii) the Director of Excise and Licenses;
 - (iv) up to fifty employees appointed to serve at the pleasure of the Mayor in positions specifically designated or created by the Mayor in any department or agency of the City under the direct control of the Mayor;
 - (v) county court judges and magistrates;
 - (vi) members of the Classified Service of the Police and Fire Departments, the Police Chief if not a member of the Classified Service, the Fire Chief if not a member of the Classified Service, and the Sheriff;
 - (vii) attorneys and part-time employees employed by the District Attorney, other employees of the District Attorney excluded from the Career Service and placed in an alternate merit personnel system pursuant to state law, and up to ten employees appointed to serve at the pleasure of the District Attorney in positions specifically designated or created by the District Attorney in the District Attorney's office;
 - (viii) certified public accountants employed by the Auditor and up to five employees appointed to serve at the pleasure of the Auditor in positions specifically designated or created by the Auditor in the Auditor's Office;
 - (ix) employees of the Denver Art Museum, the Denver Museum of Nature and Science, the Denver Zoological Gardens, and the Denver Botanical Gardens;
 - (x) persons retained on a contractual basis to perform professional or technical services for limited periods of time;
 - (xi) employees of the City Council, Library Commission, Civil Service Commission, Board of Adjustment, and Denver Water; and
 - (xii) any hearing officers and up to two employees in positions specifically designated or created by the Career Service Board, appointed to serve at the pleasure of the Board.
 - (xiii) any employee appointed to serve at the pleasure of the mayor for the purpose of monitoring internal investigations and disciplinary actions in the Department of Safety, and any employees appointed by the monitor to serve at the pleasure of the monitor. The appointment of any monitor by the mayor pursuant to this or any other provision of the charter shall require confirmation by the city council.
 - (xiv) the Deputy Clerk and Recorder and no more than two other employees in positions specifically designated or created by the Clerk and Recorder, appointed to serve at the pleasure of the Clerk and Recorder. Any employee of the Denver Election Commission as of July 16, 2007 and formerly excepted from the Career Service pursuant to this section shall retain his or her position as an employee of the Clerk and Recorder if the employee qualifies to retain the position in accordance with the rules of the Career Service Board.
 - (xv) up to five employees appointed to serve at the pleasure of the Manager of Aviation in executive or other managerial positions in the Department of Aviation.
- F. The enactment of this section or any ordinance adopted pursuant to this section shall not be deemed to affect or impair any vested employment right enjoyed by any member of the Career Service under any prior law.

(Ord. No. 665-03, § 1, 8-25-03, elec. 11-4-03; Ord. No. 599-04, § 1, 8-30-04, elec. 11-2-04; Ord. No. 851-06, § 1, 12-26-06, elec. 1-30-07; Ord. No. 407-13, § 2, 8-26-13, elec. 11-5-13; Ord. No. 408-13, § 2, 8-26-13, elec. 11-5-13; Ord. No. 837-18, § 1, 8-20-18, elec. 11-6-18)

Footnotes:

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Editor's note— See editor's note at part 1.

§ 9.2.1 - Salaries and benefits of certain Charter officers set by ordinance.

The annual salaries and benefits of the following officers of the City and County of Denver shall be set by ordinance as hereinafter provided:

- (A) *Elected Charter officers.* Mayor; Auditor; Clerk and Recorder; members of the City Council.
- (B) *Appointed Charter officers.* Manager of the Department of Public Health and Environment; Manager of the Department of Transportation and Infrastructure; City Attorney; Manager of the Department of Safety; Manager of the Department of Finance; Manager of the Department of Parks and Recreation; Manager of the Department of General Services; Manager of the Department of Human Services; Manager of the Department of Aviation; Manager of the Department of Community Planning and Development; Director of Excise and Licenses.

(Ord. No. 665-03, § 1, 8-25-03, elec. 11-4-03; Ord. No. 582-06, § 1, 8-22-06, elec. 11-7-06; Ord. No. 851-06, § 1, 12-26-06, elec. 1-30-07; Ord. No. 529-19, § 1, 6-24-19, elec. 11-5-19)

§ 9.2.2 - Limitation on salaries and benefits of elected charter officers.

- (A) After January 1 of any general election year for elected Charter officers, but before the general election, the salaries of such officers shall be fixed by ordinance for the ensuing term within the limits set forth in this section. The salaries shall not exceed the lesser of:
 - (i) The current salaries adjusted for the cumulative percentage change over the preceding four years in the Consumer Price Index for All Urban Consumers, Denver-Boulder-Greeley, or its successor index; or
 - (ii) The current salaries adjusted for the cumulative percentage change over the preceding four (4) years in the mean salary of employees in the Career Service.
- (B) Salaries fixed by ordinance pursuant to this section shall become effective on the first day of the ensuing term. The ordinance, once it is enacted, shall be self-executing and may not be modified, repealed or superseded during the term of office.
- (C) Elected charter officers may, to the extent provided by ordinance, receive benefits paid to or on behalf of employees by the City, in an amount not to exceed the amount established by ordinance for Career Service employees.

(Ord. No. 665-03, § 1, 8-25-03, elec. 11-4-03)

§ 9.2.3 - Limitation on salaries and benefits of appointed charter officers.

The salaries of appointed charter officers shall be fixed by ordinance within a pay range for each office determined by the Career Service Board, not to exceed the maximum salary reflected in the pay range. The Career Service Board shall, whenever requested by the Mayor, periodically review and determine the pay range applicable to each office, based upon a comparison of salaries paid to similar office holders in other United States cities or counties. Appointed charter officers may, to the extent provided by ordinance, receive benefits paid to or on behalf of employees by the City, in an amount not to exceed the amount established by ordinance for Career Service employees.

(Ord. No. 665-03, § 1, 8-25-03, elec. 11-4-03)

PART 3. - CIVIL SERVICE COMMISSION

§ 9.3.1 - Civil Service Commission created.

There shall be a Civil Service Commission, whose duties, powers and responsibilities shall include: establishing, fostering and maintaining a merit personnel system providing for the selection and appointment by the Manager of Safety to the Classified Service of the Denver Fire and Police Departments those determined to be the best qualified applicants and the promotion within the Classified Service of the best qualified members; establishing and administering a disciplinary and disqualification review process for members of the Classified Service; and other duties, powers and responsibilities as necessary to effectuate the intent of this Charter section. All Commission examinations shall be impartial and relate only to matters which will test the qualifications of the persons examined. The Commission shall be committed to equal employment opportunity. Except as expressly provided in the Charter, there is no right of appeal before the Commission or Department of Safety.

(Charter 1960, C5.54; amended May 17, 1916; amended June 5, 1962; amended September 14, 1982; amended November 2, 1982; Ord. No. 138-03, § 1, 2-24-03, elec. 5-6-03)

§ 9.3.2 - Civil Service Commissioners.

- (A) *Qualifications and appointment.* The Commission shall consist of five (5) members. The Commissioners shall be citizens of the United States.
- (i) Two (2) members of the Commission and their successors shall be appointed by the Mayor.
 - (ii) Two (2) members of the Commission and their successors shall be appointed by City Council.
 - (iii) One (1) member of the Commission and his or her successors shall be nominated by the Mayor and appointed by ordinance or resolution of the Council, or shall be appointed by ordinance or resolution of the Council if the Mayor does not make such nomination within thirty days after the expiration of the term of the Commissioner or after a vacancy.
- (B) *Terms.* Each Commissioner shall be appointed for a term of two (2) years, except when appointed to complete an unexpired term, and may be reappointed.
- (C) *Composition.* In making appointments to the Commission, the Mayor and City Council shall consider the diversity of the citizens of the City and County of Denver.
- (D) *Removal.* A Commissioner may be removed by his or her appointing authority for cause, expressed in writing.

(Charter 1960, C5.55, C5.56; added November 2, 1982; amended November 4, 1986; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02; Ord. No. 138-03, § 1, 2-24-03, elec. 5-6-03; Ord. No. 608-05, § 1, 8-9-05, elec. 11-1-05)

§ 9.3.3 - Annual appropriation.

The City Council shall annually appropriate funding to the Commission to ensure that the Commission is able to carry out its duties, powers and responsibilities.

(Charter 1960, C5.75; Charter 1904, § 207; amended November 4, 1986; Ord. No. 138-03, § 1, 2-24-03, elec. 5-6-03)

§ 9.3.4 - Adoption and enforcement of rules for the Commission.

The Commission shall have power to make and enforce rules consistent with its rule-making process (which shall include a requirement that proposed rules be posted prior to adoption), and its Charter-mandated duties, powers, and responsibilities.

(Charter 1960, C5.58; Charter 1904, § 189; amended November 4, 1986; amended November 7, 2000; amended May 8, 2001; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02; Ord. No. 138-03, § 1, 2-24-03, elec. 5-6-03)

§ 9.3.5 - Reserved.

Editor's note— Ord. No. 138-03, § 1, adopted Feb. 24, 2003 and passed at election May 6, 2003, repealed section 9.3.5 in its entirety. Former section 9.3.5 pertained to content of rules and derived from the Charter of 1960, C5.59; amended June 3, 1958; amended November 4, 1986; amended November 2, 1993; amended September 6, 1994; amended November 7, 2000; Ord. No. 428-02, § 1, adopted June 3, 2002 and passed at election Aug. 13, 2002.

§ 9.3.6 - Interference with Commission; investigations; subpoena powers.

No person shall interfere with the powers, duties and responsibilities of the Commission. The Commission shall have the authority and power to investigate all breaches relating to its powers, duties and responsibilities, and may by subpoena compel the attendance and testimony of witnesses, and the production of books and papers.

(Charter 1960, C5.60; Charter 1904, § 191; amended November 4, 1986; Ord. No. 138-03, § 1, 2-24-03, elec. 5-6-03)

§ 9.3.7 - Retention of Hearing Officers by the Commission.

- (A) *Hearing Officers.* The Civil Service Commission shall enter into contractual arrangements with at least three (3) persons and as many more as determined by the Commission to serve as Hearing Officers to hear disciplinary or disqualification appeals or to otherwise aid the Commission in its review function. The Hearing Officers shall not be employed by or considered employees of the City and County of Denver. Qualifications of Hearing Officers shall be prescribed by Commission rule.
- (B) *Selection of Hearing Officers.* The Hearing Officers contracted with shall be selected as follows. The Commission shall compile a list of all qualified persons willing to be Hearing Officers. The list shall have at least seven (7) names unless fewer qualified persons have expressed a willingness to become Hearing Officers. The list shall be given to the Manager of Safety and the designated representatives of the Firefighters and Police Officers. Within fifteen (15) days of receipt of the list the designated representatives acting as a single entity and the Manager of Safety shall each strike not more than one-third (1/3) of the names on the list and each shall number the remaining names to indicate the order of preference. The Commission shall contract with those persons who have been approved on both lists, and in accordance with the designated order of mutual preference. This process shall be done at least once every three (3) years. The lists returned to the Commission by the Manager of Safety and the designated representatives shall be confidential and not disclosed to anyone by the Commission, its staff, the Manager of Safety, or the designated representatives.
- (C) *Designated representatives.* The Firefighters and Police Officers shall each have a designated representative for purposes of Subsection (B) of this Section. Said representatives shall be the bargaining agents for the Firefighters and Police Officers pursuant to Sections 9.7.4 and 9.8.4.

(Charter 1960, C5.73-5; added November 4, 1986; amended April 29, 1991; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02; Ord. No. 138-03, § 1, 2-24-03, elec. 5-6-03)

§ 9.3.8 - Examinations and content controlled by Commission.

The Commission shall control all examinations, including the content thereof, as prescribed by Commission rule, which shall include notice provisions. No Classified member of the Denver Police or Fire Departments shall be an examiner in any examination given for the purposes of promotion.

(Charter 1960, C5.57; Charter 1904, § 188; amended November 4, 1986; amended November 7, 2000; Ord. No. 138-03, § 1, 2-24-03, elec. 5-6-03)

§ 9.3.9 - Reserved.

Editor's note— Ord. No. 138-03, § 1, adopted Feb. 2, 2003 and passed at election May 6, 2003, repealed section 9.3.9 in its entirety. Former section 9.3.9 pertained to content of examinations and derived from the Charter of 1960, C5.62; the Charter of 1904, § 194; amended November 4, 1986; amended November 7, 2000; amended May 8, 2001; Ord. No. 428-02, § 1, adopted June 3, 2002 and passed at election Aug. 13, 2002.

§ 9.3.10 - Reserved.

Editor's note— Ord. No. 138-03, § 1, adopted Feb. 2, 2003 and passed at election May 6, 2003, repealed section 9.3.10 in its entirety. Former section 9.3.10 pertained to interference with examinations; corrupt practices and derived from the Charter of 1960, C5.77; the Charter of 1904, § 209; amended November 4, 1986.

§ 9.3.11 - Eligible registers, for original appointment and promotional appointment; requisition and certification.

- (A) *Creation of eligible register.* Those examined shall be graded according to an announced examination process. For those examined who have successfully completed the examination and all other phases of the Commission's process, including a background investigation for original appointment, their names and grades shall be entered on an eligible register in rank order by examination grade. An eligible register shall be considered a public document open to inspection.
- (B) *Background investigation and review.* The Commission shall oversee background investigations for original appointment. In no circumstance shall any individual be placed on an eligible register for original appointment, or be approved for original appointment or reemployment in the Classified Service, unless the Commission has reviewed the results of the individual's background and has approved the individual's background. The results of background investigations shall also be made available to the appointing authority for use in determining whether to appoint or reemploy an individual.
- (C) *Separate eligible registers.* The Commission shall have the separate eligible registers for entry level cadet, certified peace officer, reserve and promotional candidates.
- (D) *Removal of names from eligible register.* The Commission shall have the authority to make rules concerning the removal of names from an eligible register.
- (E) *Original appointment.* The Commission shall establish rules to provide for the requisition by the Manager of Safety, and the certification to the Manager of Safety, of applicants for original appointment.
 - (i) *Appointment of certified peace officer and firefighter with experience.* An applicant to the Classified Service of the Denver Police Department who is currently certified as a Colorado peace officer or out-of-state equivalent, and has a minimum of 2 years' experience on the date of application (not including time employed as a corrections/detention officer), excluding time served during prior police academy training, may at the discretion of the Chief of Police or designee, start the Denver Police Academy at the rate of pay for Police Officer 2nd grade. The recruit, after successful completion of the Denver Police Academy, followed by continued employment as a Denver police officer for a period of (9) months of service (following graduation), shall become a Police Officer 1st grade at the start of the following pay period, regardless of the completion date in the 9th month.

An applicant to the Classified Service of the Denver Police Department who is currently certified as a Colorado peace officer or out-of-state equivalent and has a minimum of 4 years' experience on the date of application (not including time employed as a corrections/detention officer), excluding time served in a prior police academy, may at the discretion of the Chief of Police or designee, start the Denver Police Academy at the rate of pay for Police Officer 1st grade.

The Chief of Police will evaluate applicants with prior law enforcement experience and peace officer certification on a case-by-case basis in assessing and determining suitability for hiring at an elevated pay grade.

An applicant to the Classified Service of the Denver Fire Department who has a minimum of three years of full-time firefighting experience may receive original appointment in the Fire Department upon meeting all qualification and examination standards established by the Commission and the Department of Safety, upon being certified to the Manager of Safety, and upon receiving written approval of the Chief of the Fire Department and the Manager of Safety.

These appointments shall have no impact regarding required time served in the Denver Fire or Police Departments for the purpose of seniority and promotional testing requirements of the Civil Service Commission.

The standards set forth are separate from City Charter 9.5.5(A)(B) and 9.6.6 (A)(B)(C) which addresses pay standards for those who do not qualify as a Lateral Firefighter or Lateral Police Officer.

- (ii) *Appointment of an active Reserve Police Officer.* An active Reserve Police Officer of the Denver Police Department who has met all of the qualifications and requirements of the Denver Police Department reserve officer training program and has been designated a Reserve Officer may receive original appointment in the Police Department upon meeting all qualification and examination standards established by the Commission and the Department of Safety, upon being certified to the Manager of Safety, and upon receiving written approval of the Chief of the Police Department and the Manager of Safety.
- (iii) *Appointment of fire department personnel pursuant to intergovernmental agreement.* Applicants to the Classified Service of the Denver Fire Department, who are applying pursuant to a duly approved intergovernmental agreement which provides for the transition of fire department services from a governmental or quasi-governmental agency to the City of Denver, may receive original appointment in the Fire Department upon meeting all qualification and examination standards established by the Commission and the Department of Safety, upon being certified to the Manager of Safety, and upon receiving written approval of the Chief of the Fire Department and the Manager of Safety.
- (F) *Promotional appointment.* The Commission shall provide for promotion in the Classified Service on the basis of an examination process announced by the Commission, which shall include consideration of seniority in service, and shall provide in all cases, that vacancies shall be filled by promotion. All examinations for promotion shall be competitive among such members of each department as desire to submit themselves to examination. Eligible registers for promotional appointment shall be established under the provisions of this Section. The Commission shall certify to the appointing authority without delay the number of names equal to the number of persons to be appointed, plus two, if there may be so many, having the highest position on the register. The names shall remain on the register at least one year. If a new register has not been completed at the end of one year, the register will remain effective until a new register is established, but in no event shall a register for promotional appointment be effective for more than two years.

(Charter 1960, C5.64; Charter 1904, § 196; amended November 4, 1986; amended November 7, 2000; Ord. No. 138-03, § 1, 2-24-03, elec. 5-6-03; Ord. No. 106-05, § 1, elec. 5-3-05; Ord. No. 408-13, § 2, 8-26-13, elec. 11-5-13; Ord. No. 805-18, § 1, 7-30-18, elec. 11-6-18)

§ 9.3.12 - Reserved.

Editor's note— Ord. No. 138-03, § 1, adopted Feb. 2, 2003 and passed at election May 6, 2003, repealed section 9.3.12 in its entirety. Former section 9.3.12 pertained to eligible registers for original appointment and derived from the Charter of 1960, C5.64-1; added November 7, 2000.

§ 9.3.13 - Reserved.

Editor's note— Ord. No. 138-03, § 1, adopted Feb. 2, 2003 and passed at election May 6, 2003, repealed section 9.3.13 in its entirety. Former section 9.3.13 pertained to eligible registers for original appointment of cadets and derived from the Charter of 1960, C5.64-2; added November 7, 2000; Ord. No. 428-02, § 1, adopted June 3, 2002 and passed at election Aug. 13, 2002.

§ 9.3.14 - Reserved.

Editor's note— Ord. No. 138-03, § 1, adopted Feb. 2, 2003 and passed at election May 6, 2003, repealed section 9.3.14 in its entirety. Former section 9.3.14 pertained to eligible registers for promotional appointment and derived from the Charter of 1960, C5.64-3; added November 7, 2000.

§ 9.3.15 - Reserved.

Editor's note— Ord. No. 138-03, § 1, adopted Feb. 2, 2003 and passed at election May 6, 2003, repealed section 9.3.15 in its entirety. Former section 9.3.15 pertained to background investigations and derived from the Charter of 1960, C5.62-1; added November 7, 2000.

§ 9.3.16 - Reserved.

Editor's note— Ord. No. 138-03, § 1, adopted Feb. 2, 2003 and passed at election May 6, 2003, repealed section 9.3.16 in its entirety. Former section 9.3.16 pertained to the manager of safety advising commission of anticipated appointments and derived from the Charter of 1960, C5.63; added November 4, 1986; amended November 7, 2000.

§ 9.3.17 - Reserved.

Editor's note— Ord. No. 676-02, § 1, adopted August 26, 2002, and approved by the electorate November 5, 2002, repealed § 9.3.17, which pertained to Commission certifying names to the Auditor; and derived from the Charter of 1960, C5.76; and the Charter of 1904, § 208; amended November 4, 1986; and Ord. No. 428-02, adopted June 3, 2002, and approved by the electorate August 13, 2002.

§ 9.3.18 - Public safety cadet program.

- (A) The Commission or its designee shall establish a procedure for screening applicants for entry into the public safety cadet program. The public safety cadet program shall operate under the supervision and control of the Manager of Safety. Persons in the public safety cadet program shall not be considered permanent employees of the City and may be dismissed at any time at the sole discretion of the Manager of Safety. All terms and conditions of the employment of public safety cadets shall be established by the Manager.
- (B) Time spent in the public safety cadet program shall not be considered as time in the Classified Service, if the public safety cadet is subsequently appointed to a position in the Classified Service.

(Charter 1960, C5.79; added May 16, 1989; amended November 2, 1993; amended November 7, 2000; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02; Ord. No. 1011-02, § 1, 12-9-02; Ord. No. 138-03, § 1, 2-24-03, elec. 5-6-03; Ord. No. 408-13, § 2, 8-26-13, elec. 11-5-13)

PART 4. - CLASSIFIED SERVICE; GENERAL PROVISIONS

§ 9.4.1 - Qualifications of applicants.

Applicants, at time of application to the Classified Service, shall be citizens of the United States, shall be of good moral character, shall be capable of performing the essential functions of the position to which they are seeking appointment, and shall meet all other qualifications and requirements as may be set forth by Commission rule.

(Charter 1960, C5.61; amended June 3, 1958; amended November 4, 1986; amended November 7, 2000)

§ 9.4.2 - Reserved.

Editor's note— Ord. No. 138-03, § 1, adopted Feb. 2, 2003 and passed at election May 6, 2003, repealed section 9.4.2 in its entirety. Former section 9.4.2 pertained to filling positions; requisition, certification and appointment and derived from the Charter of 1960, C5.65; the Charter of 1904, § 197; amended November 4, 1986; amended March 25, 1991; amended November 2, 1993; amended November 7, 2000.

§ 9.4.3 - Reemployment.

Members of the Classified Service who are separated may be reemployed pursuant to Commission rule, which shall provide for the written approval of the Fire Chief or the Police Chief, as appropriate, and the Manager of Safety. Reemployed members shall retain the seniority they had at separation, but no seniority shall be granted for the time during which they were separated and service shall not be construed as continuous. In the event the approval of either the chief of the department, the Manager of Safety, or the Commission is not granted, the former member shall have no right to seek review of that decision before the Commission, the department chief, or the Manager of Safety.

(Charter 1960, C5.65-1; added March 25, 1991; Ord. No. 138-03, § 1, 2-24-03, elec. 5-6-03)

§ 9.4.4 - Reserved.

Editor's note— Ord. No. 138-03, § 1, adopted Feb. 2, 2003 and passed at election May 6, 2003, repealed section 9.4.4 in its entirety. Former section 9.4.4 pertained to provisional appointments and derived from the Charter of 1960, C5.66; the Charter of 1904, § 198; amended November 2000.

§ 9.4.5 - Reserved.

Editor's note— Ord. No. 138-03, § 1, adopted Feb. 2, 2003 and passed at election May 6, 2003, repealed section 9.4.5 in its entirety. Former section 9.4.5 pertained to emergency appointments and derived from the Charter of 1960, C5.71; the Charter of 1904, § 202.

§ 9.4.6 - Probationary period; permanent appointment.

Every original appointment in the Classified Service shall include a probationary period, which shall include the time necessary to successfully complete the Police or Fire Academy and a nine-month period thereafter, except for an appointment to the rank of Fire Systems Technical Specialist or Mechanic in the Fire Department, and except for an appointment pursuant to § 9.3.11 (E).(iii). An original appointment to the rank of Fire Systems Technical Specialist or Mechanic shall include a probationary period of twelve months. An original appointment pursuant to § 9.3.11(E).(iii) shall include a probationary period determined by the Manager of Safety. At the end of the probationary period, if the conduct and capacity of the member appointed shall have been satisfactory, he or she shall be permanently appointed; otherwise, he or she shall be dismissed. The Manager of Safety may summarily dismiss, without cause, any probationary member during their probationary period. A probationary member shall not be entitled to appeal a dismissal action.

(Charter 1960, C5.69; amended May 16, 1961; amended November 4, 1986; amended November 2, 1993; amended November 7, 2000; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02; Ord. No. 138-03, § 1, 2-24-03, elec. 5-6-03; Ord. No. 106-05, § 1, elec. 5-3-05)

§ 9.4.7 - Service while in academy and during probation.

Service while in the Police or Fire Academy and during the period of probation following completion of the respective academy shall be deemed active service in the Classified Service of the department, and shall be included and counted in determining eligibility for advancement, promotion, retirement, pension, increased salary or compensation based on length of service, and other benefits of the Classified Service. During a member's service in the Police or Fire Academy and the period of probation following completion of the respective academy, the member is in the Classified Service for all purposes except for tenure of the employment or position to which the member has been so appointed.

(Charter 1960, C5.68; amended June 3, 1958; amended November 2, 1993)

§ 9.4.8 - Reserved.

Editor's note— Ord. No. 138-03, § 1, adopted Feb. 2, 2003 and passed at election May 6, 2003, repealed section 9.4.8 in its entirety. Former section 9.4.8 pertained to services in armed forces and derived from the Charter of 1960, C5.50; amended June 3, 1958; amended November 6, 2001; Ord. No. 428-02, § 1, adopted June 3, 2002 and passed at election Aug. 13, 2002.

§ 9.4.9 - Reserved.

Editor's note— Ord. No. 138-03, § 1, adopted Feb. 2, 2003 and passed at election May 6, 2003, repealed section 9.4.9 in its entirety. Former section 9.4.9 pertained to pay and benefits during temporary incapacitation and derived from the Charter of 1960, C5.53; the Charter of 1904, § 162.

§ 9.4.10 - Longevity pay.

In addition to the annual salaries for members in the Classified Service of the Fire and Police Departments as fixed by Charter provisions, and in addition to the salary or compensation provided by ordinance for the Chief of Police, there shall be paid periodically as salary to each member of each such department who shall have served in the department of which he or she is such member for five years or more and to the Chief of Police if the chief is also a member of the Classified Service, calculated as follows: Two hundred and eighty-eight dollars per annum prorated to a periodic rate geared to the pay period if the individual shall have so served five years, and an additional four dollars for each full year of such service thereafter, similarly prorated. After the completion of twenty-five years of such service, the additional salary provided by this paragraph, to be paid periodically during the year, shall continue during the active service of such member at the rate of \$1,200, and no more than \$1,200, per annum. The additional salary provided in this paragraph is an addition to salary in rank in the Fire Department and the Police Department and shall be considered or included in determining or computing the pension or retirement benefits of members of either department retired or retiring after the effective date of this amendment. Any collective bargaining agreement between the City and the bargaining agent entered into pursuant to Part 8 of this Article IX that conflicts with or modifies the provisions of this Section shall supersede this Section.

(Charter 1960, C5.48; amended June 3, 1958; amended September 8, 1964; amended March 20, 1995; amended November 3, 1998; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02)

§ 9.4.11 - Reserved.

Editor's note— Ord. No. 138-03, § 1, adopted Feb. 2, 2003 and passed at election May 6, 2003, repealed section 9.4.11 in its entirety. Former section 9.4.11 pertained to transfers and derived from the Charter of 1960, C5.72; the Charter of 1904, § 203.

§ 9.4.12 - Reserved.

Editor's note— Ord. No. 138-03, § 1, adopted Feb. 2, 2003 and passed at election May 6, 2003, repealed section 9.4.12 in its entirety. Former section 9.4.12 pertained to promotions and derived from the Charter of 1960, C5.67; the Charter of 1904, § 199; amended November 4, 1986; amended November 7, 2000.

§ 9.4.13 - Departmental rules of conduct.

The rules governing the conduct of members of the Classified Service in the Fire and Police Departments shall be set forth as written rules and regulations by the Chief of each of the respective departments with the approval of the Manager of Safety, provided, however, that such rules and regulations shall not contain any political or religious qualifications or disqualifications. Any member of the Classified Service shall be subject to reprimand, discharge, reduction in grade, fine and/or suspension for a violation of such rules and regulations.

(Charter 1960, C5.73; amended June 5, 1962; amended November 4, 1986)

§ 9.4.14 - Disciplinary procedures.

Except for the dismissal of any probationary member, the procedure for discipline other than a reprimand of any member of the Classified Service shall be as follows:

- (A) The Chief of Police and the Chief of the Fire Department shall, within their respective commands, initiate disciplinary action by a written command ordering the specific disciplinary action, which written command shall be submitted to the Manager of Safety for approval, together with a written specification of charges and a written report, setting forth the evidence of and reasons for such charges, which written report shall include a summary of the disciplinary record of the person charged. The written report shall also include that the member of the Classified Service affected thereby was given oral or written notice of the charges against him or her, an explanation of the evidence supporting those charges and an opportunity to respond to the charges prior to the imposition of the discipline. This predisciplinary meeting may be held by either the Chief or his or her designee.
- (B) The Manager of Safety shall, within fifteen calendar (15) days of the date of the Chief's order, approve, modify or disapprove the written order of disciplinary action. The Manager shall take such action by a written departmental order which shall take effect immediately. In the absence of the Manager of Safety, such departmental order may be issued by a Deputy Manager.
- (C) A copy of the departmental order of disciplinary action shall be served on the person affected thereby. If personal service of the said order cannot be made within five days because of inability to locate said person within the City and County of Denver, the copy of the said order shall be mailed by certified or registered mail, return receipt requested, to the last known address of said person, as shown by the records of the department. Said service shall be complete upon return of the mailing receipt, whether accepted or not.

(Charter 1960, C5.73-1; amended May 16, 1961; amended June 5, 1962; amended November 4, 1986; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02; Ord. No. 138-03, § 1, 2-24-03, elec. 5-6-03)

§ 9.4.15 - Review of disciplinary actions.

Except for the dismissal of a probationary member, any discipline other than a reprimand received by a member of the Classified Service shall be subject to review by a Hearing Officer and then the Commission pursuant to this Section of the Charter and Commission rules.

- (A) Within ten (10) days from the date of completion of service of the departmental order of disciplinary action, the member of the Classified Service against whom the order has been issued may file with the Civil Service

Commission a written appeal requesting review of the discipline. Such appeal shall be filed in a manner as specified by Commission rule. In the written appeal the member may request an expedited hearing. Upon such request for an expedited hearing, a hearing shall be held within thirty (30) days of the date of selection of the Hearing Officer unless a later date is agreed to by the parties or ordered for good cause shown by the Hearing Officer.

- (B) Pursuant to Commission rules, upon receipt of an appeal challenging a disciplinary action, the Commission shall randomly select a Hearing Officer to hear the appeal.
- (C) At a disciplinary hearing the member in person or by counsel, may offer evidence in support of his or her written objections. The Manager of Safety, acting through the City Attorney as counsel, shall offer evidence in justification of the departmental action. The hearing shall be recorded by a reporter or by an electronic recording device and a full record made. The Commission may adopt rules regarding pre-hearing matters and the conduct of the hearing.
- (D) In reviewing the disciplinary action, the Hearing Officer shall give due weight to the necessity of the maintaining by the Manager of administrative control of the department. The Hearing Officer shall review the full record before him or her and shall make written findings, affirming, reversing, or modifying the disciplinary action in whole or in part. The Hearing Officer's decision shall be filed with the Commission. Promptly upon receipt of the decision, the Commission shall simultaneously serve it on the Manager of Safety and the member involved by mailing it by certified or registered mail. Service shall be complete upon return of the mailing receipt, whether accepted or not.
- (E) The decision of the Hearing Officer may be appealed to either the Commission, or directly to District Court in accordance with the Colorado Rules of Civil Procedure then in effect. If one party appeals to the Commission and the other party appeals to the District Court, the court shall dismiss the appeal without prejudice until the Commission rules on the appeal before it. Any appeal to the Commission shall be initiated by filing a notice of appeal with the Commission as provided by Commission rule. Upon receipt of the notice of appeal, the Commission shall promptly notify the non-appealing party. The rules of the Commission shall provide for procedural matters regarding disciplinary appeals before the Commission.
- (F) In deciding the appeal, the Commission shall rely only upon the evidence presented to the Hearing Officer except when the appeal is based on new and material evidence. All factual findings by the Hearing Officer shall be binding on the Commission, and the Commission may not resolve disputed issues of fact. Review of a Hearing Officer decision by the Commission shall be limited to the following grounds: (a) new and material evidence is available that was not available when the appeal was heard by the Hearing Officer, (b) the decision of the Hearing Officer involves an erroneous interpretation of departmental or civil service rules, (c) the decision of the Hearing Officer involves policy considerations that may have effect beyond the case at hand, or (d) the discipline affirmed or imposed by the Hearing Officer is inconsistent with discipline received by other members of the department under similar circumstances. The Commission may affirm, reverse or modify the Hearing Officer's decision provided that the Commission shall not have the authority to impose a level of discipline more severe than that imposed by the Hearing Officer or the Manager of Safety.
- (G) Either the member of the Classified Service affected thereby or the Manager of Safety may seek a judicial review of the decision of the Civil Service Commission in accordance with the Colorado Rules of Civil Procedure then in effect. Judicial review proceedings hereunder shall not be extended further than to determine if the Commission has exceeded its jurisdiction or abused its discretion under the provisions of this Charter. In the event that no appeal of the Hearing Officer's decision is made to the Commission, either the member of the Classified Service affected thereby or the Manager of Safety may seek judicial review of the Hearing Officer's decision in the same manner as provided for review of a Commission decision. Under the circumstances, the time period for filing for judicial review shall begin the day after the last day when an appeal with the Commission could have been filed.

(Charter 1960, C5.73-2; amended June 5, 1962; amended November 4, 1986; amended November 7, 2000. Subsections (E), (F) and (G) added November 4, 1986; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02; Ord. No. 138-03, § 1, 2-24-03, elec. 5-6-03)

§ 9.4.16 - Suspension pending investigation.

The Chief of the Fire Department and the Chief of the Police Department shall, within their respective commands, have the power and authority to suspend any member of the Classified Service pending an investigation and the initiation of disciplinary action provided that a specification of charges as provided in Subsection 9.4.14(A) must be filed with the Manager of Safety or such suspension must be terminated within ten days; provided, however, that where a specification of charges is filed in accordance with the provisions of Subsection 9.4.14(A), such suspension shall remain in effect pending final disposition of such charges, including the final disposition of any appeal of a departmental order.

(Charter 1960, C5.73-3; amended June 5, 1962; amended November 4, 1986; amended November 7, 2000)

§ 9.4.17 - Suspension upon filing of indictment or information.

Indictment of a member of the Classified Service or the filing of any information by a District Attorney against the member charging any felony shall be cause for suspension of any member of the Classified Service, with or without pay, indefinitely upon order of the Chief of his or her department. Such suspension shall be terminated by restoration to the service or by discharge as soon as the decision of the court becomes final. If the member of the classified service has been suspended without pay and is restored to his or her position, the member shall receive full pay for the entire period of such suspension and his or her eligibility for other benefits of the service shall not be deemed to have been interrupted by such suspension. The conviction of a member of the Classified Service for a felony shall be grounds for discharge.

(Charter 1960, C5.73-4; amended June 5, 1962; amended November 4, 1986; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02)

§ 9.4.18 - Reserved.

Editor's note— Ord. No. 599-04, § 1, adopted Aug. 30, 2004 and passed at election Nov. 2, 2004, repealed section 9.4.18 in its entirety. Former section 9.4.18 pertained to internal investigations, and derived from the Charter of 1978, C5.78; added Nov. 4, 1986; Ord. No. 428-02, § 1, adopted June 3, 2002, elec. 8-13-02.

§ 9.4.19 - Reduction and increase of force.

When the force in any department is reduced the member receiving the last original appointment to that department for employment shall be first laid off; and when the force in that department is increased members laid off shall be recalled in the order of their date of original appointment.

(Charter 1960, C5.70; Charter 1904, § 201; amended November 4, 1986; amended November 2, 1993)

PART 5. - FIRE DEPARTMENT

§ 9.5.1 - Chief of the Fire Department appointed by Mayor; reversion to prior rank upon removal.

The Chief of the Fire Department shall either be appointed from within or from outside the Classified Service of the Denver Fire Department by the Mayor and shall hold such position so long as his or her services are satisfactory to the Mayor. If the Chief is appointed from within the Classified Service of the Denver Fire Department, only members of the department holding the rank of Captain or any higher rank shall be eligible for appointment. If the Chief is appointed from outside the Classified Service of the Denver Fire Department, the appointee shall be a professional firefighter with a minimum of seven years command experience in a

like-sized or larger urban fire department. In the event that the appointment is made from within the Classified Service of the Denver Fire Department and the Mayor removes such appointee, he or she shall revert to his or her previous rank, unless he or she is eligible for retirement when so removed, in which event he or she shall be entitled to retire as Chief of the Fire Department. The salary, fringe benefits, and other compensation of this position shall be established by ordinance.

(Charter 1960, C5.45-6; Added May 19, 1987; Ord. No. 138-03, § 1, 2-24-03, elec. 5-6-03; Ord. No. 408-13, § 2, 8-26-13, elec. 11-5-13)

§ 9.5.2 - Deputy Chief and Division Chiefs.

The Chief of the Fire Department may from time to time, with the approval of the Manager of Safety, assign members of the Classified Service of the Denver Fire Department of the rank of Assistant Chief to perform the duties of Deputy Chief and members of the Classified Service of the Denver Fire Department of the rank of Assistant Chief to perform the duties of Division Chief, each of whom shall perform such duties so long as his or her services are satisfactory to the Chief and the latter shall see fit to continue such assignment. The total number of command assignments permitted by this section at any one time shall not exceed seven (7). The pay rates and fringe benefits for those members assigned the duties of Deputy Chief or Division Chief shall be established by ordinance. The Chief of the Fire Department shall appoint a Deputy Chief or, if a Deputy Chief is unavailable, a Division Chief to serve as Acting Chief in the Chief's temporary absence.

(Charter 1960, C5.45-4; added May 19, 1987; amended June 13, 1994; Ord. No. 138-03, § 1, 2-24-03, elec. 5-6-03; Ord. No. 408-13, § 2, 8-26-13, elec. 11-5-13)

§ 9.5.3 - Reserved.

Editor's note— Ord. No. 138-03, § 1, adopted Feb. 2, 2003 and passed at election May 6, 2003, repealed section 9.5.3 in its entirety. Former section 9.5.3 pertained to absence of chief; vacancy in office and derived from the Charter of 1960, C5.45-4(a); amended June 5, 1962; amended May 19, 1987.

§ 9.5.4 - Ranks and Grades in the Fire Department.

- (A) The Classified Service of the Fire Department shall only consist of the following ranks and grades:
- (i) *Rank*: Assistant Chief, Master Mechanic, Superintendent of Fire Alarm, Assistant Superintendent of Fire Alarm, Assistant Master Mechanic, Captain, Fire Systems Technical Specialist, Mechanic, Lieutenant, Engineer, Firefighter, Emergency Medical Technician.
 - (ii) *Grades of Firefighter*: 1st Grade, 2nd Grade, 3rd Grade, 4th Grade.
 - (iii) *Grades of Fire Systems Technical Specialist and Mechanic*: I, II, III, IV, V.
- (B) The Chief of the Fire Department may from time to time assign Firefighters 1st grade to perform the duties of Technician, each of whom shall perform such duties so long as the individual's services are satisfactory to the Chief of the Fire Department and the Chief shall see fit to continue such assignment.
- (C) The Chief of the Fire Department may from time to time assign Assistant Chiefs to perform the duties of Shift Commander, each of whom shall perform such duties so long as the individual's services are satisfactory to the Chief of the Fire Department and the Chief shall see fit to continue such assignment.
- (D) The duties of the rank of Engineer shall include driving and operating any vehicle other than an automobile in the fire suppression activity, and only Engineers shall be permanently assigned to perform these duties.

(Charter 1960, C5.45; C5.45-3, C5.45-5, C5.45-7, C5.45-8; amended May 19, 1987; amended November 2, 1993. Subsection (D), added June 3, 1958. Subsection (E), added March 10, 1970; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02; Ord. No. 138-03, § 1, 2-24-03, elec. 5-6-03; Ord. No. 781-19, § 1, 8-26-19, elec. 11-5-19)

§ 9.5.5 - Rank and grade upon original appointment and thereafter.

- A. A member of the Fire Department shall be a Firefighter 4th Grade from the date of original appointment and until such time as the member has served nine months after completion of the Fire Academy. A member of the Fire Department shall be a Firefighter 3rd Grade if that member has served for more than nine-months after completion of the Fire Academy and less than twenty-one months after the completion of the Fire Academy. A member of the Fire Department shall be a Firefighter 2nd Grade if that member has served for twenty-one months or more after completion of the Fire Academy and less than thirty-three months after the completion of the Fire Academy. A member of the Fire Department shall be a Firefighter 1st Grade if that member has served for thirty-three months or more after completion of the Fire Academy.
- B. Applicants who are employed pursuant to a duly approved intergovernmental agreement, as provided in § 9.3.11(E) (iii), may be appointed to any rank in the Denver Fire Department, but not higher than the rank of Firefighter 1st Grade.
- C. Applicants who are employed under the terms of Section 9.3.11(E)(i) shall be appointed to Firefighter 4th Grade until such time as that member has successfully completed the Fire Academy, at which time the Manager of Safety, at his or her discretion, may continue the appointment of the member as a Firefighter 4th Grade or may appoint the member based upon merit, experience, or record to:
- (i) The rank of Firefighter 3rd Grade, if that member has less than five years of prior experience;
 - (ii) The rank of Firefighter 2nd Grade, if that member has more than five years of prior experience but less than eight years of prior experience; or
 - (iii) The rank of Firefighter 1st Grade, if that member has eight or more years of prior experience.

If the member serves as a Firefighter 3rd Grade or a Firefighter 2nd Grade, the member shall serve a full year at such grade before advancement to the next grade. The member retained or appointed to a grade as described herein shall have no right to seek review of that decision before the Civil Service Commission, Chief of the Fire Department, or the Manager of Safety. Appointments made pursuant to this Section shall be considered original appointments and shall require completion of a full nine-month probationary period after having successfully completed the Fire Academy.

(Charter 1960, C5.47; amended June 3, 1958; amended June 5, 1962; amended September 8, 1964; amended November 2, 1993; amended September 6, 1994; Ord. No. 138-03, § 1, 2-24-03, elec. 5-6-03; Ord. No. 106-05, § 1, elec. 5-3-05; Ord. No. 408-13, § 2, 8-26-13, elec. 11-5-13)

§ 9.5.6 - Reserved.

Editor's note— Ord. No. 138-03, § 1, adopted Feb. 2, 2003 and passed at election May 6, 2003, repealed section 9.5.6 in its entirety. Former section 9.5.6 pertained to sick leave and derived from the Charter of 1960, C5.32; amended November 7, 1950; Ord. No. 428-02, § 1, adopted June 3, 2002 and passed at election Aug. 13, 2002.

§ 9.5.7 - Injuries incurred or sickness contracted in the performance of official duties.

Any member of the Denver Fire Department who shall become injured by reason of the performance of his or her official duties or who shall contract any sickness attributable to his or her occupation by reason of the performance of his or her official duties shall be entitled to the following, subject to the approval of the Chief of the Fire Department and the proper examining physician:

- (A) He or she shall be provided, when necessary, with hospitalization, doctors, surgeons, nurses and medical care.
- (B) Any intermittent or consecutive leave of absence not to exceed one calendar year at his or her full salary and benefits so long as the leave is necessary in reaching recovery from the injury or sickness for the rank that the member holds in the department.
- (C) Should such member need additional leave of absence in excess of one year he or she may use his or her

accumulated sick leave at full pay.

(Charter 1960, C5.33; amended November 7, 1950; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02; Ord. No. 138-03, § 1, 2-24-03, elec. 5-6-03)

§ 9.5.8 - Injuries incurred or sickness contracted otherwise than in the performance of official duties.

Any member of the Denver Fire Department who shall become injured or contract sickness otherwise than in the performance of his or her official duties shall be entitled to the following: He or she shall receive full pay from the department payroll for the rank he or she holds in the department for such time as he or she may have accumulated for sick leave.

(Charter 1960, C5.34, C5.34-1; amended November 7, 1950; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02; Ord. No. 138-03, § 1, 2-24-03, elec. 5-6-03)

§ 9.5.9 - Reserved.

Editor's note— Ord. No. 138-03, § 1, adopted Feb. 2, 2003 and passed at election May 6, 2003, repealed section 9.5.9 in its entirety. Former section 9.5.9 pertained to payments not to exceed regular salary and derived from the Charter of 1960, C5.35; amended November 7, 1950; amended November 3, 1998; Ord. No. 428-02, § 1, adopted June 3, 2002 and passed at election Aug. 13, 2002.

§ 9.5.10 - Payment of salary and benefits upon death.

Upon the death of a member of the Classified Service of the Denver Fire Department, all money due such member by reason of unpaid salary, accumulated unused vacation time, sick leave reserve, or from other sources at the time of death shall be paid to the Fire Fighter's estate.

(Charter 1960, C5.32-5; amended November 7, 1950; amended August 11, 1992)

§ 9.5.11 - Reserved.

Editor's note— Ord. No. 138-03, § 1, adopted Feb. 2, 2003 and passed at election May 6, 2003, repealed section 9.5.11 in its entirety. Former section 9.5.11 pertained to retirement age for members of fire department and derived from the Charter of 1960, C5.36-1; amended June 5, 1962; Ord. No. 428-02, § 1, adopted June 3, 2002 and passed at election Aug. 13, 2002.

§ 9.5.12 - Firefighter pensions.

Firefighter pensions shall be governed by applicable provisions of the Colorado Revised Statutes.

(Charter 1960, C5.36; Charter 1904, § 242; amended September 6, 1994; Ord. No. 138-03, § 1, 2-24-03, elec. 5-6-03)

PART 6. - POLICE DEPARTMENT

§ 9.6.1 - Chief of Police appointed by Mayor.

The Chief of Police shall either be appointed from within or from outside the Classified Service of the Denver Police Department by the Mayor and shall hold such position or employment so long as his or her services are satisfactory to the Mayor. If the Chief is appointed from within the Classified Service of the Denver Police Department, only members of the department holding the rank of Lieutenant or any higher rank shall be eligible for appointment. If the Chief is appointed from outside the Classified Service, the appointee shall be a certified peace officer with a minimum of seven years command experience in a like-sized or larger law enforcement agency.

(Charter 1960, C5.46-3; amended June 3, 1958; amended June 5, 1962; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02; Ord. No. 138-03, § 1, 2-24-03, elec. 5-6-03; Ord. No. 408-13, § 2, 8-26-13, elec. 11-5-13)

§ 9.6.2 - Chief of Police; retention of benefits.

If a member of the Classified Service of the Police Department, the Chief of Police, during the time he or she has served or shall hereafter serve in such capacity, employment or position, shall retain and have accrued to him or her said time as active service in the Police Department and in the Classified Service thereof for all purposes in connection with retirement, pension benefits, sick leave, vacation leave, terminal pay, hospitalization, doctors, surgeons, nurses, and medical care when injured in line of duty, leaves of absence when injured in line of duty, benefits to his or her spouse and dependent children upon death, and all other benefits of the Classified Service of the Police Department other than salary on the same basis and with the same effect as if during such time he or she had remained in active service in the Police Department and in the Classified Service thereof in the rank which he or she held in the Classified Service when appointed, at or on the salary received by him or her as Chief of Police. Any member of the Classified Service of the Police Department who shall retire after having served the entire preceding twelve months as the Chief of Police, a Deputy Chief, a Division Chief, or a Commander, and shall have paid into the Police Pension Fund the required percentage of the salary received by him or her as Chief of Police, Deputy Chief, Division Chief, or Commander shall upon such retirement receive pension benefits and all other financial or monetary payments or benefits, and his or her surviving spouse or children if entitled thereto, shall receive benefits, based on the salary received by him or her as Chief of Police, Deputy Chief, Division Chief, or Commander and not on the salary to which he or she would have been entitled based on his or her rank in the Classified Service had he or she not been appointed Chief of Police, Deputy Chief, Division Chief, or Commander; in the event a member of the Police Department is granted a disability retirement or length of service pension retirement, and prior thereto shall have served part of the preceding twelve months as Chief of Police, Deputy Chief, Division Chief, or Commander and shall have paid into the Police Pension Fund the required percentage of his or her salary received while serving as Chief of Police, Deputy Chief, Division Chief or Commander at the time said salary was received, then upon such retirement he or she shall be entitled to receive pension benefits and all other financial or monetary payments or benefits, and his or her surviving spouse or children if entitled thereto shall receive benefits, calculated based upon the average of his or her salary paid at periodic intervals during each month for the twelve months immediately preceding his or her retirement.

(Charter 1960, C5.51; amended June 3, 1958; amended November 3, 1998)

§ 9.6.3 - Deputy Chief, Division Chief, and Commander.

The Chief of Police may from time to time, with approval of the Manager of Safety, assign Police Officers in the Classified Service of the Police Department of the rank of Captain of Police or Lieutenant of Police to perform the duties of Deputy Chief of Police, who shall perform such duties so long as his or her services are satisfactory to the Chief of Police and the latter shall see fit to continue such assignment. Deputy Chiefs shall perform any and all duties assigned by the Chief of Police and, if the Chief of Police has assigned more than one Deputy Chief, one Deputy Chief shall be assigned by the Chief of Police to act as Chief of Police whenever the Chief of Police is unable to act because of absence or incapacity. The Chief of Police may from time to time, with the approval of the Manager of Safety, assign Police Officers in the Classified Service of the Police Department of the rank of Captain of Police or Lieutenant of Police to perform the duties of Division Chiefs of Police, each of whom shall perform such duties so long as his or her services are satisfactory to the Chief of Police and the latter shall see fit to continue such assignment. The Chief of Police may from time to time, with the approval of the Manager of Safety, assign Police Officers in the Classified Service of the Police Department of the rank of Captain of Police or Lieutenant of Police to perform the duties of Commander of Police, each of whom shall perform such duties so long as his or her services are satisfactory to the Chief of Police and the latter shall see fit to continue such assignment. When making assignments under this section, the Chief shall make all reasonable efforts to do so in a way that will not result in a net increase in the ongoing complement of command staff (including the ranks of Lieutenants and Captains) or a net decrease in the ongoing complement of line positions. The total number of command assignments permitted by this section at any one time shall not exceed eighteen (18).

(Charter 1960, C5.46-4; amended October 26, 1971; amended November 4, 1986; amended September 6, 1994; amended November 6, 2001; Ord. No. 408-13, § 2, 8-26-13, elec. 11-5-13)

§ 9.6.4 - Salary and benefits of Chief, Deputy Chief, Division Chief, and Commander.

Salaries and fringe benefits for the Chief, Deputy Chiefs, Division Chiefs, and Commanders of Police shall be established by ordinance.

(Charter 1960, C5.46-4(1); amended October 26, 1971; amended November 4, 1986; amended March 20, 1995; amended November 6, 2001; Ord. No. 138-03, § 1, 2-24-03, elec. 5-6-03; Ord. No. 408-13, § 2, 8-26-13, elec. 11-5-13)

§ 9.6.5 - Detectives, Technicians and Corporals.

The Chief of Police may from time to time assign Police Officers 1st grade to perform the duties of Detectives or Technicians or Corporals each of whom shall perform such duties so long as his or her services are satisfactory to the Chief of Police and the latter shall see fit to continue such assignment.

(Charter 1960, C5.46-5; amended October 26, 1971; amended March 20, 1995; Ord. No. 138-03, § 1, 2-24-03, elec. 5-6-03)

§ 9.6.6 - Police Officer Ranks and Grades.

- (A) The Classified Service of the Police Department shall only consist of the following ranks and grades:
 - (i) *Rank*: Captain of Police, Lieutenant of Police, Sergeant of Police, Police Officer.
 - (ii) *Grades of Police Officer*: 1st Grade, 2nd Grade, 3rd Grade, 4th Grade, Recruit.
- (B) A new rank or assignment may be created if it is proposed and recommended by the Mayor and if it is enacted by ordinance.
- (C) A member of the Police Department shall be a Police Officer Recruit from the date of original appointment and until such time as the member has completed the Police Academy and has been certified as a peace officer by the State of Colorado. A member of the Police Department shall be a Police Officer 4th Grade after completion of the Police Academy and certification as a peace officer by the State of Colorado have occurred and until the member has served nine (9) months thereafter. A member of the Police Department shall be a Police Officer 3rd Grade if that member has served for more than nine months after completion of the Police Academy and less than twenty-one months after the completion of the Police Academy. A member of the Police Department shall be a Police Officer 2nd Grade if that member has served for twenty-one months or more after completion of the Police Academy and less than thirty-three months after the completion of the Police Academy. A member of the Police Department shall be a Police Officer 1st Grade if that member has served for thirty-three months or more after completion of the Police Academy.
- (D) Reserved.

(Charter 1960, C5.46-2; amended October 26, 1971; amended November 2, 1993; amended September, 6, 1994; amended March 20, 1995; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02; Ord. No. 138-03, § 1, 2-24-03, elec. 5-6-03; Ord. No. 805-18, § 1, 7-30-18, elec. 11-6-18)

§ 9.6.7 - Reserved.

Editor's note— Ord. No. 138-03, § 1, adopted Feb. 2, 2003 and passed at election May 6, 2003, repealed section 9.6.7 in its entirety. Former section 9.6.7 pertained to rank of radio engineer; transition provisions, and derived from the Charter of 1960, C5.46-2(2), C5.46-2(3); amended September 12, 1978; Ord. No. 428-02, § 1, adopted June 3, 2002 and passed at election Aug. 13, 2002.

§ 9.6.8 - Reserved.

Editor's note— Ord. No. 138-03, § 1, adopted Feb. 2, 2003 and passed at election May 6, 2003, repealed section 9.6.8 in its entirety. Former section 9.6.8 pertained to rank and grade upon original appointment and thereafter, and derived from the Charter of 1960, C5.47; amended June 3, 1958; amended June 5, 1962; amended September 8, 1964; amended November 2, 1993; amended September 6, 1994.

§ 9.6.9 - Reserved.

Editor's note— Ord. No. 138-03, § 1, adopted Feb. 2, 2003 and passed at election May 6, 2003, repealed section 9.6.9 in its entirety. Former section 9.6.9 pertained to appointment of certified peace officer with three years experience, and derived from the Charter of 1960, C5.65-2; added November 2, 1993; amended September 6, 1994; Ord. No. 699-02, § 1, adopted Sept. 3, 2002 and passed at election Nov. 5, 2002.

§ 9.6.10 - Reserved.

Editor's note— Ord. No. 138-03, § 1, adopted Feb. 2, 2003 and passed at election May 6, 2003, repealed section 9.6.10 in its entirety. Former section 9.6.10 pertained to appointment of a reserve police officer, and derived from the Charter of 1960, C5.65-3; added November 2, 1993; amended September 6, 1994.

§ 9.6.11 - Police pensions.

- (A) The pension provisions for any member of the Police Department in the Classified Service hired before April 8, 1978 who has not elected to become covered under the provisions of the Statewide pension plan, for any member who has been retired from the Classified Service of the Police Department who meets these same criteria or for any surviving spouse or dependent child of a deceased member or deceased retired member of the Police Department whose spouse or parent met these same criteria shall be adopted by ordinance in conformity with State law. Any modification of the pension plan shall maintain or enhance the actuarial soundness of the pension fund as defined by State law and shall be approved by at least sixty-five percent of the then active members of the retirement plan. No modification of the pension plan shall adversely affect the pension benefits of retired members.
- (B) Effective January 1, 1979, the benefits provided for in this Charter shall be in addition to, and not in lieu of, any benefits that may be provided by any State compensation act, except that in no event shall the payments hereunder or from any other source to which the City may contribute exceed the regular salaries paid to the members of the Police Department in accordance with their rank. (This Section shall apply to all members of the Denver Police Department in the Classified Service as of January 1, 1979, and to all members of the department who have been granted pensions prior to January 1, 1979).

(Charter 1960, C5.39, C5.42; amended May 19, 1987; amended November 3, 1998)

§ 9.6.12 - Police Pension and Relief Board.

- (A) *Board created.* There is hereby created a "Police Pension and Relief Board" consisting of five members, who shall serve without compensation. The Board shall consist of the Manager of Safety, a member appointed by the Manager of Safety, and three members of the Denver Police Department in the Classified Service, who shall be elected by a secret ballot of all the members of the Denver Police Department in the Classified Service. Members of the Board shall be appointed and elected between January 1 and January 15 of each year to serve for terms of one year, or until their successors have been appointed and duly qualified.
- (B) *Powers and duties of Board.* The Police Pension and Relief Board shall have exclusive control of all matters pertaining to the granting of relief to members of the Denver Police Department, in the Classified Service, who shall become sick or injured during their term of active service, and to the granting of pensions to the members of the

department and their dependents at the termination of their active service with the department, in compliance with the provisions of this Section and with written criteria to be adopted by the Board. The decisions of the Board shall be final and subject to review on appeal by the District Court of the City and County of Denver.

(Charter 1960, C5.37, C5.37-1; amended May 15, 1906; amended May 20, 1947; amended August 9, 1988; Ord. No. 03-138, § 1, 2-24-03, elec. 5-6-03)

§ 9.6.13 - Committee for investigations of police pensions and relief.

There is also hereby created a committee for the investigation of pensions and relief, which shall consist of five members to be elected between January 1 and January 15 of each year from the members of the Denver Police Department, in the Classified Service, by a secret ballot of all such members. It shall be the duty of said committee:

- (A) To investigate and submit reports to the Board on all applications for pensions and relief under the provisions of this amendment and to investigate and report such other matters relative to pensions and relief as may be directed by the Board.
- (B) To investigate between January 1 and March 1 and to report to the Board not later than March 15 of each year the status of all dependents of members of the Police Department who are receiving compensation under the amendment and to report immediately to the Board whenever it shall come to the attention of the committee that any dependent has become ineligible for relief under the terms of this amendment.
- (C) To investigate all relief cases and report to the Board as often as may be necessary to enforce the provisions of this amendment.
- (D) To petition the Board to re-examine any relief cases in which it may appear that the provisions of this amendment are being violated.

(Charter 1960, C5.38; amended May 15, 1906; amended May 20, 1947; Ord. No. 03-138, § 1, 2-24-03, elec. 5-6-03)

§ 9.6.14 - Pay and benefits during temporary incapacitation.

All members of the Police Department shall be entitled to and shall receive full pay for such time as they may be temporarily incapacitated from service on account of injuries received or sickness contracted while in the performance of their duties as members of said department, said allowance or pay to be approved by the Police Chief and the proper examining physician, they shall also be entitled to a vacation of fifteen days each year with full pay during such time.

(Ord. No. 03-138, § 1, 2-24-03, elec. 5-6-03)

PART 7. - COLLECTIVE BARGAINING; FIREFIGHTERS

§ 9.7.1 - Declaration of policy.

It is the public policy of the people of the City and County of Denver to promote harmonious, peaceful, and cooperative relationships between the elected officials of the City and County of Denver and certain members of the Classified Service of the Fire Department and to protect the public by assuring, at all times, responsible, orderly, and uninterrupted operation of government services, by providing for such employees the right to bargain collectively with the employer through an exclusive agent, and providing a method of resolving impasses, as hereinafter provided. It is hereby further declared to be the public policy of the City and County of Denver to accord to such members of the Classified Service of the Fire Department, all the rights of labor other than the right to strike or organize in any work stoppage, slowdown or mass absenteeism. To provide for the exercise of these rights, a method of resolving impasses by means of advisory fact-finding and referring to special municipal elections issues

not resolved in negotiations for a collective bargaining agreement is hereby established. The establishment of this method of resolving such impasses shall be deemed to be a recognition of the necessity to provide an alternative mode of settling disputes where employees, such as Fire Fighters, as a matter of public policy must be denied the right to strike.

(Charter 1960, C5.80; amended June 15, 1971; amended May 15, 1979)

§ 9.7.2 - Definitions.

As used in this Section and its subparts, the following terms shall, unless the context requires a different interpretation, have the following meanings:

- (A) The term "Firefighters" shall mean the members of the Classified Service of the Fire Department of the City and County of Denver except the Chief of the Fire Department or Deputy Chief or the Division Chiefs.
- (B) The terms "Corporate Authorities" or "employer" shall mean the proper officials within the City and County of Denver whose duty it is to establish the wages, salaries, rates of pay, hours, working conditions, and other terms and conditions of employment of firefighters, excluding pensions.
- (C) The term "advisory fact-finding" means investigation of unresolved disputes arising out of the negotiation of a collective bargaining agreement, submitting a report defining the unresolved issues, analyzing and reporting the facts relating thereto, and making nonbinding recommendations for the purpose of resolving the issues in dispute.
- (D) The term "impasse" means a situation when the employer and the sole and exclusive agent of the Firefighters have reached a point in negotiation over the provisions to be included in a collective bargaining agreement at which time their differences are so substantial that further meetings would be futile, and the time provided for collective bargaining has elapsed.
- (E) The term "final offer" means the written offer made latest in time by a party authorized to make such offer in negotiation of a collective bargaining agreement, provided that said offer is made not less than seven (7) days prior to the start of an advisory fact-finding hearing.

(Charter 1960, C5.80-1; amended June 15, 1971; amended May 15, 1979; amended June 13, 1994; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02; Ord. No. 138-03, § 1, 2-24-02, elec. 5-6-03)

§ 9.7.3 - Right to organize and bargain collectively.

Firefighters shall have the right to bargain collectively with the City and County of Denver and to be represented by an employee organization in such collective bargaining as to wages, rates of pay, hours, grievance procedure, working conditions, and all other terms and conditions of employment, except the table of organization of the Fire Department and except pensions.

(Charter 1960, C5.80-2; amended June 15, 1971; amended May 15, 1979; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02)

§ 9.7.4 - Recognition of bargaining agent.

The employee organization selected by a majority of the Firefighters voting in an election in the City and County of Denver shall be recognized by the City and County of Denver as the sole and exclusive agent for all Firefighters unless and until representation by such employee organization is withdrawn by a vote of a majority of the Firefighters voting in an election. The employee organization representing the Firefighters on January 1, 1979, shall be recognized by the City and County of Denver as the sole and exclusive agent for all Firefighters unless and until representation is withdrawn as provided herein. An election held for the purpose of selecting or removing the sole and exclusive agent for the Firefighters shall be conducted under the supervision of the American Arbitration Association (or its successor) and the cost of such election shall not be borne by the City and County of Denver.

(Charter 1960, C5.80-3; amended June 15, 1971; amended May 15, 1979; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02)

§ 9.7.5 - Obligation to bargain.

It shall be the mutual obligation of the City and County of Denver, acting through its Corporate Authorities or their representatives, and of representatives of the sole and exclusive agent for the Firefighters, to meet and confer in good faith within seven (7) days after receipt of written notice by the Corporate Authorities from said agent of a request for a meeting for collective bargaining purposes. This obligation shall include the duty to cause any agreements resulting from negotiations to be reduced to a written contract, provided that any such contract shall be for a term of not less than one (1) year nor more than three (3) years, notwithstanding the provisions of Article VII of this Charter relating to Budget and Finance. All collective bargaining agreements shall be effective on a January 1 date and shall terminate on a December 31 date.

(Charter 1960, C5.80-4; amended June 15, 1971; amended May 15, 1979; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02)

§ 9.7.6 - Unresolved issues submitted to advisory fact-finding.

If an impasse occurs after thirty (30) days have elapsed, from and including the date of the first meeting between representatives of the sole and exclusive agent of the Firefighters and of the Corporate Authorities for collective bargaining, any and all unresolved issues shall be submitted to advisory fact-finding. Submission of unresolved issues to advisory fact-finding shall not prohibit the parties from continuing to bargain in good faith. Any or all such unresolved issues may be agreed to by the parties at any time before the City Council orders publication, pursuant to Subsection 3.3.5(F) of this Charter, of a bill for an ordinance submitting issues remaining unresolved at an election, pursuant to Section 9.7.8 of this Charter. If the parties agree upon any or all issues before receiving the recommendations of the advisory fact-finder, the recommendations on such issue or issues shall have no effect. If the parties agree upon any or all issues before the fact-finder makes recommendations, the fact-finder shall make no recommendation on such issue or issues. If, after receiving the recommendations of the fact-finder, the parties agree upon any or all issues, before the City Council orders publication of a bill for an ordinance submitting unresolved issues at an election, the issue or issues agreed upon shall not be submitted at said election.

(Charter 1960, C5.80-5; amended June 15, 1971; amended May 15, 1979; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02)

§ 9.7.7 - Selection of advisory fact-finder.

- (A) Within three (3) days after the expiration of the thirty-day time period referred to in Subsection 9.7.6 hereof, the sole and exclusive agent of the Fire Fighters or the Corporate Authorities shall inform the American Arbitration Association, or its successor organization, or a similar organization agreed upon by both parties, that an advisory fact-finder is required. Within ten (10) days thereafter, said association or organization shall submit simultaneously to each party an identical list of five (5) persons. Within seven (7) days from the mailing date of the list, each party shall cross off two (2) names from the list, and shall number the remaining names indicating the order of its preference and return the list to said association or organization. If a party does not return the list within the time specified, all persons named therein shall be deemed acceptable. Within ten (10) days after the time the list must be returned by the parties, said association or organization shall do the following:
- (i) From among the persons who have been approved on both lists, it shall appoint one (1) advisory fact-finder to serve.
 - (ii) It shall notify the parties of such appointment.
- (B) The advisory fact-finder shall sit for this fact-finding only, unless the parties mutually agree to a continuance for another fact-finding or fact-findings.
- (C) Two-thirds of the cost of advisory fact-finding shall be borne by the employer, and one-third of such cost shall be borne by the sole and exclusive agent of the Fire Fighters.

(Charter 1960, C5.80-6; amended June 15, 1971; amended May 15, 1979)

§ 9.7.8 - Hearings.

- (A) The advisory fact-finder shall call a hearing to be held within twenty-one (21) days after the date of his or her appointment and shall give not less than ten (10) days' notice in writing to the sole and exclusive agent of the Firefighters and the Corporate Authorities of the time and place of such hearing. The hearing shall be informal, and the rules of evidence prevailing in judicial proceedings shall not be binding. Any and all documentary evidence and other data deemed relevant by the advisory fact-finder shall be received in evidence. The advisory fact-finder shall have the power to administer oaths and to require by subpoena the attendance and testimony of witnesses and the production of books, records and other evidence relating to or pertinent to the issues presented to him or her for determination.
- (B) The hearings conducted by the advisory fact-finder shall be concluded within fourteen (14) days from the time of commencement. Within five (5) days following the conclusion of the hearings, the parties may, if they deem necessary, and have so notified the advisory fact-finder at the conclusion of the hearings, submit written briefs to the advisory fact-finder. Within ten (10) days after receipt of such briefs, or within ten (10) days after the conclusion of the hearings if no post-hearing briefs are filed, the advisory fact-finder shall make written findings and a written opinion and decision on the issues presented, a copy of which shall be mailed or otherwise delivered to the sole and exclusive agent of the Firefighters and its designated representative and the Corporate Authorities. Said written findings, opinions and decision, and recommendations shall be reached and discussed in accordance with the provisions of subparagraph (C) of this Section 9.7.8.
- (C) The advisory fact-finder shall conduct the hearings and render a decision upon the basis of a prompt, peaceful and just settlement of all unresolved issues between the sole and exclusive agent of the Firefighters and the Corporate Authorities. The factors to be given weight by the advisory fact-finder in arriving at a decision shall include:
 - (i) Comparison of wage rates, hours, terms and conditions of employment of the Fire Fighters, and wage rates, hours, terms and conditions of employment of fire departments in comparable cities and towns in the United States.
 - (ii) Interest and welfare of the public, and the financial ability of the City to finance the cost items proposed by each party.

(Charter 1960, C5.80-7; amended June 15, 1971; amended May 15, 1979; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02)

§ 9.7.9 - Unresolved issues submitted at special election.

Upon the request of the employer or the sole and exclusive agent of the Fire Fighters, after publication of the advisory fact-finder's report, and after the employer and the sole and exclusive agent of the Fire Fighters have had five (5) days to further negotiate the disputed issues, the final offers of the employer and of the sole and exclusive agent of the Fire Fighters on the issues remaining unresolved shall each be submitted as alternative single measures to a vote of the qualified electors of the City and County of Denver at a special election. The special election shall be held no later than August 31. The qualified electors shall select either the final offer of the employer or the final offer of the sole and exclusive agent of the Fire Fighters, as presented to the advisory fact-finder. Issues agreed to during the five-day period shall not be included in the final offer of the employer or of the sole and exclusive agent of the Fire Fighters. The cost of such special election shall be borne by either the employer or the sole and exclusive agent of the Fire Fighters, whichever refuses to accept the recommendations of the advisory fact-finder. If both refuse, the costs shall be borne equally by the employer and the sole and exclusive agent of the Fire Fighters.

(Charter 1960, C5.80-8; amended May 15, 1979)

§ 9.7.10 - Strikes.

The protection of the public health, safety and welfare demands that neither the sole and exclusive agent of the Firefighters, nor the Firefighters, nor any person acting in concert with them, will cause, sanction, or take part in any strike, walkout, sitdown, slowdown, stoppage of work, picketing, retarding of work, abnormal absenteeism, withholding of services, or any other interference with the normal work routine. Violation of any provision of this Section by the sole and exclusive agent of the firefighters shall be cause for the City and County of Denver to terminate a collective bargaining agreement with said agent upon giving written notice to that effect to the chief representative of said agent, in addition to whatever other remedies may be available to the City and County of Denver at law or in equity. Violation of any provision of this Section by any Firefighters shall be just cause for the immediate dismissal of said Firefighter, in addition to whatever other remedies may be available to the City and County of Denver at law or in equity. No Firefighter shall receive any portion of his or her salary while engaging in activity in violation of this Section.

(Charter 1960, C5.80-9; amended May 15, 1979; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02)

§ 9.7.11 - Collective bargaining agreement.

Any agreement actually negotiated between the sole and exclusive agent of the Fire Fighters and the Corporate Authorities shall constitute the collective bargaining contract governing the Fire Fighters and the City and County of Denver for the period stated herein. Any collective bargaining agreement negotiated under the terms and provisions of this Part 7 shall specifically provide that the Fire Fighters who are subject to its terms shall have no right to engage in any work stoppage, slowdown, mass absenteeism, or strike, the consideration for such provision being the right to a resolution of disputed questions as provided herein.

(Charter 1960, C5.80-10; amended May 15, 1979)

§ 9.7.12 - Duty to Meet and Bargain Collectively.

- (A) Whenever an employee organization has been certified pursuant to the provisions of this Part 7 as the sole and exclusive agent of the Fire Fighters, such employee organization and the employer shall meet at reasonable times and bargain collectively in good faith. Written notice of the intent of the sole and exclusive agent of the Fire Fighters to bargain must be received by the employer no later than March 1 of the year preceding the year in which a contract is to become effective. Any collective bargaining agreement reached shall be reduced to writing and shall become effective only after ratification of the agreement by enactment of ordinance and ratification by the membership of the employee organization. The obligations of this Subsection (A) shall not compel either party to agree to a proposal or to make a concession.
- (B) Multiyear collective bargaining contracts shall be fully enforceable notwithstanding any other provisions of this Charter. Further, upon a showing that all administrative remedies have been exhausted, the provisions of collective bargaining agreements shall be enforceable in a court of competent jurisdiction in accordance with the Colorado Rules of Civil Procedure as they pertain to review of administrative actions.

(Charter 1960, C5.80-11; added May 15, 1979)

§ 9.7.13 - Reserved.

Editor's note— Ord. No. 428-02, § 1, adopted June 3, 2002 and passed at election Aug. 13, 2002, repealed section 4.1.3 in its entirety. Former section 9.7.13 pertained to the collective bargaining agreement for 1980 and derived from the Charter of 1960, C5.80-12; added May 15, 1979.

§ 9.7.14 - Transition provision.

The following Sections with respect to Firefighters shall remain in full force and effective until such time as the terms and provisions of such Sections may be modified or changed by the terms of the collective bargaining contract or contracts, provided, however, that such contract or contracts as they may modify or change said Sections shall in no way lessen, lower, diminish or reduce the benefits, salaries or other entitlements that said Sections provide on the date of the adoption of this amendment; any portion of a collective bargaining contract that has the effect prohibited herein shall be void: 9.5.6, 9.5.6(A), 9.5.6(B), 9.5.6(D), 9.5.7, 9.5.7(A), 9.5.7(B), 9.5.7.(C), 9.5.8, 9.5.9, 9.5.4(A), 9.5.4(C), 9.5.4(D), and 9.4.10.

(Charter 1960, C5.47-1; amended June 15, 1971; Ord. No. 138-03, § 1, 2-24-03, elec. 5-6-03)

PART 8. - COLLECTIVE BARGAINING; POLICE

§ 9.8.1 - Statement of policy.

The protection of the public health, safety, and welfare demands that the Police Officers of the Classified Service of the Police Department not be allowed to strike or engage in any work stoppage, slowdown, or mass absenteeism. This necessary prohibition does not, however, require the denial to such employees the right to organize, the right to be represented by an employee organization of their choice, and the right to bargain collectively. It is hereby declared to be the policy of the City and County of Denver to have a system of collective bargaining to establish a productive relationship between the City and its Police Officers and to set compensation and certain other conditions of employment as specified in 9.8.3(B) and (D) of this Charter. In lieu of allowing Police Officers to strike to resolve impasses in negotiations, the City hereby adopts a system of binding interest arbitration to resolve such impasses.

(Charter 1960, C5.82-1; added March 20, 1995)

§ 9.8.2 - Definitions.

As used in this Section, the following terms shall, unless the context requires a different interpretation, have the following meanings:

- (A) The term "Police Officer" shall mean all members and positions of the Classified Service of the Police Department of the City and County of Denver, except the Chief of Police, Deputy Chiefs, Division Chiefs, and Commanders.
- (B) The term "Corporate Authorities" shall mean the Mayor and the Council of the City and County of Denver or their representatives.
- (C) The term "sole and exclusive bargaining agent" or "bargaining agent" shall mean an employee organization chosen by the Police Officers pursuant to 9.8.4.
- (D) The term "final offer" shall be the written offer made latest in time by a party to the other party at least seven (7) days prior to the start of a binding arbitration hearing.
- (E) The term "mandatory subject of bargaining" shall mean a subject which shall be discussed during negotiations if either party wishes to discuss it and may be submitted to binding arbitration by either party in the event of an impasse. Agreements on mandatory subjects of bargaining shall not be binding on the parties beyond the term of the agreement which contains them.
- (F) The term "permissive subject of bargaining" shall mean a subject which may be discussed during negotiations only if both parties agree to discuss it and shall not be submitted to binding arbitration unless both parties agree to submit it. Agreements on permissive subjects of bargaining shall not be binding on the parties beyond the term of the agreement which contains them.

- (G) The term "prohibited subject of bargaining" shall mean a subject which shall not be included in any collective bargaining agreement and shall not be subject to binding arbitration.
- (H) The term "fringe benefits" shall mean: vacation leave; holidays; sick leave; bereavement leave; jury duty leave; leave for union activity; other paid or unpaid leave; the method of selecting, applying for, and voting for leave; payments for injuries, sickness, or death arising from the line of duty; insurance; allowances for uniform and equipment and the maintenance of uniforms and equipment; dependent's benefits; and any other financial or economic benefits granted to individual Police Officers. The term "fringe benefits" shall apply to active Police Officers only. The term "fringe benefits" shall not include pensions.
- (I) The term "compensation" shall mean wages, salaries, and any other pay to Police Officers. By way of illustration, the term shall include longevity pay, hazardous duty pay, shift differential, acting pay, call back pay, overtime pay, and payments for unused leave at separation.

(Charter 1960, C5.82-2; added March 20, 1995; Subsection (A), amended November 6, 2001)

§ 9.8.3 - Right to organize and bargain collectively; mandatory, prohibited, and permissive subjects of bargaining.

- (A) Police Officers shall have the right to bargain collectively with the City and to be represented by an employee organization in such negotiations.
- (B) The following shall be mandatory subjects of bargaining for Police Officers:
 - (i) Compensation;
 - (ii) Fringe Benefits;
 - (iii) The number of hours in the work week;
 - (iv) The definition of "seniority";
 - (v) Personal safety and health equipment;
 - (vi) A bargaining agent recognition clause;
 - (vii) Procedures relating to labor/management cooperation and communication that shall reasonably include participation by groups other than the bargaining agent;
 - (viii) The notice and the time intervals regarding changes of a Police Officer's shifts and the emergency exceptions thereto;
 - (ix) The collective bargaining agreement severability clause;
 - (x) The duration of the collective bargaining agreement;
 - (xi) Procedures and notice relating to the layoff and recall of Police Officers, but not the decision of whether to lay off or recall;
 - (xii) Payment of fees as set forth in Subsection 9.8.17(D);
 - (xiii) A check-off clause; and
 - (xiv) Grievance and grievance arbitration procedures for matters included in the agreement.
- (C) The following shall be prohibited subjects of bargaining:
 - (i) Any proposal that would conflict with a State or Federal law;
 - (ii) Any proposal that would conflict with the City Charter, including any subsequent amendments to the Charter;
 - (iii) Any proposal over which the City has no authority to act because of State or Federal law;
 - (iv) Civilian review or supervision of the Police Department or Police Officers;
 - (v) The missions of the Police Department, the Department of Safety, and the City;
 - (vi) The standards of service of the Police Department, the Department of Safety, and the City;
 - (vii) Staffing of the Police Department, the Department of Safety, and the City;

- (viii) The tables of organization of the Police Department, the Department of Safety, and the City;
 - (ix) The budgets of the Police Department, the Department of Safety, and the City;
 - (x) Facilities of the Police Department, the Department of Safety, and the City;
 - (xi) The number of shifts and times the shifts begin and end;
 - (xii) Civilianization;
 - (xiii) Procedures for internal investigations and procedures for discipline;
 - (xiv) Assignment of work to Police Officers; and
 - (xv) Training.
- (D) The following shall be permissive subjects for bargaining:
- (i) Pensions;
 - (ii) Non-pension benefits for retired officers and their dependents;
 - (iii) The number of hours in a work shift;
 - (iv) The method of assignment of Police Officers to work shifts;
 - (v) Off-duty employment;
 - (vi) Physical, mental, drug, and alcohol testing;
 - (vii) Police Officer safety and health matters except as provided in 9.8.3(B)(v);
 - (viii) A clause defining the collective bargaining agreement as the sole and entire agreement between the parties;
and
 - (ix) All other terms and conditions of employment not listed in (B) and (C) above.

(Charter 1960, C5.82-3; added March 20, 1995)

§ 9.8.4 - Selection and recognition of bargaining agent.

- (A) The sole and exclusive bargaining agent for the purpose of bargaining shall be the sole and exclusive representative of all of the Police Officers, if the majority of the Police Officers voting in an election vote for such bargaining agent.
- (B) Questions concerning the selection or removal of a bargaining agent may be raised by petition of any Police Officer, group of Police Officers, or employee organization representing or wishing to represent Police Officers but only if such petition is signed by at least thirty-three (33) percent of the Police Officers. Such a petition may be submitted at any time to the American Arbitration Association (or its successor organization) provided that in the event there is a bargaining agent then certified or recognized by the City, no petition may be filed within twelve months of the bargaining agent's certification by the American Arbitration Association; and provided further that no petition may be filed during the term of an existing agreement, except during the period from January 1 to January 31 of the final year of such agreement.
- (C) When a petition is filed concerning the selection or removal of a bargaining agent, the American Arbitration Association (or its successor organization) shall promptly send the petition to the Department of Safety for determination of whether it contains the requisite number of signatures. The Department of Safety shall promptly make that determination and notify the American Arbitration Association (or its successor organization) of its conclusion. If the petition has the requisite number of signatures, the American Arbitration Association (or its successor organization) shall determine the question of selection or removal of any bargaining agent by taking a secret ballot of Police Officers and certifying in writing the results thereof to the Corporate Authorities and the person, persons, and employee organizations involved. The secret ballot election shall be conducted not less than fifteen (15) days nor more than thirty (30) days from the date of filing the petition. The American Arbitration

Association (or its successor organization) shall certify the results of the above-described election within three (3) days of the close of the polls. The cost of running the election shall be borne equally by each organization on the ballot.

- (D) The employee organization selected by the majority of the Police Officers voting in an election conducted pursuant to paragraph (c) of this subdivision shall be recognized by the Corporate Authorities as the sole and exclusive bargaining agent for all Police Officers unless and until the American Arbitration Association or its successor certifies a different organization.

(Charter 1960, C5.82-4; added March 20, 1995)

§ 9.8.5 - Obligation to bargain in good faith.

- (A) It shall be the obligation of the Corporate Authorities to meet and bargain in good faith with the representatives of the bargaining agent at all reasonable times and places. This obligation shall include the duty to cause any agreements to be reduced to a written contract and executed in a timely manner. Any such contract shall be for a term of not less than one (1) year nor more than three (3) years, notwithstanding the provisions of Article VII of this Charter relating to Budget and Finance. All collective bargaining agreements shall be effective on a January 1 date and shall terminate on a December 31 date.
- (B) It shall be the obligation of the bargaining agent to meet and bargain collectively in good faith with the Corporate Authorities at all reasonable times and places. This obligation shall include the duty to cause any agreements to be reduced to a written contract and executed in a timely manner.

(Charter 1960, C5.82-5; added March 20, 1995)

§ 9.8.6 - Facilitation assistance.

It is recognized that from time to time, the bargaining teams of the parties may find it difficult readily to achieve agreement. Whenever it is deemed appropriate or beneficial to do so, the parties may engage the services of one or more experts, consultants, facilitators or mediators as they may jointly agree may benefit the process of reaching agreement on one or more items. It is specifically contemplated that the parties might engage individuals who have demonstrated knowledge or expertise in a given topic under discussion or skills and abilities in dispute resolution to serve as a facilitator, mediator or other assistant to promote the parties reaching a voluntary resolution. Fees and expenses of such individuals will be shared equally by the parties, unless otherwise agreed.

(Charter 1960, C5.82-6; added March 20, 1995)

§ 9.8.7 - Unresolved issues submitted to binding arbitration.

In the event that the bargaining agent and the Corporate Authorities are unable, within forty-five (45) days from and including the date of their first meeting, to reach an agreement on a contract, final offers on any and all unresolved issues concerning mandatory subjects of bargaining shall be submitted to binding arbitration and final offers on any permissive subjects of bargaining may be submitted to binding arbitration if both parties agree to submit them. The obligation of the parties to bargain in good faith shall continue after submission of unresolved issues to binding arbitration. Any or all issues which are unresolved between the bargaining agent and the Corporate Authorities may be resolved by the parties until the sixteenth day following receipt of the decision of the arbitrator. Any agreements reached within fifteen (15) days following receipt of the decision of the arbitrator shall supersede the decision of the arbitrator. In the event the bargaining agent and the Corporate Authorities are able to reach agreement upon any or all issues prior to the receipt of the decision of the arbitrator, then the arbitrator shall make no decision on such issue or issues.

(Charter 1960, C5.82-7; added March 20, 1995)

§ 9.8.8 - Binding arbitrator; selection.

- (A) Within thirty days (30) after the adoption of this Section, the City shall, in some reasonable manner, solicit applications from persons who desire to be on a permanent panel of arbitrators to resolve impasses as described in Section 9.8.7.
- (B) In order to be eligible to be on the permanent panel of arbitrators, a person must be impartial and disinterested and must be qualified by experience and training as a neutral Hearing Officer or arbitrator in labor/management disputes. These disputes shall be an impasse in negotiations between labor and management, disputes over the meaning or application of contracts between labor and management, or discipline. Any person whose only experience is as a hearings officer in any civil or Career Service system shall not be qualified. Persons who are members of the National Academy of Arbitrators or on the American Arbitration Association panel of labor arbitrators are presumptively qualified.
- (C) The City Council shall create a permanent panel of at least three (3) arbitrators from those qualified persons who apply. Placement on the permanent panel shall be approved by a resolution or ordinance by the City Council. Any qualified person can be added to the permanent panel at any time. Persons on the panel shall remain on the panel for a term of six (6) years, and may be reappointed, provided that the members of the initial panel shall be appointed to terms of varying lengths not to exceed six years. Any person on the permanent panel may be removed by passage of a resolution or ordinance by the City Council unless that person has been selected to conduct a hearing concerning a particular dispute pursuant to paragraph (e) of this subdivision, and then that person can only be removed after issuing a decision in that dispute.
- (D) Each person put on the permanent panel shall sign an oath to uphold the terms of this Section.
- (E) Within three (3) days of the expiration of the 45-day time period referred to in Section 9.8.7, the bargaining agent or the Corporate Authorities may request the list of names from the City Clerk and the City Clerk shall submit a list with the names of all members of the permanent panel to the bargaining agent and the Corporate Authorities within five days. Within ten (10) days of receipt of this list, the bargaining agent and the Corporate Authorities shall meet and alternatively strike one name from the list until one name remains (if the panel has an odd number of names) or two names remain (if the panel has an even number of names). If one name remains, that person shall be the arbitrator for that dispute. If two names remain, the Mayor shall select one of those two names to be the arbitrator for that dispute. The Mayor's selection must take place within five (5) days of the completion of the striking process by the bargaining agent and the Corporate Authorities. The determination of whether the bargaining agent or the Corporate Authorities strikes first shall be done by flip of a coin.
- (F) Nothing herein shall be construed to prevent the bargaining agent and the Corporate Authorities from agreeing to an arbitrator from the permanent panel.

(Charter 1960, C5.82-8; added March 20, 1995; Ord. No. 608-05, § 1, 8-9-05, elec. 11-1-05)

§ 9.8.9 - Hearings.

- (A) The arbitrator shall call a hearing to begin within twenty-five (25) days of selection, and shall give at least ten (10) days notice in writing to the bargaining agent and the Corporate Authorities of the time and place of such hearing. The hearing shall be informal, and the rules of evidence prevailing in judicial proceedings shall not be binding. Any and all oral or documentary evidence and other data deemed competent and relevant by the arbitrator shall be received in evidence. The arbitrator shall have the power to administer oaths and to require by subpoena the attendance and testimony of witnesses and the production of books, records and other evidence relating to or pertinent to the issues presented for determination.
- (B) The hearing conducted by the arbitrator shall be concluded within seven (7) days of the time of commencement. Within five (5) days following the conclusion of the hearing, the parties may, if they deem necessary, submit written

briefs to the arbitrator. Within ten (10) days of receipt of such briefs, or within ten (10) days after the conclusion of the hearing if no post-hearing briefs are filed, the arbitrator shall make written findings and conclusions setting forth the basis of the arbitrator's decision on the issues presented, a copy of which shall be delivered to the bargaining agent and the Corporate Authorities in the same manner on the same date. The written findings and conclusions shall be reached in accordance with the provisions of Section 9.8.10.

(Charter 1960, C5.82-9; added March 20, 1995)

§ 9.8.10 - Factors to be considered by the arbitrator.

The arbitrator shall conduct the hearing and render his or her decision with due consideration of the need for a prompt, peaceful and just settlement of all unresolved issues between the bargaining agent and the Corporate Authorities. The arbitrator may apply the standards commonly used in interest disputes but shall rely predominantly on the following in arriving at a decision:

- (A) The interests and welfare of the public and the financial ability of the City to bear the costs involved;
- (B) The lawful authority of the City;
- (C) Stipulations of the parties;
- (D) Comparison of the compensation, fringe benefits, hours, and other terms and conditions of employment of Denver Police Officers with other Police Officers performing comparable services in public employment in comparable communities nationally and locally. However, while the arbitrator may consider such comparisons in making a decision, in no event shall the arbitrator make an award that is indexed or otherwise expressed as a relationship to compensation, a fringe benefit, or the number of hours in the work week of any other employee or employees who are not members of the Denver Police Department; and
- (E) The cost of living.

(Charter 1960, C5.82-10; added March 20, 1995)

§ 9.8.11 - Final offer procedure.

The Corporate Authorities and the bargaining agent shall submit to the arbitrator final offers on each issue on which there was not agreement. The award of the arbitrator on each issue shall be the final offer of the Corporate Authorities or the final offer of the bargaining agent. The arbitrator shall state the reasons for the award in writing in accordance with Section 9.8.9(B).

(Charter 1960, C5.82-11; added March 20, 1995)

§ 9.8.12 - Finality of the arbitrator's decision.

- (A) Except as provided in this subdivision, the decision of the arbitrator shall be final and binding on the bargaining agent and the Corporate Authorities; provided that the arbitrator's decision shall be binding only for the term of the contract. Nothing herein shall prohibit the parties from agreeing to terms different from the decision of the arbitrator as long as such agreements are made within fifteen (15) days after receipt of the arbitrator's decision.
- (B) The arbitrator's decision shall be subject to court review only pursuant to the terms of this subdivision. Any party desiring court review must file suit in District Court no later than thirty (30) days after the date of the arbitrator's decision. Failure to file suit within this time frame shall waive the right to appeal the decision. A party may appeal to the District Court only on the following grounds:
 - (i) The award was procured by corruption, fraud or other similar wrongdoing; or
 - (ii) The decision on any issue is arbitrary and capricious, to wit, there is no competent evidence in the record to support the decision; or
 - (iii) The decision on any issue was reached without considering the factors listed in Section 9.8.10 hereof; or

- (iv) The award of the arbitrator on an issue was not the final offer of the Corporate Authorities or the final offer of the agent.
- (C) The court shall not conduct de novo review except to determine whether the award was procured by corruption, fraud or other similar wrongdoing. If the court determines that the award was procured by corruption, fraud or other similar wrongdoing, the entire award shall be vacated and the matter shall be remanded back to a different arbitrator selected pursuant to the terms of 9.8.8(E) hereof. The arbitrator who issued the award determined to be procured by corruption, fraud or other similar wrongdoing shall no longer be deemed qualified to be on the permanent panel of arbitrators, shall cease to be a member of the panel and shall not be eligible for reappointment to the permanent panel. If the court determines that the arbitrator's decision on any issue is arbitrary and capricious, the court shall remand that issue to the arbitrator with instructions to conduct a new hearing on that issue if either the bargaining agent or the Corporate Authorities so desires and, with or without a new hearing, to issue a new decision on that issue which is based on some competent evidence in the record. If the court determines that the arbitrator's decision on any issue was reached without considering the factors listed in Section 9.8.10 hereof, the court shall remand that issue to the arbitrator with instructions to conduct a new hearing on that issue if either the bargaining agent or the Corporate Authorities so desires and, with or without a new hearing, to issue a decision which considers the factors listed in Section 9.8.10 hereof as the arbitrator deems proper. If the court determines that the arbitrator's decision did not accept the final offer of either the Corporate Authorities or the bargaining agent on an issue, the court shall remand the issue to the arbitrator with instructions to accept the final offer of either the Corporate Authorities or the bargaining agent.

(Charter 1960, C5.82-12; added March 20, 1995)

§ 9.8.13 - Fees and expenses of arbitration.

One-half of the necessary fees and necessary expenses of arbitration (excluding all fees and expenses incurred by either party in the preparation or presentation of its case) shall be borne by the City and one-half shall be borne by the bargaining agent.

(Charter 1960, C5.82-13; added March 20, 1995)

§ 9.8.14 - Collective bargaining agreement; what constitutes.

- (A) The collective bargaining agreement between the City and the bargaining agent shall consist of any and all terms actually agreed to by the parties or awarded by the arbitrator. At the request of either the bargaining agent or the Corporate Authorities, the agreement shall contain a grievance procedure which culminates in final and binding arbitration by a neutral arbitrator. The grievance procedure may be established by voluntary agreement or by the arbitrator.
- (B) Whenever there is a conflict between the terms of the agreement and a rule, executive order, procedure, policy, or any ordinance of the City which is applicable only to employees of the City, the provisions of the agreement shall prevail; provided, however, when a conflict is between the terms of the agreement and an ordinance or executive order adopted prior to March 7, 1995, other than an ordinance or executive order establishing compensation or fringe benefits for Police Officers, the ordinance or executive order shall prevail.

(Charter 1960, C5.82-14; added March 20, 1995)

§ 9.8.15 - Request for bargaining.

- (A) In order to begin the bargaining process, it is the obligation of the bargaining agent to serve written notice of request for bargaining on the Corporate Authorities no later than June 1 of the year before the contract period which will be the subject of the bargaining process with bargaining to commence no later than July 1. Notwithstanding the above, in any year in which the City may be required to bargain with more than one employee

group, the Council may, before January 31, establish by ordinance a schedule for collective bargaining for Police Officers. In no event shall the City modify the schedule as established in this paragraph by more than thirty (30) days in either direction.

- (B) All time limits for action contained in this Section, other than the times for requesting and commencing bargaining set forth in this subdivision, may be waived by mutual consent of the parties.

(Charter 1960, C5.82-15; added March 20, 1995; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02)

§ 9.8.16 - Terms and conditions of employment not to be reduced.

The compensation and fringe benefits granted to Police Officers as of January 1, 1972 by Section C5.40 and the Subdivisions thereunder, by Subdivisions C5.41-4, C5.41-5, C5.41-6, C5.46-5, C5.48-1, and by Section C5.49 of the 1960 Compilation of the Charter; and by Sections 9.6.5, 9.6.6, 9.6.7 of this Charter, shall not be reduced except by voluntary agreement between the Corporate Authorities and the bargaining agent.

(Charter 1960, C5.82-16; added March 20, 1995)

§ 9.8.17 - Prohibition.

- (A) Neither the bargaining agent nor the Police Officers, nor any person acting in concert with them, will cause, sanction, or take part in any withholding of services to the City by means of a strike, walkout, sitdown, slowdown, stoppage of work, abnormal absenteeism, or other method. Therefore, all such actions are expressly prohibited.
- (B) Violation of any provision of Subsection (A) of this Section 9.8.17 by the bargaining agent of the Police Officers shall be cause for the City to terminate a collective bargaining agreement with the bargaining agent upon giving written notice to that effect to the chief representative of the bargaining agent, in addition to whatever other remedies may be available to the City at law or in equity.
- (C) Violation of any provision of Subsection (A) of this Section 9.8.17 by any Police Officer shall be just cause for discipline of the Police Officer, in addition to whatever other remedies may be available to the City at law or in equity. All provisions of Section 9.4.13 and its Subsections shall apply to any disciplinary action under this Subsection.
- (D) No Police Officer or person seeking to become a Police Officer shall be appointed, promoted, reduced, removed or in any way discriminated against because of affiliations or nonaffiliations with an employee organization; provided that it shall be allowable and it shall not be in violation of this Charter for an agreement between the bargaining agent and the Corporate Authorities to require as a condition of employment the payment by Police Officers to the bargaining agent of an amount not to exceed the normal dues and assessments required of members of the bargaining agent so long as the City is adequately indemnified and held harmless as part of the agreement.

(Charter 1960, C5.82-17; added March 20, 1995)

§ 9.8.18 - Severability.

If any clause, sentence, paragraph, or part of this Part 8 or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this Part 8 or its application.

(Charter 1960, C5.82-18; added March 20, 1995; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02)

PART 9. - COLLECTIVE BARGAINING; DEPUTY SHERIFFS

§ 9.9.1 - Statement of policy.

The protection of the public health, safety, and welfare demands that Deputy Sheriffs not be allowed to strike or engage in any work stoppage, slowdown or mass absenteeism. This necessary prohibition does not, however, require the denial to such employees the right to organize, the right to be represented by an employee organization of their choice, and the right to bargain collectively. It is hereby declared to be the policy of the City and County of Denver that a system of collective bargaining will establish a productive relationship between the City and its Deputy Sheriffs and be used to set compensation, fringe benefits, a means for the collection of union dues and an agency fee, and a grievance procedure for resolving any of the above listed issues. In lieu of allowing Deputy Sheriffs to strike to resolve impasses in negotiations, the City hereby adopts a system of binding arbitration to resolve such impasses.

(Charter 1960, C5.83-1; added March 20, 1995)

§ 9.9.2 - Definitions.

As used in this Section, the following terms shall, unless the context requires a different interpretation, have the following meanings:

- (A) The term "Deputy Sheriff" shall mean all members sworn by the Sheriff in the Sheriff Department of the City and County of Denver, except the Sheriff, Deputy Sheriff Division Chiefs, and Deputy Sheriff Majors.
- (B) The term "Corporate Authorities" shall mean the Mayor and the City Council of the City and County of Denver, or their representatives.
- (C) The term "sole and exclusive bargaining agent" or "bargaining agent" shall mean an employee organization chosen by the Deputy Sheriffs pursuant to Section 9.9.4.
- (D) The term "final offer" shall be the written offer made latest in time by a party to the other party but at least seven (7) days prior to the start of a binding arbitration hearing.
- (E) "Compensation" means wages, rates of pay, salaries or other forms of pay.
- (F) "Fringe benefits" means: vacation leave; holidays; sick leave; bereavement leave; jury duty leave; leave for union activity; other paid or unpaid leave; payments for injuries, sickness, or death arising from the line of duty; health insurance; life insurance; allowances for uniform and equipment and the maintenance of uniforms and equipment; tuition refund; overtime pay; call back pay; shift differential; acting pay; payments for unused leave at separation; longevity pay; tuition refund; dependent's benefits; and any other financial or economic benefits to individual Deputy Sheriffs. The term "fringe benefits" shall only apply to Deputy Sheriffs employed by the City and County of Denver. The term "fringe benefits" shall not include pensions.

(Charter 1960, C5.83-2; added March 20, 1995; Ord. No. 408-13, § 2, 8-26-13, elec. 11-5-13)

§ 9.9.3 - Right to organize and bargain collectively.

- (A) Deputy Sheriffs shall have the right to bargain collectively with the City and to be represented by an employee organization in such negotiations limited to the following subjects: compensation, fringe benefits, a means for the collection of union dues and an agency fee, and a grievance procedure for resolving any of the above listed issues.
- (B) The Corporate Authorities and the bargaining agent shall not bargain on any subject except as it may affect those items identified in 9.9.3(A).

(Charter 1960, C5.83-3; added March 20, 1995)

§ 9.9.4 - Selection and recognition of bargaining agent.

- (A) The sole and exclusive bargaining agent for the purpose of bargaining shall be the sole and exclusive representative

of all of the Deputy Sheriffs if the majority of the Deputy Sheriffs voting in an election vote for such bargaining agent.

- (B) Questions concerning the selection or removal of any bargaining agent may be raised by petition of any Deputy Sheriff, group of Deputy Sheriffs, or employee organization representing Deputy Sheriffs but only if such petition is signed by at least thirty three (33) percent of the Deputy Sheriffs. Such a petition may be submitted at any time to the American Arbitration Association (or its successor organization) provided that in the event there is a bargaining agent then certified or recognized by the City, no petition may be filed within said twelve months of the bargaining agent's certification by the American Arbitration Association (or its successor organization); and provided further that no petition may be filed during the term of any existing agreement between the City and the bargaining agent, except during the period from January 1 to January 31 of the final year of such an agreement.
- (C) When a petition is filed concerning the selection or removal of a bargaining agent, the American Arbitration Association (or its successor organization) shall promptly send the petition to the Department of Safety for determination of whether it contains the requisite number of signatures. The Department of Safety shall promptly make that determination and notify the American Arbitration Association (or its successor organization) of its conclusion. If the petition has the requisite number of signatures, the American Arbitration Association (or its successor organization) shall determine the question of the selection or removal of any bargaining agent by taking a secret ballot of Deputy Sheriffs and certifying in writing the results thereof to the Corporate Authorities and the person, persons, and employee organizations involved. The secret ballot election shall be conducted not less than fifteen (15) days nor more than thirty (30) days from the date of the filing of the petition. The American Arbitration Association (or its successor organization) shall certify the results of the above-described election within three (3) days of the close of the polls. The cost of running the election shall be borne equally by each organization on the ballot.
- (D) The employee organization selected by the majority of the Deputy Sheriffs voting in an election conducted pursuant to paragraph (c) of this Section shall be recognized by the Corporate Authorities as the sole and exclusive bargaining agent for all Deputy Sheriffs. In an election where none of the choices on the ballot receives a majority vote, the American Arbitration Association shall conduct a runoff election. In that case, the ballot shall provide for a selection between the two choices or parties receiving the highest and the second highest number of ballots cast in the election.

(Charter 1960, C5.83-4; added March 20, 1995; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02)

§ 9.9.5 - Obligation to bargain in good faith.

- (A) It shall be the obligation of the Corporate Authorities to meet and bargain in good faith with the representatives of the bargaining agent at all reasonable times and places. This obligation shall include the duty to cause any agreements to be reduced to a written contract and executed in a timely manner. Any such contract shall be for a term of not less than one (1) year nor more than three (3) years, notwithstanding the provisions of Article VII of this Charter relating to Budget and Finance. All collective bargaining agreements shall be effective on a January 1 date and shall terminate on a December 31 date.
- (B) It shall be the obligation of the bargaining agent to meet and bargain collectively in good faith with the Corporate Authorities at all reasonable times and places. This obligation shall include the duty to cause any agreements to be reduced to a written contract and executed in a timely manner.

(Charter 1960, C5.83-5; added March 20, 1995)

§ 9.9.6 - Facilitation assistance.

It is recognized that from time to time, the bargaining agent and the Corporate Authorities may find it difficult to achieve agreement readily. Whenever it is deemed appropriate or beneficial to do so, the parties may engage the services of one or more experts, consultants, facilitators, or mediators as they may jointly agree may benefit the process of reaching agreement on one or more items. It is specifically contemplated that the parties might engage individuals who have demonstrated knowledge or expertise in a given topic under discussion or skills and abilities in dispute resolution to serve as a facilitator, mediator, or other assistant to promote the parties reaching a voluntary resolution. Fees and expenses of such individuals will be shared equally by the parties, unless otherwise agreed upon by the respective parties.

(Charter 1960, C5.83-6; added March 20, 1995)

§ 9.9.7 - Unresolved issues submitted to binding arbitration.

In the event that the bargaining agent and the Corporate Authorities are unable, within forty-five (45) days from and including the date of their first meeting, to reach an agreement on a contract, any and all unresolved issues shall be submitted to binding arbitration. The obligation of the parties to bargain in good faith shall continue after submission of unresolved issues to binding arbitration. Any or all issues which are unresolved between the bargaining agent and the Corporate Authorities may be resolved by the parties until the sixteenth day following receipt of the decision of the arbitrator. Any agreements reached within fifteen (15) days following receipt of the decision of the arbitrator shall supersede the decision of the arbitrator. In the event the bargaining agent and the Corporate Authorities are able to reach agreement upon any or all issues prior to the receipt of the decision of the arbitrator, then the arbitrator shall make no decision on such issue or issues.

(Charter 1960, C5.83-7; added March 20, 1995)

§ 9.9.8 - Binding arbitrator; selection.

- (A) Within 30 days after the adoption of this Section, the City shall, in some reasonable manner, solicit applications from persons who desire to be on a permanent panel of arbitrators to resolve impasses as described in Section 9.9.7 herein.
- (B) In order to be eligible to be on the permanent panel of arbitrators, a person must be impartial and disinterested and must be qualified by experience and training as a neutral hearing officer or arbitrator in labor/management disputes. The dispute experience shall be in impasse negotiations between labor and management, disputes over the meaning or application of contracts between labor and management, or discipline. Any person whose only experience is as a Hearings Officer for any Civil or Career Service System shall not be qualified. Persons who are members of the National Academy of Arbitrators or on the American Arbitration Association panel of labor arbitrators are presumptively qualified.
- (C) The City Council shall create a permanent panel of at least three (3) arbitrators from those qualified persons who apply. Placement on the permanent panel shall be approved by a resolution or ordinance by the City Council. Any qualified person can be added to the permanent panel at any time. Persons on the panel shall remain on the panel for a term of six (6) years, and may be reappointed, provided that the members of the initial panel shall be appointed to terms of varying lengths not to exceed six (6) years. Any person on the permanent panel may be removed by passage of a resolution or ordinance by the City Council unless that person has been selected to conduct a hearing concerning a particular dispute pursuant to paragraph (e) of this Section, and then that person can only be removed after issuing a decision in that dispute.
- (D) Each person put on the permanent panel shall sign an oath to uphold the terms of this Section.
- (E) After expiration of the 45-day time period referred to in Section 9.9.7, the bargaining agent or the Corporate Authorities may request the list of names from the City Clerk, and the City Clerk shall submit a list with the names of all members of the permanent panel to the bargaining agent and the Corporate Authorities within 5 (five) days.

Within ten (10) days of receipt of this list, the bargaining agent and the Corporate Authorities shall meet and alternatively strike one name from the list until one name remains (if the panel has an odd number of names) or two names remain (if the panel has an even number of names). If one name remains, that person shall be the arbitrator for that dispute. If two names remain, the Mayor shall select one of those two names to be the arbitrator for that dispute. The Mayor's selection must take place within five (5) days of the completion of the striking process by the bargaining agent and the Corporate Authorities. The determination of whether the bargaining agent or the Corporate Authorities strikes first shall be done by flip of a coin.

- (F) Nothing herein shall be construed to prevent the bargaining agent and the Corporate Authorities from agreeing to an arbitrator from the permanent panel.

(Charter 1960, C5.83-8; added March 20, 1995; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02; Ord. No. 608-05, § 1, 8-9-05, elec. 11-1-05)

§ 9.9.9 - Hearings.

- (A) The arbitrator shall call a hearing to begin within twenty-five (25) days of selection, and shall give at least ten (10) days notice in writing to the bargaining agent and the Corporate Authorities of the time and place of such hearing. The hearing shall be informal, and the rules of evidence prevailing in judicial proceedings shall not be binding. Any and all oral or documentary evidence and other data deemed competent and relevant by the arbitrator shall be received in evidence. The arbitrator shall have the power to administer oaths and to require by subpoena the attendance and testimony of witnesses and the production of books, records and other evidence relating to or pertinent to the issues presented for determination.
- (B) The hearing conducted by the arbitrator shall be concluded within seven (7) days of the time of commencement. Within five (5) days following the conclusion of the hearing, the parties may, if they deem necessary, submit written briefs to the arbitrator. Within ten (10) days of receipt of such briefs, or within ten (10) days after the conclusion of the hearing if no post-hearing briefs are filed, the arbitrator shall make written findings and conclusions setting forth the basis of the decision on the issues presented, a copy of which shall be delivered to the bargaining agent and the Corporate Authorities in the same manner on the same date. The written findings and conclusions shall be reached in accordance with the provisions of Section 9.9.10.

(Charter 1960, C5.83-9; added March 20, 1995; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02)

§ 9.9.10 - Factors to be considered by the arbitrator.

The arbitrator shall conduct the hearing and render a decision with due consideration of the need for a prompt, peaceful, and just settlement of all unresolved issues between the bargaining agent and the Corporate Authorities. The arbitrator may apply the standards commonly used in interest disputes but shall rely predominantly on the following in arriving at a decision:

- (A) The interests and welfare of the public and the financial ability of the City to bear the costs involved;
- (B) The lawful authority of the City;
- (C) Stipulations of the parties;
- (D) Comparison of the compensation, fringe benefits, and pensions of Denver Deputy Sheriffs with positions with similar duties and responsibilities in other departments which are similar in the scope of duties and responsibilities. However, while the arbitrator may consider such comparisons in making a decision, in no event shall the arbitrator make an award:
- (i) That is indexed or otherwise expressed as a relationship to the compensation or fringe benefits of any other employee or employees who are not Deputy Sheriffs of the Denver Sheriff Department, or
 - (ii) That modifies pensions of Deputy Sheriffs; and
- (E) The cost of living.

(Charter 1960, C5.83-10; added March 20, 1995)

§ 9.9.11 - Final offer procedure.

The Corporate Authorities and the bargaining agent shall submit to the arbitrator final offers on each issue on which there was not agreement. The award of the arbitrator on each issue shall be the final offer of the Corporate Authorities or the final offer of the bargaining agent. The arbitrator shall state the reasons for choosing the award in writing in accordance with Section 9.9.9(B).

(Charter 1960, C5.83-11; added March 20, 1995; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02)

§ 9.9.12 - Finality of the arbitrator's decision.

- (A) Except as provided in this subdivision, the decision of the arbitrator shall be final and binding on the bargaining agent and the Corporate Authorities; provided that the arbitrator's decision shall be binding only for the term of the contract. Nothing herein shall prohibit the parties from agreeing to terms different from the decision of the arbitrator as long as such agreements are made within fifteen (15) days after the receipt of the arbitrator's decision.
- (B) The arbitrator's decision shall be subject to court review only pursuant to the terms of this Section. Any party desiring court review must file suit in district court no later than thirty (30) days after the date of the arbitrator's decision. Failure to file suit within this time frame shall waive the right to appeal the decision. A party may appeal to the District Court only on the following grounds:
 - (i) The award was procured by corruption, fraud or other similar wrongdoing; or
 - (ii) The decision on any issue is arbitrary and capricious, to wit, there is no competent evidence in the record to support the decision; or
 - (iii) The decision on any issue was reached without considering the factors listed in Section 9.9.10 hereof; or
 - (iv) The award of the arbitrator on an issue was not the final offer of the Corporate Authorities or the final offer of the bargaining agent.
- (C) The court shall not conduct de novo review except to determine whether the award was procured by corruption, fraud or other similar wrongdoing. If the court determines that the award was procured by corruption, fraud or other similar wrongdoing, the entire award shall be vacated and the matter shall be remanded back to a different arbitrator selected pursuant to the terms of Section 9.9.8(E) hereof. The arbitrator who issued the award determined to be procured in corruption, fraud, or similar wrongdoing shall no longer be deemed qualified to be on the permanent panel of arbitrators, shall cease to be a member of the panel, and shall not be eligible for reappointment to the permanent panel. If the court determines that the arbitrator's decision on any issue is arbitrary and capricious, the court shall remand that issue to the arbitrator with instructions to conduct a new hearing on that issue if either the bargaining agent or the Corporate Authorities so desires and, with or without a new hearing, to issue a new decision on that issue which is based on some competent evidence in the record. If the court determines that the arbitrator's decision on any issue was reached without considering the factors listed in Section 9.9.10 hereof, the court shall remand that issue to the arbitrator with instructions to conduct a new hearing on that issue if either the bargaining agent or the Corporate Authorities so desires and, with or without a new hearing, to issue a decision which considers the factors listed in Section 9.9.10 hereof as the arbitrator deems proper. If the court determines that the arbitrator's decision did not accept the final offer of either the Corporate Authorities or the bargaining agent on an issue, the court shall remand the issue to the arbitrator with instructions to accept the final offer of either the Corporate Authorities or the bargaining agent.

(Charter 1960, C5.83-12; added March 20, 1995; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02)

§ 9.9.13 - Fees and expenses of arbitration.

One-half of the necessary fees and necessary expenses of arbitration (excluding all fees and expenses incurred by either party in the preparation or presentation of its case) shall be borne by the City and one-half shall be borne by the bargaining agent.

(Charter 1960, C5.83-13; added March 20, 1995)

§ 9.9.14 - Collective bargaining agreement; what constitutes.

- (A) The collective bargaining agreement between the City and the bargaining agent shall consist of any and all terms actually agreed to by the parties or awarded by the arbitrator. At the request of either the bargaining agent or the Corporate Authorities, the agreement shall contain a grievance procedure which culminates in final and binding arbitration by a neutral arbitrator. The grievance procedure may be established by voluntary agreement or by the arbitrator, provided such grievance procedure shall not conflict with any provisions of the Charter.
- (B) Whenever there is a conflict between the terms of the collective bargaining agreement and any provision of the Charter of the City and County of Denver, applicable Career Service Rules, applicable City Ordinances or Federal or State laws, or executive orders, the agreement shall be deemed to be subordinate unless there is express violation of the terms of this Part 9.

(Charter 1960, C5.83-14; added March 20, 1995; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02)

§ 9.9.15 - Request for bargaining.

- (A) In order to begin the bargaining process, it is the obligation of the bargaining agent to serve written notice of request for bargaining on the Corporate Authorities no later than September 1 of the year before the contract period which will be the subject of the bargaining process. Bargaining shall begin no later than October 1. Notwithstanding the above, in any year in which the City may be required to bargain with more than one bargaining agent, the City Council may, before January 31, establish by ordinance a schedule for collective bargaining for Deputy Sheriffs. In no event shall the City Council modify the schedule as established in this paragraph by more than 30 days in either direction.
- (B) All time limits for action contained in this Part 9, except the times for requesting and commencing bargaining set forth in this Section, may be waived by mutual consent of the parties.

(Charter 1960, C5.83-15; added March 20, 1995; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02)

§ 9.9.16 - Prohibition.

- (A) Neither the bargaining agent nor the Deputy Sheriffs, nor any person acting in concert with them, will cause, sanction, or take part in any withholding of services to the City by means of a strike, walkout, sitdown, slowdown, stoppage of work, abnormal absenteeism, or other method. Therefore, all such actions are expressly prohibited.
- (B) Violation of any provision of Subsection (A) of this Section 9.9.16 by the bargaining agent of the Deputy Sheriffs shall be cause for the City to terminate a collective bargaining agreement with the bargaining agent upon giving written notice to that effect to the chief representative of the bargaining agent, in addition to whatever other remedies may be available to the City at law or in equity.
- (C) Violation of any provision of Subsection (A) of this Section 9.9.16 by any Deputy Sheriff shall be just cause for discipline of the Deputy Sheriff, in addition to whatever other remedies may be available to the City at law or in equity. All provisions of Sections 9.1.4 and 9.1.5 and the Career Service rules shall apply to any disciplinary action under this Section.
- (D) No Deputy Sheriff or person seeking to become a Deputy Sheriff shall be appointed, promoted, reduced, removed or in any way discriminated against because of affiliations or non-affiliations with an employee organization; provided, however, that it shall be allowable and it shall not be in violation of this Charter for an agreement

between the bargaining agent and the Corporate Authorities to require as a condition of employment the payment by Deputy Sheriffs to the bargaining agent of an amount not to exceed the normal dues and assessments required of members of the bargaining agent to finance collective bargaining, contract administration, and grievance administration so long as the City is adequately indemnified and held harmless as part of the agreement.

(Charter 1960, C5.83-16; added March 20, 1995; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02)

§ 9.9.17 - Severability.

If any clause, sentence, paragraph, or part of this Section or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this Part 9 or its application.

(Charter 1960, C5.83-17; added March 20, 1995)

ARTICLE X. - BOARD OF WATER COMMISSIONERS

§ 10.1.1 - Board of Water Commissioners created.

There shall be and hereby is continued and created a non-political Board of Water Commissioners of five members, to have complete charge and control of a water works system and plant for supplying the City and County of Denver and its inhabitants with water for all uses and purposes.

(Charter 1960, C4.14; amended May 19, 1959)

§ 10.1.2 - Appointments to Board.

On the second Monday in July of odd-numbered years, the Mayor shall appoint one or two Commissioners, as the case may be, for terms of six years each to succeed those whose terms are expiring. The members of the Board of Water Commissioners shall each continue in office until their successors are appointed and qualified. Any vacancy on the Board shall be filled promptly by appointment by the Mayor. Each appointee shall be a citizen of the United States, a resident of the City and County of Denver, and at least 25 years of age. If a member of the Board shall cease to be a resident of Denver, the individual shall thereupon cease to be a member of the Board.

(Charter 1960, C4.15; amended May 19, 1959; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02; Ord. No. 659-02, § 1, 8-26-02, elec. 11-5-02)

§ 10.1.3 - Compensation and bonds.

The Commissioners shall each receive compensation of \$600.00 per annum. Each Commissioner shall give an oath or affirmation and give an official bond in an amount and conditioned and approved as provided by the Board by resolution. The Board may require the Treasurer of the City and County of Denver to give bond conditioned in such manner as shall be determined by the Board. The premiums on all such bonds shall be paid out of the Water Works Fund.

(Charter 1960, C4.16; amended May 19, 1959; amended November 3, 1998; Ord. No. 659-02, § 1, 8-26-02, elec. 11-5-02)

§ 10.1.4 - Board meetings.

The Board shall hold two regular meetings each month on such days as it may by resolution determine, and special meetings at such other times as it may deem necessary. All meetings shall be open and public. If any member of the Board shall be absent for three successive regular meetings, unless excused by vote of the Board, he or she shall cease to be a member and the office

shall be deemed vacant.

(Charter 1960, C4.17; amended May 19, 1959; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02; Ord. No. 659-02, § 1, 8-26-02, elec. 11-5-02)

§ 10.1.5 - General powers.

The Board shall have and exercise all the powers of the City and County of Denver including those granted by the Constitution and by the law of the State of Colorado and by the Charter in regard to purchasing, condemning and purchasing, acquiring, constructing, leasing, extending and adding to, maintaining, conducting and operating a water works system and plant for all uses and purposes, and everything necessary, pertaining or incidental thereto, including authority to dispose of real or personal property not useful for or required in the water works operation. The Board shall have authority to generate and dispose of electric energy for water works purposes or any other purpose of the City and County of Denver. The Board may lease water facilities or the flow of water for generation of electric energy and may sell surplus energy, provided that nothing herein shall be construed as permitting the Board to distribute electric energy to the general public. The Board shall have power in the name of the City and County of Denver to make and execute contracts, take and give instruments of conveyance, and do all other things necessary or incidental to the powers herein granted, and in so doing may make such special designation in such instruments as will indicate the capacity in which the City and County of Denver is acting when such actions are taken by or on behalf of the Board of Water Commissioners. The customary practice of dealing in the name of "City and County of Denver, acting by and through its Board of Water Commissioners" is hereby confirmed and approved. The Board shall institute and defend all litigation affecting its powers and duties, the water works system and plant, and any of the Board's property and rights. In any matter affecting the powers, duties, properties, or trusts of the Board, process shall be served on the Board. The Manager of Denver Water is hereby designated as the officer upon whom process may be served in any matter in which the Board of Water Commissioners has the sole authority for the municipal corporation.

(Charter 1960, C4.18; amended May 19, 1959; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02)

§ 10.1.6 - Manager and personnel.

The property and personnel under control of the Board shall be referred to generally as Denver Water. The Board shall designate a Manager, who shall cause the Board's policies and orders to be executed and shall bring to the Board's attention matters appropriate for its action. The Board shall have power to employ such personnel, including legal staff, and fix the classifications thereof as it may deem necessary. All such personnel shall be hired and dismissed on the basis of merit. The Board shall define the duties of each of its employees and fix the amount of their compensation. It shall be the duty of the Board to carry out the intent and requirements of Article XX of the Constitution of the State of Colorado with respect to civil service for public utilities and works and to perform the customary functions of a Civil Service Commission with respect to its employees. In performing the functions of a Civil Service Commission, the Board or its designee shall have the power to conduct hearings, administer oaths and issue subpoenas enforceable in the County Court of the City and County of Denver. The Board may establish classifications of employment for persons outside the civil service system who serve solely at the pleasure of the Board. Such employees shall include the number of temporary employees the Board deems necessary and not more than 2 percent of all regular employees of the Board.

(Charter 1960, C4.19; amended May 19, 1959; amended November 3, 1998; Ord. No. 659, § 1, 8-26-02, elec. 11-5-02)

§ 10.1.7 - Water Works Fund.

There is hereby created a Water Works Fund into which shall be placed all revenues received from the operation of the water works system and plant together with all monies received by the Board from other sources. The Board shall maintain records in compliance with generally accepted accounting principles sufficient for reliance by the Manager of Finance in faithfully accounting for the Water Works Fund. The Board shall promptly deposit all receipts into a bank account in the name of the City and County of

Denver acting by and through its Board of Water Commissioners. The Board may invest such funds until they are required for operations of the Board. Monies shall be paid out of the account only upon the authority of the Board and evidenced as required pursuant to procedures established by the Manager of Finance.

(Charter 1960, C4.20; amended May 19, 1959; amended August 11, 1992; Ord. No. 659, § 1, 8-26-02, elec. 11-5-02; Ord. No. 582-06, § 1, 8-22-06, elec. 11-7-06)

§ 10.1.8. - City auditor.

The Auditor of the City and County of Denver shall audit or cause to be audited the accounts of the Board at least annually and make a report of his or her findings to the Council of the City and County of Denver. The Board shall make all of its accounts and records fully available to the Auditor to enable the Auditor to carry forward these duties that shall be performed without interference with the water works function. Unless excepted by the Audit Committee as provided in section 5.2.2(C), the Auditor, or some person designated by him or her, shall countersign and register all bonds and written contracts (with the privilege but without the necessity for keeping copies thereof). The Auditor may authorize the affixing of his or her signature by mechanical means.

(Charter 1960, C4.21; amended May 19, 1959; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02; Ord. No. 659-02, § 1, 8-26-02, elec. 11-5-02; Ord. No. 582-06, § 1, 8-22-06, elec. 11-7-06)

§ 10.1.9 - Water rates.

The Board shall fix rates for which water shall be furnished for all purposes within the City and County of Denver, and rates shall be as low as good service will permit. Rates may be sufficient to pay for operation, maintenance, reserves, debt service, additions, extensions, betterments, including those reasonably required for the anticipated growth of the Denver metropolitan area, and to provide for Denver's general welfare. The rates may also be sufficient to provide for the accumulation of reserves for improvements of such magnitude that they cannot be acquired from the surplus revenues of a single year.

(Charter 1960, C4.22; amended May 19, 1959)

§ 10.1.10 - Uniformity of rates.

Except as herein otherwise specifically provided, rates charged for water furnished for use inside the City limits of the City and County of Denver shall be uniform as far as practicable and so related to the service furnished or the volume of water used as to bring about a fair and equitable distribution among all water users of the total amount to be realized from revenues derived from the sale of water used within the City and County of Denver. No special rate or discount shall be allowed to any property, entity, person or class of persons except as in this Charter specifically provided.

(Charter 1960, C4.23; amended May 19, 1959)

§ 10.1.11 - Enforcement of charges.

The Board may enforce the payment of any charge by discontinuing service to the premises at which the charge arose without regard to the ownership or occupancy of such premises.

(Charter 1960, C4.24; amended May 19, 1959; Ord. No. 659-02, § 1, 8-26-02, elec. 11-5-02)

§ 10.1.12 - City rates.

Commencing January 1, 1960, the Board shall furnish water to the municipal government of the City and County of Denver at rates which shall approximately equal but not exceed the cost of the water furnished, not including items on such rate for debt service, additions, extensions or betterments, but such rate shall not be applicable to agencies or authorities sponsored by or supported by the City and County. The Board shall own, control and operate all water, water rights, structures and facilities of the City and County of Denver pertaining to the Farmers and Gardeners Ditch and the City Ditch. The Board shall furnish water out of the City Ditch or some equivalent source for the use of Denver in City Park and Washington Park, without any charge whatsoever.

(Charter 1960, C4.25; amended May 19, 1959)

§ 10.1.13 - Water leases.

The Board shall have power to lease water and water rights for use outside the territorial limits of the City and County of Denver, but such leases shall provide for limitations of delivery of water to whatever extent may be necessary to enable the Board to provide an adequate supply of water to the people of Denver. Every such lease shall contain terms to secure payment of sufficient money to fully reimburse the people of Denver for the cost of furnishing the water together with an additional amount to be determined by the Board. Sales at amounts less than the above minimum may be made if warranted by economic conditions, but a contract providing for such lesser charge shall not extend for more than one year.

(Charter 1960, C4.26; amended May 19, 1959; Ord. No. 659-02, § 1, 8-26-02, elec. 11-5-02)

§ 10.1.14 - Expenses.

The entire cost of the operation and maintenance of the water works system and plant under the control of the Board shall be paid from monies of the Water Works Fund. The monies and other assets of the Water Works Fund shall not be used for any purpose except for the management, operation and maintenance of the water works system and plant, including additions, extensions and betterments, for recreational opportunities incidental thereto, and for the payment of interest and principal on bonds and other obligations, the proceeds of which were or shall be used for water works purposes.

(Charter 1960, C4.27; amended May 19, 1959; amended August 11, 1992; Ord. No. 659-02, § 1, 8-26-02, elec. 11-5-02)

§ 10.1.15 - Bonded indebtedness.

The Board of Water Commissioners in its sole discretion may issue revenue bonds, the proceeds of which shall be placed in the Water Works Fund and expended for water works purposes, for establishing reserves in connection with such bonds or for refunding the principal of and interest on bonds previously issued by the Board. Revenue bonds shall be payable as to interest and principal solely from the net revenues of the Board. The Board shall pledge to pay the principal and interest on such bonds from revenues of the Board, which pledge shall be irrevocable. The bonds so authorized shall be sold and issued by action of the Board and no other ratification or authorization shall be required. The Board shall have power to refund, pay or discharge the principal of any general obligation bond it issued prior to November 5, 2002, when such bond becomes payable, and may use proceeds of a new revenue bond issuance to refund, pay or discharge the general obligation bonds. Existing or future bonds issued by the Board shall continue to be excluded from the determination of any limit upon the indebtedness of the City and County of Denver.

(Charter 1960, C4.28; amended May 19, 1959; amended May 17, 1983; amended August 11, 1992; Ord. No. 659-02, § 1, 8-26-02, elec. 11-5-02)

§ 10.1.16 - Reserved.

Editor's note— Ord. No. 659-02, § 1, adopted August 26, 2002, repealed § 10.1.6, which pertained to bonds of annexed areas and derived from the Charter of 1960, C4.29; amended May 19, 1959.

§ 10.1.17 - Board organization.

The Board shall adopt rules governing its organization, the calling of special meetings and the conduct of its business. A majority of the Board shall constitute a quorum and all action by the Board shall be taken by a majority of the whole Board and not otherwise.

(Charter 1960, C4.30; amended May 19, 1959)

§ 10.1.18 - Rules and regulations.

The Board may adopt rules and regulations with respect to any matter within its jurisdiction as defined by Charter. It may provide for enforcement of its rules and regulations by imposing special charges in an amount reasonably calculated to secure compliance or recompense for water loss, to achieve water conservation and to reimburse the Board for expenses arising out of violation. In addition to any other lawful remedy, enforcement procedure may include refusal to supply water to a property involved. The City and County of Denver by ordinance may supplement Board rules and regulations and provide penalties for the violation of such an ordinance in the same manner as penalties are provided for the violation of other ordinances. Rules adopted by the Board and within its authority shall supersede any conflicting ordinance provision.

(Charter 1960, C4.31; amended May 19, 1959; Ord. No. 659-02, § 1, 8-26-02, elec. 11-5-02)

§ 10.1.19 - Publication of rules and regulations.

Rules and regulations adopted by the Board shall be effective after they shall have remained posted in a conspicuous public place in the principal business office of the Board for a period of fifteen calendar days. Whenever immediate application of a rule or regulation by the Board is necessary for the preservation of the public peace, health or safety, the Board may so declare, and such rule or regulation shall thereupon become effective immediately upon being posted as provided in this section.

(Charter 1960, C4.32; amended May 19, 1959; Ord. No. 659-02, § 1, 8-26-02, elec. 11-5-02)

§ 10.1.20 - Continuity of control of water.

The Board may make provision for retaining dominion over the water supply under its control through successive uses of such water, such as reuse and exchange. Such dominion shall not be affected by treatment of wastewater produced by use of the water supply.

(Charter 1960, C4.33; amended May 19, 1959; Ord. No. 659-02, § 1, 8-26-02, elec. 11-5-02)

§ 10.1.21 - Reserved.

Editor's note— Ord. No. 659-02, § 1, adopted August 26, 2002, repealed § 10.1.21, which pertained to public liability and derived from the Charter of 1960, C4.34; amended May 19, 1959; and Ord. No. 428-02, adopted June 3, 2002, and approved by the electorate August 13, 2002.

§ 10.1.22 - Conflicting Charter provisions.

The provisions of this Article X shall supersede any conflicting provision of the Charter existing on May 19, 1959 when this article was adopted.

(Charter 1960, C4.35; amended May 19, 1959; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02)

ARTICLE XI. - LIBRARY COMMISSION

§ 11.1.1 - Commission created.

There shall be a Library Commission, consisting of eight members, who shall serve without compensation and shall be appointed by the Mayor.

(Charter 1960, A14.6; Charter 1904, § 125; Ord. No. 428-02, § 1, 6-3-02, elec. 8-13-02)

§ 11.1.2 - General powers.

The commission shall have exclusive control of the public library, branches thereof and reading rooms, of all money appropriated therefor, of all property or money otherwise acquired for such purposes, of the acquisition by purchase, construction, or lease, of grounds and buildings for such purposes; of the administration of gifts and trusts, and power to do any and all things necessary or expedient in connection with library purposes.

(Charter 1960, A14.7; Charter 1904, § 126)

§ 11.1.3 - Reserved.

Editor's note— Ord. No. 428-02, § 1, adopted June 3, 2002 and passed at election Aug. 13, 2002, repealed section 11.1.3 in its entirety. Former section 11.1.3 pertained to annual appropriation and derived from the Charter of 1960, A14.8; and the Charter of 1904, § 127.

§ 11.1.4 - Open shelf system.

The library and its branches shall, as far as practicable, be conducted upon the open shelf system.

(Charter 1960; A14.9; Charter 1904, § 128)

§ 11.1.5 - Annual Reports.

The commission shall make an annual report to the Mayor, stating the condition of its trust, the various sums of money received from the library fund and other sources, and for what purposes such sums of money have been expended; the number of books and periodicals on hand, the number added by purchase or gift, the number lost or missing and the general character of such books, the number of visitors, and such other information as may be deemed of general interest.

(Charter 1904, § 130)

CHARTER COMPARATIVE TABLE

Ordinance Number	Adoption Date	Election Date	Section	Section this Charter	Supplement Number
			Rpld	<u>1.2.7, 1.2.13</u>	
				<u>2.2.6(B), 2.8.3</u>	
				<u>9.3.17</u>	
677-02	8-26-02	11- 5-02	1	<u>3.2.6</u>	
678-02	8-26-02	11- 5-02	1	<u>8.3.1—8.3.4</u>	
679-02	8-26-02	11- 5-02	1	<u>3.3.5, 8.1.1</u>	
				8.1.6	
				<u>8.2.2—8.2.4</u>	
				<u>8.2.7—8.2.10</u>	

				<u>8.2.12—8.2.17</u>
				<u>8.2.20, 8.2.21</u>
			Rpld	<u>8.2.11, 8.2.17</u>
				<u>8.2.22</u>
681-02	8-26-02	11- 5-02	1	<u>2.9.1</u>
				<u>2.9.3(A), (C)</u>
				<u>2.9.4(A)</u>
			Rpld	<u>2.9.4(C), 2.9.5</u>
682-02	8-26-02	11- 5-02	1	<u>4.1.4(D)—(F)</u>
				<u>4.1.5, 4.2.7</u>
				<u>4.3.2, 4.4.1</u>
				<u>4.4.2, 4.4.4</u>
699-02	9- 3-02	11- 5-02	1 Rpld	<u>9.6.9</u>
1011-02	12- 9-02		1	<u>9.3.18</u>
136-03	2-24-03	5- 6-03	1	<u>1.2.1, 1.2.8</u>
				<u>1.2.9</u>
			Rpld	<u>3.1.4</u>
137-03	2-24-03	5- 6-03	1	<u>5.2.1, 5.2.2</u>
				<u>5.2.4</u>
			Rpld	<u>5.2.5—5.2.8</u>
				<u>5.2.9, 5.2.10</u>
138-03	2-24-03	5- 6-03	1	<u>2.6.3, 2.6.6</u>
				<u>9.3.1—9.3.4</u>
			Rpld	<u>9.3.5</u>
				<u>9.3.6—9.3.8</u>
			Rpld	<u>9.3.9, 9.3.10</u>
				<u>9.3.11</u>
			Rpld	<u>9.3.12—9.3.16</u>
				<u>9.3.18</u>
			Rpld	<u>9.4.2</u>
				<u>9.4.3</u>
			Rpld	<u>9.4.4, 9.4.5</u>
				<u>9.4.6</u>
			Rpld	<u>9.4.8</u>
			Rnbd	<u>9.4.9</u>
			As	<u>9.6.14</u>
			Rpld	<u>9.4.11, 9.4.12</u>
				<u>9.4.14, 9.4.15</u>
				<u>9.5.1, 9.5.2</u>
			Rpld	<u>9.5.3</u>
				<u>9.5.4, 9.5.5</u>
			Rpld	<u>9.5.6</u>
				<u>9.5.7, 9.5.8</u>
			Rpld	<u>9.5.9, 9.5.11</u>
				<u>9.5.12, 9.6.1</u>
				<u>9.6.4—9.6.6</u>
			Rpld	<u>9.6.7—9.6.10</u>
				<u>9.6.12, 9.6.13</u>
				<u>9.7.2, 9.7.14</u>
665-03	8-25-03	11- 4-03	1	<u>2.6.4</u>
			Rpld	<u>9.1.1—9.1.6</u>

					9.1.8, 9.1.9	
					<u>9.2.1—9.2.6</u>	
				Added	<u>9.1.1</u>	
					<u>9.2.1—9.2.3</u>	
599-04	8-30-04	11- 2-04	1		<u>9.1.1</u>	
				Rpld	<u>9.4.18</u>	
106-05		5- 3-05	1		<u>9.3.11, 9.4.6</u>	
					<u>9.5.5</u>	
608-05	8- 9-05	11- 1-05	1		<u>2.3.3, 2.12.2</u>	
					<u>3.1.6, 3.2.6</u>	
					<u>3.3.2</u>	
				Rpld	<u>3.3.3</u>	
					<u>3.3.5</u>	
				Rpld	<u>7.6.1—7.6.19</u>	
					<u>7.7.1—7.7.19</u>	
				Added	<u>7.6.1, 7.6.2</u>	
					<u>9.3.2, 9.8.8</u>	
					<u>9.9.8</u>	
582-06	8-22-06	11- 7-06	1		<u>2.2.4</u>	
				Rpld	<u>2.2.5</u>	
					<u>2.2.10</u>	
					<u>2.5.1—2.5.5</u>	
					<u>3.2.6, 5.2.1</u>	
					<u>5.2.2</u>	
				Added	<u>5.2.3</u>	
				Rpld	<u>5.2.4, 5.2.9,</u>	
					<u>5.2.10</u>	
					<u>7.1.2, 7.1.8</u>	
					<u>7.4.4—7.4.6</u>	
					<u>9.2.1, 10.1.7</u>	
					<u>10.1.8</u>	
851-06	12-26-06	1-30-07	1	Rpld	2.8.1, 2.8.2	
				Rpld	<u>8.1.1—8.1.8</u>	
				Added	<u>8.1.1—8.1.4</u>	
					<u>8.2.2</u>	
					<u>8.2.7—8.2.10</u>	
					<u>8.2.12, 8.2.14</u>	
					<u>8.2.16, 8.2.17</u>	
					<u>8.2.19—8.2.21</u>	
				Added	<u>8.2.25, 8.2.26</u>	
				Added	<u>8.2.28, 8.2.29</u>	
					<u>8.3.1—8.3.5</u>	
					<u>9.1.1, 9.2.1</u>	
275-08	6- 9-08	8-12-08	1(A)		<u>8.3.2(I)</u>	
			(B)		<u>8.3.3(C)</u>	
			(C)		<u>8.3.4(C)</u>	
458-11	8-29-11	11- <u>1-11</u>	1	Added	<u>5.2.1(G)</u>	117
407-13	8-26-13	11- <u>5-13</u>	2	Added	<u>2.2.10(D)</u>	
					<u>2.3.3, 2.5.3(C),</u>	
					<u>2.11.3(C), 7.4.6</u>	
				Added	<u>9.1.1(E)(xv)</u>	

408-13	8-26-13	11- <u>5-13</u>	2		<u>2.6.1, 2.6.3, 2.6.4, 2.6.6, 9.1.1(C), (E) (vi), 9.3.11(E)(i), 9.3.18(B), 9.5.1, 9.5.2</u>	117
				Added	<u>9.5.5(C)</u>	
					<u>9.6.1, 9.6.3, 9.6.4, 9.9.2(A)</u>	
409-13	8-26-13	11- <u>5-13</u>	1		<u>2.1.1, 3.1.3, 8.1.2(E)</u>	117
				Rpld	<u>8.1.4</u>	
					<u>8.2.4</u>	
				Rpld	<u>8.2.8—8.2.10, 8.2.13, 8.2.14, 8.2.16, 8.2.17</u>	
					<u>8.2.20, 8.2.21(G)</u>	
				Rpld	<u>8.2.28</u>	
				Added	<u>8.3.1(B)—(F)</u>	
				Rpld	<u>8.3.2(D)—(J), 8.3.3, 8.3.4, 8.3.5</u>	
567-16	8-15-16	11- <u>8-16</u>	1	Added	<u>2.6.7</u>	128
895-17	8-28-17	11- <u>7-17</u>	1		<u>2.12.1—2.12.4</u>	132
661-18	7-30-18	11- <u>6-18</u>			<u>8.3.1(B), (C)</u>	136
					<u>8.3.7</u>	
805-18	7-30-18	11- <u>6-18</u>	1		<u>9.3.11(E)</u>	
					<u>9.6.6(D)</u>	
837-18	8-20-18	11- <u>6-18</u>			<u>8.1.2(D)</u>	
					<u>9.1.1(xiv)</u>	
529-19	6-24-19	11- <u>5-19</u>	1		<u>2.2.10</u>	139
					<u>2.3.1—2.3.4</u>	
					<u>2.4.4</u>	
					<u>7.4.6</u>	
					<u>7.6.1, 7.6.2</u>	
					<u>9.2.1(B)</u>	
772-19	8-26-19	11- <u>5-19</u>	1		<u>2.9.3</u>	139
781-19	8-26-19	11- <u>5-19</u>	1		<u>9.5.4</u>	139
782-19	8-26-19	11- <u>5-19</u>	1		<u>2.1.1</u>	139
					<u>3.1.3</u>	
					<u>3.1.7, 3.1.8</u>	
					<u>5.1.1</u>	
					<u>8.1.1</u>	
					<u>8.1.3</u>	
				Added	<u>5.1.2</u>	