

BOULDER

HOME RULE

CHARTER

1981

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CITY OF BOULDER, COLORADO

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**THE CHARTER
OF THE CITY OF BOULDER, COLORADO¹**

PREAMBLE

We, the people of the City of Boulder, under the authority of the constitution of the State of Colorado, do ordain and establish this charter for the municipal government of the City of Boulder, Colorado.

**ARTICLE I.
CORPORATE NAME, BOUNDARIES, POWERS, RIGHTS, AND LIABILITIES**

Sec. 1. Name–boundaries.

The municipal corporation, heretofore and now existing as a city of the second class in Boulder County, State of Colorado, and known as the City of Boulder, shall remain and continue to be a body politic and corporate under this charter, with the same name and boundaries, and with power to change either name or boundaries in the manner authorized by law.

Sec. 2. Corporate powers–rights–liabilities.

The City of Boulder, as its name and limits now are, or may hereafter be,

(a) Shall have perpetual succession, and shall own, possess, and hold all property, real and personal, now owned, possessed, or held by the said City of Boulder, and shall assume, manage, and dispose of all trusts in any way connected therewith;

(b) Shall succeed to all the rights and liabilities, and shall acquire all benefits, and shall assume and pay all bonds, obligations, and indebtedness of the said City of Boulder; 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, lease, and enjoy or sell and dispose of real and personal property; and where property is acquired by condemnation, the city shall have the power to acquire an excess over that needed for the purpose or improvement for which such property is acquired, and to sell or lease such excess property with restrictions in order to protect the purpose for which the same was acquired;

(c) May receive bequests, gifts, and donations of all kinds of property, with or without conditions, or in fee simple, or in trust for public, charitable, or other purposes; and do all things and acts necessary to carry out the purpose of such gifts, bequests, and donations, with power to manage, sell, lease, or otherwise dispose of the same in accordance with the terms of the gift, bequest, or trust;

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

(e) Shall have the power to conduct and engage in, lease, or contract in connection with such business, enterprises, pursuits, and activities as may be determined to be for the common welfare and benefit of the inhabitants of the city, including the acquirement, establishment, and operation within or without the city limits of telephone systems, gas works, ice plants, municipal coal yards and mines, municipal stores and markets, park grounds and systems, and places of

¹ * Indicates those sections in which reference to gender were neutralized by Ord. No. 4602, November 3, 1981.

² This subsection is restricted to bonds to pay for specified public utilities, local in use and extent. This paragraph was manifestly intended to apply only to bonds issued, and made payable by the city in its corporate capacity. *Sanborn v. Boulder*, 74 Colo. 358, 221 P. 1077(1923).

recreation, amusement, and instruction, and the ornamentation and improvement of any or all such grounds, systems, and places;

(f) Shall have power to regulate and provide rules for the proper construction and maintenance of ditches, canals, and waterways within the city and upon all city property wherever located for the protection of the lives and property of the inhabitants; and

(g) Shall have all powers not denied to said city by the constitution of the State of Colorado, including all powers, privileges, and functions, expressed or implied, which, by or pursuant to the constitution or laws of said state, have been, or could be, granted to or exercised by any city of the first or second class; it being the intention of this article to grant and confirm to the people of the City of Boulder 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 said city, and to the people thereof, any right or power essential or proper to the full exercise of such right.

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

ARTICLE II. THE LEGISLATIVE BODY: ITS POWERS AND DUTIES

Sec. 3. Legislative officers—the council.¹

The legislative officers of the city shall consist of nine council members elected from the city at large, and collectively called the council.*

Sec. 4. Qualifications of council members.

No person shall be eligible to office as council member unless, at the time of the election, such person is a qualified elector as defined by the laws of the State of Colorado, at least twenty-one years of age, and shall have resided in the City of Boulder for one year immediately prior thereto. (Amended by Ord. No. 1978 (1956), § 1, adopted by electorate on October 2, 1956. Further amended by Ord. No. 3925 (1973), § 1, adopted by electorate on September 11, 1973. Further amended by Ord. No. 6006 (1998), § 2, adopted by electorate on November 3, 1998.)*

Sec. 5. Terms of office—election—recall.

The terms of office for council members shall be four years and two years as hereinafter provided: the four candidates receiving the highest number of votes shall be elected for four-year terms, and the candidate receiving the fifth highest number of votes shall be elected for a two-year term.

If there shall be vacancies to be filled at a general municipal election, other than those occurring due to the expiration of a regular term, the vacancy term shall be for two years, and additional council members shall be elected until there shall be a council of nine council members.

The terms of all council members shall begin at 10:00 a.m. on the third Tuesday in November following their respective elections. In the event that one or more of the prevailing candidates is not determined by such time because the vote count is incomplete or inconclusive, or a recount is required, the terms for such council member(s) shall not begin until the business day following the final determination of the election results for that candidate. All council members shall be subject to recall as provided by this charter. (Amended by Ord. No. 1978 (1956), § 4, adopted by electorate on October 2, 1956. Further amended by Ord. No. 4597 (1981), § 1, adopted by electorate on November 3, 1981. Further amended by Ord. No. 5575 (1993), § 1, adopted by electorate on November 2, 1993. Further amended by Ord. No. 7801 (2011), § 2, adopted by electorate on November 1, 2011.)

¹ Sections 3, 4, 5, and 13 were repealed by Ord. No. 1819 (1954), § 1, adopted by electorate on October 26, 1954. New councilmanic districts were established by Ord. No. 1834 (1954), §1, adopted by the city council on November 16, 1954. Subsequently, Ord. No. 1819 repealing Sections 3, 4, 5, and 13 was declared void in Howard v. City of Boulder, 132 Colo. 401, 290 P.2d 237 (1955). Ord. No. 1834 was repealed by Ord. No. 1909 (1955), adopted by the city council on October 18, 1955.

Sec. 6. Council judge of election.

Subject to review by the courts, the council shall be the judge of the qualifications and election of its own members.

Sec. 7. Compensation.

Council members shall receive as compensation \$100.00 per meeting at which a quorum of city council is present, not to exceed four meetings per calendar month, plus an annual escalation each January 1 in a percentage equivalent to any increase over the past year in the Consumer Price Index (All Items) for the statistical area which includes the city maintained by the United States Department of Labor, Bureau of Labor Statistics; this amendment shall become effective January 1, 1990. (Amended by Ord. No. 5221 (1989), § 1, adopted by electorate on November 7, 1989.)*

Sec. 8. Vacancies.

A vacancy shall exist in the council whenever a duly elected council member fails to qualify within ten days after notice of the election, dies, resigns, removes from the city, is absent from five consecutive regular meetings of the council unless formally excused therefrom, is convicted of a felony while in office, or is judicially declared a lunatic; or, in case of a recall, no successor is elected, or if elected, fails to qualify.

If a vacancy occurs, or two vacancies come to exist at the same time, other than those occurring due to the expiration of regular terms, then:

(a) If the vacancy or vacancies occur on or after January 1 and before July 1, the election shall be held on the first Tuesday in November of the year in which the vacancy or vacancies occur.

(b) If the vacancy or vacancies occur on or after July 1 and before January 1, the election shall be held on the first Tuesday in November of the year following that in which the vacancy or vacancies occur.

(c) However, an election to fill a vacancy may be held on a date earlier than those noted above if another city election is scheduled for the earlier date and if council determines, based upon the certification of the designated election official, that it is feasible to schedule the election on that earlier date.

If three or more vacancies come to exist at the same time, other than those occurring due to the expiration of regular terms, then a special election shall be held on a Tuesday within ninety days of the date on which a total of three or more vacancies first exists, or as soon thereafter as is feasible as determined by the city manager.

If more than four vacancies exist, prior to the special election to fill those vacancies a quorum of the council shall be comprised of a majority of all of the remaining council members.

The nomination of candidates to be voted for at any election made necessary by operation of this provision, the publication of notice, and the conduct of the same shall all be in conformity with the provisions of this charter relating to elections, but the council may, in the motion calling for the election, adjust the times for checking petitions, correcting or replacing signatures, completion and filing of petitions, withdrawal from nomination, and certification of filing of the list of candidates, as may reasonably be required to accommodate the date set for the election. (Amended by Ord. No. 5813 (1996), § 2, adopted by electorate November 5, 1996. Further amended by Ord. No. 7537 (2007), § 2, adopted by electorate on November 6, 2007. Further amended by Ord. No. 7547 (2007), § 2, adopted by electorate on November 6, 2007.)*

Sec. 9. Meetings of council.

At 10:00 a.m. on the third Tuesday in November following each general municipal election, the council shall meet at the usual place of holding meetings, at which time the newly elected council members shall take office. Thereafter the council shall meet at such times as may be prescribed by ordinance or resolution and shall meet in regular session at least once in each calendar month. The mayor, acting mayor, or any five council members may call special meetings upon at least twelve hours' written notice to each council member, served personally on each, or left at each member's place of residence.

All meetings of the council or committees thereof shall be public. The council shall cause to be kept a complete journal of its proceedings, and any citizen shall have access to the same at all reasonable times.

The council may appoint a committee of not more than two council members and any number of non-council members to screen applications for city manager, city attorney, and municipal court judge, to evaluate the performance of the persons occupying such positions, and to consider recommending disciplinary actions relating to such persons. Such committee may conduct its business in private, provided that the council as a whole takes action to determine finalists at a public meeting, to determine compensation at a public meeting, and to take disciplinary action at a public meeting. (Amended by Ord. No. 4597 (1981), § 1, adopted by electorate on November 3, 1981. Further amended by Ord. No. 5575 (1993), § 1, adopted by electorate on November 2, 1993. Further amended by Ord. No. 7296 (2003), § 1, adopted by electorate on November 4, 2003.)

Sec. 10. Rules–quorum.

The council may determine its own rules of procedure, may compel attendance of members, and may punish members for misconduct.

Five council members shall constitute a quorum, but a smaller number may adjourn from time to time.*

Sec. 11. General powers of council.

All legislative powers conferred upon the City of Boulder by the provisions of this charter, except those which may from time to time be exercised by the people through direct legislation, and all other powers of every nature conferred upon the city, except those otherwise delegated by this charter or by ordinance, shall be and are hereby vested in the council.

Sec. 12. Specific duties of council.¹

The council shall choose and appoint a city manager, a city attorney, a municipal judge and an auditor for such independent audits as are in this charter required or authorized to be made by order of the council, and such advisory boards or commissions as may be desired or are elsewhere provided for by this charter; but no member of the council shall act or be chosen as manager.

The council shall cause to be made at least annually, and at such other times as it may deem necessary, an audit of all financial accounts of the city.

The council shall consider all recommendations and reports from time to time presented by the city manager, or by any of the advisory commissions or the departments of planning and parks, and shall accept or reject the same within thirty days from the date of filing thereof with the council. (Amended by Ord. No. 7799 (2011), § 2, adopted by electorate on November 1, 2011.)

Sec. 13. Powers expressly withheld from council.

Except for purposes of inquiry, the council shall deal with the administrative service solely and directly through the city manager, and neither council, its members, nor committees shall either dictate the appointment, retention or removal or direct or interfere with the work of any officer or employee under the city manager. Any such dictation, attempted direction, or interference on the part of any member of the council shall be punishable in the manner deemed appropriate by the other members of the council, which may include removal from office. (Amended by Ord. No. 6008 (1998), § 2, adopted by electorate on November 3, 1998. Further amended by Ord. No. 6009 (1998), § 2, adopted by electorate on November 3, 1998.)

Sec. 14. Selection and term of office of mayor.

The presiding officer of the council shall be called mayor. The mayor shall be chosen by the council from its own number, upon the convening of the new council, following each general municipal election. The mayor shall serve as mayor for a term of two years, and until a successor is duly chosen and qualified. The mayor may be removed from the office of mayor (but not from the office of council member) by a two-thirds vote of all members of the council, and thereupon, or in case of vacancy from any other cause, the council shall choose a successor for the unexpired term.*

¹ In 1993, the voters amended the Charter to change the title of the "police magistrate" in Sections 86, 87 and 150 to "Municipal Court Judge."

Sec. 15. Powers and duties of mayor.

The mayor shall have all the powers, rights, and privileges of a council member. The mayor shall preside at meetings of the council and perform such other duties consistent with the office as may be imposed by this charter or by the council. The mayor shall have no power of veto. The mayor shall be recognized as the official head of the city for all ceremonial purposes, by the courts for serving civil processes, and by the governor for military purposes. In time of emergency, the mayor shall, if the council so orders, take command of the police and maintain and enforce the laws, temporarily superseding the city manager in police affairs. The mayor shall be ex officio a member of all council committees. During the mayor's absence or disability, the mayor's duties shall be performed by an acting mayor, appointed by the council from its own number.*

Sec. 16. Legislative procedure.

The council shall act only by ordinance, resolution, or motion. All legislative enactments must be in the form of ordinances; all other procedure may be in the form of resolutions or motions. The enacting clause of all ordinances passed by the council shall be in these words: "*Be it ordained by the city council of the City of Boulder.*" All ordinances and resolutions shall be confined to one subject clearly expressed in the title, and ordinances making appropriations shall be confined to the subject of appropriations. The final reading shall be in full, unless the measure shall have been printed and a copy thereof furnished to each council member prior to such reading. The ayes and noes shall be taken upon the passage of all ordinances, resolutions, or motions and entered upon the journal of council proceedings, and every ordinance, resolution, or motion shall require on final passage the affirmative vote of a majority of the council members present. Should any council member being present refuse to vote on any measure, said member's vote shall be recorded in the affirmative; and no council member shall be excused from voting except on matters involving the consideration of said member's official conduct or where said member's financial interests are involved.*

Sec. 17. Emergency measures.¹

No ordinance shall be passed finally on the date it is introduced, except in cases of emergency, for the preservation of the public peace, health, or property, and then only by a two-thirds vote of the council members present. The facts showing such urgency and need shall be specifically stated in the measure itself. No ordinance making a grant of any franchise or special privilege shall ever be passed as an emergency measure.*

Sec. 18. Publication of ordinances⁵.

Every proposed ordinance shall be published once in full with all amendments in final form in a daily newspaper of the city, at least ten days before its final passage. Within five days after such final passage, it shall be again published once in a daily newspaper, and shall not take effect until thirty days after final passage, except that an emergency ordinance shall take effect upon passage, and be so published on the following day; and except that the tax levy ordinance, the annual appropriation ordinance, any ordinance providing for a vote by or submission to the people, and ordinances ordering improvements initiated by petition and to be paid for by special assessments shall take effect immediately upon publication.

Sec. 18A. Publication by reference.

When the council deems it appropriate, publication of the title of an ordinance, or the title of an amendment thereto, together with a statement that the published text is available for public inspection and acquisition in the office of the city clerk, shall be sufficient publication. Publication by title shall be deemed to meet all requirements of Section 18. (Added by Ord. No. 1632 (1951), § 1, adopted by electorate on November 6, 1951. Amended by Ord. No. 4773 (1983), § 1, adopted by electorate on November 8, 1983.)

Sec. 19. Amendment or repeal.

No ordinance or section thereof shall be amended, superseded, or repealed except by an ordinance regularly adopted.

¹ The Supreme Court held in *Tanner v. City of Boulder*, 158 Colo. 173, 405 P.2d 939 (1965), that ordinances adopted as emergency measures need not be published in final form prior to the adopting of such ordinances.

Sec. 20. Ordinances granting franchises.

No proposed ordinance granting any proposed franchise shall be put upon its final passage within sixty days after its introduction, nor until it has been published not less than once a week for two consecutive weeks in one daily newspaper of the city in general circulation. (Amended by Ord. No. 4773 (1983), § 1, adopted by electorate on November 8, 1983.)

Sec. 21. Record of ordinances.

A true copy of every ordinance when adopted shall be numbered and recorded in a book marked "Ordinance Record," and a certificate of adoption and publication shall be authenticated by the certificate of the publisher and by the signatures of the mayor and city clerk. The ordinances adopted by the vote of the registered electors of the city shall be separately numbered and recorded, commencing with "people's ordinance No. 1." (Amended by Ord. No. 7801 (2011), § 2, adopted by electorate on November 1, 2011.)

**ARTICLE III.
ELECTIONS**

Sec. 22. Municipal elections defined.

A general municipal election shall be held in the City of Boulder on the first Tuesday in November of every odd numbered year, and shall be known as the general municipal election. All other municipal elections shall be known as special municipal elections. (Amended by Ord. No. 7412 (2005), § 2, adopted by electorate on March 8, 2005.)

Sec. 23. Nomination by petition—requirements of petitions.

All elective officers of the city shall be nominated by petition which shall consist of the candidate's consent, the prayer and signatures of the petitioners, and the city clerk's certificate of petition. Each petition shall be on a separate paper, of uniform size, to be provided by the city clerk, and shall contain the name of but one candidate. No elector shall sign petitions for more candidates than the number of places of that particular designation to be filled at the election; and should an elector do so, said elector's signature shall be void as to the petition or petitions which said elector last signed.*

Sec. 24. Candidate's affidavit of consent.

Before any petition is filed with the city clerk, the candidate whose name appears on said petition shall appear before the city clerk and take the oath (or affirmation) which appears on the form of petition herein set forth.

Sec. 25. Requirements for signing petitions.

Before signing a petition of nomination, each person shall take oath (or affirmation) before the city clerk that the representations set forth in the petition are true and shall sign such person's name thereto in a space designated by the city clerk, together with such person's residence, street and number, place of business, and the date of signing.*

Sec. 26. City clerk's certificate of petition.

When a petition of nomination shall have been signed by not less than twenty-five and not more than thirty-five qualified and duly registered electors, and not later than the seventy-first day before the pending municipal election, the city clerk shall check such petition with the official registration list, determine its sufficiency, and, if sufficient, shall append the clerk's certification of petition, and file the completed petition in the clerk's office, together with the date and certificate of the filing thereof. The petition may be amended to correct or replace signatures which the clerk finds not in apparent conformity with the requirements of this charter and any applicable ordinance at any time prior to the sixty-sixth day before the election. (Amended by Ord. No. 3925 (1973), § 1, adopted by electorate on September 11, 1973. Further amended by Ord. No. 5576 (1993), § 1, adopted by electorate on November 2, 1993.)*

Sec. 27. Form of nomination petition.¹

CANDIDATE'S CONSENT

State of Colorado,)
County of Boulder,) ss.
City of Boulder.)

I, (name of candidate), do solemnly swear (or affirm) that I am a registered elector of the City of Boulder and that on the date of the next general municipal election, I will be not less than twenty-one years of age and will have been a resident of the City of Boulder for one year immediately prior thereto and that if legally nominated, I will stand as candidate for council member at the general municipal election to be held on _____, A.D. _____.

(Candidate's signature)

Subscribed and sworn to before me this _____ day
of _____, A.D. _____.

City Clerk

(CITY SEAL)

ELECTORS' PETITION

We, the undersigned electors of the City of Boulder, hereby nominate _____, whose residence is _____, whose place of business is at _____, for office of _____, to be voted upon at the election to be held in the City of Boulder on the _____ day of _____, _____, and we individually swear (or affirm) that we are registered to vote for a candidate for the above office, and that we have not signed more nomination petitions of candidates for this office than there are persons to be elected thereto; and we further swear (or affirm) that we join in this petition for the nomination of the above named person upon the condition that the said _____ has not become a candidate as the nominee or representative of, nor because of any promised support from, any political party, or from any person or firm or combined interests in any measure or franchise.

No.	Names of Electors	Residence	Date of Signature	Check Mark by Clerk
1.				
2.				
3.				
35.				

CITY CLERK'S CERTIFICATION OF PETITION

State of Colorado,)
County of Boulder,) ss.
City of Boulder.)

I hereby certify that each and every person whose signature appears on this petition personally appeared before me on the day and date set opposite such person's name, was duly sworn as to the matters set forth in said petition, and signed such person's name as petitioner for the purpose above set forth; and I further certify that I have examined the official registration list of persons qualified to vote at the next ensuing municipal election named in such petition; that

¹ This section should also have been amended by Ord. No. 1978 (1956), § 1, adopted by electorate on October 2, 1956, which changed the residency requirements for council members from five to three years.

(state the number) of the above petitioners appear as duly registered electors in the City of Boulder; and that to the best of my knowledge and belief this petition is _____ sufficient.

In testimony whereof, I have hereunto set my hand and the seal of the City of Boulder this (twenty-second day before election) day of _____, A.D. _____.

City Clerk

(CITY SEAL)*

(Amended by Ord. No. 3925 (1973), § 1, adopted by electorate on September 11, 1973. Further amended by Ord. No. 6006 (1998), § 2, adopted by electorate on November 3, 1998. Further amended by Ord. No. 7801 (2011), § 2, adopted by electorate on November 1, 2011.)

Sec. 28. Time of completing the petition.

A petition of nomination shall be completed and filed in the office of the city clerk not earlier than ninety-one nor later than seventy-one days before the election. (Amended by Ord. No. 3925 (1973), § 1, adopted by electorate on September 11, 1973. Further amended by Ord. No. 5576 (1993), § 1, adopted by electorate on November 2, 1993.)

Sec. 29. Withdrawal from nomination.

Any person having been duly and regularly nominated as herein provided, may, prior to the sixty-sixth day preceding the election for which such person has been nominated, withdraw from such nomination by filing with the city clerk a sworn statement of such withdrawal. (Amended by Ord. No. 3925 (1973), § 1, adopted by electorate on September 11, 1973. Further amended by Ord. No. 5576 (1993), § 1, adopted by electorate on November 2, 1993.)*

Sec. 30. Preservation and filing of petitions.

The city clerk shall preserve and file in the clerk's office for a period of six years all petitions of nomination and all certificates, acceptances, and withdrawals belonging thereto.*

Sec. 31. Election notices.

The city clerk shall prior to the date upon which ballots are distributed to registered electors certify a list of the candidates so nominated for office at such election, whose names are entitled to appear upon the ballot as being the list of candidates nominated as required by this charter, together with the offices to be filled at such election, designating whether such election shall be for a full or unexpired term; and the clerk shall file in the clerk's office said certified list of names with residence and business addresses and the offices so to be filled, and the clerk shall cause to be published a notice calling such election, in one daily newspaper of general circulation and published in the City of Boulder, which notice shall contain a list of said names of candidates, with residence, place of business, the offices to be filled, the time when and the places at which such election shall be held. (Amended by Ord. No. 3925 (1973), § 1, adopted by electorate on September 11, 1973. Further amended by Ord. No. 4773 (1983), § 1, adopted by electorate on November 8, 1983. Further amended by Ord. No. 5576 (1993), § 1, adopted by electorate on November 2, 1993. Further amended by Ord. No. 7801 (2011), § 2, adopted by electorate on November 1, 2011.)*

Sec. 32. General election regulations.

The provisions of any and all laws of the State of Colorado now or hereafter in force, except as the council may otherwise by ordinance provide, or as may be otherwise herein provided, relating to the qualification and registration of electors, the manner of voting, the duties of election officers, and all other particulars in respect to the management of elections, insofar as the same may be applicable, shall govern all municipal elections; provided, that the city council, exclusive of such members thereof as are candidates at the then pending election, shall constitute the general canvassing and election board and shall meet and duly canvass the election returns, as certified by the precinct or district election officials, which returns and certifications shall be in accordance with the provisions of this charter.

The city clerk or a duly authorized assistant shall act as secretary of the board of canvassers, and shall spread the result on a record kept for the purpose, and shall issue such certificates, under the seal of the city, as the circumstances may warrant and necessitate. (Amended by Ord. No. 7801 (2011), § 2, adopted by electorate on November 1, 2011.)*

Sec. 33. Voting machines.

In all general and special municipal elections held in the City of Boulder for any purpose whatsoever, the ballots or votes may be cast, registered, recorded, and counted by means of voting machines. The provisions of any and all state laws now or hereinafter in force relating to the use of voting machines at elections, except as the council may otherwise by ordinance provide, shall govern the management of voting machines in elections.

All the provisions of this charter relating to elections and any and all laws of the State of Colorado now or hereafter in force and not inconsistent with the provisions of this charter shall apply to all elections held in election districts or precincts where voting machines are used. Any provisions of this charter heretofore in force which conflict with the use of voting machines as herein set forth shall not apply to precincts in which an election is conducted by the use of voting machines. Nothing in this charter, however, shall be construed as prohibiting the use of separate paper ballots, if need be, for the purpose of conducting any special or general municipal election in the City of Boulder. (Repealed by Ord. No. 1474 (1947), § 1, adopted by electorate on November 4, 1947. Re-enacted by Ord. No. 1826 (1954), § 1, adopted by electorate on October 26, 1954. Further amended by Ord. No. 7801 (2011), § 2, adopted by electorate on November 1, 2011.)¹*

Sec. 34. Placement of candidates on ballot.

The members of the city council shall be elected by votes cast by registered electors as provided by the laws of the State of Colorado and the charter and ordinances of the City of Boulder. The order of the candidates on the form of ballot shall be determined by lot. (Repealed and re-enacted by Ord. No. 1474 (1947), § 1, adopted by electorate on November 4, 1947. Amended by Ord. No. 7801 (2011), § 2, adopted by electorate on November 1, 2011.)*

Sec. 35. Counting ballots.

There shall be but one list of candidates for both the full regular terms to be filled and any parts of terms to which there is a vacancy which is to be filled. The candidates having the highest number of votes to the number that there are full regular terms to be filled shall be declared elected to those terms. If there is a vacancy term or terms to be filled, then the candidate or candidates having the next highest number of votes to the number that there are vacancy terms to be filled shall be declared elected, the one having the highest number of votes to fill the longest vacancy term and the one having the next highest to have the next longest vacancy term, until all vacancy terms are filled. There shall be no choice or preference between voting for candidates, but all votes shall be of equal value, and every voter shall be allowed to vote for as many council members as there are council members to be elected. (Repealed and re-enacted by Ord. No. 1474 (1947), § 1, adopted by electorate on November 4, 1947.)*

Sec. 36. Expenditure of money on elections.

(Amended by Ord. No. 2263 (1959), § 1, adopted by electorate on November 3, 1959.)*

(Repealed by Ord. No. 5219 (1989), § 1, adopted by electorate on November 7, 1989.)

**ARTICLE IV.
DIRECT LEGISLATION**

The Initiative

Sec. 37. Power to initiate ordinances.

The people shall have the power at their option to propose ordinances, including ordinances granting franchises or privileges, and other measures, and to adopt the same at the polls, such power being known as the initiative. A petition, meeting the requirements hereinafter provided and requesting the council to pass an ordinance, resolution, order, or vote

¹ This section was enacted as Section 32 in Ord. No. 1826 but was codified as Section 33 in the Code of the City of Boulder, 1955.

(all of these four terms being hereinafter included in the term "measure") therein set forth or designated, shall be termed an initiative petition and shall be acted upon as hereinafter provided.

Sec. 38. Preparation of initiative petitions.

Petitions shall be worded clearly and simply so the petition is not misleading or likely to cause confusion to voters. Petition drafts shall be consistent with applicable law. The draft shall present the ballot measure in such manner that a vote for the measure would be a vote for the proposition and that a vote against the measure would be a vote against the proposition. Signatures to initiative petitions need not all be on one paper, but the circulator of every such paper shall make an affidavit that each signature appended to the paper is the genuine signature of the person whose name it purports to be. With each signature shall be stated the place of residence of the signer, giving the street and number or other description sufficient to identify the place, and the date the signer signed the petition. All such papers pertaining to any one measure shall have written or printed thereon the names and addresses of at least five registered electors who shall be officially regarded as filing the petition and shall constitute a committee of the petitioners for the purposes hereinafter named. All such papers shall be filed in the office of the city clerk as one instrument. (Amended by Ord. No. 4598 (1981), § 1, adopted by electorate on November 3, 1981. Further amended by Ord. No. 7802 (2011), § 2, adopted by electorate on November 1, 2011.)*

Sec. 38A. Five percent petition or fifteen percent petition.

Attached to every instrument filed as an initiative petition shall be a certificate signed by a majority of the committee of petitioners stating whether the petition is intended to be a "five percent petition" or a "fifteen percent petition." The ballot for a five percent petition in compliance with this charter will be placed on the ballot at an election held in November. The ballot for a fifteen percent petition in compliance with this charter will be placed on the ballot at the next available election, which may be a special election other than a November election called by the city. (Added by Ord. No. 7802 (2011), § 2, adopted by electorate on November 1, 2011.)

Sec. 38B. Submission of initiative form for comment.

Prior to obtaining any signatures on the petition, the committee of the petitioners shall submit the proposed petition form to the city manager for review and comment. Within fifteen days of receipt of the petition form, the city manager shall provide the committee of the petitioners with comments concerning the format or contents of the petition. Where appropriate, such comments may also contain suggested editorial changes to enhance the clarity and simplicity of the language in the petition. The committee of petitioners may amend the petition in response to some or all of the comments of the city manager. If any substantial amendment is made to the petition, other than an amendment in direct response to the comments of the city manager, the amended petition shall be resubmitted to the city manager in accordance with this section. In the event the committee of the petitioners fails to submit the proposed petition form, or any substantial amendment to the proposed petition form, prior to obtaining signatures, the city clerk may refuse to accept the petition for filing. (Added by Ord. No. 7802 (2011), § 2, adopted by electorate on November 1, 2011.)

Sec. 39. Filing of petition.

Within ten days after the filing of the petition the city clerk shall ascertain by examination the number of registered electors whose signatures are appended thereto, dated no more than one-hundred eighty days prior to the date of filing, and whether this number is at least five or fifteen percent, as the case may be, of the number of registered electors of the city as of the day the petition was filed. The clerk shall attach to said petition a certificate showing the result of said examination. If by the city clerk's certificate, of which notice in writing shall be given to one or more of the persons designated, the petition is shown to be insufficient, it may be amended within ten days from the date of said certificate by filing supplementary petition papers with additional signatures. The city clerk shall within ten days after such amendment make like examination of the amended petition, and if the clerk's certificate shall show the same to be insufficient, the city clerk shall file the petition in the clerk's office and shall notify each member of the committee of that fact. The final finding of the insufficiency of a petition shall not prejudice the filing of a new petition for the same purpose. (Amended by Ord. Nos. 4598 and 4599 (1981), § 1, adopted by electorate on November 3, 1981. Further amended by Ord. No. 7802 (2011), § 2, adopted by electorate on November 1, 2011.)*

Sec. 40. Submission of petition to council.

If the petition shall be found to be sufficient, the city clerk shall so certify and submit the measure to the council at its next regular meeting, at which meeting the council shall read and refer the same to an appropriate committee, which may be a committee of the whole. Provision shall be made for public hearings upon the measure before the committee to which it is referred. Thereafter the committee shall report the measure to the council, with its recommendation thereon, not later than sixty days after the date upon which such measure was submitted to the council by the city clerk. Upon receiving the measure from the committee, the council shall at once proceed to consider it and shall take final action thereon within sixty days from the date of such committee report. (Amended by Ord. No. 7802 (2011), § 2, adopted by electorate on November 1, 2011.)

Sec. 41. Election on initiated measures.

If the council shall fail to pass the measure or shall pass it in a form different from that set forth in the petition, then:

- (a) if the petition was a “fifteen percent petition” and the committee of the petitioners determines to proceed with the measure as initiated, the measure shall be submitted by the council to the vote of the electors at the next November election occurring not less than fifty-six days after the date of the final action by the council. If a November election is not to be held within six months from such date, then the council shall call a special election to be held not less than sixty nor more than one-hundred fifty days from such date unless otherwise provided by applicable law.
- (b) If the petition was a “five percent petition” the measure shall be submitted at the next November election occurring more than one hundred twenty days from the date the petition was certified by the city clerk to the council.

Prior to an election being set on an initiative petition, within ten days after the date of final action on such measure by the council, the committee of petitioners shall certify to the city clerk the requirement of submission of the measure to the voters. The certification by the committee of petitioners must be by unanimous vote of the members of the committee legally competent to act at such time. Upon receipt of the certificate, the city clerk shall certify the fact to the council at its next meeting, and such measure shall be submitted by the council to the vote of the electors in a November or special municipal election as hereinbefore provided. (Amended by Ord. No. 4598 (1981), § 1, adopted by electorate on November 3, 1981. Further amended by Ord. No. 5577 (1993), § 1, adopted by electorate on November 2, 1993. Further amended by Ord. No. 5907 (1997), § 1, adopted by electorate on November 4, 1997. Further amended by Ord. No. 7802 (2011), § 2, adopted by electorate on November 1, 2011.)*

Sec. 42. Initiative ballots.

The ballots used when voting upon any such measure shall state the substance thereof, with a clearly marked space for the voter to vote “for the measure” or “against the measure.” If a majority of electors voting on any such measure shall vote in favor thereof, it shall thereupon become an amendment to this charter, an ordinance, resolution, order, or vote of the city as the case may be. (Amended by Ord. No 7802 (2011), § 2, adopted by electorate on November 1, 2011.)

The Referendum

Sec. 43. Power of referendum.

The people shall have power at their option to approve or reject at the polls any measure passed by the council or submitted by the council to a vote of the electors, excepting, however, measures levying a tax for or appropriating money to defray the general expenses of the city government or any existing department or commission thereof; also, excepting measures creating improvement districts and levying special assessments in payment therefor; also, measures ordering the construction of public improvements and levying assessments on the property specially benefited thereby, for the payment thereof. Such power shall be known as the referendum; which power shall be invoked and exercised as herein provided. All measures, save those hereinabove specifically excepted, submitted to the council by initiative petition and passed by the council without change or passed in an amended form and not required by the committee of the petitioners to be submitted to a vote of the electors shall be subject to the referendum in the same manner as other measures.

Sec. 44. Referendum petition.

If, within thirty days after final passage of any measure by the council, a petition signed by registered electors of the city to the number of at least ten percent of the registered electors of the city as of the day the petition is filed be filed with the city clerk requesting that any such measure, or any part thereof, be repealed or be submitted to a vote of the electors, it shall not, except in the case of an emergency measure, become operative until the steps indicated herein have been taken. (Amended by Ord. Nos. 4598 and 4599 (1981), § 1, adopted by electorate on November 3, 1981.)*

Sec. 45. Signatures to petition.

The signatures thereto need not all be on one paper, but the circulator of every such paper shall make an affidavit that each signature appended thereto is the genuine signature of the person whose name it purports to be. With each signature shall be stated the place of residence of the signer, giving the street and number or other description sufficient to identify the place. All such papers shall be filed in the office of the city clerk as one instrument. A referendum petition need not contain the text of the measure designated therein and of which the repeal is sought.

Sec. 46. Certificate of petition.

Within ten days after the filing of the petition the city clerk shall ascertain whether or not the petition is signed by registered electors of the city to the number of at least ten percent of the registered electors of the city as of the day the petition was filed, and the clerk shall attach to such petition a certificate showing the result of such examination. If by the city clerk's certificate the petition is shown to be insufficient, it may be amended within ten days from the date of said certificate by the filing of supplementary petition papers with additional signatures. The city clerk shall within ten days after such amendment make like examination of the amended petition and certify the result thereof. (Amended by Ord. Nos. 4598 and 4599 (1981), § 1, adopted by electorate on November 3, 1981.)*

Sec. 47. Referendum election.

If the petition be found sufficient, the council shall proceed to reconsider such measure, or such part thereof, as the petition shall specify. If upon such reconsideration such measure, or such part thereof, be not repealed or amended as demanded in the petition, the council shall provide for submitting the same, by the method herein provided, to a vote of the electors at the next municipal election occurring not less than thirty days after the receipt by the council of the city clerk's certificate, and such measure, or such part thereof, shall thereupon be suspended from going into effect until said election and shall then be deemed repealed unless approved by a majority of those voting thereon. Or the council by two-thirds vote may submit such measure or part thereof with like effect to the electors at a special election to be called by said council not less than thirty days after the receipt of said city clerk's certificate.

Sec. 48. Title of ballots.

Proposed measures and charter amendments shall be submitted by ballot title. There shall appear upon the official ballot a ballot title which may be distinct from the legal title of any such proposed measure or charter amendment and which shall be a clear, concise statement, without argument or prejudice, descriptive of the substance of such measure or charter amendment. The ballot title shall be prepared by the committee of the petitioners if for an initiated or a referendum measure, or by a committee of the council when submitted by the council.

Sec. 49. Form of ballots.

The ballots used when voting upon such measure shall designate the same, and below it the two propositions, "for the measure" and "against the measure."

Sec. 50. Emergency measures subject to referendum.

Measures passed as emergency measures shall be subject to referendum like other measures, except that they shall not be suspended from going into effect while referendum proceedings are pending. If, when submitted to a vote of the electors, an emergency measure be not approved by a majority of those voting thereon, it shall be considered repealed, as regards any further action thereunder, and all rights and privileges conferred by it shall be null and void; provided, however, that such measure so repealed shall be deemed sufficient authority for any payment made or expense incurred in accordance with the measure previous to the referendum vote thereon.

Sec. 51. Official publication.

Every measure or charter amendment submitted to the voters in any election shall be published at least once in a daily newspaper of the city. (Amended by Ord. No. 1632 (1951), § 8, adopted by electorate on November 6, 1951.)

Sec. 52. Number of measures initiated or referred.

Any number of measures may be initiated or referred for a vote at the same election, in accordance with the provisions of this charter.

Sec. 53. Conflict of measures.

If two or more measures adopted or approved at the same election conflict in any of their provisions, they shall go into effect in respect to such of their provisions as are not in conflict and the one receiving the highest affirmative vote shall prevail insofar as their provisions conflict.

Sec. 54. Repeal of initiated or referred measures.

No ordinance that has been passed by vote of the people under the initiative or has received a favorable vote of the people under the referendum shall be repealed except by an ordinance submitted to a vote of the people.

The Recall

Sec. 55. Recall of elective officers.

The holder of any elective office may be removed by the registered electors of the city. The procedure to effect such removal from office shall be as follows: (Amended by Ord. No. 7801 (2011), § 2, adopted by electorate on November 1, 2011.)

Sec. 56. Petition for recall.

A petition signed by electors registered to vote for a successor to the incumbent sought to be removed equal in number to at least twenty-five per cent of the last preceding vote cast within the city for all candidates for governor shall be addressed to the council and filed with the city clerk.

The city clerk shall make available sample forms to be utilized in formatting such petitions. The form of a recall petition shall be approved or disapproved by the city clerk, prior to its circulation, by the close of the second business day following the submission of the proposed petition for review.

On the date on which a recall petition is approved, the clerk shall notify the officer sought to be recalled by mail or by electronic communication.

All petitions shall be returned and filed with the city clerk within thirty days from the date on which the clerk approves the form of a recall petition.

When submitted to the clerk, the petition shall contain a general statement, of not more than two hundred words, listing the grounds on which the recall is sought. A copy of that statement, along with a statement of no more than two hundred words, if submitted, from the official against whom the recall petition is filed, shall be publicly posted or otherwise made available to members of the public in electronic or hard copy form at least twenty days prior to the holding of any recall election.

The signatures to a recall petition need not all be appended to one paper, but each person shall add to such person's signature such person's place of residence, giving the street and number. The circulator of each such paper shall make affidavit before an officer competent to administer oaths that the statements contained therein are true and that each signature appended to the paper is the genuine signature of the person whose name it purports to be. All papers composing said petition shall be assembled and filed as one instrument, with endorsements thereon of the names and addresses of three persons designated as filing said petition; provided, that prior to the issuance of any blank forms of petitions for removal, an affidavit shall be made by one or more registered electors, which affidavit shall state the name of the officer or officers sought to be removed and the grounds upon which the removal is sought, and such affidavit shall be filed with

the city clerk. (Amended by Ord. No. 7603 (2008), §2, adopted by electorate on November 4, 2008. Further amended by Ord. No. 7801 (2011), § 2, adopted by electorate on November 1, 2011.)*

Sec. 57. Petition may be amended or new petition made.

Within ten days from the filing of said petition the city clerk shall ascertain by examination thereof and of the registration books and election returns whether the petition is signed by the required number of registered electors and shall attach thereto a certificate showing the result of such examination. The clerk shall, if necessary, be allowed extra help.

If the certificate shows the petition to be insufficient, the clerk shall, within five days, so notify in writing one or more of the persons designated on the petition as filing the same; and the petition may be amended at any time within ten days from the filing of the certificate. The city clerk shall, within ten days after such amendment, make like examination of the amended petition and attach thereto a certificate of the result. If still insufficient or if no amendment is made, the clerk shall return the petition to one of the persons designated thereon as filing it, without prejudice, however, to the filing of a new petition for the same purpose. (Amended by Ord. No. 7801 (2011), § 2, adopted by electorate on November 1, 2011.)*

Sec. 58. Elections under recall petitions unless officer resigns.

If the petitions and amended petitions shall be found by the city clerk to be sufficient in all respects (including that they contain a sufficient number of valid signatures), the clerk shall submit the same with the clerk's certificate to the council without delay, and the council shall, if the officer sought to be removed does not resign within five days thereafter, thereupon order an election to be held on a Tuesday fixed by them not less than seventy-five nor more than ninety days from the date of the city clerk's certificate that a sufficient petition was filed. However, if any other municipal election is to occur within ninety days from the date of the city clerk's certificate, the council may, at its discretion, postpone the holding of the removal election to the date of such other municipal election.

However, if a vacancy occurs in said office after a removal election has been ordered, the vacancy shall be filled in accordance with the procedures set forth for the filling of council vacancies in Section 8 of this charter. (Amended by Ord. No. 7603 (2008), §2, adopted by electorate on November 4, 2008)*

Sec. 59. Recall elections.

The publication of notice, and the conduct of recall elections shall all be in conformity with the various general provisions of this charter relating to elections, except to the extent specifically noted otherwise within this section. In the case of an election coordinated with county or state election officials, a recall election shall be held, to the maximum extent feasible, in conformity with county election procedures.

The official ballot in a recall election shall indicate the name and office of the official against whom the recall petition was filed and it shall provide that the voter may vote "Yes" or "No", with respect to whether the official should be recalled.

If a majority of those voting on the recall question vote "no," the incumbent shall continue in office. If a majority vote "yes," the incumbent shall be removed from office.

Any vacancy created by a recall election shall be filled in accordance with the procedures set forth for the filling of council vacancies in Section 8 of this charter. (Amended by Ord. No. 7603 (2008), §2, adopted by electorate on November 4, 2008)*

Sec. 60. Removal upon recall.

When a canvass of the returns of a recall election shows that any officer has been recalled, the officer's term of office shall thereupon terminate.*

Sec. 61. No recall for six months; subsequent recall during same term.

No recall petition shall be filed against any officer who has not actually held office for at least six months. A second or further recall petitions for the same officer shall require signatures of registered electors equal to at least thirty-five

percent of the last preceding vote cast within the city for all candidates for governor. (Amended by Ord. No. 7801 (2011), § 2, adopted by electorate on November 1, 2011)*

Sec. 62. Incapacity of recalled officers.

Any person who has been removed from office by recall, or who has resigned from such office while recall proceedings were pending against such person, shall not serve on city council, nor on any city commission or in any official elected or appointed office within one year after such removal by recall or resignation. (Amended by Ord. No. 7603 (2008), §2, adopted by electorate on November 4, 2008)*

**ARTICLE V.
ADMINISTRATIVE SERVICE**

The City Manager

Sec. 63. The city manager-qualifications and appointment.

The city manager shall be the chief executive and administrative officer of the city. As such, the manager shall possess, have, and exercise all the executive and administrative powers vested in the city. The manager shall be chosen by the council solely on the basis of executive and administrative qualifications. The choice need not be limited to the inhabitants of the city or state.

The city manager shall devote full time and business interest to the management of the city's affairs, and shall not, during the manager's term of office, be an employee of, or perform any executive duty for any person, firm, corporation, or institution other than the City of Boulder. The manager's salary shall be fixed by the council; and the manager shall be required to give a bond, for the faithful performance of the duties of the office, in such amount as the council may determine. The manager shall be appointed for an indefinite period, and shall be removable by the council at pleasure. If removed at any time after six months of service, the manager may demand written charges and a public hearing on the same before the council, and the same shall be given the manager prior to the date on which the manager's final removal shall take effect. Pending such hearing, the council may suspend the manager from office; and during such suspension, or in case of the manager's absence or disability from any other cause, the council shall designate some properly qualified person, other than a member of the council, to perform the duties of the office.*

Sec. 64. Special powers and duties as city manager.

The city manager shall have the special powers and duties hereinafter enumerated, and shall be directly responsible to the council for the proper administration thereof, to-wit:

(a) To see that all laws and ordinances governing the city are enforced;

(b) To appoint and to remove at pleasure, except as otherwise in this charter provided, all directors of departments and all subordinate officers and employees in such departments in both classified and unclassified service, such appointments and removals to be made upon the basis of merit and fitness alone, including proper subordination;

(c) To exercise control and supervision over all departments herein created, except as otherwise in this charter provided;

(d) To make a monthly report to the council, and to attend all meetings of the council with the right to take full part in the discussion, but having no vote;

(e) To recommend to the council for adoption such measures as the manager deems necessary or expedient;

(f) To keep the council fully advised as to the financial condition of the city;

(g) To see that all franchise rights and provisions are justly enforced;

(h) To prepare and submit to the council an annual budget as by this charter required;

(i) To submit to the council at each meeting thereof an order of business covering the manager's recommendations;

(j) To hire a clerk of the council with power to take acknowledgements and administer oaths, to approve documents under seal of the city, to make and keep a journal of proceedings of the council; to serve as the designated election official and to have custody of all public records of the city not specifically entrusted to any other department by this charter or by ordinance; and

(k) To perform such other duties as may be prescribed by this charter or required of the manager by ordinance or resolution of the council. (Amended by Ord. No. 7799 (2011), § 2, adopted by electorate on November 1, 2011)*

Sec. 65. Administrative departments.

The following administrative departments are hereby created:

(a) Department of public works;

(b) Department of finance and licensing;

(c) Department of parks and recreation;

(d) Department of public safety; and

(e) Department of planning.

Upon the recommendation of the city manager, the city council may by ordinance create additional administrative departments. (Amended by Ord. No. 1632 (1951), § 2, adopted by electorate on November 6, 1951. Further amended by Ord. No. 5575 (1993), § 1, adopted by electorate on November 2, 1993. Further amended by Ord. No. 7799 (2011), § 2, adopted by electorate on November 1, 2011)¹*

Sec. 66. Directors of departments.

A director for each department shall be appointed by the city manager, except as hereinafter provided. Such directors shall serve until removed by the city manager or until their respective successors have been appointed and duly qualified. Each director shall be chosen on the basis of general executive and administrative experience and ability and of special education, training, and experience in the class of work which is to be administered; provided that the director of public works shall be an engineer with training and experience in municipal engineering. Each director shall conduct the affairs of each respective department in accordance with the provisions of this charter, the city ordinances, and the rules and regulations made therefor by the city manager and shall be immediately responsible to the city manager for the conduct of the subordinate officers and employees of the respective department; for the performance of its business; and for the custody and preservation of the books, records, papers, and property under the director's control. Directors of departments shall prepare departmental estimates, which shall be open to public inspection, and they shall make all other reports and recommendations in writing concerning their respective departments at such intervals or other times as may be requested by the city manager.

Whenever the city manager removes the director of any department, the manager shall make a written report to the council of such removal, containing a full statement of the reasons therefor. (Amended by Ord. No. 5575 (1993), § 1, adopted by electorate on November 2, 1993.)*

Sec. 67. Departments of public works and public utilities.

(a) Department of public works. There is hereby created a department of public works, the director of which will be subject to the supervision and control of the city manager in all matters and the general powers and duties of which shall be as established by ordinance adopted by the city council.

¹ Subsection (d) of this section should also have been amended by Ord. No. 1753 (1953), § 1(b), adopted by electorate on November 3, 1953, which created the department of recreation.

(b) Department of public utilities. There is hereby created a department of public utilities, the director of which will be subject to the supervision and control of the city manager in all matters, and the general powers and duties of which shall be as established by ordinance adopted by the city council. (Amended by Ord. No. 2729 (1963), § 1, adopted by electorate on November 5, 1963.)¹

Department of Finance and Licensing

Sec. 68. General powers and duties.

The chief financial officer shall be the director of finance and licensing, shall be city treasurer, and purchasing agent, for all municipal purposes. Subject to the supervision and control of the city manager in all matters, the chief financial officer shall keep and supervise all accounts and have custody of all public moneys of the city; purchase, store, and distribute supplies needed by the various departments, officers, boards or commissions of the city; collect special assessments; issue licenses; collect license fees; and perform such other duties pertaining to such department as are in this charter specified, or may be by ordinance required, or be assigned by the city manager.

Until otherwise provided by the city manager, the city clerk of the City of Boulder holding such office at the time this charter shall take effect shall be acting director of finance and record, in charge of all other city officers or employees whose present duties are embraced within the scope of this department as in this charter defined. (Amended by Ord. No. 7799 (2011), § 2, adopted by electorate on November 1, 2011)*

Department of Public Health

Sec. 69. General powers and duties.

(Repealed by Ord. No. 5575 (1993), § 1, adopted by electorate on November 2, 1993.)

Sec. 69A. Public health and hospital fund.

(Added by Ord. No. 1219 (1929), § 1, adopted by electorate on November 5, 1929.)

(Repealed by Ord. No. 5575 (1993), § 1, adopted by electorate on November 2, 1993.)

Department of Recreation

Sec. 70. Director.

(Amended by Ord. No. 1753 (1953), § 1(b), adopted by electorate on November 3, 1953.)

(Repealed by Ord. No. 2392 (1961), § 1, adopted by electorate on January 31, 1961.)

Sec. 70A. Advisory recreation board.

(Added by Ord. No. 1753 (1953), § 1(b), adopted by electorate on November 3, 1953.)

(Repealed by Ord. No. 2392 (1961), § 1, adopted by electorate on January 31, 1961.)

Sec. 70B. Appropriation for recreation.

(Added by Ord. No. 1753 (1953), § 1(b), adopted by electorate on November 3, 1953.)

(Repealed by Ord. No. 2392 (1961), § 1, adopted by electorate on January 31, 1961.)

Sec. 71. Tax levy for department.

(Repealed by Ord. No. 2392 (1961), § 1, adopted by electorate on January 31, 1961.)

¹ This section as published in the Charter and Code of Boulder, Colorado, 1925 differs from that published in the Code of the City of Boulder, 1955. As there is no ordinance authorizing the change, it appears that it was made with the section was codified in the 1955 Code.

Department of Public Safety

Sec. 72. General powers and duties.

The city manager shall, until otherwise by charter amendment provided, be ex-officio director of public safety. Such director shall be the executive head of the divisions of fire and police, with power to direct the activities of either or any of such divisions; and with power to appoint, transfer, or remove any and all of the officers and employees therein.

Except as otherwise in this charter provided, the city manager shall in times of public danger or emergency have power to deputize, appoint, and administer the oath of office to any necessary and additional firefighters, police officers, or patrol officers, as the nature of the emergency may require, during the period of such public danger or emergency.

The city manager shall be the chief administrative authority in all matters affecting the inspection and regulation of the erection, maintenance, repair, ventilation, and occupancy of buildings, as may be ordained by the council or established by general law. The city manager shall be charged with the enforcement of all laws and ordinances relating to weights and measures, and shall report to the proper United States or state authorities, as the case may be, any violation of federal or state laws relating to weights, measures, or the sale of any class of merchandise, supplies, foodstuffs, fuels, materials, necessities of life, or commodities of any nature whatsoever. The city manager shall report to proper authorities any violations of liquor or other general laws within the city's jurisdictional limits. Except as in this charter provided, the manager shall direct all activities and enforce all ordinances pertaining to the safety of the general public upon the streets, public lands, places, or parks, within public or private buildings, or elsewhere within the jurisdiction of the City of Boulder.

The city manager shall appoint a city probation officer, to work in cooperation with the department of public welfare in all correctional, juvenile, or reformatory matters, activities, and institutions of the City of Boulder. (Amended by Ord. No. 7799 (2011), § 2, adopted by electorate on November 1, 2011)*

Sec. 73. Relief funds.

The council may by ordinance provide for relief funds for the employees of the department and provide for the administration of such funds as may be created by ordinance or laws of the state.

Department of Planning

Sec. 74. Planning board.

There shall be a city planning board which shall consist of seven members appointed by the city council. The appointive members shall be qualified electors of the city, shall not hold any other office under this charter except as provided in Section 84A, shall serve without pay, and shall be removable by the council for cause.

The council shall remove any appointive member who displays lack of interest, or fails, upon due notice, and continuously for three months, to attend meetings of the board without formal leave of absence. (Amended by Ord. No. 1632 (1951), § 4, adopted by electorate on November 6, 1951. Further amended by Ord. No. 2728 (1963), § 1, adopted by electorate on November 5, 1963.)

Sec. 75. Term of office—vacancies.

The term of office of each board member shall be five years. The council shall fill all vacancies.

The board shall have power to make rules for the conduct of business and shall keep accounts and records of its transactions. (Amended by Ord. No. 1632 (1951), § 4, adopted by electorate on November 6, 1951. Further amended by Ord. No. 2728 (1963), § 1, adopted by electorate on November 5, 1963. Further amended by Ord. No. 5575 (1993), § 1, adopted by electorate on November 2, 1993.)

Sec. 76. Organization and procedure of planning board.

The board shall choose a chair, a vice chair, and a secretary who may or may not be a member of the board. If not a member, the compensation of the secretary, if any, shall be fixed by the council. If a director of planning has been appointed, the director may be designated as secretary. The board shall have regular meetings once a month, and special

meetings may be called at any time by the chair and two members. Four members shall constitute a quorum, and an affirmative vote of at least four shall be necessary to authorize any action of the board. (Amended by Ord. No. 1632 (1951), § 4, adopted by electorate on November 6, 1951.)*

Sec. 77. Director of planning.

A director of planning, who shall be qualified by special training and experience in the field of city planning, may be appointed on a part-time or full-time basis by the city manager and shall be removable by the city manager. The director of planning shall be the regular technical advisor of the board and shall have administrative direction of the planning department. The director may be designated as the secretary of the planning board and authorized to perform other necessary functions. (Amended by Ord. No. 1632 (1951), § 4, adopted by electorate on November 6, 1951.)*

Sec. 78. Functions.

The planning department shall:

(a) Prepare and recommend to the city council a general plan, with necessary maps, plats, charts, and descriptive and explanatory materials, for the physical improvement and development of the city, including therein,

- (1) The general location, character, and extent of streets, bridges, parks, waterways, and other public ways, grounds, and spaces;
- (2) The general location of public buildings and other public property, within and without the city limits, including watersheds, water systems, reservoirs, sewer and drainage systems, facilities for the sanitary disposal of garbage and other wastes, airports, vehicle parking facilities, and all other public properties and facilities necessary for the proper development of the city;
- (3) The general location and extent of public utilities, including public transportation facilities, whether publicly or privately owned;
- (4) The removal, relocation, widening, extension, narrowing, vacation, abandonment, or change of use of existing or future public ways, grounds, spaces, buildings, property, or utilities;
- (5) An adequate and equitable system of financing public improvements;

(b) Review the general plan periodically and recommend to the city council desirable amendments and additions to the plan;

(c) Submit annually to the city manager, not less than sixty days prior to the date for submission of the city manager's proposed budget to the city council, a list of recommended capital improvements to be undertaken during the forthcoming six-year period;

The list shall be arranged in order of preference, with recommendations as to which projects shall be completed each year. Each list of capital improvements shall be accompanied by a six-year capital budget indicating estimated costs and methods of financing all improvements;

(d) Prepare and recommend to the city council a zoning plan dividing the city into building districts or zones and regulating the uses of land and the height, area, bulk, and uses of public and private buildings and structures;

(e) Prepare and recommend to the city council minimum housing ordinances, building codes, and other measures necessary to promote the health, safety, and general welfare of the people of the city;

(f) Prepare and recommend to the city council regulations governing the process of land subdivision;

(g) Exercise control over all public improvements in accordance with the provisions of Section 80;

(h) Exercise control over platting, opening, and annexing subdivisions in accordance with the provisions of Sections 81 and 82;

- (i) Cooperate with other governmental planning agencies on all planning matters affecting the city;
- (j) Encourage proper planning by all departments of the city, request necessary assistance from other departments, and integrate, to the extent possible, the planning activities of other departments into the general plan of the city; and
- (k) Within its budget appropriations, contract when necessary with city planners and other consultants for technical services. (Amended by Ord. No. 1632 (1951), § 4, adopted by electorate on November 6, 1951.)

Sec. 79. Notice of pending plans or ordinances.

Any officer or department whose duty it is to prepare ordinances and resolutions relating to the location of any public improvement, which may be considered by the planning board a part of the comprehensive plan - including specifically the location of any public building, or the location, extension, widening, enlargement-ornamentation, or parking of any street, boulevard, alley, parkway, playground, or other public grounds, or the vacation of any street, or any other alteration of the city plan of streets and highways, or the location of any bridge, tunnel, or subway, or of any surface, underground or elevated railway or public utility, or any ordinance relating to housing, building codes or zones - shall, prior to the submission to the proper board or officer of the municipality of the ordinance or resolution required to be adopted before such proceedings are instituted, give notice to the board of the pendency (before the officer or department) of proceedings with reference to any of the above matters. (Amended by Ord. No. 1632 (1951), § 4, adopted by electorate on November 6, 1951.)

Sec. 80. Improvements to conform with plan.

Whenever the planning board shall have made a general plan of the municipality or of any portion thereof in accordance with Section 78 of this charter, no public improvement shall be authorized to be constructed in the city until approved by the board; provided, that in case of disapproval, the board shall communicate its reasons to the council and to the director of that department which has control of the construction of the proposed improvement; and the council by majority vote shall have the power to overrule such disapproval. If the reasons for disapproval are not given to the council and to said department director within twenty days after the plans for the public improvement are submitted to the board, such plan shall be deemed to be approved by the board. (Amended by Ord. No. 1632 (1951), § 4, adopted by electorate on November 6, 1951.)

Sec. 81. Approval of plats.

All plans, plats, or replats of lands laid out in building lots and streets, alleys, or other portions of the same intended to be dedicated to public use or for the use of purchasers or owners of lots fronting thereon or adjacent thereto, and located within the city limits shall be submitted to the planning board and be approved by it before such plans or plats shall be recorded. And no such plan or plat shall be entitled to record in any public office unless the same shall bear thereon, by endorsement or otherwise, the approval of the board. The disapproval of any such plan, plat, or replat by the board shall be deemed a refusal of the proposed dedication shown thereon. The approval of the board shall be deemed an acceptance of the proposed dedication but shall not impose any duty upon the city concerning the maintenance or improvement of any such dedicated parks until the proper authorities of the city shall have made actual appropriation of the same by entry, use, or improvements; and owners and purchasers shall be deemed to have notice of the published plans, maps, and reports of the board affecting such property within its jurisdiction. (Amended by Ord. No. 1632 (1951), § 4, adopted by electorate on November 6, 1951.)

Sec. 82. Admission of subdivision.

All plans and plats of tracts or additions sought to be annexed or admitted to the city shall be first submitted to the planning board for approval. (Amended by Ord. No. 1632 (1951), § 4, adopted by electorate on November 6, 1951.)

Sec. 83. Reports of department.

The department shall make annual reports to the council upon the request of the council. A representative of the board shall have a right to appear before the council to make its recommendations and shall be given due hearing. (Amended by Ord. No. 1632 (1951), § 4, adopted by electorate on November 6, 1951.)

Sec. 84. Height limit.

All buildings and other structures throughout the city shall be limited to a height not exceeding fifty-five feet. This height limit shall not apply to spires, belfries, cupolas, or domes not used for human occupancy, nor to silos, parapet walls, cornices without windows, antennas, chimneys, ventilators, skylights, or other necessary mechanical appurtenances usually carried above the roof level so long as they do not take up more than twenty-five percent of the roof area, nor to light poles at government-owned recreation facilities, nor to light and traffic signal poles in the right-of-way, nor to service and transmission line electrical utility poles. "Height" means the vertical distance from the lowest point within twenty-five feet of the tallest side of the structure to the uppermost point of the roof.

The purposes of this height limitation are to promote the health, safety, and general welfare of the community; to secure safety from fire, panic, wind turbulence, and other dangers; to provide adequate light and air to abutting properties and the neighborhood; to prevent the overcrowding of land; to avoid undue concentration of population; to prevent the encroachment of privacy; to lessen traffic congestion in the streets; to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements; to insure personal safety by encouraging intensive use at the sidewalk level; to encourage the most appropriate use of land; to conserve and enhance property values; to preserve the integrity and character of established neighborhoods; to preserve scenic views of the mountain backdrop, which are a unique asset to the community and provide a distinctive character and setting for the city and which provide an attraction to tourists, visitors, and students of the University of Colorado; and to protect a public investment of over \$3,000,000.00 in the mountain backdrop.

Notwithstanding anything to the contrary in this Section 84, the following provisions shall apply solely to that portion of the area known as Boulder Crossroads which is delineated by (i) the northern boundary line of Arapahoe Avenue, (ii) the southern boundary line of Canyon Boulevard as extended eastward to 30th Street, (iii) the eastern boundary line of 28th Street, and (iv) the western boundary line of 30th Street:

Subject to approval through the development review process, "height" shall be defined as the vertical distance measured from the Federal Emergency Management Agency's flood protection elevation at 28th Street of 5,288 feet, as determined in accordance with the North America Vertical Datum of 1988, to a plane above such elevation. (Amended by Ord. No. 1219 (1929), § 1, adopted by electorate on November 5, 1929. Further amended by Ord. No. 1632 (1951), § 5, adopted by electorate on November 6, 1951. Repealed by Ord. No. 2392 (1961), § 1, adopted by electorate on January 31, 1961. New section 84 added by Res. No. 24a (1971), § 2, adopted by electorate on November 2, 1971. Amended by Ord. No. 5220 (1989), § 1, adopted by electorate on November 7, 1989. Further amended by Ord. No. 6013 (1998), § 2, adopted by electorate on November 3, 1998.)

Sec. 84A. Board of zoning adjustment.

There shall be a board of zoning adjustment with such powers, jurisdiction, and authority as the city council shall by ordinance provide relating to zoning matters. The membership, terms of office, method of appointment and all other matters relating to the board of zoning adjustment shall be as the city council shall by ordinance provide. (Added by Ord. No. 1632 (1951), § 6, adopted by electorate on November 6, 1951. Amended by Ord. No. 3513 (1969), § 1, adopted by electorate on November 4, 1969.)

Sec. 84B. Disposition of park properties.

(Added by Ord. No. 1632 (1951), § 7, adopted by electorate on November 6, 1951. Repealed by Ord. No. 2392 (1961), § 1, adopted by electorate on November 6, 1961.)

The City Attorney

Sec. 85. City attorney.

The city attorney shall be a duly licensed member of the bar of Colorado. The attorney shall be the legal advisor of the council and of all other city officials and of all boards and commissions. The council may also employ special counsel and assistants to the city attorney.*

The Municipal Court

Sec. 86. Municipal court judges.

The council shall appoint, evaluate, and compensate, with power to remove, for cause, the presiding judge of the municipal court. The council may, by ordinance or contract, specify the manner of appointment, supervision, evaluation, and compensation of temporary and associate judges and of referees. (Amended by Ord. No. 5575 (1993), § 1, adopted by electorate on November 2, 1993. Further amended by Ord. No. 7295 (2003), § 1, adopted by electorate on November 4, 2003.)

Sec. 87. Jurisdiction of municipal court.

Said municipal court shall have exclusive original jurisdiction to hear, try, and determine all charges of misdemeanor as declared by this charter, and all causes arising under any of the ordinances of the city for a violation thereof. There shall be no trial by jury, and there shall be no change of venue from said court. (Amended by Ord. No. 5575 (1993), § 1, adopted by electorate on November 2, 1993.)

ARTICLE VI. FINANCE AND RECORD

Sec. 88. Fiscal year same as calendar year.

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

Sec. 89. Collection and custody of public moneys.

The chief financial officer shall have charge of the revenues and records of the city except as otherwise provided by this charter or by ordinance. All taxes, special assessments, and license fees accruing to the city shall be received or collected by officers of the department of finance and licensing. All moneys received by any officer or employee of the city or in connection with the business of the city shall be paid promptly into the city treasury.

The council shall by ordinance provide a system for the prompt collection and regular payment, custody, and deposit of all city moneys; shall require reasonable interest on daily balances; and shall require surety bonds of all depositors of city moneys. Deposits shall be made daily and in the name of the city. (Amended by Ord. No. 7799 (2011), § 2, adopted by electorate on November 1, 2011.)

Sec. 90. System of accounting.

The council shall by ordinance provide a system of accounting for the city, not inconsistent with the provisions of this charter, which may be recommended by the city manager, to conform as nearly as possible with the uniform system of municipal accounting.

Sec. 91. Assessment, levy, collection of taxes—equalization.

The council may by ordinance provide a system for the assessment, equalization, levy, and collection of all city taxes, not inconsistent with the provisions of this charter. Until the council shall otherwise by ordinance provide, the statutes of the State of Colorado now or hereafter in force shall govern the making of assessments by the assessor of the county in which the city is situated; the making of equalization by the board of county commissioners of said county; and the collection and payment to the city of taxes by the treasurer of said county for and on behalf of the city, as also in respect of the certification and collection of all delinquent charges, assessments, or taxes.

Sec. 92. Certificate of assessment.

Until the council shall otherwise by ordinance provide, existing laws respecting the duty of the county assessor to certify the total amount of property assessed within the limits of the city to the council as soon as the assessment roll is ready each year for the extension of taxes shall remain in full force and effect.

Sec. 93. Annual budget.

Not later than three months before the end of each fiscal year, the city manager shall prepare and submit to the council an annual budget for the ensuing fiscal year, based upon detailed estimates furnished by the several departments and other divisions of the city government, according to a classification as nearly uniform as possible. The budget shall present the following information:

(a) An itemized statement of the appropriations recommended by the city manager for estimated expenses and for permanent improvements for each department and each division thereof for the ensuing fiscal year, with comparative statements in parallel columns of the appropriations and expenditures for the current and last preceding fiscal year and the increases or decreases in the appropriations recommended;

(b) An itemized statement of the taxes required and of the estimated revenues of the city from all other sources for the ensuing fiscal year with comparative statements in parallel columns of the taxes and other revenues for the current and last preceding fiscal year and of the increases or decreases estimated or proposed;

(c) A statement of the financial condition of the city; and

(d) Such other information as may be required by the council.

Copies of such budget shall be printed and available for public distribution not later than two weeks after its submission to the council; and a public hearing shall be given thereon by the council or a committee thereof before action by the council.

The council shall, in adopting the said budget, estimate and declare the amount of money necessary to be raised by tax levy, taking into account the amounts available from other sources to meet the expenses of the city for the ensuing year, based on the budget so adopted. Said budget and estimate as finally adopted shall be signed by the mayor and city clerk and made a part of the public records of the city.

Sec. 94. Tax levy.

Upon said estimate the council shall forthwith proceed to make by ordinance the proper levy in mills upon each dollar of the assessed valuation of all taxable property within the city, such levy representing the amount of taxes for city purposes necessary to provide for payment during the ensuing fiscal year of all properly authorized demands upon the treasury; and until the council shall otherwise by ordinance provide, it shall thereupon cause the total levy to be certified by the clerk to the county assessor, who shall extend the same upon the tax list of the current year in a separate column entitled "the City of Boulder taxes" and shall include said city taxes in a general warrant to the county treasurer for collection. The levy shall never exceed thirteen mills on the dollar for all general city purposes upon the total assessed valuation of said taxable property within the city. The foregoing limitation of thirteen mills shall not apply to taxes levied by the council for the payment of any interest, sinking fund, or principal of any bonded indebtedness of the city now existing or hereafter created nor to special assessments for local improvements.

If the council fails in any year to make said tax levy as above provided, then the rate last fixed shall be the rate for the ensuing fiscal year.

The amount required to make payment of any interest, sinking fund, or principal of bonded indebtedness shall always be included in and met by tax levy, except as otherwise provided for in this charter. (Amended by Ord. No. 1403 (1943), § 1, adopted by electorate on November 2, 1943.)

Sec. 95. Appropriations.

Upon the basis of the budget as adopted and filed, and including the levies required to be made by this charter, the several sums shall forthwith be appropriated by ordinance to the several purposes therein named for the ensuing fiscal year. Said ordinance shall be adopted not later than the first day of December in each year and shall be entitled "The Annual Appropriation Ordinance."

Sec. 96. Implementation of revenue and expenditure limitations.¹

Revenues and expenditures of the city shall not be limited by the revenue and expenditure limitations of paragraph 7(b) of Article X, Section 20 of the Colorado Constitution, nor shall related emergency reserves be required, and the city is authorized to collect, retain, and expend all revenues of the city free from such revenue and expenditure limitations or any that may be enacted in the future, except by amendment of this charter by the electors of the city. (Amended by Ord. No. 5818 (1996), § 2, adopted by electorate on November 5, 1996.)

Sec. 97. Limitation of city indebtedness.

Except as otherwise in this charter provided, 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; and no bonds, other than refunding bonds, shall be issued unless the question of issuing the bonds shall be submitted to the vote of the registered electors of the city and a majority of those voting thereon shall vote in favor of issuing such bonds. "Registered electors of the city" means those duly registered to vote at a general or special election in the city unless the city council for sufficient reason shall by ordinance calling the election restrict or limit such group. (Amended by Ord. No. 7801 (2011), § 2, adopted by electorate on November 1, 2011.)

The city shall not become indebted for any purpose or in any manner to any amount which, including existing indebtedness, shall exceed three percent of the assessed valuation of the taxable property within the city, as shown by the last preceding assessment for city purposes; provided, however, that in determining the limitation of the city's power to incur indebtedness there shall be included only those bonds or other indebtedness payable solely from the proceeds of ad valorem taxes. Bonds or other securities payable in whole or in part from revenue to be derived from water, sewer, electric light and power, gas, or other public utilities, projects, enterprises, works, or ways from which the city will derive the revenue, or from sales, use, or other excise taxes, or from franchise fees or taxes, or from any other fees and charges shall not be included in determining the outstanding indebtedness of the city. Such bonds or other securities may be additionally secured by a pledge of the full faith and credit of the city without being required to be included in such computation of indebtedness. (Amended by Ord. No. 821 (1919), § 1, adopted by electorate on November 4, 1919. Further amended by Ord. No. 3513, (1969), § 1, adopted by electorate on November 4, 1969.)

Anything contained in this charter to the contrary notwithstanding, the council shall be authorized, without approval by vote of the registered electors of the city, to create and incur indebtedness of the city and issue bonds to evidence the same payable from and pledging funds and revenues earmarked and committed by charter provision or by ordinance approved by vote of the registered electors of the city to the purpose for which said bonds are to be issued prior to the issuance thereof, for the following purposes:

For acquisition of open space real property or interest therein payable from and pledging that portion of the proceeds of the city's sales and use tax earmarked and committed for such purposes; provided that no indebtedness or issue of bonds for such purpose shall be issued without approval by vote of the registered electors of the city unless, at the time such bonds are issued, the projected average annual debt service coverage shall be at least 1.35:1; provided further, however, that refunding bonds may be issued without approval by vote of the registered electors of the city. For purposes of this paragraph, "projected average annual debt service coverage" shall mean the average annual debt service on all bonds outstanding under this paragraph (including without limitation the bonds proposed to be issued and any refunding bonds, but excluding bonds refunded thereby), divided by the average annual net revenues and funds reasonably anticipated to be available for the payment of said indebtedness during the term of bonds outstanding and proposed to be issued under this paragraph. Net revenues and funds reasonably anticipated to be available for payment of such indebtedness shall mean the open space fund (or similar fund) balance at the end of the prior fiscal year, plus for each year thereafter during such term the earmarked and committed sales and use tax revenues less expenses anticipated to be paid therefrom (such sales and use tax revenues and expenses) to be based upon those in the prior fiscal year, and adjusted to reflect the actual tax rates then in effect for each such subsequent year. Indebtedness incurred and bonds issued pursuant to this paragraph may be additionally secured by a pledge of the full faith and credit of the city. (Amended by Ord. No. 3743 (1971), § 1, adopted by electorate on November 2, 1971. Further amended by Ord. No. 5820 (1996), § 2, adopted by

¹ Section 96 (Special appropriations for 1918) was repealed by Ord. No. 5575 (1993), § 1, adopted by electorate on November 2, 1993. The current Section 96 was enacted by Ord. No. 5818 (1996) §2, adopted by electorate on November 5, 1996.

electorate on November 5, 1996. Further amended by Ord. No. 7801 (2011), § 2, adopted by electorate on November 1, 2011.)

Sec. 97A. Urban renewal financing.

Anything contained in this charter to the contrary notwithstanding, the council shall be authorized, for the purpose of cooperating with or assisting an urban renewal authority created and existing within the city, and without approval by vote of the registered electors of the city, to grant, loan, or pledge to such authority all or any portion of incremental ad valorem property tax proceeds or incremental sales and use tax proceeds or both levied and collected for the benefit of the city within an urban renewal area as to which an urban renewal plan has been adopted by the city council and to create and incur indebtedness and issue bonds, both indebtedness and bonds to be payable solely from such incremental ad valorem property tax proceeds or incremental sales and use tax proceeds or both. As used in this paragraph, the term "incremental ad valorem property tax proceeds" shall mean that portion of such taxes produced by the levy at the rate fixed each year by the council upon that portion of the valuation for assessment of taxable property within an urban renewal area which is in excess of the valuation for assessment of such taxable property last certified prior to the effective date of the ordinance of the council authorizing such loan, grant, pledge, incurrence of indebtedness, or issuance of bonds or, as to an area later added to an urban renewal area, the effective date of the ordinance of the council including such area within the urban renewal area. As used in this paragraph the term "incremental sales and use tax proceeds" shall mean that portion of the proceeds of the city sales and use tax collected within an urban renewal area, if any, in excess of the amount of such proceeds collected within such area for the city's fiscal year next preceding the effective date of the ordinance of the council authorizing such grant, loan, pledge, incurrence of indebtedness, or issuance of bonds or, as to an area later added to the urban renewal area, the effective date of the ordinance of the council including such area within the urban renewal area. Anything contained in this charter to the contrary notwithstanding, bonds or other evidences of indebtedness issued, or any grant, loan, or pledge by the city pursuant to the provisions of this paragraph of incremental ad valorem property tax proceeds or incremental sales and use tax proceeds or both shall not be included in determining the outstanding indebtedness of the city for purposes of limitations imposed by the charter on the creation of indebtedness. In addition, such bonds or other evidences of indebtedness may be sold at public or private sale as determined by the council. This Section 97A and the powers granted to the council herein shall not be limited by any other section of the charter, including without limitation the provisions of the last paragraph of Section 97 hereof. (Added by Ord. No. 4420 (1979), § 1, adopted by electorate on June 12, 1979. Further amended by Ord. No. 7801 (2011), § 2, adopted by electorate on November 1, 2011.)

Sec. 98 Term of bonds—disposal of bonds.

The term of any bond issues and the rate of interest shall be fixed by the ordinance submitting the question to the registered electors of the city. When issued, bonds shall be sold to the highest responsible bidder, but in no case for less than par, and in all cases to the best advantage of the city. (Amended by Ord. No. 7801 (2011), § 2, adopted by electorate on November 1, 2011.)

Sec. 99. Refunding bonds.

The provisions of the laws of the State of Colorado relating to refunding bonds are made and declared to be in full force and effect in the city until the council shall otherwise by ordinance provide.

Sec. 100. Water and sewer revenues.

Revenues derived from the operation of the water and sewer systems shall be used exclusively for the maintenance, operation, and extension of either or both of such systems and for interest on and discharging of principal of debt and other obligations incurred in the acquirement, construction, and improvement of either or both of such systems. (Amended by Ord. No. 1907 (1955), § 1, adopted by electorate on November 8, 1955.)

Sec. 101. Payment of claims.

No demand for money against the city shall be approved, allowed, audited, or paid unless it shall be in writing, dated, and sufficiently itemized to identify the expenditure and shall first be audited by the director of the department creating the same. The chief financial officer may require an affidavit in support of any claim submitted, and the council may by ordinance require that all claims be sworn to. All warrants drawn upon the city treasury shall be signed by the city

manager and countersigned by the chief financial officer, stating the particular fund or appropriation to which the same is chargeable and the person to whom payable. (Amended by Ord. No. 7799 (2011), § 2, adopted by electorate on November 1, 2011.)

Sec. 102. Transfer of balances.

At any time after the passage of the annual appropriation ordinance and after at least one week's public notice, the council may transfer unused balances appropriated for one purpose to another purpose and may by ordinance appropriate available revenues not included in the annual budget. This provision shall not apply to the water, park, and library funds.

Sec. 103. No liability without appropriations.

No liability shall be incurred by any officer or employee of the city, except in accordance with the provisions of the annual appropriation ordinance or under continuing contracts and loans authorized under the provisions of this charter. Neither the council nor any officer or employee of the city shall have authority to make any contract involving the expenditure of public money or impose upon the city any liability to pay money, unless and until a definite amount of money shall have been appropriated for the liquidation of all pecuniary liability of the city under or in consequence of such contract that will mature during the period covered by the appropriation. Such contract shall be ab initio null and void as to the city for any other or further liability; provided, first, that nothing herein contained shall prevent the council from providing for payment of any expense, the necessity of which is caused by any casualty, accident, or unforeseen contingency arising after the passage of the annual appropriation ordinance; and second, that the provisions of this section shall not apply to or limit the authority conferred in relation to bonded indebtedness nor for moneys to be collected by special assessments for local improvements.

Sec. 104. Duties of purchasing agent.

As purchasing agent, the chief financial officer shall procure all supplies ordered by the city manager in such manner as the latter may direct; shall also procure supplies for the city manager or for any department or advisory commission upon requisition therefor; such requisition shall be in writing, shall state the quality, quantity, and kind of material required, whether urgency demands that the order be made by wire, whether the supplies should come by express or otherwise, and the probable cost thereof, in detail, if known. Such requisition shall have the endorsement of the city manager. Whenever the purchasing agent considers it practical and advantageous, the purchasing agent shall advertise for competitive proposals for any supplies in a public newspaper, or by circular letters, or other means, sent to several competitive dealers.

When competitive bids are called for, the same shall be sealed and opened by the purchasing agent at a specified time in the presence of the city manager and the director of the department or chair of the commission for which the supplies are required. All bidders shall be invited to be present at the opening of the bids and may inspect the same. All bids, proposals, advertisements, circulars, and correspondence relating to the purchase of supplies, with samples submitted, if any, shall be preserved for three years as matters of public record. The right to reject any and all bids shall be reserved. (Amended by Ord. No. 7799 (2011), § 2, adopted by electorate on November 1, 2011.)*

Sec. 105. Audit of accounts.

Upon the death, resignation, removal, or expiration of the term of any officer of the city, other than the chief financial officer, the said chief financial officer shall make an audit and investigation of the accounts of such officer and shall report to the city manager and council.

As soon as practicable after the close of each fiscal year, an annual audit shall be made of all the accounts of all city officers and commissions; and upon the death, resignation, removal, or expiration of the term of the chief financial officer, an audit shall be made of chief financial officer's accounts. Such audits shall be made by qualified public accountants, selected by the council, who have no personal interest, direct or indirect, in the financial affairs of the city or any of its officers or employees. The council may at any time provide for an examination or audit of the accounts of any officer or department of the city government.

Whenever the council questions the accounts of the city manager or any portion of the administrative service under the manager's control, the manager shall have full power, at the city's expense, to select and employ a competent account-

tant, who has no interest, directly or indirectly, in the affairs of the city or of its officers or employees, to check and audit the accounts in question. (Amended by Ord. No. 7799 (2011), § 2, adopted by electorate on November 1, 2011.)*

ARTICLE VII. PUBLIC WORKS AND PUBLIC IMPROVEMENT DISTRICTS

Sec. 106. Power to construct or otherwise acquire improvements and create improvement districts.¹

The city shall have the right, power, and authority to construct or otherwise acquire public works and public improvements, including but not limited to the acquisition of land and any other real or personal property necessary or desirable therefor, under the provisions of the laws of the State of Colorado governing such matters or as may be provided by charter or as the council may by ordinance provide.

The council may create public improvement districts for the construction and other acquisition of anything in the nature of local or other type public improvements conferring special benefits upon real property under the provisions of the laws of the State of Colorado applying to such districts or under such provisions as may be provided by charter or as the council may by ordinance provide. The city shall have the right, power, and authority to: provide for the creation of local public improvement districts by order of the council, subject, however, to protest by the owners of a majority of all property benefited and constituting the basis of assessment as the council may determine, except in case the city shall pay one-half or more of the total cost of the improvements made; provide the manner of assessment of costs against all property which the council shall determine specially benefited by any such works or improvements; provide for the issuance of bonds for the purpose of paying for such improvements with power to sell or otherwise issue the same to defray all or a portion of the costs of any such works or improvements; and provide for the creation of special funds for the payment of the bonds of any such district or districts which may be delinquent. (Amended by Ord. No. 2171 (1958) §1, adopted by electorate on December 2, 1958.)

Sec. 106A. Surplus and deficiency fund.

Where all outstanding bonds have been paid in a public improvement district created after January 1, 1954, and any money remains to the credit of said district, it shall be transferred to a special surplus and deficiency fund, and whenever there is a deficiency in any improvement district to meet payment of outstanding bonds, it shall be paid out of said fund. Whenever a public improvement district created after January 1, 1954 has paid and cancelled four-fifths of its bonds outstanding, and for any reason the remaining assessments are not paid in time to take up the final bonds of the district and there is not sufficient money in said special surplus and deficiency fund, then the city shall pay said bonds when due and reimburse itself by collecting the unpaid assessments due said district. (Added by Ord. No. 1753 (1953), § 1(a), adopted by electorate on November 3, 1953.)

Sec. 106B. Exemption from property tax limitation.

Should the city pay any bonds which it is authorized to pay under Section 106A, the limitation on the amount of tax levy provided in Section 94 of this charter shall not apply to taxes levied for the payment of such bonds and the interest thereon. (Added by Ord. No. 1753 (1953), § 1(a), adopted by electorate on November 3, 1953.)

Sec. 106C. Authority to acquire property.

In addition to all other power which it has to acquire property, the City of Boulder is hereby authorized to purchase or otherwise acquire property on which there are delinquent taxes and/or special assessments. The city may also dispose of any property acquired under this authority. (Added by Ord. No. 1753 (1953), § 1(a), adopted by electorate on November 3, 1953.)

Sec. 107. Sidewalks, curbs, trees.

Until and unless otherwise provided by charter amendment or by ordinance, the laws of the State of Colorado relating to the construction, care, and maintenance of sidewalks, curbs, gutters, and sewers shall be in full force and effect.

¹ There is no requirement in this section that the issuance of the bonds be subject to the approval even of the owners of frontage in the district. Sanburn v. Boulder, 74 Colo. 358, 221 P. 1007 (1923).

The council shall also have the power to provide by special assessment or otherwise, with or without petition, for the parking, ornamentation and lighting of streets and the planting, care and removal of grass, plants, shrubs, and trees along, in, upon or over streets, boulevards, public ways, and places. The council shall, before January 1, 1919, pass an effective ordinance relating to the proper planting, selection, trimming, and care of street trees and shrubs and parkings,¹ and shall provide proper penalties for violation thereof.

ARTICLE VIII. FRANCHISES AND PUBLIC UTILITIES

Sec. 108. Franchises granted upon vote.

No franchise shall be granted by the city except upon the vote of the registered electors, and the question of its being granted shall be submitted to such vote upon deposit with the chief financial officer of the expense (to be determined by the chief financial officer) of such submission by the applicant for said franchise. (Amended by Ord. No. 7799 (2011), § 2, adopted by electorate on November 1, 2011. Further amended by Ord. No. 7801 (2011), § 2, adopted by electorate on November 1, 2011.)

Sec. 109. No exclusive grants—ordinance in plain terms.

No exclusive franchise shall ever be granted; and no franchise shall be renewed before one year prior to its expiration. No franchise, right, privilege, or license shall be considered as granted by any ordinance except when granted therein in plain and unambiguous terms; and any and every ambiguity therein shall be construed in favor of the city and against the claimant under said ordinance.

Sec. 110. Franchises specify streets.

All franchises or privileges hereafter granted to street or other railroads and to other transportation systems shall plainly specify the particular streets, alleys, avenues, and other public property, or parts thereof, to which they shall apply. All other franchises may be in general terms and apply to the city generally.

Sec. 111. Terms not longer than twenty years—compensation.

No franchise, lease, or right to use the streets or the public places or property of the city shall be granted by the city, except as in this charter provided, for a longer period than twenty years. Every grant of a franchise shall fix the amount and manner of the payment of the compensation to be paid by the grantee for the use of the same, and no other compensation of any kind shall be exacted for such use during the life of the franchise; but this provision shall not exempt the grantee from any lawful taxation upon the grantee's property, nor from any licenses, charges, or impositions not levied on account of such use.*

Sec. 112. Franchises provide for safety, etc.

The grant of every franchise or privilege shall be subject to the right of the city, whether in terms reserved or not, to make all regulations which shall be necessary to secure in the most ample manner the safety, welfare, and accommodation of the public, including among other things the right to pass and enforce ordinances to require proper and adequate extensions of the service of such grant and to protect the public from danger or inconvenience in the operation of any work or business authorized by the grant of the franchise; and the right to make and enforce all such regulations as shall be reasonably necessary to secure adequate, sufficient, and proper service, extensions, and accommodations for the people and insure their comfort and convenience.

Sec. 113. No franchise leased, except.

No franchise granted by the city shall ever be leased, assigned, or otherwise alienated without the express consent of the city, and no dealing with the lessee or assignee on the part of the city to require the performance of any act or payment of any compensation by the lessee or assignee shall be deemed to operate as such consent. No such franchise shall ever be assigned to any foreign corporation.

¹ [Sic]; per the Charter of the City of Boulder, 1917.

Sec. 114. No extension or enlargement of franchises, except.

No extension or enlargement of any franchise or grant of rights or powers previously granted to any corporation, person, or association of persons shall be made except in the manner and subject to all the conditions provided for in this article for the making of original grants and franchises; provided, however, that the provisions of this article shall not apply to the granting by ordinance of revocable licenses or privileges for sidetrack or switch privileges to railway companies for the purpose of reaching and affording railway connection and switch privileges to the owners or users of any industrial plant; it being the intention to permit the city to grant such revocable licenses or privileges to railway companies whenever in its judgment the same is expedient, necessary, or advisable and whenever the application for such privileges is accompanied by the assent in writing of the owners of the major part in extent of the front feet of the lots or tracts of land of the block fronting on each side of any street, or parts of a street, over or on which it is desired to lay or construct such sidetracks or switches.

Sec. 115. Revocable permits.

The council may grant a permit at any time, in or upon any street, alley, or public place, provided such permit is revocable by the council at its pleasure at any time, whether such right to revoke be expressly reserved in every permit or not.

Sec. 116. Provision for common use of tracks, poles, etc.

The city, by and through its council, shall have the power to require any corporation holding a franchise from the city to allow the use of its tracks, poles, and wires by any other corporation to which the city shall grant a franchise, upon the payment of a reasonable rental therefor, and any franchise or right which may hereafter be granted to any person or corporation to operate a street railway within the city or its suburbs shall be subject to the condition that the city shall have the right to grant to any other person or corporation desiring to build or operate a street railway or interurban railway within or into the city the right to operate its cars over the tracks of said street railway in so far as may be necessary to enter the city and to reach the section thereof used for business purposes; provided, that the person or corporation desiring to operate its cars over the lines of said street railway shall first agree in writing with the owner thereof to pay it reasonable compensation for the use of its tracks and facilities. And if the person or corporation desiring to use the same cannot agree with said owner of said street railway as to said compensation within sixty days from offering in writing so to do and as to terms and conditions of the use of said tracks and facilities, then the council shall, by resolution, after a fair hearing to the parties concerned, fix the terms and conditions of such use and the compensation to be paid therefor, which award of the council, when so made, shall be binding on and observed by the parties concerned.

Sec. 117. Special privileges to mail carriers, police officers, and firefighters.

(Repealed by Ord. No. 5575 (1993), § 1, adopted by electorate on November 2, 1993.)

Sec. 118. Issuance of stock.

Every ordinance granting any franchise shall prohibit the issuing of any stock on account thereof by any corporation holding or doing business under said franchise to an amount in excess of the sum which shall be fixed for said purpose by the council whenever requested so to do by the holder of said franchise. The said sum as fixed by the council shall consist of the following items only, to-wit:

- (a) The sum necessarily expended by the grantee of said franchise in obtaining the same from the city; and
- (b) The sum which is, in the opinion of the council, reasonably sufficient to compensate said grantee for the time and services given by the grantee in obtaining said franchise.

Any violation of the terms of this section shall at the option of the city operate as a forfeiture of said franchise.*

Sec. 119. Railroad to elevate or lower tracks.

The council shall by ordinance require any railroad company, whether operating by steam, electric, or other motive power, to elevate or lower any of its tracks running over, along, or across any of the streets or alleys of the city, whenever, in the opinion of the council, the public safety or convenience requires.

Sec. 120. City manager to maintain general supervision—reports—inspection.

The city manager shall maintain general supervision over all public utility companies in so far as they are subject to municipal control. The manager shall cause to be instituted such actions or proceedings as may be necessary to prosecute public utility companies for violations of law and may report to the council, recommending the revocation, cancellation, or annulment of all franchises that may have been granted by the city or which have become in whole or in part or which for any reason are illegal or void and not binding upon the city.

The manager shall require every person or corporation operating under a franchise or grant from the city to submit to the council within sixty days after the first day of January of each year an annual report, verified by the oath of the president, the treasurer, or the general manager thereof, showing in detail:

- (a) The amount of its authorized capital stock and the amount thereof issued and outstanding.
- (b) The amount of its authorized bonded indebtedness and the amount of its bonds and other forms of evidence of indebtedness issued and outstanding.
- (c) An itemized statement of its receipts and expenditures for the preceding calendar year.
- (d) The amount paid as dividends upon its stock and as interest upon its bonds and other indebtedness.
- (e) The amount paid as salaries to its officers and the amount paid as wages to its employees.
- (f) A full description of its property and franchises, stating in detail how each franchise claimed was acquired and the book value thereof; and
- (g) Such other information as may be required by the council.

Such reports shall be in the form and cover the period prescribed by the council; and the council shall have the power, either in person or by experts or employees duly authorized by it, to examine the books and affairs of any such person, persons, or corporation and to compel the production before it of books and papers pertaining to such reports or other matters.

Any such person, persons, or corporation failing to make any such reports shall be liable for the maximum fine provided in the ordinances of the city for a misdemeanor, and an additional fine for each and every day thereafter during which such person shall fail to file such a report, to be sued for and recovered in any court of competent jurisdiction.

The city manager shall have the power, either personally or through the city's inspectors or employees duly authorized by the council, to enter into or upon and to inspect the buildings, plants, power houses, and all properties of any such person, persons, or corporation and shall inspect the properties of such person, persons, or corporation at least once a year and shall immediately thereafter report to the council a detailed and complete statement of such inspection. (Amended by Ord. No. 7800 (2011), § 2, adopted by electorate on November 1, 2011.)*

Sec. 121. Oversight of franchise for use of water reserved to city.

Every franchise, right, or privilege which has been or which may be hereafter granted conveying any right, permission, or privilege to the use of the water belonging to the city or to its water system shall always be subject to the most comprehensive oversight, management, and control in every particular by the city; and the rights of the city to such control for municipal purposes are retained by the city in order that nothing shall ever be done by any grantee or assignee of any such franchise, right, or privilege which shall in any way interfere with the successful operation of the waterworks of the city, or which shall, or which shall tend to, divert, impair, or render the same inadequate for the complete performance of the trust for the people under which such waterworks are held by the city.

Sec. 122. License tax.

The city shall have the power to license or tax street cars, telephones, gas meters, electric meters, water meters, or any other similar device for measuring service, and also telephone, telegraph, electric light and power poles, subways, and wires. The said license or tax shall be exclusive of and in addition to all other lawful taxes upon the property of the holder thereof.

Sec. 123. Power to regulate rates and fares.

All power to regulate the rates, fares, and charges for service by public utility corporations is hereby reserved to the people, to be exercised by them by ordinance of the council or in the manner herein provided for initiating or referring an ordinance. Any right of regulation shall further include the right to require uniform, convenient, and adequate service to the public and reasonable extensions of such service and of such public utility works.

Sec. 124. City may purchase—procedure.

Every grant of a franchise or right shall provide that the city may, upon the payment therefor of its fair valuation to be made as provided in the grant, purchase and take over the property and plant of the grantee in whole or in part.

The procedure to effect such purchase shall be as follows:

When the council shall by resolution direct that the city manager shall ascertain whether any such property or part thereof should be acquired by the city, or in the absence of such action of the council, when a petition subscribed by ten per cent of the registered electors requesting that the city manager shall ascertain whether any such property or part thereof should be acquired by the city shall be filed with the clerk, the city manager shall forthwith carefully investigate said property and report to the council:

(a) At what probable cost said property may be acquired; and

(b) What, if any, probable additional outlays would be necessary to operate the same. (Amended by Ord. No. 7801 (2011), § 2, adopted by electorate on November 1, 2011.)

Sec. 125. Matters in charter not to impair right of council to insert other matters in franchise.

The enumeration and specification of particular matters in this charter which must be included in every franchise or grant shall never be construed as impairing the right of the council to insert in such franchise or grant such other and further matters, conditions, covenants, terms, restrictions, limitations, burdens, taxes, assessments, rates, rentals, charges, controls, forfeitures, or any other provision whatever, as the council shall deem proper to protect the interests of the people.

Sec. 126. Books of record and reference.

The city manager shall provide and cause to be kept in the office of the city clerk the following books of record and reference:

(a) A franchise record, indexed and of proper form, in which shall be transcribed accurate and correct copies of all franchises or grants by the city to any person, persons, or corporation owning or operating any public utility. The index of said record shall give the name of the grantee and thereafter the name of any assignee thereof. Said record shall be a complete history of all franchises granted by the city and shall include a comprehensive and convenient reference to actions, contests, or proceedings at law, if any, affecting the same.

(b) A public utility record, for every person, persons, or corporation owning or operating any public utility under any franchise granted by the city, into which shall be transcribed accurate and correct copies of each and every franchise granted by the city to said person, persons, or corporation, or which may be controlled or acquired by them or it, together with copies of all annual reports and inspection reports, as herein provided, and such other matters of information and public interest as the city manager may from time to time acquire. All annual and inspection reports shall be published once in one daily newspaper of general circulation published in the city or printed and distributed in pamphlet form, as the council may deem best, and in case annual reports are not filed and inspections are not made as provided, the city manager shall in writing report to the council the reasons therefor, which report shall be transcribed in the record of the person, persons, or corporation owning or controlling said franchise or grant and published in the city or printed and distributed in pamphlet form as the council may deem best. (Amended by Ord. No. 4773 (1983), § 1, adopted by electorate on November 8, 1983.)

The provisions of this section shall apply to all persons or corporations operating under any franchise now in force or hereafter granted by the city.

Sec. 127. Books of account of city-owned utilities—examinations.

The city, when owning any public utility, shall keep the books of account for such public utility distinct from other city accounts, and in such manner as to show the true and complete financial result of such city ownership, or ownership and operation, as the case may be. Such accounts shall be so kept as to show the actual cost to the city of the public utility owned; all cost of maintenance, extension, and improvement; all operating expenses of every description, in case of such city operation; the amounts set aside for sinking fund purposes; if water or other service shall be furnished for the use of such city owned or operated public utility without charge, the accounts shall show, as nearly as possible, the value of such service and also the value of such similar service rendered by the public utility to any other city department without charge; such accounts shall show reasonable allowance for interest, depreciation, and insurance, and also estimates of the amount of taxes that would be chargeable against such property if owned by a private corporation. The council shall cause to be printed annually for public distribution a report showing the financial results, in form as aforesaid, of such city ownership or ownership and operation. The accounts of such public utility, kept as aforesaid, shall be examined at least once a year by an expert accountant, who shall report to the council the result of the examination. Such expert accountant shall be selected in such manner as the council may direct, and said accountant shall receive for the services such compensation, to be paid out of the income or revenue from such public utility, as the council may prescribe.*

Sec. 128. Free water.

No free water service shall hereafter be given to any person, persons, firms, corporations, or institutions whatever other than the corporate City of Boulder.

Sec. 128A. Water not to be supplied to certain described areas; exceptions.

The City of Boulder shall not supply water for domestic, commercial, or industrial uses to land lying on the westward side of the following described line, except as specifically stated herein. This provision shall not deny city water to areas which were a part of the City of Boulder on the effective date of this measure, July 21, 1959, nor to taps being supplied by said city in other areas at said effective date, on July 21, 1959.

Said line begins at the intersection of the contour line of 5,750 feet U.S. Geological Survey datum with the north line of Section 30, Township 1 South, Range 70 West of the 6th P.M.; thence northerly along said contour line to the first intersection north of Baseline Road of this line and the Boulder city limits as they existed as of May 5, 1959; thence north along the Boulder city limits as said limits existed as of May 5, 1959, to the most northerly intersection of said city limits and Anderson Ditch; thence westerly along the Anderson Ditch to a point that bears south 82°23'07" west, 1,533.2 feet from the intersection of the centerline of Arapahoe Avenue and the north-south centerline of Section 36, Township 1 North, Range 71 West of the 6th P.M.; thence south 00°31'00" west, 113.9 feet; thence north 77°32'00" west, 407.6 feet; thence south 22°29'20" west, 123.8 feet; thence north 65°48'00" west, 297.4 feet; thence north 07°09'00" east, 176 feet, more or less to the contour line of 5,454 feet U.S. Geological Survey datum; thence westerly along said contour line to its intersection with Anderson Ditch; thence westerly along Anderson Ditch to the western boundary of Section 36, Township 1 North, Range 71 West of the 6th P.M.; thence due north to the middle line of Colorado Highway No. 119; thence easterly along the middle line of said Colorado Highway No. 119 to a point where said middle line intersects the Farmers Ditch; thence northeasterly along the Farmers Ditch to its intersection with the Boulder city limits as they existed as of May 5, 1959; thence northerly along said Boulder city limits to their intersection with Alpine Avenue projected westerly; thence easterly on said city limits to a point 150 feet west of the center of 3rd Street; thence north to the westward projection of Kalmia Avenue; thence westerly along this projection to its intersection with the contour line of 5,650 feet U.S. Geological Survey datum; thence northerly on said contour line 5,650 feet U.S. Geological Survey datum to its intersection with the north boundary of Section 13, Township 1 North, Range 71 West of the 6th P.M.; thence westerly on this line to its intersection with the contour line of 5,750 feet U.S. Geological Survey datum; thence north indefinitely on said contour line 5,750 feet U.S. Geological Survey datum.

Provided, however, that notwithstanding the above-stated restrictions on the supply of water service, city water service can be extended to the following described tract or tracts of land, if and only if said tract or tracts of land are used to carry out the purposes and functions of the University Corporation for Atmospheric Research, the National Center for Atmospheric Research or the National Science Foundation:

- (a) Tract No. 1: The west 2,750 feet of Section 7, Township 1 South, Range 70 West of the 6th P.M.

(b) Tract No. 2: The northeast quarter and the southeast quarter of Section 12, Township 1 South, Range 71 West of the 6th P.M.

Provided further, that the city water service can be extended to the following described tract or tracts of land:

Tract A: Lots 16, 16A, 17, 17A, 18 and 18A, all in Block One, Canon Park Subdivision, County of Boulder, according to the recorded plat thereof, provided that said service shall be restricted to service for one single-family residence.

Provided, further, that subject to certain conditions contained in a Memorandum of Agreement, which may be modified by the property owner and the City Council, but which shall provide, at a minimum, for the dedication of a Scenic Easement restricting the size, height, location, extent, and use of all structures on the property to the conditions existing as of May 21, 1991, water service may be extended to the restaurant known as the Flagstaff House and to the single-family residence located on the following described land, consisting of Tracts A and B, to wit:

Tract A: A tract of land located in the south half of the northwest quarter of Section 36, Township 1 North, Range 71 West of the 6th P.M., County of Boulder, State of Colorado, described as follows:

Commencing at the center of said Section 36, from which the north quarter corner of said Section 36 bears north 00°40'20" west, thence south 81°48'22" west, 752.87 feet to the approximate centerline of Boulder County, Road No. 56 (Flagstaff Road); thence north 00°26'02" west, 300.85 feet to the TRUE POINT OF BEGINNING;

Thence south 89°30'15" west, 442.67 feet;

Thence north 00°11'44" west, 245.00 feet;

Thence south 89°30'15" west, 180.00 feet;

Thence south 00°11'44" east, 445.00 feet to the east-west centerline of said Section 36;

Thence north 89°30'15" east, 623.50 feet along the east-west centerline of said Section 36 to a point on a line from which the true point of beginning bears north 00°26'02" west;

Thence north 00°26'02" west, 200 feet to the TRUE POINT OF BEGINNING.

Tract B: A tract of land located in the northeast quarter of the southwest quarter of Section 36, Township 1 North, Range 71 West of the 6th P.M., County of Boulder, State of Colorado, described as follows:

Commencing at the center of said Section 36, from which the north quarter corner of said Section 36 bears north 00°40'20" west, thence south 81°48'22" west, 752.87 feet to the approximate centerline of Boulder County Road No. 56 (Flagstaff Road) and the TRUE POINT OF BEGINNING;

Thence south 58°31'06" west, 28.00 feet along the approximate centerline of said Boulder County Road No. 56;

Thence south 60°49'49" west, 94.05 feet along the approximate centerline of said Boulder County Road No. 56 to a point of curve to the left;

Thence southwesterly, 68.54 feet along the arc of said curve and along the approximate centerline of said Boulder County Road No. 56, said arc having a radius of 107.03 feet, a central angle of 36°41'25" and being subtended by a chord that bears south 42°29'07" west, 67.37 feet;

Thence south 24°08'24" west, 57.22 feet along the approximate centerline of said Boulder County Road No. 56;

Thence north 20°31'59" west, 113.85 feet;

Thence north 37°03'30" west, 138.42 feet;

Thence north 54°30'35" west, 64.55 feet;

Thence north 81°23'16" west, 35.55 feet to the east-west centerline of said Section 36;

Thence north 89°30'15" east, 385.21 feet along the east-west centerline of said Section 36 to a point on a line, from which the True Point of Beginning bears south 00°26'02" east;

Thence south 00°26'02" east, 100.85 feet to the TRUE POINT OF BEGINNING.

Provided, further, that this section 128A shall not apply to water supplied to fire departments or districts, Boulder County, the State of Colorado, or the United States for immediate use for firefighting purposes and for storage in fire trucks and in cisterns for such purposes, from up to three locations on the Lakewood Pipeline at the Cold Spring Road/Nederland area, the Primos Hill area, and the Sugar Loaf area in addition to the established locations of the Betasso Water Treatment Plant and Lakewood Reservoir, with an aggregate limit of 45,000 gallons of storage in cisterns, located at the point of supply, pursuant to policies and conditions approved by the City Council, consistent with the intent of this section. (Added by Ord. No. 2244 (1959), § 1, adopted by electorate on July 21, 1959. Amended by Ord. No. 2391 (1961), § 1, adopted by electorate on January 31, 1961. Further amended by Ord. No. 4452 (1979), § 1, adopted by electorate on November 6, 1979. Further amended by Ord. No. 4606 (1981), § 1, adopted by electorate on November 3, 1981. Further amended by Ord. No. 5402 (1991), § 1, adopted by electorate on November 5, 1991. Further amended by Ord. No. 7076 (2000), § 1, adopted by electorate on November 7, 2000.)

Sec. 129. Franchises in parks.

(Repealed by Ord. No. 2392 (1961), § 1, adopted by electorate on January 31, 1961.)

**ARTICLE IX.
ADVISORY COMMISSIONS**

Sec. 130. General provisions concerning advisory commissions.

At any time after the organization of the council elected under the provisions of this charter, the council by ordinance may create and provide for such advisory commissions as it may deem advisable; provided, that a library commission is hereby created, and the council shall, within ninety days from its organization, appoint the members thereof.

Each of such commissions, including the library commission, shall be composed of five electors, appointed by the council, not all of one sex, well known for their ability, probity, public spirit, and particular fitness to serve on such respective commissions. When first constituted, the council shall designate the terms for which each member is appointed so that the term of one commissioner shall expire on December 31 of each year; and thereafter the council shall by March of each year appoint one member to serve for a term of five years. The council shall have the power to remove any commissioner for non-attendance to duties or for cause. All vacancies shall be filled by the council. When first appointed and annually thereafter following the council's appointment of the commissioner, each commission shall organize by appointing a chair, a vice-chair, and a secretary; all commissioners shall serve without compensation, but the secretary of any commission, if not a member, may receive a salary to be fixed by the council; any commission shall have power to make rules for the conduct of its business. All commissioners shall serve until their successors are appointed.

All commissions shall hold regular monthly meetings. Special meetings may be called at any time upon due notice by three members. Three members shall constitute a quorum, and the affirmative vote of at least three members shall be necessary to authorize any action by the commission.

All commissions shall keep accounts and records of their respective transactions, and at the end of each quarter or more often, if requested by the council, and at the end of each fiscal year shall furnish to the council a detailed report of receipts and expenditures and a statement of other business transacted.

The chair of a commission shall preside at the meetings thereof and sign, execute, acknowledge, and deliver for the commission all contracts and writings of every kind required or authorized to be signed or delivered by the commission. The signature of the chair shall be attested by the secretary.

The commissions shall have the right to the floor of the council to speak on plans and expenditures proposed or to appeal for a decision in a failure to agree with another commission or the manager.

Wherever there shall be suitable accommodations in the city building, the offices of the commissions shall be maintained there. (Amended by Ord. No. 6007 (1998), § 2, adopted by electorate on November 3, 1998.)*

Civil Service Commission

Sec. 131. Council may create.

(Repealed by Ord. No. 5575 (1993), § 1, adopted by electorate on November 2, 1993.)

Library Commission

Sec. 132. General powers of library commission.

Under the direction of the city manager the library commission shall have control of the public library, branches thereof, and reading rooms that may at present exist or that may be hereafter established or acquired; and all leases 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.

Sec. 133. Title and custody of property.

The title to all property, real and personal, now owned or hereafter acquired by purchase, gift, devise, bequest, or otherwise for the purpose of the library or reading rooms, when not inconsistent with the terms of its acquisition, shall vest in the City of Boulder, and the commission shall take charge of and have the management and custody of the same.

Sec. 134. Powers of the commission acting with the city manager.

The commission, with the approval of the city manager, and by a majority vote of all its members, to be recorded in its minutes with ayes and noes, shall have power:

- (a) To make and enforce all rules, regulations, and bylaws necessary for the administration, government, and protection of the library and reading rooms and branches thereof and all property belonging thereto or that may be loaned thereto.
- (b) To administer any trust declared or created for such library and reading rooms and branches thereof and provide memorial tablets and niches to perpetuate the memory of those who may make valuable donations thereto.
- (c) To define the powers and prescribe the duties of all the officers and employees.
- (d) To purchase books, journals, publications, and other supplies.
- (e) To order the drawing and payment upon vouchers, certified by the chair and secretary to the city manager, of money from the library funds, for any liability or authorized expenditure.
- (f) To establish such branches of the library and reading rooms as the growth of the city may justify.*

Sec. 135. Library appropriation.

The city council shall make an annual appropriation, which shall amount to not less than the return of one-third of a mill tax levied upon each dollar of assessed valuation of all taxable property in the City of Boulder. All revenue from such tax, together with all other moneys collected by the librarian or that may be derived by gift, devise, bequest, or otherwise, for library purposes, shall be paid into the city treasury and be designated as the "Library Fund"; and be applied to the purposes herein authorized. If such payment into the treasury should be inconsistent with the conditions and terms of any such gift, devise, or bequest, the library commission shall provide for the safety of the same and the application thereof to the use of the library, branches thereof, and reading rooms, in accordance with the terms and conditions of such gift, devise, or bequest.

Sec. 136. Library reports.

In addition to the matters required by this charter to be reported annually by the library commission, there shall also be a statement of the number of books and periodicals on hand, the number of visitors, and such other information as the city manager may deem to be of general interest.

**ARTICLE X.
MISCELLANEOUS PROVISIONS**

Sec. 137. Amendments.

This charter may be amended as provided in article XX of the constitution of the State of Colorado.

Sec. 138. Persons incapacitated to hold office.

No person holding a county office, except a duly elected and qualified justice of the peace, shall hold any elective or appointive office under this charter; and no member of any advisory department or commission shall hold any other office under this charter except as herein provided.

Sec. 139. Eight-hour day.

(Repealed by Ord. No. 5575 (1993), § 1, adopted by electorate on November 2, 1993.)

Sec. 140. When charter shall take effect.

For the purpose of nominating and electing officers as provided herein, this charter shall take effect from and after the time of its filing in the office of the secretary of state as required by article XX of the constitution. For the purpose of exercising the powers of the city, establishing departments, divisions, and offices, and distributing the functions thereof, and for all other purposes, it shall take effect on January 1, 1918, except as herein provided.

Sec. 141. License for sale of liquor forbidden.

(Repealed by Ord. No. 3287 (1967), § 2, adopted by electorate on November 7, 1967.)

Sec. 142. Salaries of officers and employees.

The compensation of all appointive officers and salaried employees shall be fixed by the council.

Sec. 143. Oath of office.

Every officer or salaried employee shall, before entering upon the duties of the office, take, subscribe, and file with the city clerk an oath or affirmation to support the constitution of the United States, the constitution of the State of Colorado, and the charter and ordinances of the City of Boulder, and faithfully to perform the duties of the position upon which said officer or employee is about to enter.*

Sec. 144. Official bonds.

Until the council shall otherwise by ordinance provide, the general laws of the State of Colorado relative to surety bonds shall remain in full force and effect and shall apply to any office created or authorized by this charter. Any officer or employee required to give bond shall not be qualified for the office or employment until such bond has been duly approved by the council and filed with the city clerk, who shall have custody thereof.*

Sec. 145. Publicity of accounts and records.

All accounts and records of every office and department of the city shall be open to the public at all reasonable times under reasonable regulations, except such records and documents where the disclosure of the information contained therein would tend to defeat the lawful purpose of the officer or department withholding them from access to the public.

Sec. 146. Proof of charter and ordinances.

This charter or any ordinance may be proved by a copy thereof, certified to by the city clerk under the seal of the city; or when printed in book or pamphlet form, and purporting to be printed by authority of the city, the same shall be received in evidence in all courts without further proof.

Sec. 147. Terms of present officers terminate, when.

(Repealed by Ord. No. 5575 (1993), § 1, adopted by electorate on November 2, 1993.)

Sec. 148. Outgoing officers.

(Repealed by Ord. No. 5575 (1993), § 1, adopted by electorate on November 2, 1993.)

Sec. 149. Present ordinances continue in force.

(Repealed by Ord. No. 5575 (1993), § 1, adopted by electorate on November 2, 1993.)

Sec. 150. Definition of misdemeanor.

The term "misdemeanor" as used in this charter shall mean a violation thereof or of any ordinance of which the municipal court shall have jurisdiction and shall not have the meaning attached to it in the statutes of the state. (Amended by Ord. No. 5575 (1993), § 1, adopted by electorate on November 2, 1993.)

Sec. 151. Penalty for violation.

Any person who shall violate any of the provisions of this charter for the violation of which no punishment has been provided herein shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by the fine and imprisonment applicable to a misdemeanor occurring within the city. (Amended by Ord. No. 7800 (2011), § 2, adopted by electorate on November 1, 2011.)

Sec. 152. Construction of words.

Whenever such construction is applicable, words used in this charter importing singular or plural number may be construed so that one number includes both; and the word person may extend to and include firm and corporation; provided, that these rules of construction shall not apply to any part of this charter containing express provisions excluding such constructions or where the subject matter or context is repugnant thereto. (Amended by Ord. No. 4602 (1981), § 1, adopted by electorate on November 3, 1981.)*

Sec. 153. Construction of charter.

This charter shall be construed as a whole and shall receive a liberal construction to carry out the intents and purposes herein set forth. In the event any section or part of a section shall be declared unconstitutional or invalid, the validity of the remaining sections and parts of sections shall not be affected thereby.

**ARTICLE XI.
PARKS AND RECREATION**

Sec. 154. Creation of a department of parks and recreation.

There shall be a department of parks and recreation.

As used in this charter, "park land," "park property," and "recreation facilities" means all lands donated to the city for park or recreation purposes, acquired by the city through purchase, dedication, deed, or condemnation for park or recreation purposes, or purchased or improved in whole or in part with funds from the permanent park and recreation fund. (Added by Ord. No. 2392 (1961), § 1, adopted by electorate on January 31, 1961. Amended by Ord. No. 5574 (1993), § 1, adopted by electorate on November 2, 1993.)

Sec. 155. Functions of the department.

Under the direction, supervision and control of the city manager, the department of parks and recreation:

- (a) Shall supervise, administer, and maintain all park property and recreation facilities.
- (b) Shall supervise, administer, and execute all park and recreation programs, plans, functions, and activities of the city.
- (c) Shall prepare and submit to the parks and recreation advisory board written recommendations on those matters where this article requires a recommendation from said board prior to council or department action.
- (d) May, at the request of the parks and recreation advisory board, prepare and submit to the board information and recommendations on such park and recreation matters as are not provided for by (c) above.
- (e) May request advice on any park and recreation matter from the parks and recreation advisory board. (Added by Ord. No. 2392 (1961), § 1, adopted by electorate on January 31, 1961.)

Sec. 156. Organization of the department.

The chief administrative officer of the department shall be the director of parks and recreation. The director shall be appointed by the city manager for an indefinite period and shall be removable by the city manager. The said director, working under the direction, supervision, and control of the city manager, shall be responsible for performing and carrying out the activities of the department and for supervising all department personnel and equipment.

The city manager may appoint a superintendent of parks and a superintendent of recreation. Any such appointments shall be for an indefinite period, and said superintendents shall be removable by the city manager.

The superintendent of parks, working under the direction, supervision, and control of the director of parks and recreation, shall perform all activities of the department related to parks.

The superintendent of recreation, working under the direction, supervision, and control of the director of parks and recreation, shall perform all activities of the department related to recreation.

The city manager may employ such other subordinate personnel as the manager determines are required to carry out the activities of the department. (Added by Ord. No. 2392 (1961), § 1, adopted by electorate on January 31, 1961.)*

Sec. 157. Creation of the parks and recreation advisory board.

There shall be a parks and recreation advisory board consisting of seven members appointed by the city council. The members of the board shall be residents of the city, shall not hold any other office in the city, and shall serve without pay. The council may appoint such ex-officio members to the board for such terms as it deems advisable. (Added by Ord. No. 2392 (1961), § 1, adopted by electorate on January 31, 1961.)

Sec. 158. Term of office of board members—removal—vacancies.

The term of each board member shall be five years, provided, however, that in appointing the original members of the board, the city council shall designate one member to serve until December 31, 1961, two members to serve until December 31, 1962, one member to serve until December 31, 1963, two members to serve until December 31, 1964, and one member to serve until December 31, 1965.

The council may remove any board member who displays lack of interest or who fails to attend board meetings for three consecutive months without formal leave of absence.

The council shall fill all vacancies. (Added by Ord. No. 2392 (1961), § 1, adopted by electorate on January 31, 1961.)

Sec. 159. Organization and procedure of the board.

The board shall choose a chair and a secretary. The director of parks and recreation may be designated as secretary by the board.

The board shall have regular meetings once a month. Special meetings may be called at any time by three members of the board upon giving of at least twenty-four hours' notice of said special meeting to the board members.

Four members of the board shall constitute a quorum. Unless otherwise expressly provided herein, an affirmative vote of a majority of the members present shall be necessary to authorize any action by the board.

The board shall keep minutes and records of its meetings and transactions.

Except for such provisions as are herein expressly provided for, the board shall have power to make reasonable rules for the conduct of its business. (Added by Ord. No. 2392 (1961), § 1, adopted by electorate on January 31, 1961.)*

Sec. 160. Functions of the board.

The parks and recreation advisory board shall not perform any administrative functions unless expressly provided in this charter. The board:

(a) Shall make recommendations to the council concerning the disposal of park lands pursuant to Section 162 of this charter.

(b) Shall make recommendations to the council concerning any expenditure or appropriation from the permanent park and recreation fund pursuant to Section 161 of this charter.

(c) Shall make recommendations to the council concerning the grant or denial of any license or permit in or on park lands, pursuant to Section 164 of this charter.

(d) Shall review the city manager's proposed annual budget as it relates to park and recreation matters and submit its recommendations concerning said budget to the council.

(e) May, at the request of the council or the department of parks and recreation, prepare and submit to the council, city manager, or the department recommendations on such park and recreation matters as are not provided for by paragraphs (a), (b), (c) and (d) above.

(f) May request information and recommendations from the department pursuant to the provisions of Section 155(d) above.

The city council and the parks and recreation department shall not act on any of the matters set forth in paragraphs (a), (b), (c) and (d) above without securing a recommendation from the board as above provided; however, the council and department may act on the matters set forth in paragraphs (c) and (d) above without a board recommendation if the board fails to submit its recommendation to the council within thirty days after request therefor is made by the council.

The board's recommendation shall not be binding upon the city council unless expressly provided by this charter. (Added by Ord. No. 2392 (1961), § 1, adopted by electorate on January 31, 1961.)

Sec. 161. Permanent park and recreation fund.

There shall be a permanent park and recreation fund. This fund shall consist of the following:

(a) An annual levy of nine-tenths of one mill on each dollar of assessed valuation of all taxable property within the city.

(b) Gifts and donations to the fund.

(c) Proceeds of the sale of any park or recreation property or equipment whether real, personal, or mixed.

(d) Appropriations made to the fund by the city council.

Expenditures from this fund shall be made only upon the favorable recommendation of the parks and recreation advisory board and appropriation by the council. Said fund shall not be used for any purpose other than the acquisition of park land or the permanent improvement of park and recreation facilities.

Any portion of the fund remaining unexpended at the end of any fiscal year shall not in any event be converted into the general fund nor be subject to appropriation for general purposes. Money appropriated from the fund which is not expended in whole or in part shall be returned to the fund and shall not be subject to appropriation for general purposes. Money appropriated from the general fund for park or recreational purposes which is not expended for the purpose designated shall be returned to the general fund. (Added by Ord. No. 2392 (1961), § 1, adopted by electorate on January 31, 1961.)

Sec. 162. Disposal of park properties.

Park lands may be disposed of by the city council, but only upon the affirmative vote of at least four members of the parks and recreation advisory board. An advisory recommendation, which shall not be binding on the council, shall be obtained from the planning board prior to the disposition or lease of park lands. (Added by Ord. No. 2392 (1961), § 1, adopted by electorate on January 31, 1961. Amended by Ord. No. 5574 (1993), § 1, adopted by electorate on November 2, 1993.)

Sec. 163. Acquisition of park land.

The council may acquire park land for the city, provided that the council shall not make any expenditure of money for the purpose of acquiring park lands without first securing a recommendation from the planning board and the parks and recreation advisory board. Provided, however, that the council can act without such recommendations if said boards fail to submit their recommendation to the council within thirty days after request therefor is made by the council. The recommendations of the said boards shall not be binding on the council except that the recommendation of the parks and recreation advisory board concerning expenditures from the permanent park and recreation fund shall be binding on the council pursuant to Section 161 of this charter. (Added by Ord. No. 2392 (1961), § 1, adopted by electorate on January 31, 1961.)

Sec. 164. Franchises, leases, permits, and licenses in parks.

No franchise shall ever be granted in or on park lands except on vote of the registered tax-paying electors in accordance with the provisions of article VIII of the charter of the city.

The council may by motion grant leases, permits, or licenses in or on park lands, but only upon the affirmative vote of at least four members of the parks and recreation advisory board. The council may, by ordinance, delegate all or any part of this authority to the parks and recreation advisory board to approve such leases, permits, or licenses. The parks and recreation advisory board may, by motion, subdelegate all or any part of its delegated authority to approve such leases, permits, or licenses to the city manager. The city manager may enter into standard commercial licensing agreements for automatic food vending machines on park lands without the approval of the parks and recreation advisory board or the council.

The term of any license or permit granted hereunder shall not exceed five years, and any such license or permit so granted shall be revocable by the council at its pleasure at any time, whether such right to revoke be expressly reserved in such permit or license. (Added by Ord. No. 2392 (1961), § 1, adopted by electorate on January 31, 1961. Amended by Ord. No. 5574 (1993), § 1, adopted by electorate on November 2, 1993. Further amended by Ord. No. 7801 (2011), § 2, adopted by electorate on November 1, 2011.)

Sec. 165. Transfer of assets, liabilities, and surplus from permanent park fund to the permanent parks and recreation fund.

(Added by Ord. No. 2392 (1961), § 1, adopted by electorate on January 31, 1961.)

(Repealed by Ord. No. 5575 (1993), § 1, adopted by electorate on November 2, 1993.)

Sec. 166. Repeal of inconsistent charter provisions.

(Added by Ord. No. 2392 (1961), § 1, adopted by electorate on January 31, 1961.)

(Repealed by Ord. No. 5575 (1993), § 1, adopted by electorate on November 2, 1993.)

Sec. 167. Severability.

(Added by Ord. No. 2392 (1961), § 1, adopted by electorate on January 31, 1961.)

(Repealed by Ord. No. 5575 (1993), § 1, adopted by electorate on November 2, 1993.)

Sec. 168. Conflicting charter provisions declared inapplicable.

(Added by Ord. No. 2392 (1961), § 1, adopted by electorate on January 31, 1961.)

(Repealed by Ord. No. 5575 (1993), § 1, adopted by electorate on November 2, 1993.)

Sec. 169. Article self-executing.

(Added by Ord. No. 2392 (1961), § 1, adopted by electorate on January 31, 1961.)

(Repealed by Ord. No. 5575 (1993), § 1, adopted by electorate on November 2, 1993.)

**ARTICLE XII.
OPEN SPACE**

Sec. 170. Creation of a department of open space.

There shall be a department of open space, which shall be responsible for all open space land and other property associated therewith.

As used in this charter, "open space land" shall mean any interest in real property purchased or leased with the sales and use tax pledged to the open space fund pursuant to the vote of the electorate on November 7, 1967, or proceeds thereof, any interest in real property dedicated to the city for open space purposes, and any interest in real property that is ever placed under the direction, supervision, or control of the open space department, unless disposed of as expressly provided in section 177 below. (Added by Ord. No. 4996 (1986), § 1, adopted by electorate on November 4, 1986.)

Sec. 171. Functions of the department.

Under the direction, supervision, and control of the city manager, there shall be a director of the department of open space, who may also serve as the city's director of real estate. Subject to the limitations set forth in section 175 below, the department of open space:

(a) Shall acquire, supervise, administer, preserve, and maintain all open space land and other property associated therewith and may grant nonexclusive licenses and permits and agricultural leases for crop or grazing purposes for a term of five years or less;

(b) Shall supervise, administer, and execute all open space programs, plans, functions, and activities of the city;

(c) Shall prepare and submit to the open space board of trustees written recommendations on those matters on which this article requires a recommendation from said board prior to council or department action;

(d) May, at the request of the open space board of trustees, prepare and submit to the board information and recommendations on such open space matters as are not provided for by (c) above; and

(e) May request advice on any open space matter from the open space board of trustees. (Added by Ord. No. 4996 (1986), § 1, adopted by electorate on November 4, 1986. Amended by Ord. No. 7155 (2001), § 1, adopted by electorate on November 6, 2001.)

Sec. 172. Creation of the open space board of trustees.

There shall be an open space board of trustees consisting of five members appointed by the city council. The members of the board shall be residents of the city, shall not hold any other office in the city, and shall serve without pay. (Added by Ord. No. 4996 (1986), § 1, adopted by electorate on November 4, 1986.)

Sec. 173. Term of office of board members—removal—vacancies.

The term of each member shall be five years; provided, however, that in appointing the original members of the board, the city council shall continue the terms of the current members and shall stagger the initial terms so that one board member's term expires in each year.

Five members of the council may remove any board member for cause.

The council shall fill all vacancies. (Added by Ord. No. 4996 (1986), § 1, adopted by electorate on November 4, 1986.)

Sec. 174. Organization and procedure of the board.

The board shall choose a chair and a secretary. The director of the department of open space may be designated as secretary by the board.

The board shall have regular meetings once a month. Special meetings may be called at any time by three members of the board upon the giving of at least 24 hours' notice of said special meeting to the board members.

Three members of the board shall constitute a quorum. An affirmative vote of a majority of the members present shall be necessary to authorize any action by the board, except as otherwise expressly provided herein.

The board shall keep minutes and records of its meetings and transactions.

Except as otherwise expressly provided herein, the board shall have power to make rules for the conduct of its business. (Added by Ord. No. 4996 (1986), § 1, adopted by electorate on November 4, 1986.)

Sec. 175. Functions of the board.

The open space board shall not perform any administrative functions unless expressly provided in this charter. The board:

(a) Shall make recommendations to the council concerning any proposed disposal of open space lands pursuant to section 177 below;

(b) Shall make recommendations to the council concerning any expenditure or appropriation from the open space fund pledged pursuant to the vote of the electorate on November 7, 1967, or proceeds of property acquired with the assets of the fund;

(c) Shall make recommendations to the council concerning any land that is to be placed under the direction, supervision, or control of the department of open space, including, without limitation, recommendations concerning use policies on, planned uses of, and restrictions on uses of, open space land;

(d) Shall make recommendations to the council concerning the open space program;

(e) Shall review the open space elements of the Boulder Valley Comprehensive Plan and make recommendations concerning any open space-related changes to the plan;

(f) Shall pursue vigorously the implementation of the open space elements of the Boulder Valley Comprehensive Plan and the acquisition of additional property required to fulfill the goals of the open space program;

(g) Shall review the city manager's proposed budget as it relates to open space matters and submit its recommendations concerning said budget to the council;

(h) Shall make recommendations concerning the grant or denial of any nonexclusive license or permit in or on open space land;

(i) Shall make recommendations concerning the incurring of any indebtedness payable from the open space fund, pursuant to section 97 above; and

(j) May prepare and submit to the council, the city manager, or the open space department recommendations on any other matter relating to the open space program, and may request and obtain from the open space department and the city manager information relating thereto.

The city council, the city manager, and the open space department shall not act on any of the matters set forth in paragraphs (a) through (i) above without securing a recommendation from the board as above provided; however, the council, the manager, and the department may act on the matters set forth in paragraphs (b) through (i) above without a board recommendation if the board fails to submit its recommendation within thirty days after request therefor is made by the council.

The board's recommendation shall not be binding upon the city council, except as expressly provided in section 177 below. (Added by Ord. No. 4996 (1986), § 1, adopted by electorate on November 4, 1986.)

Sec. 176. Open space purposes–Open space land.

Open space land shall be acquired, maintained, preserved, retained, and used only for the following purposes:

(a) Preservation or restoration of natural areas characterized by or including terrain, geologic formations, flora, or fauna that are unusual, spectacular, historically important, scientifically valuable, or unique, or that represent outstanding or rare examples of native species;

(b) Preservation of water resources in their natural or traditional state, scenic areas or vistas, wildlife habitats, or fragile ecosystems;

(c) Preservation of land for passive recreational use, such as hiking, photography or nature studies, and, if specifically designated, bicycling, horseback riding, or fishing;

(d) Preservation of agricultural uses and land suitable for agricultural production;

(e) Utilization of land for shaping the development of the city, limiting urban sprawl, and disciplining growth;

(f) Utilization of non-urban land for spatial definition of urban areas;

(g) Utilization of land to prevent encroachment on floodplains; and

(h) Preservation of land for its aesthetic or passive recreational value and its contribution to the quality of life of the community.

Open space land may not be improved after acquisition unless such improvements are necessary to protect or maintain the land or to provide for passive recreational, open agricultural, or wildlife habitat use of the land. (Added by Ord. No. 4996 (1986), § 1, adopted by electorate on November 4, 1986.)

Sec. 177. Disposal of open space land.

No open space land owned by the city may be sold, leased, traded, or otherwise conveyed, nor may any exclusive license or permit on such open space land be given, until approval of such disposal by the city council. Such approval may be given only after approval of such disposal by the affirmative vote of at least three members of the open space board of trustees after a public hearing held with notice published at least ten days in advance in a newspaper of general circulation in the city, giving the location of the land in question and the intended disposal thereof. No open space land owned by the city shall be disposed of until sixty days following the date of city council approval of such disposal. If, within such sixty-day period, a petition meeting the requirements of Section 45 above and signed by registered electors of the city to the number of at least five percent of the registered electors of the city as of the day the petition is filed with the city clerk,

requesting that such disposal be submitted to a vote of the electors, such disposal shall not become effective until the steps indicated in Sections 46 and 47 above have been followed.

This section shall not apply to agricultural leases for crop or grazing purposes for a term of five years or less.

This section is to be construed liberally in favor of providing opportunities for the citizens of the city to refer measures proposing the disposal of any open space land. (Added by Ord. No. 4996 (1986), § 1, adopted by electorate on November 4, 1986.)

ARTICLE XIII **LIGHT AND POWER UTILITY**

Sec. 178. Creation, purpose and intent.

(a) The city council, at such time as it deems appropriate, subject to the conditions herein, is authorized to establish, by ordinance, a public utility under the authority in the state constitution and the city charter to create light plants, power plants, and any other public utilities or works or ways local in use and extent for the provision of electric power. The city council shall establish a light and power utility only if it can demonstrate, with verification by a third-party independent expert, that the utility can acquire the electrical distribution system in Boulder and charge rates that do not exceed those rates charged by Xcel Energy at the time of acquisition and that such rates will produce revenues sufficient to pay for operating expenses and debt payments, plus an amount equal to twenty-five percent (25%) of the debt payments, and with reliability comparable to Xcel Energy and a plan for reduced greenhouse gas emissions and other pollutants and increased renewable energy; and

(b) The governing body of the electric utility enterprise shall be the city council. The council may, by ordinance, delegate responsibility to the electric utilities board or the city manager as appropriate.

(c) The people of Boulder seek electric power supplied in a reliable, fiscally sound, and environmentally responsible manner. Therefore, the utility will be operated according to the following guiding principles.

- (1) **Reliable Energy:** Community safety, convenience, and prosperity all depend on the reliable delivery of electric power. The utility will deliver reliable electric power. The utility's foremost responsibilities will be to provide electric power that is high quality and dependable, support economic vitality, prevent service outages, and respond promptly to any service outage.
- (2) **Fiscal Responsibility:** The cost of electric power is a significant portion of business and household budgets. The utility will operate in a fiscally responsible manner, always being mindful that every expenditure will be reflected in customers' rates and will affect household budgets and business profitability. The utility will, while always honoring its obligations to bondholders, strive to maintain rate parity with any investor-owned utility whose service area would include the City of Boulder.
- (3) **Clean Energy:** Climate change and diminishing fossil fuel supplies, combined with the high cost of those fuels, are significant factors leading to the creation of the utility. The utility will strive to reduce reliance on fossil fuels, focus on sustainable alternatives, and seek new opportunities for producing clean energy.
- (4) **Ratepayer Equity:** The utility will direct its efforts to promote ratepayer equity in all aspects of its operations. Rates charged by the utility will be designed to create a fair and equitable distribution among all users of the costs, replacement, maintenance, expansion, operations of facilities, energy, and energy conservation programs for the safe and efficient delivery of electric power to city residents and other customers. The utility will consider the effects of its programs, policies, and rates in the development of programs for low-income customers.
- (5) **Environmental Stewardship:** Preserving and protecting our natural environment goes well beyond producing clean energy. The utility will be a good environmental steward by working to reduce the environmental impact of its operations, including working to reduce the demand for electricity. Energy and power that is produced in an environmentally responsible manner requires that the city balance environmental factors as an integral component of planning, design, construction, and operational decisions.

- (6) Enterprise: The city will deliver electric power services by means of an enterprise, as that term is defined by Colorado law. The city further declares its intent that the city's electric utility enterprise be operated and maintained so as to exclude its activities from the application of Article X, Section 20 of the Colorado Constitution. (Added by Ord. No. 7804 (2011), § 2, adopted by electorate on November 1, 2011.)

Section 179. Definitions.

Unless the context specifically indicates otherwise, the following words and phrases shall have the following meanings as used in this article:

- (a) "Electric Utility Activity" includes, but is not limited to, the provision of electric power to customers within its service area.
- (b) "Electric Utility Enterprise" means the electric utility business now or hereafter owned by the city, which business receives under ten percent (10%) of its annual revenues in grants from all Colorado state and local governments combined and which is authorized to issue its own revenue bonds pursuant to this article or other applicable law.
- (c) "Electric Utility Facilities" means all real and personal property utilized by the city in connection with the generation, transmission, provision distribution and conservation of energy, electricity, light and power for the city, now or hereafter owned or operated by the city.
- (d) "Grant" means any direct cash subsidy or other direct contribution of money from the state or any local government in Colorado which is not required to be repaid. "Grant" does not include:
- (1) any indirect benefit conferred upon the electric utility enterprise from the state or any local government in Colorado;
 - (2) any revenues resulting from rates, fees, assessments, or other charges imposed by the electric utility enterprise for the provision of goods or services by such enterprise; or
 - (3) any federal funds, regardless of whether such federal funds pass through the state or any local government in Colorado prior to receipt by the electric utility enterprise. (Added by Ord. No. 7804 (2011), § 2, adopted by electorate on November 1, 2011.)

Section 180. Powers of the electric utility enterprise.

In addition to any of the powers it may have by virtue of any of the applicable provisions of state law, this Charter, and the Code, the electric utility enterprise shall have the power under this article:

- (a) to acquire by gift, purchase, lease, or exercise of the right of eminent domain, to construct, to reconstruct, to improve, to better and to extend electric utility facilities, wholly within or wholly without or partially within and partially without the territorial boundaries of the city, and to acquire in the name of the city by gift, purchase, or the exercise of the right of eminent domain lands, easements, and rights in land in connection therewith;
- (b) to operate and maintain electric utility facilities for its or the city's own use and for the use of public and private consumers and users within and without the territorial boundaries of the city;
- (c) to accept federal funds under any federal law in force to aid in financing the cost of engineering, architectural, environmental, or economic investigations or studies, surveys, designs, plans, working drawings, specifications, procedures, or other action preliminary to the construction, operation or remediation of electric utility facilities;
- (d) to accept federal funds under any federal law in force for the construction, operation or remediation of electric utility facilities;
- (e) to prescribe, revise, and collect in advance or otherwise, from any consumer served by a electric utility activity, rates, fees, and charges or any combination thereof for the services furnished by, or the direct or indirect con-

nection with, the electric utility facilities; and in anticipation of the collection of revenues of such electric utility facilities, to issue revenue bonds to finance in whole or in part the cost of acquisition, construction, reconstruction, improvement, betterment, or extension of the electric utility facilities; and to issue temporary bonds until permanent bonds and any coupons appertaining thereto have been printed and exchanged for the temporary bonds;

- (f) to pledge to the punctual payment of said bonds and interest thereon all or any part of the revenues of the electric utility facilities;
- (g) to make all contracts, execute all instruments, and do all things necessary or convenient in the exercise of the powers granted in this section or elsewhere in state law, the Charter, or the Code, or in the performance of its covenants or duties, or in order to secure the payment of its bonds if no encumbrance, mortgage, or other pledge of property, excluding any pledged revenues, of the electric utility enterprise or city is recreated thereby, and if no property, other than money, of the electric utility enterprise or city is liable to be forfeited or taken in payment of said bonds, and if no debt on the credit of the electric utility enterprise or city is thereby incurred in any manner for any purpose;
- (h) to issue refunding bonds pursuant to this article or other applicable law to refund, pay, or discharge all or any part of its outstanding revenue bonds issued under this article or under any other law, including any interest thereon in arrears or about to become due, or for the purpose of reducing interest costs, effecting a change in any particular year or years in the principal and interest payable thereon or effecting other economies, or modifying or eliminating restrictive contractual limitations appertaining to the issuance of additional bonds or to any electric utility facilities; and
- (i) to begin operations of the municipal utility at such time as the city council may by ordinance provide. (Added by Ord. No. 7804 (2011), § 2, adopted by electorate on November 1, 2011.)

Section 181. Revenue bonds.

- (a) In accordance with and through the provisions of this section, the electric utility enterprise, through its governing body, is authorized to issue bonds or other obligations payable solely from the revenues derived or to be derived from the functions, services, benefits or facilities of such enterprise or from any other available funds of such enterprise. Such bonds or other obligations shall be authorized by ordinance, adopted by the governing body of the electric utility enterprise in the same manner as other ordinances of the city. Such bonds or other obligations may be issued without voter approval, notwithstanding the provisions of Section 2(d) of the charter, provided that, during the fiscal year of the city preceding the year in which the bonds or other obligations are authorized, the electric utility enterprise received under ten percent (10%) of its annual revenue in grants or, during the current fiscal year of the city, it is reasonably anticipated that such enterprise will receive under ten percent (10%) of its revenue in grants.
- (b) The terms, conditions, and details of said bonds, or other obligations, and the procedures related thereto shall be set forth in the ordinance authorizing said bonds or other obligations and said bonds, or other obligations may be sold in accordance with the provisions of the charter. Each bond, note, or other obligation issued under this section shall recite in substance that said bond, note, or other obligation, including the interest thereon, is payable from the revenues and other available funds of the electric utility enterprise pledged for the payment thereof. Notwithstanding any other provision of law to the contrary, such bonds, or other obligations may be issued to mature at such times as are authorized by the charter, shall bear interest at such rates, and shall be sold at or above the principal amount thereof, all as shall be determined by the governing body of the electric utility enterprise. Notwithstanding anything in this section to the contrary, in the case of short-term notes or other obligations maturing not later than one year after the date of issuance thereof, the governing body of the electric utility enterprise may authorize enterprise officials to fix principal amounts, maturity dates, interest rates, and purchase prices of any particular issue of such short-term notes or obligations, subject to such limitations as to maximum term, maximum principal amount outstanding, and maximum net effective interest rates as the governing body of the electric utility enterprise shall prescribe. Refunding bonds of the electric utility enterprise shall be issued as provided in Part 1 of Article 56 of Title 11, C.R.S. The powers provided in this section to issue bonds, or other obligations are in addition and supplemental to, and not in substitution for, the powers conferred by any other law, and the powers provided in this section shall not modify, limit, or affect the

powers conferred by any other law either directly or indirectly. Bonds, notes, or other obligations may be issued pursuant to this section without regard to the provisions of any other law. Insofar as the provisions of this section are inconsistent with the provisions of any other law, the provisions of this section shall control with regard to any bonds lawfully issued pursuant to this section.

- (c) Any pledge of revenue or other funds of the electric utility enterprise shall be subject to any limitation on future pledges thereof contained in any ordinance of the governing body of the electric utility enterprise or of the city authorizing the issuance of any outstanding bonds or other obligations of the electric utility enterprise or the city payable from the same source or sources. Bonds or other obligations, separately issued by the city and the electric utility enterprise, but secured by the same revenues or other funds shall be treated as having the same obligor and as being payable in whole or in part from the same source or sources. (Added by Ord. No. 7804 (2011), § 2, adopted by electorate on November 1, 2011.)

Sec. 182. Utility service standards.

- (a) **Customer Benefit:** The utility shall conduct its business and affairs for the benefit of its customers and the city.
- (b) **Cost Effective Service:** The utility will provide the electric power requirements of the customers within the service areas in a reliable, cost-effective, and environmentally responsible manner.
- (c) **Energy, Energy Efficiency and Renewable Energy:** The utility will engage in business activities related to the provision of electric power services, which may include but are not limited to investment in conventional electric generation, generation using renewable resources, energy efficiency measures, demand side management, and associated communication systems.
- (d) **Rates:** The council will by ordinance fix, establish, maintain, and provide for the collection of such rates, classes of rates, fees, or charges for electric service and other utility services furnished by the city. The council will consider the following factors when setting utility rates:
 - (1) The utility will produce revenues at least sufficient to pay the cost of operation and maintenance of said utilities in good repair and working order; to pay the principal of and interest on all bonds of the city payable from the revenues of the utility;
 - (2) The utility will provide and maintain an adequate fund for replacement of depreciated or obsolescent property, and for the extension, improvement, enlargement, and betterment of the utility; to pay the interest on, and the principal of, any bonds issued by the city to extend or improve the utilities;
 - (3) The utility will consider electricity rates of surrounding and similarly situated communities and use best efforts to set competitive utility rates; and
 - (4) The council will fix rates for which electric service will be furnished for all purposes, and rates shall be as low as good service will permit, consistent with the guiding principles set forth in section 178 (c)(1) – (6).
- (e) **Budget and Appropriations:** The council, by ordinance, will approve the budget and appropriations as required by Charter Art. VI.
- (f) **Accounting Standards:** All revenues and expenditures of the city's electric system will be considered revenues and expenditures of the utility and shall be audited and accounted for in a manner that is consistent with charter § 127.
- (g) **No Free Service:** No free energy or power shall be given to any person, firm, corporation, or institution whatsoever.
- (h) **Payments in Lieu of Taxes and for Services Rendered – City:** The utility may only transfer funds for another governmental purpose within the city if:
 - (1) a service is provided to the utility by another department within the city; or

- (2) in lieu of tax or franchise fee payments that a similarly situated private utility would have been required to pay taxes to the city. The maximum payment in lieu of taxes shall be limited by an estimated amount of property, sales or use tax, and a payment in lieu of a franchise fee not to exceed four percent of annual revenues.
- (i) Payments in Lieu of Taxes and for Services Rendered – Other Governmental Entities: The utility shall annually transfer funds to the Boulder Valley School District in an amount the city council determines will approximate property taxes that a private utility would have paid to the School District on property owned by the electric utility enterprise. The utility may transfer funds to other governmental entities in lieu of property taxes that would have been paid if a similarly situated private utility would have been required to pay property taxes to the other governmental entity or for up to the value of a service rendered.
- (j) Preferences Prohibited: The utility shall not make or grant any preference or advantage to any corporation or person or subject any corporation or person to any prejudice or disadvantage as to rates, charges, service, or facilities, or in any other respect.
- (k) Advantages Prohibited: The utility shall not establish or maintain any unreasonable differences or undue preferences as to rates, charges, service, facilities, or any respect as between any class of services. The utility may create a fund to provide assistance to low-income customers for energy efficiency or generation improvements or utility bill payments. When considering whether to approve such a fund, and give a preference or advantage to low-income utility customers, the utility shall take into account the potential impact of and cost-shifting to, utility customers other than the low-income utility customers. (Added by Ord. No. 7804 (2011), § 2, adopted by electorate on November 1, 2011.)

Sec. 183. Creation of an electric utilities department and general powers.

- (a) Electric Utilities Department: There shall be an electric utilities department, which shall be responsible for all planning, generation, transmission, and distribution of energy, electricity and power for the city, and such other responsibilities as the city council or city manager may assign.
- (b) General Powers: The electric utilities department shall have the authority to:
 - (1) Generate and deliver energy and exercise all the powers of the city 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 an electric utilities system 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 electric utilities operation.
 - (2) Purchase, generate, transmit, distribute, and sell electric energy.
 - (3) Make and execute contracts, take and give instruments of conveyance, and do all other things necessary or incidental to the powers granted in this charter.
 - (4) Carry out the operations, supervision, and regulation of the utility related to the lawful operation of the utility as directed by the city council.
 - (5) Make recommendations to the electric utilities board or the city council on matters required by the city charter.
 - (6) Enter into contracts and agreements with any public or private corporation or any individual, both inside and outside the boundaries of the city and state: (A) for the joint use of property belonging either to the city or to the other contracting party or jointly to both parties; and (B) for the joint acquisition of real and personal property, rights and franchises, and the joint financing, construction, and operation of plants, buildings, transmission lines, and other facilities. (Added by Ord. No. 7804 (2011), § 2, adopted by electorate on November 1, 2011.)

Sec. 184. Functions of the electric utilities director.

Under the direction, supervision, and control of the city manager, there shall be a director of the electric utilities department who shall be qualified by special training and experience in the field of electric utilities and municipal engineering. The director shall be the regular technical and policy advisor of the electric utilities board and shall have administrative direction of the electric utilities department. The director may be designated as the secretary of the electric utilities board and authorized to perform other necessary functions. (Added by Ord. No. 7804 (2011), § 2, adopted by electorate on November 1, 2011.)

Sec. 185. Creation of the electric utilities board.

- (a) Board Created: There shall be an electric utilities board consisting of nine members not all of the same gender. The members of the board shall not hold any other office in the city, and shall serve without pay.
- (b) Board Qualifications: Board members shall be selected from the qualified electors of the city or from the owners or employees of a business or governmental entity that is a customer of the electric utility, provided, however, that a majority of the board shall be qualified electors of the city. Board members shall be well known for their ability, probity, public spirit, and particular fitness to serve on the electric utilities board. At least three board members shall be owners or employees of a business or governmental entity that is a customer of the electric utility.
- (c) Board Appointments: The city council shall appoint members of the board.
- (d) Terms of Office: The term of each member shall be five years; provided, however, that in appointing the original members of the board, the city council and city manager shall continue the terms of the current members or shall stagger the initial terms so that at least one board member's term expires in each year.
- (e) Removal: The city council may remove any board member for cause.
- (f) Vacancies: In the event that a board member's term ends by resignation, vacation of seat or removal from service on the board, the board member shall be replaced by the city council.
- (g) Creation of Electric Utilities Board: The electric utilities board shall be created at the time of the creation of the electric utility enterprise. Until such time as the board is created, the city council shall be responsible for fulfilling the responsibilities of the electric utilities board. (Added by Ord. No. 7804 (2011), § 2, adopted by electorate on November 1, 2011.)

Sec. 186. Organization and procedure of the board.

- (a) Chair and Secretary: The board shall choose a chair and a secretary from among its members. The director of electric utilities may be designated as secretary by the board.
- (b) Regular and Special Meetings: The board shall have regular meetings once a month. Special meetings may be called at any time by the city manager, the chair, or four members of the board upon the giving of at least 24 hours notice of said special meeting to the board members.
- (c) Quorum: Five members of the board shall constitute a quorum. An affirmative vote of a majority of the members present shall be necessary to authorize any action by the board, except as otherwise expressly provided herein.
- (d) Record of Meetings: The board shall keep minutes and records of its meetings, recommendations, and decisions.
- (e) Rules of Order: Except as otherwise expressly provided herein, the board shall have power to make rules for the conduct of its business. (Added by Ord. No. 7804 (2011), § 2, adopted by electorate on November 1, 2011.)

Sec. 187. Functions of the board.

The electric utilities board shall not perform any administrative functions unless expressly provided in this charter. The duties and functions of the electric utilities board shall be:

- (a) Advice. To advise the city council on policy matters pertaining to the municipal electric and utility systems, including without limitation such policies as the board determines are necessary or prudent to carry out its fiduciary duties and the requirement of the charter.
- (b) Sounding Board. To act as a sounding board to the city council, city manager, and the electric utility director for the purpose of identifying the ratepayers' service delivery expectations.
- (c) Rulemaking. To adopt rules and regulations with respect to any matter within its jurisdiction as it may be permitted by the council.
- (d) Meeting Rules. To adopt bylaws governing its meeting and agenda procedures and other pertinent matters.
- (e) Budget and Appropriations. To review and make recommendations to the city council on the city manager's proposed budget and appropriation as it relates to the utility.
- (f) Revenue Bonds. To review and make recommendations to the city council concerning the issuance of revenue bonds or other obligations payable from revenues of the electric utilities enterprise.
- (g) Other Recommendations. To review and make recommendations on any other matter relating to the electric utilities program, and may request and obtain from the electric utilities department and the city manager information relating thereto.
- (h) Other Duties. To perform such other duties and functions and have such other powers as may be provided by ordinance. (Added by Ord. No. 7804 (2011), § 2, adopted by electorate on November 1, 2011.)

CHANGES

Note: The charter as contained here sets forth the provisions and sections thereof in full force and effect as of November 8, 1983. To determine what provisions or sections of the charter were either amended, added or repealed since the adoption of the original charter on October 30, 1917, the following table should be consulted:

[See the following page for table]

TABLE OF CHARTER AMENDMENTS

<i>Section</i>	<i>Date</i>	<i>Change</i>	<i>Ordinance</i>
4	October 2, 1956	(amended)	1978
4	September 11, 1973	(amended)	3925
4	November 3, 1998	(amended)	6006
5	October 2, 1956	(amended)	1978
5	November 3, 1981	(amended)	4597
5	November 2, 1993	(amended)	5575
5	November 1, 2011	(amended)	7801
7	November 7, 1989	(amended)	5221
8	November 5, 1996	(amended)	5813
8	November 6, 2007	(amended)	7537
8	November 6, 2007	(amended)	7547
9	November 3, 1981	(amended)	4597
9	November 2, 1993	(amended)	5575
9	November 4, 2003	(amended)	7296
12	November 1, 2011	(amended)	7799
13	November 3, 1998	(amended)	6006
13	November 3, 1998	(amended)	6008
18A	November 6, 1951	(added)	1632
18A	November 8, 1983	(amended)	4773
20	November 8, 1983	(amended)	4773
21	November 1, 2011	(amended)	7801
22	January 4, 2006	(amended)	7412
26	September 11, 1973	(amended)	3925
26	November 2, 1993	(amended)	5576
27	September 11, 1973	(amended)	3925
27	November 3, 1998	(amended)	6006
27	November 1, 2011	(amended)	7801
28	September 11, 1973	(amended)	3925
28	November 2, 1993	(amended)	5576
29	September 11, 1973	(amended)	3925
29	November 2, 1993	(amended)	5576
31	September 11, 1973	(amended)	3925
31	November 8, 1983	(amended)	4773
31	November 2, 1993	(amended)	5576
31	November 1, 2011	(amended)	7801
32	November 1, 2011	(amended)	7801
33	November 4, 1947	(repealed)	1474
33	October 26, 1954	(re-enacted)	1826
33	November 1, 2011	(amended)	7801
34	November 4, 1947	(repealed and re-enacted)	1474
34	November 1, 2011	(amended)	7801
35	November 4, 1947	(repealed and re-enacted)	1474
36	November 3, 1959	(amended)	2263
36	November 7, 1989	(repealed)	5219

38	November 3, 1981	(amended)	4598
38	November 1, 2011	(amended)	7802
38a	November 1, 2011	(added)	7802
38b	November 1, 2011	(added)	7802
39	November 3, 1981	(amended)	4598
39	November 3, 1981	(amended)	4599
39	November 1, 2011	(amended)	7802
40	November 1, 2011	(amended)	7802
41	November 3, 1981	(amended)	4598
41	November 2, 1993	(amended)	5577
41	November 4, 1997	(amended)	5907
41	November 1, 2011	(amended)	7802
42	November 1, 2011	(amended)	7802
44	November 3, 1981	(amended)	4598
44	November 3, 1981	(amended)	4599
46	November 3, 1981	(amended)	4598
46	November 3, 1981	(amended)	4599
51	November 6, 1951	(amended)	1632
55	November 1, 2011	(amended)	7801
56	November 1, 2011	(amended)	7801
57	November 1, 2011	(amended)	7801
61	November 1, 2011	(amended)	7801
64	November 1, 2011	(amended)	7799
65	November 6, 1951	(amended)	1632
65	November 2, 1993	(amended)	5575
65	November 1, 2011	(amended)	7799
66	November 2, 1993	(amended)	5575
67	November 5, 1963	(amended)	2729
68	November 1, 2011	(amended)	7799
69	November 2, 1993	(repealed)	5575
69A	November 5, 1929	(added)	1219
69A	November 2, 1993	(repealed)	5575
70	November 3, 1953	(amended)	1753
70	January 31, 1961	(repealed)	2392
70a	November 3, 1953	(added)	1753
70a	January 31, 1961	(repealed)	2392
70b	November 3, 1953	(added)	1753
70b	January 31, 1961	(repealed)	2392
71	January 31, 1961	(repealed)	2392
72	November 1, 2011	(amended)	7799
74	November 6, 1951	(amended)	1632
74	November 3, 1953	(amended)	2728
75	November 6, 1951	(amended)	1632
75	November 3, 1953	(amended)	2728
75	November 2, 1993	(amended)	5575
76	November 6, 1951	(amended)	1632
77	November 6, 1951	(amended)	1632
78	November 6, 1951	(amended)	1632
79	November 6, 1951	(amended)	1632
80	November 6, 1951	(amended)	1632
81	November 6, 1951	(amended)	1632
82	November 6, 1951	(amended)	1632
83	November 6, 1951	(amended)	1632
84	November 5, 1929	(amended)	1219

84	November 6, 1951	(amended)	1632
84	January 31, 1961	(repealed)	2392
84	November 2, 1971	(added)	Res. No. 24a
84	November 7, 1989	(amended)	5220
84	November 3, 1998	(amended)	6013
84a	November 6, 1951	(added)	1692
84a	November 4, 1969	(amended)	3513
84b	November 6, 1951	(added)	1632
84b	January 31, 1961	(repealed)	2392
85	November 8, 1995	(amended)	1907
86	November 2, 1993	(amended)	5575
86	November 4, 2003	(amended)	7295
87	November 2, 1993	(amended)	5575
89	November 1, 2011	(amended)	7799
94	November 2, 1943	(amended)	1403
96	November 2, 1993	(repealed)	5575
96	November 5, 1996	(added)	5818
97	November 4, 1919	(amended)	321
97	November 4, 1969	(amended)	3513
97	November 2, 1971	(amended)	3743
97	November 5, 1996	(amended)	5820
97	November 1, 2011	(amended)	7801
97a	June 12, 1979	(added)	4420
97a	November 1, 2011	(amended)	7801
98	November 1, 2011	(amended)	7801
100	November 8, 1955	(amended)	1907
106	December 2, 1958	(amended)	2171
106a	November 3, 1953	(added)	1753
106b	November 3, 1953	(added)	1753
106c	November 3, 1953	(added)	1753
101	November 1, 2011	(amended)	7799
104	November 1, 2011	(amended)	7799
105	November 1, 2011	(amended)	7799
108	November 1, 2011	(amended)	7799
108	November 1, 2011	(amended)	7801
117	November 2, 1993	(repealed)	5575
120	November 1, 2011	(amended)	7800
124	November 1, 2011	(amended)	7801
126	November 8, 1953	(amended)	4773
128a	July 21, 1959	(added)	2244
128a	January 21, 1959	(amended)	2391
128a	November 6, 1979	(amended)	4452
128a	November 3, 1981	(amended)	4606
128a	November 5, 1991	(amended)	5402
128a	November 6, 1979	(amended)	7076
129	January 31, 1961	(repealed)	2392
130	November 3, 1998	(amended)	6007
131	November 2, 1993	(repealed)	5575
139	November 2, 1993	(repealed)	5575
141	November 7, 1967	(repealed)	3287
147	November 2, 1993	(repealed)	5575
148	November 2, 1993	(repealed)	5575
149	November 2, 1993	(repealed)	5575
150	November 2, 1993	(amended)	5575

151	November 1, 2011	(amended)	7800
152	November 3, 1981	(amended)	4602
154	November 2, 1993	(amended)	5574
155	January 31, 1961	(added)	2392
156	January 31, 1961	(added)	2392
157	January 31, 1961	(added)	2392
158	January 31, 1961	(added)	2392
159	January 31, 1961	(added)	2392
160	January 31, 1961	(added)	2392
161	January 31, 1961	(added)	2392
162	November 2, 1993	(amended)	5574
163	January 31, 1961	(added)	2392
164	November 2, 1993	(amended)	5574
164	November 1, 2011	(amended)	7801
165	November 2, 1993	(repealed)	5575
166	November 2, 1993	(repealed)	5575
167	November 2, 1993	(repealed)	5575
168	November 2, 1993	(repealed)	5575
169	November 2, 1993	(repealed)	5575
170	August 19, 1986	(added)	4996
171	August 19, 1986	(added)	4996
171	November 6, 2001	(amended)	7155
172—177 (inclusive)	August 19, 1986	(added)	4996
178—187 (inclusive)	November 1, 2011	(added)	7804