

CITY OF CHERRY HILLS VILLAGE

HOME RULE CHARTER

1966

Published by

COLORADO CODE PUBLISHING COMPANY

Fort Collins, Colorado

CHERRY HILLS VILLAGE HOME RULE CHARTER

TABLE OF CONTENTS

PREFATORY SYNOPSIS

PREAMBLE

ARTICLE I GENERAL PROVISIONS

- Section 1.1 Name and Boundaries
- Section 1.2 Powers
- Section 1.3 Rights and Liabilities
- Section 1.4 Present Ordinances in Force
- Section 1.5 Gender References

ARTICLE II ELECTIONS

- Section 2.1 Colorado Municipal Election Laws Adopted
- Section 2.2 Registration, Judges, Clerks and Election Commission
- Section 2.3 Election Day
- Section 2.4 Hours of Voting
- Section 2.5 Elective Officers
- Section 2.6 Districts
- Section 2.7 Mayor and City Council Members' Terms of Office
- Section 2.8 Nominating Petitions–Required Signatures
- Section 2.9 Vacancies
- Section 2.10 Special Elections

ARTICLE III CITY COUNCIL

- Section 3.1 City Council
- Section 3.2 Qualifications of Councilmen
- Section 3.3 Mayor Pro Tem
- Section 3.4 Financial Interest Prohibited
- Section 3.5 Oath of Office
- Section 3.6 Compensation of Councilmen
- Section 3.7 Council Meetings
- Section 3.8 Special Meetings
- Section 3.9 Bridle Paths, Parks and Recreation Programs
- Section 3.10 Audit of Accounts

ARTICLE IV ORDINANCES

- Section 4.1 Ordinances, Resolutions and Motions
- Section 4.2 Voting
- Section 4.3 Action by Ordinance Required
- Section 4.4 Form of Ordinance
- Section 4.5 Procedure of Passage
- Section 4.6 Enactment of Codes and Amendments Thereof by Reference
- Section 4.7 Severability of Ordinances

CHARTER TABLE OF CONTENTS

ARTICLE V	CITY ADMINISTRATION
	Section 5.1 Mayor
	Section 5.2 Mayor as Chief Administrative Officer
	Section 5.3 Compensation of Mayor
	Section 5.4 Powers and Duties of Mayor
	Section 5.5 Delegation of Duties
	Section 5.6 Departments Created
	Section 5.7 Appointment of City Manager by Council
ARTICLE VI	APPOINTED OFFICIALS
	Section 6.1 Time of Appointment
	Section 6.2 City Clerk–Functions and Duties
	Section 6.3 City Treasurer–Functions and Duties
	Section 6.4 City Attorney–Functions and Duties
ARTICLE VII	ENFORCEMENT OF LAWS AND ORDINANCES
	Section 7.1 Municipal Court
	Section 7.2 Department of Police
ARTICLE VIII	BOARDS AND COMMISSIONS
	Section 8.1 General Provisions for Boards and Commissions
	Section 8.2 Board of Adjustment and Appeals
	Section 8.3 Planning and Zoning Commission
ARTICLE IX	CITY FINANCES
	Section 9.1 Fiscal Year
	Section 9.2 Annual Budget
	Section 9.3 Budget Hearings
	Section 9.4 Scope of Annual Budget
	Section 9.5 Adoption of Budget and Appropriation
	Section 9.6 Certification of Tax Levy
	Section 9.7 General Fund
	Section 9.8 Contingencies
	Section 9.9 Special Funds
	Section 9.10 Additional Appropriations
	Section 9.11 Departmental Appropriations Revert
	Section 9.12 Publication of Expenditures
ARTICLE X	BONDED INDEBTEDNESS

CHARTER TABLE OF CONTENTS

ARTICLE XI IMPROVEMENT DISTRICTS

- Section 11.1 Power to Construct Improvements and Create Improvement Districts
- Section 11.2 Repealed
- Section 11.3 Improvement District Bonds—General Benefits
- Section 11.4 Review of Improvement District Proceedings

ARTICLE XII FRANCHISES

- Section 12.1 Present Franchises
- Section 12.2 Extension of Territory Covered by Franchise
- Section 12.3 Term, Compensation, Restriction
- Section 12.4 Revocable Permits
- Section 12.5 Condemnation or Purchase
- Section 12.6 Assignment
- Section 12.7 Common Use of Facilities

ARTICLE XIII MISCELLANEOUS PROVISIONS

- Section 13.1 Disconnection
- Section 13.2 Taxes for Municipal Purposes
- Section 13.3 Notice Required on Negligence Action
- Section 13.4 Fidelity Bonds
- Section 13.5 Right of Eminent Domain
- Section 13.6 Contracts With Other Governmental Units
- Section 13.7 Bequests, Gifts and Donations
- Section 13.8 Contracts for Purchases, Leases, and Construction of Public Works
- Section 13.9 Temporary Zoning
- Section 13.10 Annexation of or Consolidation With Another Municipality
- Section 13.11 Initiative and Referendum
- Section 13.12 Removal of Officers—Causes—Notice
- Section 13.13 Amendment
- Section 13.14 Retirement Plans
- Section 13.15 Effect of State Statutes
- Section 13.16 Severability

APPROVAL OF COMMISSION

**PREFATORY SYNOPSIS TO THE
CHARTER OF THE
CITY OF CHERRY HILLS VILLAGE**

The Charter for the City of Cherry Hills Village in Article I provides for the name and boundaries, powers, rights and liabilities of said City and continues the present ordinances in force as they conflict with the Charter.

Article II adopts the Colorado municipal election laws, provides for the registration of voters, judges and clerks thereof, and permits an election commission. It also provides for the election day, hours of voting, elective officers, their qualifications and their terms of office with overlapping terms for Councilmen, the filling of vacancies, divides the City into districts, provides for nominating petitions and the calling of special elections.

Article III creates the council-mayor form of government and vests certain powers in the Council, provides for a Mayor Pro Tem, prohibits financial interest, provides for the oath of office of Mayor and of Councilmen, calls for regular and special meetings of the Council, vests power in the Council over bridle paths, parks and recreation programs and requires at least an annual audit of the financial affairs of the City.

Article IV outlines the mode of action by the Council, particularizes the procedure of passage of ordinances and allows for enactment of codes by reference and the severability of ordinances.

Article V vests the administration of the City in the Mayor and defines his powers and duties, allows for delegation of authority to the various members of the Council, and further creates certain administrative departments.

Article VI provides for the appointment and defines the function and duties of the City Clerk, City Treasurer and City Attorney.

Article VII creates a Municipal Court, provides for the qualifications and appointment of judges, places limitations on the fines and imprisonment, and creates a department of police and defines the duties, functions and authority of the department and of the Chief of Police.

Article VIII allows for the creation of boards and commissions, specifically creates a board of adjustment and appeals and defines its functions, powers and duties and creates a planning and zoning commission and defines its functions, powers and duties.

Article IX sets the fiscal year, requires an annual budget after public hearing and defines what shall be included therein, provides for the certification of a tax levy, creates a general fund which may contain an item for contingencies, provides for special funds for special purposes, creates a public improvements fund, allows for the transfer of funds, allows for additional appropriations, provides that any unexpended funds revert to the general fund and requires the Clerk to keep a list of expenditures made for public inspection.

Article X provides for general obligation, revenue and refunding bonds and the terms of their sale.

Article XI provides the method and procedure and gives the power to construct improvements and create improvement districts, allows for a surplus and deficiency fund, provides that any action to review improvement district proceedings must be commenced within ninety (90) days after the performance of the act or the passage of the resolution or ordinance complained of.

Article XII continues all present franchise ordinances, allows for the extension of the franchises, fixes the term, compensation and restrictions on future franchises, allows for the issuance of revocable permits.

Article XIII prohibits disconnection without a vote of the people; allows the levying of all forms of taxes permitted by the Constitution of Colorado for municipal purposes, except that a use tax cannot be imposed without a vote of the taxpaying electors; requires a 60 day notice to the city regarding a claim for negligence and provides a two year statute of limitations on the legal action; provides for fidelity bonds for those who handle City funds; gives the City the right of eminent domain; allows for contracts with other governmental units; allows the City to receive bequests, gifts or donations; vests in the Council the right to set procedures for purchases, leases and construction contracts; allows for temporary zoning of annexed territory; provides for the annexation of or consolidation with another municipality; reserves the power of initiative and referendum to the voters; provides for the removal of offices; provides for the amendment of the Charter; continues existing retirement and pension plans; and states that the Statutes of Colorado shall govern unless otherwise provided by the Charter or by ordinance of the City.

Cherry Hills Village Home Rule Charter and Municipal Code

PREAMBLE

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

ARTICLE I

GENERAL PROVISIONS

Section 1.1. Name and Boundaries:

The municipal corporation heretofore existing as the Town of Cherry Hills Village in Arapahoe County, State of Colorado, shall remain and continue a body politic and corporate and under this Charter be known as the City of Cherry Hills Village, with boundaries the same as presently established, until changed in a manner authorized by law.

Section 1.2. Powers:

The City shall have all the power of local self-government and home rule and all power possible for a city to have under the Constitution and laws of the State of Colorado. The enumeration of particular powers in this Charter is not exclusive of others.

Section 1.3. Rights and Liabilities:

By the name of the City of Cherry Hills Village, the municipal corporation shall have perpetual succession; shall own, possess and hold all property, real and personal heretofore owned, possessed and held by the town, and does assume and shall manage and dispose of all trusts in any way connected therewith; shall succeed to all the rights and liabilities of the town; shall acquire all benefits and does assume and shall pay all bonds, obligations, and indebtedness of the town; may sue and defend, purchase, lease, receive, hold and enjoy, or sell and dispose of real and personal property; may establish municipal water works, sewage disposal works, and water and sewer systems in the manner provided by statute; shall have a common seal and alter the same at pleasure.

Section 1.4. Present Ordinances in Force:

All ordinances of the town in force at the time this Charter becomes effective shall continue in force except insofar as they conflict with the provisions of this Charter, or shall be amended or repealed by ordinance enacted under authority of this Charter. (10-3-66)

Section 1.5. Gender References:

Whenever the wording of this Charter refers to either the masculine or feminine gender, it shall be interpreted to apply equally to persons of either gender and is used gender specifically only for administrative convenience. (4-5-94)

Cherry Hills Village Home Rule Charter and Municipal Code

ARTICLE II

ELECTIONS

Section 2.1. Colorado Municipal Election Laws Adopted:

City elections shall be governed by the Colorado municipal election laws as now existing or hereafter amended or modified, except as otherwise provided in this Charter, or by ordinance hereafter enacted.

Section 2.2. Registration, Judges, Clerks and Election Commission:

The Council may by ordinance establish the method for the registration of electors, the qualifications and compensation of election judges and clerks, and the boundaries of election precincts. The Council may by ordinance establish an election commission consisting of the Clerk, as chairman, and two additional members to be appointed by the Council, with such powers, duties, terms and qualifications as provided by such ordinance.

Section 2.3. Election Day:

A regular City election shall be held on the Tuesday following the first Monday in April commencing in the year 1968 and in each even numbered year thereafter.

Section 2.4. Hours of Voting:

Polling places for all City elections shall be open from 7:00 a.m. to 7:00 p.m. on election day. (10-3-66)

Section 2.5. Elective Officers:

The elective officers shall be a Mayor and six Councilmen, each of whom shall have resided in the area comprising the City at the time of his election or appointment for not less than one year. The Mayor shall be elected from the City at large. One Councilman shall be elected from each district by the voters of the whole City. Elections shall be non-partisan. (10-3-66; amd. 4-2-74)

Section 2.6. Districts:

The City is hereby divided into six districts whose boundaries shall be the same as presently established. The Council shall within six months after each Federal decennial census commencing with that of the year 1970, and may at any other time by ordinance adopted by the Council at least 120 days prior to any regular City election, change the boundaries of districts so that districts shall be contiguous and compact wherever possible and shall have approximately the same number of voters. (10-3-66)

Section 2.7. Mayor and City Council Members' Terms of Office:

The Mayor and six Council members hold office on the basis of a two-year term for the Mayor and a four-year term for each City Council member. A Mayor is elected at each Municipal election. The Council members are elected on a rotating basis of Districts 1, 3 and 5 on four-year intervals starting in 1968, and Districts 2, 4 and 6 on four-year intervals starting in 1966. This arrangement will provide for staggered terms of office that will have the Mayor and three members of the City Council elected at each Municipal election. (4-5-94)

Cherry Hills Village Home Rule Charter and Municipal Code

Section 2.8. Nominating Petitions–Required Signatures:

The nominating petition for each candidate for Mayor shall be signed by not fewer than 25 registered electors, and for each candidate for the Council to be elected from a district not fewer than 10 registered electors from such district. Petitions shall be filed in accordance with the deadlines for the filing of nominating petitions as provided by the applicable state municipal election laws. (11-5-02)

Section 2.9. Vacancies:

The Mayor's office and a Councilman's office shall become vacant whenever he resigns, dies, becomes a nonresident of the City or, as to Councilmen, the district from which he was elected or appointed. A vacancy which occurs shall be filled by a majority vote of the membership of the entire Council within 30 days after such vacancy occurs for the full then unexpired term of the office which has become vacant.

Section 2.10. Special Elections:

Any special City election may be called by resolution of the Council at least 30 days in advance of such election. The resolution calling a special City election shall set forth the purpose or purposes of such election. (10-3-66)

ARTICLE III

CITY COUNCIL

Section 3.1. City Council:

All powers of the City not otherwise limited or conferred upon others by this Charter shall be vested in a Council consisting of six members. It shall have the power to enact and provide for the enforcement of all ordinances necessary to protect life, health and property; to declare, prevent and summarily abate and remove nuisances; to preserve and enforce good government, general welfare, order and security of the City and the inhabitants thereof; to enforce ordinances and regulations by ordaining fines or imprisonment within the limits established from time to time by State law, or both fine and imprisonment for each and every offense; to provide for the granting of probation and the conditional suspension of sentences by the Municipal Court; and to delegate to boards and commissions, within limitations of the Constitution and this Charter, such functions, powers and authority of the City as it deems proper and advisable. No enumeration of particular powers granted to the Council shall be construed to impair any general grant of power herein contained or granted by the State Constitution, nor to limit any such grant to powers of the same class or classes as those so enumerated. (10-3-66; amd. 4-5-94)

Section 3.2. Qualifications of Councilmen:

Each Councilman when nominated and elected shall be a qualified elector of the City. Each Councilman elected from a district shall be a resident, at the date of nomination and during the tenure of his office, of the district from which he is elected. No Councilman shall be a salaried employee of the City during his tenure of office. The Council shall be the judge of the election and qualifications of its own members, subject to judicial review.

Cherry Hills Village Home Rule Charter and Municipal Code

Section 3.3. Mayor Pro Tem:

A Mayor Pro Tem shall be elected by the Council from its own membership at the first meeting following each biennial election or an adjournment thereof. The Mayor Pro Tem shall serve until the Council meeting following the next regular City election, and shall act as Mayor during the absence or disability of the Mayor. In the event of absence or disability of both the Mayor and the Mayor Pro Tem, the Council shall designate another of its members to serve as Acting Mayor during such absence or disability. Any Mayor Pro Tem or Acting Mayor, while serving as such, shall retain all powers granted herein to Councilmen.

Section 3.4. Financial Interest Prohibited:

No member of the Council shall have any direct financial interest in any contract with the City.

Section 3.5. Oath of Office:

The Mayor and each Councilman shall take an oath or affirmation before entering upon the duties of his office, that he will support the Constitution of the United States and of the State of Colorado, and the Charter and ordinances of the City of Cherry Hills Village, and faithfully perform the duties of his office.

Section 3.6. Compensation of Councilmen:

Councilmen shall serve without compensation except that Councilmen may be reimbursed for authorized expenses incurred in the performance of City business.

Section 3.7. Council Meetings:

The Council shall meet regularly at least once each month at a day and hour and place to be fixed by the rules and proceedings of each Council. The Council shall prescribe the rules of procedure governing meetings. All regular and special meetings of the Council shall be open to the public, and citizens and employees shall have a reasonable opportunity to be heard. An organizational meeting shall be held on the Monday following each regular City election. Four members of the Council shall constitute a quorum. Written minutes of the proceedings of each meeting shall be kept by the Clerk and signed by the Mayor.

Section 3.8. Special Meetings:

Special meetings of the Council shall be called by the Clerk on the oral request of the Mayor, or of any two members of the Council, on at least 24 hours notice to each member of the Council; but a special meeting may be held on shorter notice if all members of the Council are present or those absent waive notice thereof.

Section 3.9. Bridle Paths, Parks and Recreation Programs:

The Council may provide by ordinance for the planning, financing and supervision of community bridle paths, parks and recreation programs. The Council may provide for equipping, financing and maintaining City-owned or controlled bridle paths, parks, recreational areas and facilities, by ordinance, both in and outside the corporate limits of the City. The City may cooperate with other public authorities, special districts, organizations or individuals in or outside the City to implement the operation of these programs.

Cherry Hills Village Home Rule Charter and Municipal Code

Section 3.10. Audit of Accounts:

An independent audit shall be made annually of all financial affairs of the City, and more frequent audits may be made if deemed necessary by the Council. Such audits shall be made by a certified public accountant, experienced in municipal accounting, selected by the Council.

ARTICLE IV

ORDINANCES

Section 4.1. Ordinances, Resolutions and Motions:

The Council shall act only by ordinance, resolution or motion. All legislative enactments shall be in the form of ordinances; all other actions, except as herein provided, may be in the form of resolutions or motions. All ordinances and resolutions shall be confined to one subject, except in case of repealing ordinances, and ordinances making appropriations shall be confined to the subject of appropriation.

Section 4.2. Voting:

The vote by "Yes" and "No" shall be taken upon the passage of all ordinances, resolutions and motions, and entered upon the minutes of the Council proceedings. Every ordinance shall require the affirmative vote of the majority of the membership of the entire Council for final passage. Resolutions and motions shall require the affirmative vote of a majority of the members present. Every member, when present, shall vote upon ordinances, resolutions and motions unless he shall have a personal interest therein.

Section 4.3. Action by Ordinance Required:

In addition to such acts of the Council as are required by other provisions of this Charter to be by ordinance, every act making an appropriation, creating an indebtedness, authorizing borrowing of money, levying a tax, establishing any rule or regulation for the violation of which a penalty is imposed, or placing any burden upon or limiting the use of private property without the consent of the owner, shall be by ordinance.

Section 4.4. Form of Ordinance:

The enacting clause of all ordinances shall be: "THE COUNCIL OF THE CITY OF CHERRY HILLS VILLAGE, COLORADO, ORDAINS".

Section 4.5. Procedure of Passage:

The course that an ordinance shall take for passage shall be:

- (a) Introduction at any regular or special meeting by any member of the Council by title only, or in full text.
- (b) Passage or rejection by a roll call vote of the Council.
- (c) If first passed, consideration a second time at a meeting not earlier than 6 days after first passage, such ordinance to be in completed written form and copy thereof provided for each

Cherry Hills Village Home Rule Charter and Municipal Code

Councilman prior to consideration. An ordinance may be amended before final passage by a roll call of the Council. (10-3-66)

(d) After final passage by a roll call vote of the Council an ordinance shall be published, but publication of the title thereof, together with the statement that the full text is available for public inspection and acquisition in the office of the City Clerk, shall be sufficient publication. (10-3-66; amd. 4-2-74)

(e) An ordinance when finally passed shall take effect and be enforced 10 days after publication, except for ordinances necessary for the immediate preservation of the public peace, health or safety, which said excepted ordinances shall take effect 5 days after final passage. Publication shall be within 10 days after final passage. A recitation in any such excepted ordinance that the Council deems the passage of said ordinance to be for the immediate preservation of public peace, health or safety shall be conclusive.

Section 4.6. Enactment of Codes and Amendments Thereof by Reference:

In accordance with statutes relative to adoption by reference now or hereafter in effect, the Council may enact any appropriate Colorado Statute or any standard code promulgated or enacted by any municipality, county, state or federal agency, or by recognized trade or professional organizations, by reference thereto in an enacting ordinance and without publishing such statutes or codes in full. In the event that any such statute or code, after being adopted by reference, is revised or amended by the agency or organization by whom it was enacted or promulgated, then any such revision or amended version may be adopted by reference by an ordinance passed in the usual manner without strict compliance with the statutory regulations relative to notices and public hearings.

Section 4.7. Severability of Ordinances:

Unless an ordinance shall expressly provide to the contrary, if any portion of an ordinance or the application thereof to any person or circumstances shall be found to be invalid by a court, such invalidity shall not affect the remaining portions or applications of the ordinance which can be given effect without the invalid portion or application, provided such remaining portions or applications are not determined by the court to be inoperable, and to this end ordinance are declared to be severable.

ARTICLE V

CITY ADMINISTRATION

Section 5.1. Mayor:

The Mayor shall be the presiding officer of the Council and the recognized head of the City Government for all legal and ceremonial purposes. He shall have no vote upon any question except in the case of a tie-vote, when he shall be allowed to vote. All contracts in writing binding the City, all conveyances of interests in land by the City, and any other documents requiring his signature shall be signed by the Mayor (or person acting as Mayor as provided in Section 3.3) and attested by the Clerk under the seal of the City.

Cherry Hills Village Home Rule Charter and Municipal Code

Section 5.2. Mayor as Chief Administrative Officer:

The Mayor shall be the chief administrative officer of the City and as such shall have the powers and duties prescribed in Section 5.4.

Section 5.3. Compensation of Mayor:

The Mayor shall serve without compensation except that the Mayor may be reimbursed for authorized expenses incurred in the performance of City business.

Section 5.4. Powers and Duties of Mayor:

The Mayor shall be responsible for the efficient administration of all affairs of the City placed in his charge, and to that end he shall have the power and duty to:

- (a) Enforce the laws and ordinances of the City.
- (b) Appoint, suspend, transfer and remove all employees of the City, except as otherwise provided herein, subject to the personnel regulations of the City, if any, adopted by the Council.
- (c) Make appointments on the basis of executive and administrative ability, and of the training and experience of such appointees in the work which they are to perform.
- (d) Prepare a proposed budget annually and submit to the Council, and be responsible for the administration of the budget after its adoption.
- (e) Prepare and submit to the Council as of the end of the fiscal year a complete report on finances and administrative activities of the City for the preceding year, and upon request of the Council make written or verbal reports at any time concerning the affairs of the City under his supervision.
- (f) Keep the Council advised of the financial condition and future needs of the City, and make such recommendations to the Council as he may deem necessary or expedient.
- (g) Exercise supervision and control over all executive and administrative departments, and recommend to the Council any proposal he thinks advisable to establish, consolidate or abolish administrative departments.
- (h) Enforce all terms and conditions imposed in favor of the City of its inhabitants in any contract or public utility franchise, and upon knowledge of any violation thereof, report same to the Council for such action and proceedings as may be necessary to enforce the same.
- (i) Attend and preside at Council meetings and participate in discussions with the Council.
- (j) Establish a system of accounting and auditing for the City.
- (k) Act as a purchasing agent for the City.
- (l) Obtain engineering, architectural, maintenance, construction and work equipment services required by the City.

Cherry Hills Village Home Rule Charter and Municipal Code

(m) Perform such other duties as may be prescribed by this Charter, by ordinance, or by the Council.

Section 5.5. Delegation of Duties:

The Mayor with the consent of the Council by resolution may delegate to various of the members of the Council any of the powers and duties enumerated in Section 5.4.

Section 5.6. Departments Created:

The administrative functions of the City may be performed by the following departments: Water and Sanitation, Streets, Police, Fire, Finance, Executive, and such other departments as are or may be established by this Charter or by ordinances of the City. Upon recommendation of the Mayor, the Council may by ordinance consolidate or merge any of the said departments whether set forth in the Charter or created by ordinance in order to achieve more efficient operation or administration. All departments of the City, except as otherwise provided in this Charter, shall be under the supervision and control of the Mayor. (10-3-66)

Section 5.7. Appointment of City Manager by Council:

The Council may by majority vote with the express concurrence of the Mayor, or by a two-thirds ($\frac{2}{3}$) majority vote of the entire Council without his concurrence, appoint a City Manager to serve at the pleasure of a majority of the Council at a salary to be fixed by the Council and may delegate to him any or all of the powers and duties of the Mayor enumerated in Section 5.4 except the power and duty to preside at Council meetings. The Council may by majority vote with the express concurrence of the Mayor, or by a two-thirds ($\frac{2}{3}$) majority vote of the entire Council without his concurrence, remove from the City Manager any of such powers and duties previously delegated to him and reassign such to the Mayor. (10-3-66; amd. 4-7-70)

ARTICLE VI

APPOINTED OFFICIALS

Section 6.1. Time of Appointment:

At its first meeting after each regular City election, the Council shall appoint the officials hereinafter enumerated in this Article with the powers and duties herein specified. Such appointments shall be at the pleasure of the Council, at such compensation as the Council may by resolution from time to time establish. (10-3-66)

Section 6.2. City Clerk—Functions and Duties:

(a) The Clerk shall be the clerk of the Council and shall attend all meetings of the Council and shall keep a permanent journal of its proceedings.

(b) The Clerk shall be the custodian of the City seal and shall affix it to all documents and instruments requiring the seal and shall attest the same. He shall also be custodian of all papers, documents and records pertaining to the City, the custody of which is not otherwise provided for.

Cherry Hills Village Home Rule Charter and Municipal Code

(c) The Clerk shall certify by his signature all ordinances and resolutions enacted or passed by the Council.

(d) The Clerk shall provide and maintain in his office a supply of forms for all petitions required to be filed for any purpose by the provisions of this Charter or by ordinances enacted hereunder.

(e) The Clerk shall have power to administer oaths of office.

(f) The Clerk shall perform such other duties as may be prescribed by this Charter, by the Council or by the Mayor or City Manager.

(g) The Mayor or City Manager may combine the offices of City Clerk and City Treasurer and may further combine these functions with other positions such as Director of Finance or Director of Administration or a similar function. (10-3-66; amd. 4-5-94)

Section 6.3. City Treasurer—Functions and Duties:

(a) The Treasurer shall have the custody of all monies of the City, all bonds pertaining to officials or employees, and all evidences of indebtedness belonging to the City or held in trust by the City.

(b) The Treasurer shall collect all monies for the City, the collection of which is not provided for elsewhere by Charter or ordinance. He shall receive from other officers and employees of the City all monies belonging to and receivable by the City and collected by such officers and employees, including fines, license fees, taxes, assessments, and all other charges. All monies shall be turned over to the Treasurer after collection or receipt.

(c) The Treasurer shall keep and deposit all monies or funds in such manner and only in such places as the Council may determine.

(d) The Treasurer shall disburse all City funds in accordance with the provisions of statute, this Charter and procedures established by the Council or by the Mayor.

(e) The Treasurer shall perform such other duties as may be prescribed by this Charter or by the Mayor or City Manager.

(f) The Mayor or City Manager may combine the offices of City Clerk and City Treasurer and may further combine these functions with other positions such as Director of Finance or Director of Administration or a similar function. (10-3-66; amd. 4-5-94)

Section 6.4. City Attorney—Functions and Duties:

(a) The Attorney shall act as legal advisor to, and be attorney and counsel for, the Council and the Mayor. He shall advise any officer or department head of the City in matters relating to his official duties when so requested and shall file with the Clerk a copy of all written opinions given by him.

(b) The Attorney shall prepare or review all ordinances, contracts, bonds and other written instruments which are submitted to him by the Council or by the Mayor and shall promptly give his opinion as to the legal consequences thereof.

Cherry Hills Village Home Rule Charter and Municipal Code

(c) The Attorney shall prosecute ordinance violations and he shall conduct for the City cases in court and before other legally constituted tribunals. He shall file with the Clerk copies of such records and files relating thereto as the Council may direct.

(d) The Attorney shall call to the attention of the Council all matters of law, and changes or developments therein, affecting the City.

(e) The Attorney shall perform such other duties as may be prescribed for him by this Charter or by the Council.

(f) Upon the recommendation of the Attorney or upon its own initiative, the Council may appoint one or more assistant attorneys to handle any matter in which the City has an interest or to assist and counsel with the Attorney therein. (10-3-66)

ARTICLE VII

ENFORCEMENT OF LAWS AND ORDINANCES

Section 7.1. Municipal Court:

(a) There shall be a Municipal Court which shall have jurisdiction to hear and determine all cases arising under this Charter or the ordinances of the City. The powers of and the procedure in such Municipal Court and the manner of enforcement of its orders and judgments, shall be such as is provided for under the Statutes of the State of Colorado, and the present ordinances of the City with respect to police magistrates, except as may be otherwise provided in this Charter or by ordinance hereafter enacted. The Council shall have the power to provide for juries for service in the Municipal Court. The Council shall provide a suitable place and all supplies and personnel necessary for the proper functioning of the Court.

(b) The Municipal Court shall be presided over and its functions exercised by one or more Municipal Judges, appointed by the Council for a term to be at the pleasure of the Council. A Municipal Judge shall receive a fixed salary or compensation not dependent upon the outcome of the matters to be decided by him, and to be fixed by the Council from time to time. If a Municipal Judge is absent or unable to act in any manner or case, the Mayor shall call any eligible person to act and serve temporarily, and if he fails to, or cannot call in a substitute, the Council shall appoint a substitute. Qualifications for Municipal Judges shall be established by ordinance.

(c) The Council shall provide for the enforcement of its ordinances by fine, or imprisonment, or both, within the limits established from time to time by State law. (10-3-66; amd. 4-5-94)

Section 7.2. Department of Police:

(a) There is hereby created a Department of Police, the director of which shall be appointed by the Mayor or City Manager, as provided in Article V of this City Charter.

(b) The Chief of Police shall be in direct command of the Department of Police. He shall assign all members of the Department to their respective posts, shifts, details and duties. He shall make rules and regulations affecting his Department, in conformity with the ordinances and resolutions of the City, concerning the operation of the Department and conduct of all employees. He shall be responsible for the efficiency, discipline and good conduct of the Department and for the care and custody of all property used by the Department.

Cherry Hills Village Home Rule Charter and Municipal Code

(c) The Department of Police shall be responsible for the public peace, prevention of crime, apprehension of criminals, protection of the rights of persons and property, the enforcement of the laws of the State and of the ordinances of the City as provided by this Charter and all rules and regulations made in accordance therewith, and such other functions as the Mayor or City Manager may prescribe for public safety. All members of the Department shall have all powers with respect to the service of criminal process and the enforcement of criminal laws as are vested in police officers. (10-3-66; amd. 4-5-94)

ARTICLE VIII

BOARDS AND COMMISSIONS

Section 8.1. General Provisions for Boards and Commissions:

Unless otherwise provided by this Charter, all boards and commissions shall be appointed by the Council and shall have such powers and perform such duties as are provided by this Charter or by ordinance; and members of such boards and commissions shall be appointed to serve without compensation, but shall be paid their authorized expenses actually incurred in the discharge of their official duties. Initial appointments by the Council shall specify the term of office of each individual in order to achieve overlapping tenure, and thereafter all appointments shall be for the full term specified. All members shall be subject to removal by a $\frac{3}{4}$ majority vote of the entire Council. The Council shall make appointments to fill vacancies for the unexpired terms. Each board and commission shall choose its own chairman and vice-chairman, and shall adopt its own rules of procedures for the proper conduct of its business.

Section 8.2. Board of Adjustment and Appeals:

There is hereby created and established a Board of Adjustment and Appeals consisting of the number of members from time to time specified by the Council by ordinance. Such members shall be appointed by the Council for overlapping terms of three years. Each member shall be a taxpaying elector and in addition shall have resided in the area comprising the City at the time of his appointment for at least three years immediately preceding the date of his appointment.

The board shall have power to hear and determine appeals from refusals of building permits in violation of the zoning ordinance; to make exceptions to the terms of the zoning regulations in harmony with their general purpose and intent; and to authorize variances from the strict application of zoning regulations in such situations subject to such limitations as may be set by ordinance. The findings and decisions of the board shall be final, subject only to judicial review.

The board shall keep minutes of its proceedings, show the vote taken, keep records of its examinations and other official actions. Every order, requirement, decision or determination of the board shall be filed in the office of the Clerk.

The board shall exercise the functions and powers and perform the duties assigned to it by this Charter and the ordinances of the City; and where not otherwise provided by ordinance or Charter, the board shall have the powers, perform the functions, and follow the procedures set forth in the Statutes of the State of Colorado.

Section 8.3. Planning and Zoning Commission:

There is hereby created and established a Planning and Zoning Commission consisting of the number of members from time to time specified by the Council by ordinance. Such members shall be

Cherry Hills Village Home Rule Charter and Municipal Code

appointed by the Council for overlapping terms of three years. Each member shall be a taxpaying elector and in addition shall have resided in the area comprising the City at the time of his appointment for at least three years immediately preceding the date of his appointment. (10-3-66)

The Planning and Zoning Commission shall exercise the functions and powers and perform the duties assigned to it by this Charter and the ordinances of the City. It may prepare and submit to the Council for its approval a master plan for the physical development of the City and areas adjacent thereto. All plats of proposed subdivisions shall be submitted to it for recommendations and approval before being presented to the Council for its approval; it may hold a hearing or hearings relative to zoning and changes in the zoning ordinance, and may make recommendations thereon to the Council. Where not otherwise provided by Charter or ordinance, the Planning and Zoning Commission shall have the powers, perform the functions, and follow the procedures set forth in the Statutes of the State of Colorado. (10-3-66; amd. 4-7-70)

ARTICLE IX

CITY FINANCES

Section 9.1. Fiscal Year:

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

Section 9.2. Annual Budget:

A proposed budget for the ensuing fiscal year shall be presented to the Council on or before the twentieth day of September of each year. (10-3-66)

Section 9.3. Budget Hearing:

The Council shall hold a public hearing on the proposed budget each year. Notice of the time and place of such hearing shall be published at least once five days prior to such hearing, and copies of the proposed budget shall be made available to the public by depositing them in the office of the Clerk.

The Council may at any time before final adoption increase, decrease, add or strike out any item in the budget. (10-3-66; amd. 4-5-94)

Section 9.4. Scope of Annual Budget:

The budget adopted by the Council shall contain: (a) an estimate of anticipated revenue from all sources other than the tax levy for the ensuing year; (b) an estimate of the general fund cash surplus at the end of the current fiscal year, or of the deficit to be made up by appropriation; (c) the estimated expenditures necessary for the operation of the several departments, offices, and agencies of the City; (d) debt service requirements for the ensuing fiscal year; (e) an estimate of the sum required to be raised by the tax levy for the ensuing fiscal year, and the rate of levy necessary to produce such sum based on the percentage of current levy collection experience during the three preceding fiscal years; (f) a balance between the total estimated expenditures, including any deficit to be met, and monies set aside for public improvements and total anticipated revenue, plus any surplus. All estimates shall be in detail showing revenues by source, and expenditures by organizational units, activities, character and object. (10-3-66; amd. 4-5-94)

Cherry Hills Village Home Rule Charter and Municipal Code

Section 9.5. Adoption of Budget and Appropriation:

The Council shall adopt a budget calendar by resolution on or before the twentieth day of September of each year, and shall adopt an ordinance for the budget and an ordinance for the annual appropriations in accordance with said calendar. When finally adopted, the budget shall become a public record, and sufficient copies shall be deposited with the Clerk to insure adequate circulation. (10-3-66; amd. 4-5-94)

Section 9.6. Certification of Tax Levy:

In accordance with the requirements of State law, the Council shall fix the amount of tax levy which shall be assessed upon each dollar of assessed valuation of all taxable property within the corporate limits of the City, and shall cause the same to be certified to the County as required by law. If the Council should fail in any year to make such levy as above provided, the rate last fixed shall be the rate for the ensuing fiscal year, which rate shall be levied as by law provided. (10-3-66; amd. 4-5-94)

Section 9.7. General Fund:

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

Section 9.8. Contingencies:

The general fund may contain an item for contingencies.

Section 9.9. Special Funds:

Additional funds which shall be known as special funds may be created by ordinance to provide for monies to be held or used for special purposes, such as: depreciation and obsolescence; debt service; equipment and building replacement; special services; local improvements; City-owned utilities; trust funds and endowments; and such other purposes as the Council may determine. (10-3-66)

Section 9.10. Additional Appropriations:

The Council may make additional appropriations by ordinance during the fiscal year for unanticipated expenditures required of the City, but such additional appropriations shall not exceed the amount by which actual and anticipated revenues of the year are exceeding the revenues as estimated in the budget, unless the appropriations are necessary to relieve an emergency endangering the public peace, health or safety. (10-3-66; amd. 4-5-94)

Section 9.11. Departmental Appropriations Revert:

Any annual departmental appropriation, or any portion thereof, remaining unexpended and unencumbered at the close of the fiscal year, shall revert to the general fund. (10-3-66; amd. 4-5-94)

Section 9.12. Publication of Expenditures:

Expenditures authorized to be made need not be published, but the Clerk shall maintain a record on file of same, which shall at all times be available for public inspection. (10-3-66; amd. 4-5-94)

Cherry Hills Village Home Rule Charter and Municipal Code

ARTICLE X

BONDED INDEBTEDNESS

The City may, subject to applicable limitations in the Colorado Constitution (including without limitation applicable provisions of Article X, Section 20 also known as the TABOR Amendment), borrow money or enter into other obligations and issue securities or other evidences of such obligations in such form and manner as determined by the Council to be in the best interests of the City. (4/6/04)

ARTICLE XI

IMPROVEMENT DISTRICTS

Section 11.1. Power to Construct Improvements and Create Improvement Districts:

The City shall have the power to contract for, construct, or install special or local improvements of every character within designated districts of said City, and to assess the cost thereof wholly or in part upon the property especially benefited. The Council shall by ordinance prescribe the procedure for notice, the method and time for filing protest and disposition thereof, the method and manner of making such improvements, letting contracts therefor, assessing the cost thereof, and issuing and paying bonds for costs and expenses of the organization of said districts and of construction or installation of said improvements. Nothing herein contained shall be construed to limit the power of the Council to otherwise act in accordance with the Constitution and Statutes of Colorado in carrying out such purposes. (10-3-1966)

Section 11.2. Repealed (4/6/04).

Section 11.3. Improvement District Bonds—General Benefits:

In consideration of general benefits conferred on the City at large from the construction or installation of improvements in improvement districts, the Council may levy annual taxes on all taxable property within the City at a rate not exceeding two mills in any one year, to be disbursed as determined by the Council for the purpose of paying for such benefits, for the payment of any assessment levied against the City itself in connection with bonds issued for improvement districts, or for the purpose of advancing monies to maintain current payments of interest and equal annual payments of the principal amount of bonds issued for any improvement district hereinafter created. The proceeds of such taxes shall be placed in a special fund and shall be disbursed only for the purposes specified herein, provided that in lieu of such tax levies, the Council may annually transfer to such special fund any available monies of the City, but in no event shall the amount transferred in any one year exceed the amount which would result from a tax levied in such year as herein limited. (10-3-1966)

Section 11.4. Review of Improvement District Proceedings:

No action or proceeding, at law or in equity to review any acts or proceedings, or to question the validity or enjoin the performance of any act, or the issue or collection of any bonds, or the levy or collection of any assessments, authorized by this Article, or for any other relief against any acts or proceedings done or had under this Article, or of the City, with reference thereto, whether based upon irregularities or jurisdictional defects, shall be maintained, unless commenced within ninety days after the performance of the act or the passage of the resolution or ordinance complained of, or else be thereafter perpetually barred. (10-3-1966)

Cherry Hills Village Home Rule Charter and Municipal Code

ARTICLE XII

FRANCHISES

Section 12.1. Present Franchises:

All franchise ordinances of the City in effect at the time that this Charter is adopted shall remain in full force and effect, according to their provisions and terms, until the expiration date provided in such ordinances. (10-3-1966)

Section 12.2. Extension of Territory Covered by Franchise:

With respect to any franchise after negotiation or mutual agreement, the Council may by ordinance extend the area to include streets, alleys, or public places and property not embraced in such franchise, when public convenience and necessity requires, subject to all the terms and conditions of such original franchise, and co-extensive with the terms thereof, without a vote of the qualified taxpaying electors. (10-3-1966)

Section 12.3. Term, Compensation, Restriction:

No franchise, lease, or right to use the streets, or the public places or property of the City, shall be granted for longer than twenty years. Every grant of a franchise shall fix the amount and manner of 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. This provision shall not exempt the grantee from any lawful taxation upon his or its property, nor from any licenses, charges, or other impositions levied by the Council, not levied on account of the use granted by the franchise. (10-3-1966)

Section 12.4. Revocable Permits:

The Council may grant permits for the temporary use or occupation of any street, alley or public place, and establish conditions and compensation to be paid the City therefor. (10-3-1966)

Section 12.5. Condemnation or Purchase:

The right of the City to construct, purchase, or condemn any public utility, work or way, as provided by law, is expressly reserved. (10-3-1966)

Section 12.6. Assignment:

Assignment or leasing of a franchise shall be considered a forfeiture unless consent is given by the Council by ordinance. (10-3-1966)

Section 12.7. Common Use of Facilities:

The Council shall have the power to require any holder of a franchise from the City, or other public utility, to allow the use of its rights-of-way, poles and wires by any franchise holder, or the City itself, upon payment of a reasonable rental therefor; and the City may, under the terms prescribed by the Council, allow such franchise holders to use rights-of-way, poles and wires of City-owned utilities.

Cherry Hills Village Home Rule Charter and Municipal Code

ARTICLE XIII

MISCELLANEOUS PROVISIONS

Section 13.1. Disconnection:

Anything to the contrary notwithstanding under the Statutes of the State of Colorado now existing or as they may hereafter be amended, no territory may be disconnected from the City without first submitting the question of any such disconnection for approval of the taxpaying electors.

Section 13.2. Taxes for Municipal Purposes:

The Council shall have the power by ordinance to levy all forms of taxation for municipal purposes as are now or may hereafter be permitted to home rule cities under the Constitution of the State of Colorado, except that no use tax shall be imposed by the Council without having first been approved by a vote of the taxpaying electors of the City at a general or special election.

Section 13.3. Notice Required on Negligence Action:

No action for the recovery of compensation for personal injury, or death, or property damage, against the City on account of its negligence, shall be maintained unless written notice of the time, place, and cause of injury is given to the Clerk by the person injured, his agent or attorneys, within sixty days, and the action is commenced within two years of the occurrence or of the accident causing the injury or death or property damage. The notice given under the provisions of this Section shall not be deemed invalid or insufficient solely by reason of inaccuracy in stating the time, place or cause of injury, if it is shown that there was no intention to mislead and that the City was, in fact, not mislead thereby.

Section 13.4. Fidelity Bonds:

Before any officer or employee of the City who handles City funds shall be permitted to enter upon the duties of his office or employment, he shall obtain and file with the Clerk a fidelity bond from a bonding company authorized to do business in the State of Colorado, in any amount to be fixed by the Council. The cost of such bonds shall be borne by the City.

Section 13.5. Right of Eminent Domain:

The City shall have the right of eminent domain for all municipal purposes whatever either within or without the limits of the City as may be permitted to towns or cities by the Constitution and the Statutes of the State of Colorado.

Section 13.6. Contracts With Other Governmental Units:

The Council may, by resolution or by ordinance, enter into contracts or agreements with other governmental units or special districts for the use of buildings, equipment or facilities, and for furnishing or receiving commodities or services.

Section 13.7. Bequests, Gifts and Donations:

The Council, on behalf of the City, may receive bequests, gifts and donations of all kinds of property in fee simple, or in trust, for public, charitable or other purposes, and do all things and acts

Cherry Hills Village Home Rule Charter and Municipal Code

necessary to carry out the purposes of such bequests, gifts and donations, with the power to manage, sell, lease or otherwise dispose of the same in accordance with the terms of the bequest, gift or trust.

Section 13.8. Contracts for Purchases, Leases, and Construction of Public Works:

The Council may establish by ordinance procedure for entering into contracts for purchases, contracts for leases, and contracts for construction of public works.

Section 13.9. Temporary Zoning:

In all proceedings for the annexation of territory to the City, the Council may determine temporary zoning, and establish a temporary zoning district or districts for newly annexed territory at the time of the annexation of any territory to the City. Immediately upon annexation of any territory the Council shall comply with the statutory procedure for permanent zoning.

Section 13.10. Annexation of or Consolidation With Another Municipality:

Any plan of annexation of another municipality or consolidation with another municipality may be in accordance with Articles 8 and 9 of Chapter 139, Colorado Revised Statutes of 1963, as now existing or hereafter amended or modified. Upon any plan of annexation of another municipality or consolidation with another municipality in accordance with such statutes the Council may as a part of any plan submitted to the voters of the City propose changes in this Charter. If any such plan is approved by a majority of the voters at any general or special election called for such purpose, and such plan becomes otherwise operative, those portions of this Charter proposed to be amended will by such election be amended forthwith according to the terms contained in such plan, provided that the ballot title at such election includes notice of amendment of the Charter.

Section 13.11. Initiative and Referendum:

The power of initiative and referendum is reserved to the voters of the City in accordance with the provisions of Article V, Section 1 of the Constitution of the State of Colorado insofar as such provisions are applicable.

Section 13.12. Removal of Officers—Causes—Notice:

By a vote of $\frac{3}{4}$ of the membership of the entire Council, the Mayor or any Councilman may be removed from office. No such removal shall be made without a charge in writing and an opportunity of hearing being given, unless the official against whom the charge is made shall have ceased to be a resident of the City. (10-3-66)

Section 13.13. Amendment:

In addition to the provisions of Section 13.10, this Charter may be amended in the manner provided by Article XX of the Constitution of the State of Colorado at any general election or special election called for such purpose (1) upon questions which may be submitted to the electors by a majority of the Council or (2) upon questions which may be submitted by the electors. (10-3-66; amd. 4-7-70)

Cherry Hills Village Home Rule Charter and Municipal Code

Section 13.14. Retirement Plans:

This Charter shall not affect any contractual relationships existing on the effective date of this Charter between the City and any officer or employee by reason of any retirement and pension plans in effect. (10-3-66)

Section 13.15. Effect of State Statutes:

Unless otherwise provided by this Charter or by ordinances adopted by the Council hereunder, the Statutes of the State of Colorado governing municipal cities now classified as cities shall be in effect. (10-3-66; amd. 4-7-70)

Section 13.16. Severability:

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

APPROVAL OF COMMISSION

Signed and approved this 3rd day of October, 1966.

ROBERT P. DAVISON, President
WILLEMAIN O. CABLE, Member
ARTHUR W. DECKER, Member
JOHN L. FERGUSON, Member
DWIGHT A. HAMILTON, Member
PATRICIA P. NELSON, Member
ELISABETH S. ROBINSON, Member
THOMAS D. SMART, Member
GENE E. STEWART, Member
EDWIN P. VAN CISE, Member

ELIZABETH N. NOEL, Secretary
LEE DAILEY, Member
WILLIAM J. FAULKNER, Member
ROBERT L. FRINK, Member
NANCY E. MODESITT, Member
MIRIAM K. PICK, Member
DUANE E. SCOTT, Member
NED M. STEEL, Member
JAY W. TRACEY, JR., Member
EDWARD P. WASSON, Member

Signed and approved except as to Section 3.9 this 3rd day of October, 1966.

HARRY J. BURNS, Member