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ARTICLE 1

Elections

Sec. 2-1-10. Applicability of election codes.

(a) Except as otherwise provided in the City Charter, the Uniform Election Code of 1992, Articles 1 to 13 of Title 1, C.R.S., as amended, shall govern, in lieu of the "Colorado Municipal Election Code of 1965," the conduct of each City election which is held as a part of a coordinated election for which the County Clerk and Recorder is the coordinated election official.

(b) Except as otherwise provided in Subsection (a) hereof, and except as otherwise provided in the City Charter, the Municipal Election Code of 1965, Article 10 of Title 31, C.R.S., as amended, shall govern the conduct of City elections. (Prior code 6-1)

Sec. 2-1-20. Write-in candidates.

(a) Pursuant to Section 31-10-306, C.R.S., in any election of Mayor or Councilmember conducted pursuant to the Municipal Election Code, no write-in vote shall be counted unless an affidavit of intent has been filed with the City Clerk, by the person whose name is written in, prior to twenty (20) days before the day of the election indicating that such person desires the office and is qualified to assume the duties of that office if elected.

(b) Pursuant to Sections 1-4-1101 and 1-4-1102(2), C.R.S., in any election of Mayor or Councilmember conducted pursuant to the Uniform Election Code, no write-in vote shall be counted unless an affidavit of intent has been filed with the City Clerk, by the person whose name is written in, on or before the close of business on the sixty-fourth day before the election stating that such person desires the office and is qualified to assume the duties of that office if elected. (Prior code 6-2)

Sec. 2-1-30. Cost of recount.

Pursuant to Section 31-10-1207, C.R.S., the cost of a recount requested by a losing candidate or by the supporters of a losing question shall be paid by the party requesting the recount. Prior to conducting the recount, the City Clerk shall determine the cost thereof and notify the requesting party. (Prior code 6-3)

ARTICLE 2

Mayor and City Council

Sec. 2-2-10. Compensation of Mayor.

In accordance with Section 2.4 of the Charter, the compensation for the position of Mayor is five hundred dollars (\$500.00) per month. (Prior code 2-27; Ord. 12-08 §1, 2008)

Sec. 2-2-20. Compensation of City Council.

In accordance with Section 3.3 of the Charter, the compensation for each position on the City Council is three hundred dollars (\$300.00) per month. (Prior code 2-28; Ord. 12-08 §1, 2008)

ARTICLE 3

Officers and Employees

*Division 1
General Provisions*

Sec. 2-3-10. Appointed officers.

(a) In accordance with Articles VIII and X of the Charter, the following officers of the City shall be appointed by the Mayor subject to the ratification of the City Council:

- (1) Municipal Judge;
- (2) City Attorney;
- (3) City Clerk;
- (4) Fire Chief; and
- (5) Chief of Police.

(b) Said officers shall hold their respective offices until their successors are duly appointed and qualified. Vacancies shall be filled by appointment of the City Council. (Ord. 12-08 §1, 2008)

Sec. 2-3-20. Oath of office; bond.

(a) When required by the City Council, each officer or employee, before entering upon the duties of his or her office, shall take and subscribe to an oath to support the Constitutions and laws of the United States and the State and the ordinances of the City.

(b) In all cases where, by law, a bond is required of any such officer, he or she shall make and execute to the City a bond in such sum as is required, to be approved by the City Council, conditioned upon the faithful performance of all duties pertaining to such office, the proper care of all money or property of the City coming into his or her hands and the proper accounting for or delivery of the same. (Ord. 12-08 §1, 2008)

Sec. 2-3-30. Automobile allowance.

An official or employee of the City who is required and specifically authorized by the Mayor to use his or her personally owned automobile because of occasional necessity in the conduct of City business shall be paid a mileage allowance based on the current standard mileage rate for businesses

as established by the Internal Revenue Service for such use and travel. Mileage reports will be submitted to substantiate the payment of any such voucher. (Prior code 2-30; Ord. 25-04 §2, 2004)

Sec. 2-3-40. Workweek.

The workweek for all permanent City employees shall be forty (40) hours except in cases where the job description of an employee in a supervisory position includes duties exceeding such forty-hour period. (Prior code 2-31)

Sec. 2-3-50. Use of CDBG funds for lobbying.

(a) The City and its officials, representatives or employees are prohibited from spending Community Development Block Grant (CDBG) funds to influence or attempt to influence federal officers or employees of any agency, a member of Congress, an officer or employee of Congress or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative agreement.

(b) The City and its officials, representatives or employees are required to file a Disclosure Form to Report Lobbying if non-CDBG funds will be or are paid to any person for influencing or attempting to influence an officer or employee of any agency, member of Congress, an officer or employee of Congress, or an employee of a member of Congress related to a federal contract, grant, loan or cooperative agreement.

(c) The City shall require certification provisions to be included in all contracts, subcontracts and agreements involving CDBG funds to the effect that parties to the contracts, subcontracts and agreements certify that CDBG funds will not be and have not been used to influence or in an attempt to influence federal officials and certifying that a Disclosure Form to Report Lobbying will be filed when non-CDBG funds are used for such purposes as provided in this Section. (Prior code 2-32)

Sec. 2-3-60. City Administrator.

(a) Position created. The position of City Administrator is hereby created.

(b) Selection and employment. The City Administrator shall be hired by the Mayor. The position of City Administrator shall be a full-time, salaried position. The City Administrator shall be at all times an at-will employee, and shall serve at the pleasure of the Mayor.

(c) Compensation. The annual compensation for the City Administrator shall be set by the City Council.

(d) Chain of command. The City Administrator shall report directly to the Mayor. The City Administrator shall implement the directions of the Mayor regarding all City department heads, so that all City department heads will be reporting on a daily basis to the City Administrator. Notwithstanding the foregoing, only the Mayor is authorized to hire or terminate the employment of any City employee, including a department head.

(e) Duties. The City Administrator shall:

- (1) Supervise the City's non-appointed personnel;
- (2) Establish, implement and administer personnel, human resources, safety and risk management policies consistent with the City's Charter and ordinances;
- (3) Prepare the annual budget for the Mayor to submit to the City Council, in cooperation with City departments, commissions and citizen advisory committees;
- (4) Supervise the purchasing of services and equipment pursuant to the City's purchasing policies;
- (5) Monitor and supervise code enforcement services;
- (6) Meet with individuals, businesses and other organizations concerning City policies and procedures;
- (7) Attend conferences and seminars to keep abreast of current trends in the field of municipal management, within budget constraints;
- (8) Coordinate and oversee projects for economic development, housing, community marketing, leadership development, downtown revitalization and public infrastructure, in coordination with the Mayor, City department heads, commissions and citizen advisory committees;
- (9) Attend City Council meetings and work sessions as required;
- (10) Administer and monitor City contracts and franchises;
- (11) Supervise the preparation, coordination and implementation of grant applications and funding; and
- (12) Perform other functions and duties necessary for the implementation of those duties outlined above. (Prior code 2-29; Ord. 20-05 §1, 2005)

Sec. 2-3-70. City Treasurer.

(a) Appointment; powers.

- (1) Pursuant to Section 10.7(4) of the City Charter, the Finance Department established by Section 10.5 of the Charter is hereby abolished.
- (2) All functions and responsibilities provided for in the Charter or in this Code for the Finance Director shall be exercised by the City Treasurer.
- (3) A member of the City Clerk's office shall be designated by the Mayor to serve as City Treasurer, subject to ratification by the City Council. If a Deputy City Clerk is so designated, such Deputy City Clerk shall report to the City Clerk as to functions and responsibilities assigned

by the City Clerk, but shall report to the Mayor as to the functions and responsibilities of City Treasurer.

(4) The person designated as City Treasurer shall receive, during the period of such designation, such compensation therefor as established in the compensation plan adopted by the City Council.

(b) In addition to the duties set forth in the Charter, the City Treasurer shall:

(1) Establish and maintain a payroll register, and review such register prior to preparing and presenting such checks for signature pursuant to Section 4-1-110.

(2) Review, prior to payment, all employee time sheets.

(3) Prepare and maintain all documents and records required for the duties stated herein. (Prior code 2-350.1, 2-350.2; Ord. 12-08 §1, 2008)

Division 2
Uniform Selection Process

Sec. 2-3-210. Definitions.

As used in this Division:

Compensation plan means the pay plan adopted annually by the City Council pursuant to Division 3 of this Article.

Department head means the head of each department as provided for in Article X of the City Charter; except that, where the affected employee is a department head, it shall mean the Mayor.

Permanent employee means one who is classified as such in the compensation plan, and to whom benefits shall apply as provided in the personnel regulations adopted from time to time by the Mayor and approved by the Personnel Board.

Reduction in force means the involuntary termination of an employee because of lack of work, lack of funds, abolition of his or her position, administrative reorganization, elimination of a City function or activity or other nondisciplinary cause.

Relative means husband, wife, children, parents, grandparents, spouse's grandparents, grandchildren, sisters, brothers, mothers-in-law, fathers-in-law, brothers-in-law, sisters-in-law, daughters-in-law, sons-in-law, aunts, uncles, stepparents, stepchildren, nephews, nieces and cousins.

Temporary employee means one who is classified as such in the compensation plan, and to whom no benefits shall apply except as required by state or federal law, or except as specifically provided in the personnel regulations adopted from time to time by the Mayor and approved by the Personnel Board. (Prior code 2-100; Ord. 12-08 §1, 2008)

Sec. 2-3-220. Mayor; responsibilities.

The Mayor shall be responsible for the administration of employee matters in accordance with the Charter and this Division, including but not limited to the following responsibilities:

- (1) To adopt and amend from time to time the personnel regulations of the City, subject to approval by the Personnel Board, consider any revisions to such regulations as recommended by the City Council or Personnel Board, and provide such regulations to each employee with acknowledgment of receipt thereof by each employee;
- (2) To appoint each department head after consideration of the recommendations of the Personnel Board and subject to ratification by the City Council;
- (3) Prepare or cause to be prepared job descriptions for each position of permanent and temporary employment, and review and amend such descriptions from time to time;
- (4) To include, in the proposed annual budget of the City, provisions for the compensation of all employees, including overtime compensation and benefits; and
- (5) To propose, for inclusion in the compensation plan, the positions of permanent and temporary employment and the number of employees in each position. (Prior code 2-101; Ord. 12-08 §1, 2008)

Sec. 2-3-230. Positions; compensation plan.

- (a) No person shall be hired into any position of employment unless the position is provided for in the compensation plan.
- (b) No position shown in the compensation plan as part-time shall be changed to full-time, and no position shown in the compensation plan as temporary shall be changed to permanent, without an amendment to the plan and appropriate budgetary adjustments. (Prior code 2-102)

Sec. 2-3-240. Vacancies; announcements.

- (a) A vacancy shall exist whenever the number of positions established in the compensation plan exceeds the number of employees in such positions unless the Mayor declares that the vacancy shall remain open. Otherwise, the vacancy shall be filled as soon as practicable.
- (b) If the Mayor determines that the vacancy shall be filled, the Mayor shall cause the vacancy to be announced by at least one (1) publication in a newspaper of general circulation in the City, by posting and by such additional methods of dissemination as deemed appropriate by the Mayor. No publication shall be required for a position which the Mayor orders filled by promotion pursuant to Subsection (d) hereof.
- (c) Where a candidate screening and testing service provided by the Denver Regional Council of Governments exists for a position, such service shall be utilized by the City as a component of the City's competitive examination for the position.

(d) A department head may request the Mayor to order a position to be filled by an internal competitive examination. If the Mayor so orders, the examination shall be open only to permanent or temporary employees of the City who meet the minimum qualifications for the position, and shall be conducted in the manner provided for in Section 2-3-250. Any permanent or temporary employee who is appointed to fill such a position shall be subject to an observation period as provided in Section 2-3-270. Such an employee who fails to successfully complete the observation period may return to the prior position held by the employee only if the prior position is vacant at the time of such failure. (Prior code 2-103; Ord. 12-08 §1, 2008)

Sec. 2-3-250. Competitive examinations.

(a) The department head shall conduct examinations, which shall consist of such written tests, practical demonstrations, personal interviews or any combination thereof as determined necessary or appropriate by the Mayor to evaluate applicants for employment to a position designated to be filled by competitive examination. All applicants who meet the minimum qualifications established for such position shall be notified of the date, time and place at which such examinations shall be conducted.

(b) The department head shall establish such procedures as determined necessary or appropriate to ensure the integrity of the examination, and to assure the fair rating of applicants. (Prior code 2-104; Ord. 12-08 §1, 2008)

Sec. 2-3-260. Appointments.

(a) Following the examination and rating of the candidates, the department head shall forward to the Mayor the name and address of the top-rated eligible candidate. Upon the Mayor's approval to make an offer of employment, the department head shall send a letter to the candidate making an offer of employment.

(b) When a candidate fails to accept an offer of employment within seven (7) days following the mailing of the letter making such offer, the candidate shall be deemed to have refused such appointment. Following a refusal of appointment, the department head shall forward to the Mayor the name and address of the next highest candidate. (Prior code 2-105; Ord. 12-08 §1, 2008)

Sec. 2-3-270. Observation period.

There shall be a six-month observation period following each appointment to a permanent position other than a sworn law enforcement officer position, for which there shall be a twelve-month observation period. During the observation period, the employee may be discharged from employment for any reason and shall not have any right to appeal any discipline or termination to the Personnel Board. (Prior code 2-106)

Sec. 2-3-280. Reduction in force.

When warranted by changes in City operations or by fiscal circumstances, the City Council may amend the compensation plan to impose a reduction in force in one (1) or more departments. The Mayor shall then furnish the department head the position or positions to which the reduction applies,

and the department head shall notify the affected employee or employees at least two (2) weeks in advance of such reductions. (Prior code 2-107; Ord. 12-08 §1, 2008)

Sec. 2-3-290. Order of reduction.

(a) A reduction of the number of employees in any department shall be made in the following order:

(1) Temporary; then

(2) Observation period; then

(3) Permanent. Where there is more than one (1) permanent employee in a position that has been selected for a reduction in force, the reduction shall occur on the basis of seniority as a permanent employee of the department.

(b) If an eligible list exists pursuant to Subsection 2-3-240(c) for a position in which a reduction in force has occurred, the name of each employee to whom the reduction applies shall be placed on the eligible list for a period not to exceed one (1) year. (Prior code 2-108)

Sec. 2-3-300. General.

(a) All employees, as a condition of employment, must reside within the City limits or within a reasonable distance thereto, so that they may be available for service to the City on a short time of notice.

(b) To conform with the requirements of Article XII of the Colorado Constitution all veteran candidates or their widows who have successfully passed any written examination conducted pursuant to Section 2-3-250 shall receive an additional five (5) points. Disabled veterans or their widow or widows of persons who have died in military action who have successfully completed an examination shall receive an additional ten (10) points. Candidates claiming veteran's preference must submit proof of the same in the form of a copy of their discharge or its equivalent. Candidates claiming disabled veteran's preference must submit proof of such disability from the U.S. Veteran's Administration.

(c) A relative of an employee shall not be considered for employment by the City in circumstances where:

(1) One (1) relative directly or indirectly would exercise supervisory, appointment or dismissal authority or disciplinary action over the other relative;

(2) One (1) relative would audit, verify, receive, or be entrusted with moneys received or handled by the other relative; or

(3) One (1) relative has access to the City's confidential information, including personnel records.

(d) If City employees become relatives after employment by the City, and any of the circumstances exist or would exist as described in Subsections (c)(1), (2) or (3), one (1) of the related

employees shall be separated from employment. The affected employees may choose the one to be separated but, if no agreement can be reached, the Mayor shall decide. (Prior code 2-109)

ARTICLE 4

City Departments

Sec. 2-4-10. Appointment of department heads.

(a) The following procedures shall be used for the appointment of all department heads:

(1) Every applicant shall submit an application to the Mayor, which shall include a resume as well as any other information deemed necessary by the Mayor.

(2) The Mayor shall promptly forward a copy of every application and resume to the Personnel Board.

(3) The Personnel Board shall review and evaluate each application and resume, screen applicants and conduct interviews as it deems appropriate.

(4) Once the process described in Subsection(a)(3) hereof is completed, the Personnel Board shall provide to the Mayor its recommendation for filling the department head position. Such recommendation shall be provided to the Mayor no later than forty-five (45) days from the close of the time for filing applications.

(5) Promptly after receiving the recommendation of the Personnel Board, the Mayor shall make a decision regarding the appointment and present that decision to the City Council at a public meeting. If the Mayor decides not to follow the recommendation of the Personnel Board, the Mayor shall provide a written explanation to the City Council.

(b) Every decision of the Mayor to appoint a department head shall be subject to ratification by the City Council, as provided in Article X of the Charter. (Prior code 2-52; Ord. 07-06, §1, 2006; Ord. 12-08 §1, 2008)

Sec. 2-4-20. Department of City Engineer.

There is hereby established a department of City Engineer. The Department shall administer and enforce the codes pertaining to building and construction, plan review and building inspection and such other ordinances and codes hereafter assigned to the department for administration and enforcement. (Prior code 2-51)

Sec. 2-4-30. Department of Parks and Recreation.

(a) In accordance with Section 10.6 of the Charter, there is hereby established a Department of Parks and Recreation.

(b) The Mayor shall, after consideration of the recommendations of the Personnel Board and subject to ratification by the City Council, appoint a Director of Parks and Recreation and may retain

such other full-time or part-time personnel as may be necessary to conduct the recreational activities and programs of the City.

(c) The Director of Parks and Recreation shall administer the City's recreational programs and shall be responsible to the Mayor for same.

(d) Rules and regulations for recreational programs may be promulgated by the City Council by resolution. The City Council may also establish by resolution such fees for participation in recreational programs it deems appropriate in relationship to the costs of such programs. The Director of Parks and Recreation may, for good cause, deny or terminate participation of any individual or group violating any ordinance, rule or regulation related to recreational programs.

(e) The Mayor, with approval of the City Council, may enter into agreements or contracts necessary or desirable to conduct the City's recreational programs. (Prior code 16-1, 16-3, 16-4)

Sec. 2-4-40. Department of Public Works established.

(a) There is hereby established a Department of Public Works.

(b) The Department of Public Works shall be administered by a Director of Public Works, who shall be head of the Department and who shall have the powers and duties as are set forth by ordinance.

(c) The Director of Public Works shall be responsible for:

(1) Supervising and directing all employees of the Department of Public Works.

(2) Operating and maintaining all public works and facilities including, without limitation, water utilities, sanitary and storm sewers, drainage, streets, alleys, buildings, properties, lands and parks (subject to the provisions of Chapter 11), solid waste, traffic and public signs, equipment and motor vehicles (except police and fire equipment and vehicles).

(3) Preparing and administering the Department's annual budget and assisting with the preparation of the capital projects budget and capital projects program.

(4) Coordinating the activities of the Public Works Department with all other City departments, the City Engineer and all other persons within the City associated with such activities.

(5) Preparing such reports and providing such information as required by the Mayor, requested by City Council through the Mayor, and as necessary for the administration of the Department of Public Works.

(6) Responding to inquiries, complaints and comments from the public regarding such matters as set forth in Paragraphs (1) and (2) hereof; provided, however, that such responses related to City policies shall be subject to approval of the Mayor, and responses related to legal issues and legal policies shall be subject to approval of the City Attorney.

(7) Performing such other duties as required by the Mayor or as prescribed by ordinance.
(Prior code 2-66, 2-67)

ARTICLE 5

Municipal Court

Division 1 General Provisions

Sec. 2-5-10. Court of record.

A verbatim record of the proceedings of the Municipal Court shall be maintained. Such record shall be maintained for a period of at least three (3) months following termination of the case in the Municipal Court unless a notice of appeal has been filed with the City. If a notice of appeal has been filed, the verbatim record shall be maintained for three (3) months after final determination of the appeal. (Prior code 13-3; Ord. 12-08 §1, 2008)

Sec. 2-5-20. Transcription costs.

(a) Upon request for a transcript of proceedings of the Municipal Court, the Court Clerk shall be responsible for causing preparation of the same. The actual cost for preparation of the transcript shall be paid by the person making such request.

(b) With such request for a transcript, there shall also be paid to the Court Clerk the following amounts, which shall be in addition to the total cost of preparation of the transcript, as provided herein:

- (1) Non-trial proceedings, twenty-five dollars (\$25.00).
- (2) Trial before the Court, twenty-five dollars (\$25.00).
- (3) Trial before a jury, fifty dollars (\$50.00). (Prior code 13-4; Ord. 12-08 §1, 2008)

Sec. 2-5-30. Failure to appear.

No person shall fail to appear in response to any summons or subpoena served on him or her.
(Prior code 13-5)

Sec. 2-5-40. Original jurisdiction.

The Municipal Court shall have original jurisdiction of all cases arising under this Code and the ordinances of the City, with full power to punish violators thereof by the imposition of such fines and penalties as are prescribed in this Code or by ordinance. (Ord. 12-08 §1, 2008)

Sec. 2-5-50. Sessions.

(a) The Municipal Court shall convene for at least one (1) regular session of the Municipal Court each month and more often as needed. The session of the court may be held during the day or during the evening hours, at the discretion of the presiding Municipal Judge. The Municipal Judge may hold special sessions of court at any time, including Sundays, holidays and evenings.

(b) Where the nature of the case is such that it would be in the best interest of justice to exclude persons not directly connected with the proceedings, the Municipal Judge may order that the courtroom be cleared. (Prior code 13-1; Ord. 12-08 §1, 2008; Ord. 32-08 §1, 2008)

Sec. 2-5-60. Contempt power.

(a) When the Municipal Court finds any person to be in contempt, the Court may vindicate its dignity by imposing on the contemnor a fine not to exceed three hundred dollars (\$300.00) and imprisonment not to exceed a term of one hundred eighty (180) days.

(b) In cases of indirect contempt, the alleged contemnor shall have all the rights, privileges, safeguards and protections of a defendant in a petty offense case, including but not limited to a formal written complaint, arraignment and trial by jury. (Ord. 12-08 §1, 2008)

*Division 2
Municipal Judge*

Sec. 2-5-110. Municipal Judges.

The Municipal Court shall be presided over by a Municipal Judge and such additional acting Municipal Judges as shall be appointed by the Mayor subject to ratification by the City Council. (Prior code 13-16)

Sec. 2-5-120. Oath of office.

Before entering upon the duties of his or her office, the Municipal Judge shall take an oath of affirmation that he or she will support the Constitution of the United States, the Constitution of the State and the laws of the City, and will faithfully perform the duties of his or her office. (Ord. 12-08 §1, 2008)

Sec. 2-5-130. Compensation of Municipal Judges.

The compensation of the presiding and any associate Municipal Judge shall be four hundred twenty-five dollars (\$425.00) for each court session, including sessions held for jury trials, payable on a monthly basis. (Prior code 13-2)

*Division 3
Court Clerk*

Sec. 2-5-210. Court Clerk.

The Municipal Judge, with the approval of the City Council, shall appoint a person to serve as Court Clerk. The duties of the Court Clerk, in addition to the duties set forth in this Division, shall be those assigned by the Municipal Judge. The Municipal Judge may also act as Court Clerk in accordance with state statutes. (Ord. 12-08 §1, 2008)

Sec. 2-5-220. Oath.

Before entering upon the duties of office, the Court Clerk and any deputy or assistant clerk shall take and subscribe before the Municipal Court and file with the City Clerk an oath or affirmation to support the Constitutions of the United States and of the state and the Charter and ordinances of the City, and faithfully perform the duties of office. (Prior code 13-31; Ord. 12-08 §1, 2008)

Sec. 2-5-230. Register of actions and dockets.

The Court Clerk shall keep a register of the actions in the Municipal Court, including all fees and moneys collected and an index thereof. The Court Clerk shall also prepare and keep dockets. (Prior code 13-32; Ord. 12-08 §1, 2008)

Sec. 2-5-240. Collection and receipt of money.

The Court Clerk shall collect and receive all fees, fines, penalties, costs and other sums receivable by or payable to the Municipal Court and shall give a receipt for same. (Prior code 13-33; Ord. 12-08 §1, 2008)

Sec. 2-5-250. Preparations of writs and papers.

The Court Clerk shall prepare all writs, notices and other papers pertaining to the business of the Municipal Court. (Prior code 13-34; Ord. 12-08 §1, 2008)

Sec. 2-5-260. Report.

The Court Clerk shall make and file monthly with the City Treasurer and the Mayor a report for the preceding month. This report shall show:

- (1) The total number of convictions;
- (2) The total number of dismissals;
- (3) The total number of bonds paid;
- (4) The total number of appeal bonds approved;
- (5) The total moneys collected; and

- (6) Such other information as may be pertinent. (Prior code 13-35; Ord. 12-08 §1, 2008)

Division 4
Additional Personnel

Sec. 2-5-310. General.

(a) There is hereby established the office of Probation and Supervision Services. The Administrator of the Probation and Supervision Services Office shall be appointed by and be under the supervision of the Chief of Police. The Administrator shall be a sworn police officer of the Police Department and shall be certified or shall become certified within thirty (30) days after appointment as a peace officer in the same manner as other police officers of the same grade.

(b) The Administrator shall have the following responsibilities:

(1) Supervision of any defendant who is sentenced by the Municipal Court to probation, or whose sentence includes any alternative to a fine and/or imprisonment, including but not limited to: restitution; treatment for substance abuse; counseling; corrective training; participation in a community service program; deferred judgment and sentence; injunctive relief; or the issuance of one (1) or more restraining orders;

(2) Performance of a pre-sentence investigation of any defendant upon the request of the Municipal Court or the prosecutor.

(3) Performance of such other responsibilities as directed from time to time by the Chief of Police. (Prior code 13-90; Ord. 12-08 §1, 2008)

Sec. 2-5-320. Establishment.

(a) There is hereby established the office of Municipal Court Marshal. The Municipal Court Marshal shall be appointed by and be under the supervision of the Chief of Police. The Municipal Court Marshal shall not be a sworn police officer of the Police Department and shall not be entitled to any of the retirement, pension, disability or other benefits to which sworn police officers are entitled, but shall be entitled to such benefits as are afforded to other regular City employees performing similar hours and durations of work or services.

(b) The Municipal Court Marshal shall be a peace officer under the laws of the State and, within the limitations established by this Section, shall exercise such law enforcement authority as is provided to peace officers by said laws.

(c) The scope of the Municipal Court Marshal's law enforcement authority otherwise granted by state law to peace officers shall be limited to the following:

(1) To keep peace and to enforce the laws of the State and the municipal ordinances of the City within the Municipal Court of the City, its offices and any corridors or areas adjoining the Municipal Court, and to exercise the power of arrest in connection therewith, if necessary; and

(2) To serve and execute warrants, subpoenas, summons, show cause orders and other legal processes issued by the Municipal Court.

(d) The Municipal Court Marshal shall:

(1) Be responsible for the service and execution of warrants, subpoenas, summons, show cause orders and all other legal processes issued by the Municipal Court;

(2) Provide security for the Municipal Court;

(3) Conduct investigative work relative to locating individuals named in legal process issued by the Municipal Court;

(4) Transport prisoners in custody to and from the Municipal Court; and

(5) Perform such other duties as assigned from time to time by the Chief of Police. (Prior codes 13-100—13-102)

Division 5
Rules of Procedure

Sec. 2-5-410. Complaints generally.

Any complaint made for the violation of an ordinance of the City may be made upon information and belief. (Prior code 13-51)

Sec. 2-5-420. Dismissal of action for defect in form.

No action before the Municipal Court shall be dismissed for any defect in form in the statement, complaint or affidavit, if it substantially sets forth the nature of the violation alleged so as to give the defendant notice of the charge the defendant is required to answer. Such statement or complaint may include several persons charged with the same offense. (Prior code 13-52; Ord. 12-08 §1, 2008)

Sec. 2-5-430. Change of venue.

There shall be no change of venue granted in any case before the Municipal Court. (Prior code 13-53)

Sec. 2-5-440. Attachment for jurors.

In all cases where a person is summoned as a juror to try any case before the Municipal Court and fails to attend at the time and place appointed in such summons, the Municipal Court shall have power to issue an attachment, directed to any person authorized to serve warrants of arrest commanding such person forthwith to bring such juror before the Municipal Court to show cause why such juror should not be punished for contempt. On the appearance of such juror, the Municipal Court may punish the juror for contempt or wholly discharge the juror if a satisfactory excuse is made. (Prior code 13-54; Ord. 12-08 §1, 2008)

Sec. 2-5-450. Juror's fees.

Each person appearing before the Municipal Court in response to a notice to serve as a juror shall receive a fee of five dollars (\$5.00) for each such appearance. Each person serving as a juror shall receive a fee of ten dollars (\$10.00) per day or court session of such service. (Prior code 13-55; Ord. 12-08 §1, 2008)

Sec. 2-5-460. Witness fees.

Every witness subpoenaed before the Municipal Court, except an officer or employee of the City, shall be entitled to a witness fee of five dollars (\$5.00) for each session of court attended under such subpoena. (Prior code 13-56; Ord. 12-08 §1, 2008)

Sec. 2-5-470. Bond fee.

A bond fee in the amount of ten dollars (\$10.00) is hereby imposed, which shall be collected by the Court Clerk. (Prior code 13-57; Ord. 12-08 §1, 2008)

Sec. 2-5-480. Deferred sentence.

(a) In any case in which the defendant has entered a plea of guilty, the Municipal Court has the power, with the written consent of the defendant and the City Prosecutor, to continue the case for a period not to exceed twelve (12) months from the date of entry of such plea for the purpose of entering judgment and sentence upon such plea of guilty. The Municipal Court may impose as conditions of such deferred judgment and sentence any requirements which could be imposed through probation, including payment of restitution.

(b) Prior to entry of a plea of guilty to be followed by deferred judgment and sentence, the City Prosecutor, in the course of plea discussions, is authorized to enter into a written stipulation to be signed by the defendant, his or her attorney of record, if any, and the City Prosecutor, under which the defendant obligates himself or herself to adhere to such stipulation. The conditions imposed in the stipulation shall be similar in all respects to conditions permitted as part of probation. In addition, the stipulation may require the defendant to perform community service or charitable work service projects. Upon full compliance with such conditions by the defendant, the plea of guilty previously entered shall be withdrawn and the action against the defendant dismissed with prejudice. Such stipulation shall specifically provide that, upon a breach by the defendant of any condition regulating the conduct of the defendant, the Municipal Court shall enter judgment and impose sentence upon such guilty plea. When, as a condition of the deferred sentence, the Municipal Court orders the defendant to make restitution and finds that he or she has the ability to pay, evidence of failure to pay the said restitution shall constitute prima facie evidence of a violation. Whether a breach of condition has occurred shall be determined by the Municipal Court without a jury, upon application of the City Prosecutor and upon notice of hearing thereon of not less than five (5) days to the defendant or his or her attorney of record. Application for entry of judgment and imposition of sentence may be made by the City Prosecutor at any time within the term of the deferred judgment or within thirty (30) days thereafter. The burden at such hearing shall be by a preponderance of the evidence, and the procedural safeguards required in a revocation of probation shall apply.

(c) When a defendant signs a stipulation by which it is provided that deferred sentence and judgment shall be deferred for a certain time period, he or she thereby waives all rights to speedy trial as provided by law.

(d) Upon acceptance of any deferred judgment and sentence, the Municipal Court shall impose court costs of one hundred fifty dollars (\$150.00). (Prior code 13-58; Ord. 12-08 §1, 2008; Ord. 03-10 §1, 2010)

*Division 6
Costs and Fines*

Sec. 2-5-510. Cost credit to general fund.

All costs assessed in such cases shall be credited to the account of the general fund of the City. (Prior code 13-66)

Sec. 2-5-520. Assessment of court costs.

In any matter over which the Municipal Court has jurisdiction, the Municipal Court shall assess court costs as follows:

(1) Upon any plea of guilty, no contest or nolo contendere, or upon any finding of guilty by the Municipal Court or a jury, the Municipal Court shall assess as court costs a sum of twenty-five dollars (\$25.00). No costs shall be assessed when the conviction is obtained by entry of a plea of guilty in person or by mail prior to the scheduled arraignment date.

(2) Upon any plea of guilty, no contest or nolo contendere, or upon any finding of guilty by the court or a jury, in any of which a stay of execution is granted, the court shall assess as an additional cost a sum of twenty-five dollars (\$25.00).

(3) Upon any plea of guilty, no contest or nolo contendere, or upon any finding of guilty by the Municipal Court or a jury, in a case in which a warrant has been issued by the Municipal Court for failure to appear in response to any summons served upon the defendant the Municipal Court may assess additional costs not to exceed the sum of one hundred twenty-five dollars (\$125.00).

(4) Upon any plea of guilty, no contest or nolo contendere, or upon any finding of guilty by the Municipal Court or a jury, the Municipal Court shall assess witness fees in the following amounts:

a. For each subpoenaed City police officer or other City employee who testified, thirty dollars (\$30.00);

b. For each subpoenaed lay witness who testified, five dollars (\$5.00); and

c. For each subpoenaed expert witness who testified, the actual cost to the City.

(5) In any case set for trial, pretrial conference or other hearing set before the Municipal Court, and where the defendant either fails to appear in court or requests a continuance on the

appearance date, additional costs in the following amounts shall be assessed for each such failure to appear or continuance granted, which costs shall be assessed regardless of the final outcome of the case:

- a. For each interpreter retained to assist the defendant, complaining party or any other witness, thirty dollars (\$30.00);
- b. For each subpoenaed City police officer or other City employee, thirty dollars (\$30.00);
- c. For each subpoenaed lay witness, five dollars (\$5.00); and
- d. For each subpoenaed expert witness, the actual cost to the City.

(6) In any case set for trial, pretrial conference or other hearing set before the Municipal Court where the attorney of record fails to appear in court, costs in the following amounts shall be assessed against the attorney for each such failure to appear:

- a. For each interpreter retained to assist the defendant, complaining party or any other witness, thirty dollars (\$30.00);
- b. For each subpoenaed City police officer or other City employee, thirty dollars (\$30.00);
- c. For each subpoenaed lay witness, five dollars (\$5.00); and
- d. For each subpoenaed expert witness, the actual cost to the City.

(7) In any case involving a traffic accident, additional costs in the amount of twenty-five dollars (\$25.00) shall be assessed. The assessment of costs pursuant to this Subsection is to reimburse the City a portion of the costs incurred in investigating the accident and preparing the necessary reports.

(8) In any case where a defendant who is charged with a violation of Subsection (1), (2) or (3) of Section 1409 of the Model Traffic Code as adopted by the City, and which charge is later dismissed or an acquittal obtained as a result of the defendant's production of documents proving that a complying policy or certificate of self-insurance was in full force and effect at the time of the alleged violation, court costs in the amount of twenty-five dollars (\$25.00) shall be assessed. The assessment of costs pursuant to this Subsection is to reimburse the City a portion of the costs incurred as a result of the defendant's failure to have and/or produce motor vehicle insurance when required to do so by the issuing officer pursuant to law. These costs include, but are not limited to, the administrative and judicial expenses incurred in processing and handling the summons and determining that the defendant did, in fact, have insurance as required by law at the time of the alleged violation even though such defendant did not provide proof thereof at the time of issuance of the summons and complaint. These costs may be imposed only when the Municipal Court finds or the defendant admits that the required proof of insurance was not provided to the issuing officer on the date alleged in the summons and complaint.

(9) In any prosecution based upon the complaint of any person other than a police officer, if the complaining witness who signed the complaint fails to testify at the time of trial requiring a

dismissal, or appears at court and requests a dismissal of the charges, the Municipal Court may assess costs of fifty dollars (\$50.00) against the complaining witness. This Section shall be in addition to all other obligations, rights and remedies provided by law.

(10) In any case set for trial by jury, upon any plea of guilty, no contest or nolo contendere, or upon any finding of guilty by the jury, the Municipal Court shall assess juror fees in the amounts set forth in Section 2-5-450. Such juror fees shall not be imposed if the defendant appears before the court at least ten (10) days prior to the scheduled trial date and enters a plea of guilty, no contest or nolo contendere and waives his or her right to a trial.

(11) In any case in which a defendant is ordered to complete community service, whether as a result of a stipulated motion by the prosecutor, as a condition of a deferred judgment and sentence or as otherwise ordered by the Municipal Court, a community service fee in the amount of fifteen dollars (\$15.00) shall be assessed as court costs. This fee may be suspended or waived by the Municipal Court if the community service is imposed as a condition of a deferred judgment and sentence or the Municipal Court determines that the defendant, or a juvenile defendant's parents or legal guardians, are indigent.

(12) In any case in which a bench warrant is issued for failure to appear or for failure to comply with an order of the Municipal Court, a warrant fee in the amount of fifty-five dollars (\$55.00) shall be assessed as court costs. This fee may be suspended or waived by the Municipal Court if the Municipal Court determines that:

- a. A defendant who failed to appear had rescheduled his or her court date before the bench warrant for said defendant had issued;
- b. The Court is imposing only incarceration against a defendant who is currently incarcerated; or
- c. A defendant is indigent.

(13) In any case in which an outstanding judgment warrant (OJW) is issued for failure to pay all fines and costs due on a traffic matter, a thirty-dollar OJW fee may be assessed. Fifteen dollars (\$15.00) of each collected OJW fee shall be forwarded to the Colorado Department of Revenue, Division of Motor Vehicles, pursuant to the Division's regulations. (Prior code 13-68; Ord. 32-08 §2, 2008)

Sec. 2-5-530. Victim Assistance, Defendant Locator and Law Enforcement Programs.

(a) The City Council hereby finds and determines that the creation of the victim assistance, defendant locator and law enforcement program is consistent with the City's powers as a home rule municipality, and that the exercise of said powers in the manner set forth in this Chapter is in furtherance of the public health, safety and welfare.

(b) A twenty-five-percent surcharge is hereby levied on every fine imposed for a violation of this Code resulting in a conviction, a deferred judgment and sentence, or a plea of guilty or nolo contendere, entered on or after the effective date of the ordinance enacting this Section, provided that the total of said fine and surcharge shall not exceed the maximum fine established for such violation

under this Code. This surcharge shall be paid to the Court Clerk, who shall deposit the same in the victim assistance, defendant locator and law enforcement fund established by this Article.

(c) The surcharge levied by this Section shall be mandatory and shall be in addition to any other surcharge, fine or cost. The surcharge levied by this Section may not be suspended or waived by the Municipal Court unless the Municipal Court determines that the defendant is indigent. Calculated surcharge amounts shall be rounded to the nearest whole dollar.

(d) The revenues collected by means of the surcharge imposed pursuant to this Section shall be expended pursuant to the Charter and ordinances of the City and other applicable laws, and subject to the following requirements:

(1) All revenues from said surcharge shall be placed in a special fund which is hereby established in the Mayor-Council portion of the City budget, and which shall be known as the "Victim Assistance, Defendant Locator and Law Enforcement Surcharge Fund."

(2) All monies in said special fund shall be expended, subject to specific authorization of the City Council acting by motion, for the following purposes only:

a. Programs for the assistance of children, juveniles or adults who are victims of crime; children, juveniles or adults who are at a special risk of becoming victims of crime; and children or juveniles who are at a special risk of other involvement in the juvenile justice system or the criminal justice system;

b. Defraying the costs incurred by the City in locating defendants who have failed to appear in Municipal Court or who have otherwise failed to comply with an order of the Municipal Court;

c. Training of City employees and authorized volunteers of the City concerning law enforcement and victim assistance matters, including the acquisition of training supplies;

d. Acquisition of equipment, materials and supplies required by the City for the performance of law enforcement and victim assistance responsibilities; and

e. Defraying the costs of membership in professional law enforcement organizations and the costs of attending meetings, conferences and programs sponsored by or associated with such organizations.

(3) The purchase of any equipment, supplies, or services for use by the City, its employees or its authorized volunteers shall be subject to the purchasing provisions of the Charter and this Code.

(4) The use of any funds for any program, activity or service which involves any governmental entity other than the City shall be subject to an intergovernmental agreement approved by the City Council.

(5) The purchase of any equipment, supplies or services for use by any person or entity, other than the City, its employees or its authorized volunteers, and the use of any funds for any program,

activity or service which involves any nongovernmental entity, shall be subject to a written contract approved by the Mayor.

(6) All revenues which were collected on or before August 3, 1995, by means of the surcharge imposed pursuant to this Section, and which remain unencumbered as of August 3, 1995, are hereby transferred into the fund established by Subsection (1) hereof. (Prior codes 18-80, 18-81, 18-83; Ord. 24-08 §1, 2008)

Sec. 2-5-540. School Resource Officer Program.

(a) The City Council hereby finds and determines that the creation of the school resource officer fund as provided in this Chapter is consistent with the City's powers as a home rule municipality, and that the exercise of said powers in the manner set forth in this Chapter is in furtherance of the public health, safety and welfare.

(b) A five-dollar surcharge is hereby levied on every fine imposed for a violation of this Code resulting in a conviction, a deferred judgment and sentence, or a plea of guilty or nolo contendere, entered on or after March 1, 2003, provided that the total of said fine and all surcharges shall not exceed the maximum fine established for such violation under this Code. This surcharge shall be paid to the Court Clerk, who shall deposit the same in the school resource officer fund established by this Article.

(c) The surcharge levied by this Section shall be mandatory and shall be in addition to any other surcharge, fine or cost. The surcharge levied by this Section may not be suspended or waived by the Municipal Court unless the Municipal Court determines that the defendant is indigent. (Prior codes 18-100, 18-101)

*Division 7
Probation*

Sec. 2-5-610. Generally.

Whenever a person is adjudged guilty of a violation of any ordinance of the City and the Municipal Court is satisfied that the ends of justice and the best interest of the public, as well as the defendant, will be best served, the Municipal Court may suspend the imposition or execution of the judgment and place the person on probation. When placing a person on probation the Municipal Court may impose such conditions as it deems best. The Municipal Court may revoke or modify any condition of probation, or may change the period of probation. The period of probation, together with any extension thereof, shall not exceed twelve (12) months. (Prior code 13-76)

Sec. 2-5-620. Restitution and cost.

A defendant who has been granted probation may be required, so far as possible and upon such reasonable terms as the Municipal Court may impose, to make restitution or reparation to any aggrieved person for actual damage or loss caused by the offense for which the conviction was had. The defendant may also be required to give fingerprints to the Police Department and to pay the court costs. (Prior code 13-77)

Sec. 2-5-630. Statement of conditions.

Whenever probation is granted, the Municipal Court shall set forth in writing the conditions under which such probation is granted and shall furnish to each person released on probation a copy of the statement of such conditions. Each defendant shall be required to sign an acceptance of the conditions of probation before the order of probation is granted. The Court Clerk shall send a copy of the statement of the conditions of probation to the Police Department where it shall be kept on file. (Prior code 13-78)

Sec. 2-5-640. Violation of probation.

(a) It shall be the duty of the Police Department, or such other officers or employees of the City as may be assigned to such duties, whenever they may have reason to believe that the conditions of probation have been violated by any probationer, to bring the matter to the attention of the office of the City Attorney who in turn shall bring the matter to the attention of the Municipal Court.

(b) If facts are presented to the Municipal Court from which it reasonably appears that the conditions of probation have been violated by any person on probation, the Municipal Court shall issue a warrant for the arrest of the person and require that the person be brought before the Municipal Court to show cause why the probation should not be revoked. If the probationer is taken into custody, the Municipal Court may admit such probationer to bail conditioned upon his or her appearance before the Municipal Court on a day certain. Such bail may be continued from time to time until final order of the Municipal Court. If at such a hearing the Municipal Judge determines that such probationer is not guilty of a violation of the conditions of probation, he or she shall enter an order in accordance therewith and forthwith order the probationer's release, if in custody. If the Municipal Judge determines that the violation of the conditions of such probation has been committed, the Municipal Judge shall either revoke or continue the probation within three (3) days after the hearing. In that event the Municipal Court may impose any sentence which might originally have been imposed, or the Municipal Court may vacate the suspension of sentence and reinstate the sentence originally imposed. Any person who has been admitted to probation and against whom proceedings for the revocation of probation have not been commenced within the term of probation shall be conclusively presumed to have satisfied the sentence and/or fine imposed. (Prior code 13-79)

ARTICLE 6

Police Department

*Division 1
General Provisions*

Sec. 2-6-10. Duties of Chief of Police.

(a) The Chief of Police shall have full charge of the Police Department, subject to the supervision of the Mayor, and shall:

(1) Be charged with the duty of crime prevention, crime detection, criminal apprehension, the enforcement of all ordinances of the City, laws of the State and rules and regulations of the Police Department, and the efficient conduct of the Police Department generally;

(2) Direct the operations of the Police Department, subject to the rules and regulations thereof;

(3) As sergeant at arms, attend personally, or by personal representative, all meetings of the City Council;

(4) Render such accounts of the Police Department, his or her duties and receipts as may be required by the City Council, and keep the records of his or her office open to inspection by the City Council at any time;

(5) Report monthly to the Mayor all arrests made by the Police Department, the disposition of persons arrested, the number of persons remaining in confinement for ordinance violations and such other information as the Mayor requires;

(6) Be responsible for the efficient functioning of an Animal Control Department;

(7) With approval of the Mayor, prescribe rules for the government of the police officers of the City, which shall be entered in a book of Police Department rules and orders and may be amended or revoked from time to time with the approval of the Mayor;

(8) Institute an established training program for all members of the Police Department;

(9) Perform such other duties as may be prescribed for him or her from time to time by the Mayor.

(b) Before entering upon the duties of such office, the Chief of Police shall take and subscribe to an oath that he or she will support the Constitution of the United States, the Constitution and laws of the State and ordinances of the City, and that he or she will faithfully perform the duties of the office upon which he or she is about to enter. (Prior code 18-17; Ord. 12-08 §1, 2008)

Sec. 2-6-20. Acting Chief.

(a) The Chief of Police shall designate, from time to time, an officer of the department to serve as Acting Chief during times when the Chief of Police is absent or unable to act as Chief of Police.

(b) In the event the Chief of Police becomes absent or unable to act as chief and has failed to designate an Acting Chief, or in the event the Acting Chief designated by the Chief of Police becomes absent or unable to serve as Acting Chief, the Mayor, subject to ratification by the City Council, shall designate some other officer to serve as Acting Chief.

(c) The provisions of Subsections (a) and (b) hereof shall not apply to any vacancy in the office of Chief of Police. Such a vacancy shall be filled in accordance with Section 10.3 of the Charter. An Interim Chief may be appointed by the Mayor, subject to ratification by the City Council, while the procedures to fill such a vacancy on an ongoing basis are being completed.

(d) No officer shall be eligible to serve as Acting Chief or Interim Chief pursuant to this Section unless the officer holds the rank of sergeant or higher. (Prior code 18-16)

Sec. 2-6-30. Duties of Police Department.

The officers of the Police Department shall:

- (1) Be the enforcement officers of the City and shall see that the provisions of all state laws and City ordinances are complied with;
- (2) Perform all duties required by applicable laws, City ordinances and the Chief of Police;
- (3) Obey the rules of the Police Department.
- (4) Execute and return all writs and processes to them directed by the Municipal Court in any case arising under a City ordinance. They may serve the same in any part of the County. (Prior code 18-18; Ord. 12-08 §1, 2008)

Sec. 2-6-40. Departmental regulations.

The Police Department shall be operated and managed in accordance with such departmental rules and regulations as may from time to time be adopted by the City Council. (Ord. 12-08 §1, 2008)

Sec. 2-6-50. Oath of officers.

Before entering upon the duties of his or her office, each police officer shall take and subscribe an oath that he or she will support the Constitution of the United States, the Constitution and laws of the State and the ordinances of the City, and that he or she will faithfully perform the duties of the office upon which he or she is about to enter. (Ord. 12-08 §1, 2008)

Sec. 2-6-60. Unauthorized removal of property.

It is unlawful for any person to remove any property from the custody and possession of the Police Department or any authorized agent thereof, without having first obtained a release of the property from the Police Department. This Section shall apply to all persons irrespective of ownership or any claim or right any person may have with respect to such property. (Prior code 18-19)

Sec. 2-6-70. Community Service Officers.

(a) The Police Department may include one (1) or more Community Service Officers. A Community Service Officer is not required to be certified by the Colorado Peace Officer Standards and Training Board.

(b) Community Service Officers are authorized to enforce all the laws of the City, except for:

- (1) The provisions of Chapter 10 of this Code, entitled General Offenses; and

(2) The provisions of the Model Traffic Code for Colorado, as adopted by reference in Chapter 8 of this Code, specifically excluding Part 12 thereof, concerning parking, which the Community Service Officers may enforce.

(c) Community Service Officers may execute and issue summonses and complaints into the Municipal Court for all City laws they are authorized to enforce.

(d) Community Service Officers shall perform such other duties as may be prescribed from time to time by the Chief of Police, consistent with the provisions of this Section. (Ord. 25-08 §1, 2008)

Sec. 2-6-80. Administrative services, fees and exemptions.

(a) Administrative services authorized.

(1) The Chief of Police shall establish, and shall present to the City Council for its approval from time to time, a list of administrative services for which a fee is charged, provided that such services:

- a. Are not services provided pursuant to Section 2-6-30 of this Article;
- b. Are provided only at the request of a person or persons; and
- c. Do not substantially interfere with those duties required of the Police Department by Section 2-6-30 of this Article or any other law.

(2) The list of services established pursuant to Paragraph (a)(1) above shall include for each service listed the amount of the fee charged for the service and the days or times during which a service may be requested. Each fee charged shall be calculated so as to be only that amount that defrays the actual cost of providing administrative services to those charged and shall be effective upon approval of the fee amount by resolution of the City Council. The Chief of Police is authorized to amend the list of services as to the days or times during which a service is provided at any time, in his or her sole discretion.

(b) Administrative services fees collection and disposition.

(1) The Police Department shall collect the fee for any administrative service authorized and provided pursuant to Subsection (a) above and shall give a receipt for the same.

(2) All fees collected pursuant to this Subsection shall be credited to the General Fund of the City.

(3) This Section shall in no way alter or affect the validity or enforceability of any other fees established by ordinance for Police Department services. Unless explicitly provided otherwise, in the event of a conflict between a fee amount established pursuant to this Section and elsewhere in the Code, or by other action of the City Council, the higher fee amount shall apply.

(c) Administrative services fees exemptions.

(1) General exemptions.

a. Administrative services fees charged for fingerprinting services shall be waived when:

1. The person being fingerprinted represents that he or she is a resident of the City and is requesting the service as part of the process of becoming a foster or adoptive or respite home for the County Department of Human Services; and

2. The Police Department employee receiving the request for fingerprinting service has no reason to believe that the person being fingerprinted has provided any false statements or documentation concerning his or her eligibility for a fee waiver.

b. Other general exemptions may be established by ordinance of the City Council. No such exemption shall be established in such a way that it benefits only a single person.

(2) Individual exemptions. Upon a showing of good cause, one-time waivers of fees established pursuant to this Section may be granted to individuals by the Chief of Police or his or her designee. (Ord. 12-09 §1, 2009)

*Division 2
Police Reserve*

Sec. 2-6-110. Established; purpose.

There is established a City Police Reserve. Its mission shall be to cooperate with and render service and assistance to the regular Police Department, under the direction of the Chief of Police. It shall serve the purpose of augmenting the field and administrative strengths of the Police Department. Reserve selection criteria shall meet those for full-time officers, except for entry level age. Retirement from the Police Reserve Force shall be mandatory upon attainment of age fifty-five (55). (Prior code 18-36)

Sec. 2-6-120. Composition, duties and pay.

Subject to the approval of the Mayor, the Chief of Police may establish not more than ten (10) positions in the Police Reserve. Such members shall perform such duties as may be assigned by the Chief of Police. Such members shall serve without compensation and shall serve on duty when called into service by the Chief of Police. Such members may be paid a uniform allowance of fifty cents (\$0.50) per hour for each hour of such service, if amounts therefor have been budgeted and appropriated and are available for such payment. (Prior code 18-37)

Sec. 2-6-130. Training.

Reserve officers are commissioned only after completion of a training program equal to that required for full-time officers. Reserve officers shall receive in-service training equivalent to that of full-time officers performing like functions and shall be tested for firearms proficiency with the same frequency as full-time officers performing like functions. (Prior code 18-38)

Sec. 2-6-140. Functions and powers.

The primary function of the Police Reserve shall be to gain information by observation to be submitted to a regularly constituted officer for appropriate action and processing. Members of the Police Reserve may, upon view, arrest any person who may be guilty of a breach of the ordinances of the City or of any crimes against the laws of the State or of the United States. Members shall, under normal circumstances, be assigned to duty only when a regular police officer is also on duty and exercising supervision. A member of the Police Reserve shall always be subordinate to a regularly constituted police officer on duty. (Prior code 18-39)

Sec. 2-6-150. Misconduct.

Any member of the Police Reserve who willfully disobeys any rules or lawful order or regulations of the Police Department concerning such duty shall be subject to dismissal by the Chief of Police. (Prior code 18-40)

Sec. 2-6-160. Insurance.

Members of the Police Reserve shall be covered by state compensation insurance while on authorized duty for the Police Department. Each officer shall be covered by false arrest insurance or be insured from false arrest liability by the City. (Prior code 18-41)

ARTICLE 7

Fire Department

Sec. 2-7-10. Fire Chief powers and duties.

(a) The Fire Chief shall have full charge of the Fire Department, subject to the supervision of the City Manager, and shall:

(1) Manage and direct the operations of the Fire Department, subject to the rules and regulations thereof;

(2) Hire, discipline and terminate all subordinate members of the Fire Department, subject only to the provisions set forth below concerning the board of trustees and an appeal to the City Manager;

(3) Report periodically to the City Manager concerning the operations of the Fire Department and such other information as the City Manager requires; and

(4) Perform such other duties and functions as may be prescribed from time to time by the City Manager.

(b) Because of the volunteer nature of the regular members of the Fire Department, the Fire Chief shall, until January 1, 2020, maintain a three-member Board of Trustees that shall be elected annually by the regular members of the Fire Department. Any member must have served

continuously in the Fire Department for at least three (3) years to be eligible for the position of trustee. The board of trustees shall perform the following functions:

(1) Make recommendations to the Fire Chief concerning the adoption or amendment of the rules and regulations to be promulgated by the Fire Chief pursuant to Subsection (c) of this Section; to this end, the Fire Chief shall provide to the Board of Trustees a copy of any such rules and regulations, and any amendments thereto, not less than thirty (30) days prior to their formal adoption by the Fire Chief;

(2) Make recommendations to the Fire Chief prior to the acceptance by the Fire Chief of any new member into the Fire Department; to this end, if the Fire Chief shall determine to accept applications for membership in the Fire Department, the Fire Chief shall provide a written list of finalists to the board of trustees for each position to be filled and the Fire Chief shall not accept any new member into the department until the earlier of: (i) the date on which the Fire Chief receives a recommendation from the board of trustees as to which of the finalists should be accepted into the Fire Department; and (ii) the date on which at least three (3) business days have passed from the date of delivery of the list for each named finalist on the list (for example, if the list of finalists contains five [5] names, then the board of trustees shall have fifteen [15] business days within which to provide the Fire Chief a recommendation as to who should be accepted into the department);

(3) Make recommendations to the Fire Chief concerning certain disciplinary actions that may be taken by the Fire Chief as follows:

a. In the event that the Fire Chief desires to impose a disciplinary suspension in excess of thirty (30) days, the Fire Chief shall first provide the Board of Trustees with a writing that describes the length of the proposed suspension and the reason(s) for the proposed suspension, and the Board of Trustees shall have five (5) business days after delivery of the writing in which to make a written recommendation to the Fire Chief concerning the suspension; for purposes of this Subsection, a *disciplinary suspension* means any suspension undertaken for any reason other than to provide time for the investigation and/or resolution of an allegation or charge of wrongdoing made against a firefighter, whether or not any such charge or allegation of wrongdoing results in formal legal proceedings; and

b. In the event that the Fire Chief desires to terminate the service of a firefighter, the Fire Chief shall first provide the Board of Trustees (with a writing that provides) the reason(s) for the termination, and the Board of Trustees shall have ten (10) business days after delivery (of the writing) to make a written recommendation to the Fire Chief concerning the termination;

c. All information received by the Board of Trustees pursuant to this Subsection shall be confidential information, and it shall be unlawful for any member of the Board of Trustees to reveal any such information to any person, except as may be required under applicable law. Any discussion of any such information by the Board of Trustees shall occur only during an executive session of the Board called pursuant to applicable statutory requirements unless, pursuant to said statutory requirements, the individual who is to be the subject of discussion has been notified in accordance with the statute and has exercised his or her right to request that the discussion occur in an open meeting.

(4) Adopt bylaws that shall be subject to the approval of the City Council and not inconsistent with any provision of law, and which shall provide for:

a. The manner for the election and removal of trustees by the regular members of the Fire Department;

b. The term of office of the several trustees;

c. The time, place and frequency of meetings of the Board of Trustees and rules of procedure for the conduct of such meetings; and

d. Rules concerning voluntary efforts by department members in connection with: (i) fundraising in support of the Fire Department; (ii) recruitment of new members in support of the department; and (iii) support of City operations at City-sponsored special events.

(c) The Fire Chief shall promulgate rules and regulations for the Fire Department consistent with the provisions of this Article and the City Charter, which, among other things, shall:

(1) Provide for the selection of members of the Fire Department, consistent with the maintenance of high standards and efficient operation of the Fire Department;

(2) Establish meeting times and provide rules of order for such meetings;

(3) Establish the duties of the members and provide for their discipline; provided, however, that the disciplinary rules shall provide that any member of the department may appeal any final disciplinary decision of the Fire Chief concerning that member to the City Manager;

(4) Establish such officers and boards of the Fire Department as may be necessary or desirable for the efficient operation of the Fire Department to protect the City against fire, and provide for their manner of selection and term of office;

(5) Establish the duties of officers of the Fire Department, and shall provide for the selection of such other officers as necessary to assume the duties of the Fire Chief in his or her absence; and

(6) Provide a procedure whereby appeals from disciplinary actions taken by the Fire Chief shall, upon the request of any affected fireman, be reviewed and either affirmed, modified or reversed by the City Manager. (Prior code 7-16; Ord. 02-05 §1, 2005; Ord. 09-10 §2, 2010)

Sec. 2-7-20. Incident command.

In the case of the absence of the Fire Chief from any incident, in his or her absence the incident commander of the scene shall have the powers and perform the duties of the Fire Chief. (Prior code 7-17; Ord. 02-05 §2, 2005; Ord. 09-10 §3, 2010)

Sec. 2-7-30. Oath of officers.

Before entering upon the duties of his or her office, each firefighter shall take and subscribe an oath that he or she will support the Constitution of the United States, the Constitution and laws of the

State and the ordinances of the City, and that he or she will faithfully perform the duties of the office upon which he or she is about to enter. (Ord. 12-08 §1, 2008)

Sec. 2-7-40. City utility credit; expense reimbursement.

(a) City utility credit; eligibility; amount.

(1) Each City Volunteer Fire Department member ("Firefighter") who has retired in good standing from the City Volunteer Fire Department, resides within the City and is responsible for the payment of City utility services at such residence shall be entitled to a credit on each quarterly City utility bill in an amount not to exceed two hundred thirty dollars (\$230.00) annually.

(2) The surviving spouse of any Firefighter, if such Firefighter was killed in the line of duty or died as a result of injuries suffered while in the line of duty and such surviving spouse resides within the City and is responsible for payment of City utility services at such residence, shall be entitled to a credit on each quarterly City utility bill in an amount not to exceed two hundred thirty dollars (\$230.00) annually.

(3) The surviving spouse of any Firefighter, if such Firefighter retired in good standing, did not die as a result of injuries suffered while in the line of duty and such surviving spouse resides within the City and is responsible for the payment of City utility services at such residence, shall be entitled to a credit on each quarterly City utility bill in an amount not to exceed one hundred fifteen dollars (\$115.00) annually.

(4) Where applicable, the penalty provisions of Section 13-2-430 shall apply to the total amount due for City utility services prior to deduction of the credit granted by this Section.

(b) Expense reimbursement. Every active Firefighter shall be entitled to reimbursement for expenses incurred by such Firefighter in responding to fire and emergency calls (the "Covered Expenses").

(1) Covered Expenses include:

a. Wear and tear on, and cleaning of, personal clothing worn by the Firefighter when responding to fire and emergency calls.

b. Wear and tear on, and cleaning of, personal supplies and equipment that are used by the Firefighter in responding to fire and emergency calls.

c. Transportation expenses incurred by the Firefighter in responding to fire and emergency calls.

(2) Covered Expenses are hereby determined to be four dollars and fifty cents (\$4.50) for each response to a fire or emergency call.

(3) On a quarterly basis, each Firefighter shall substantiate his or her Covered Expenses to the Chief of the City's Volunteer Fire Department (the "Chief"). Substantiation of Covered Expenses to the Chief shall be in writing and on forms supplied by the City.

(4) At the end of each quarterly period, the Chief shall submit to the Mayor an itemized list of Firefighter reimbursements. Such itemized list shall include the name of the Firefighter, the date and nature of each fire or emergency call to which the Firefighter responded and the amount to be reimbursed.

(c) In addition to the reimbursement provided in Subsection (b) hereof, after the completion of the probation period, each firefighter who has successfully completed the same and becomes a permanent member of the Fire Department shall be entitled to reimbursement of vehicle expenses at a rate of one dollar (\$1.00) for each fire or emergency call that such firefighter responded to during the probation period.

(d) The Fire Chief shall submit to the Mayor by sworn statement a list of all fire and emergency calls responded to by each eligible member and each eligible probationary member of the Fire Department at the end of each quarterly period. (Prior code 7-18; Ord. 15-07 §1, 2007)

Sec. 2-7-50. Fire lines.

The Fire Chief or the incident commander may prescribe limits in the vicinity of any scene within which no persons excepting those who reside therein, firefighters and police officers and those admitted by order of any officer of the Fire Department are permitted to come. (Prior code 7-19; Ord. 02-05 §3, 2005)

ARTICLE 8

Code of Ethics

Sec. 2-8-10. Intent and purpose.

The purpose of this Article is to ensure that the Mayor and all elected and appointed officials and employees of the City adhere to high ethical conduct so that the public will have confidence that that the City's government operates in a fair, ethical and accountable manner. All officials and employees of the City shall adhere to the letter and spirit of the Code of Ethics and strive to avoid situations which create any appearance of impropriety. By adopting this Code of Ethics, it is the City Council's intent to supersede the provisions of Article XXIX of the Colorado Constitution in its entirety. (Prior code 2-600; Ord. 01-07 §1, 2007)

Sec. 2-8-20. Definitions.

For purposes of this Article, the following terms shall have the following meanings:

Appointed official means any person appointed to any City board or commission by the City Council or the Mayor.

Confidential information means matters required by state or federal law or regulation to be kept confidential, as well as attorney-client privileged communications, personnel matters and other matters that may be discussed in executive session.

Elected official means the Mayor and members of the City Council.

Employee means any person in the employ of the City or of any of its agencies or departments, excluding independent contractors; provided that, solely for the purposes of this Article, volunteer firefighters shall be considered "employees."

Immediate family member means husband, wife, domestic partner, son, daughter, mother, father, brother, sister, stepson, stepdaughter, stepmother, stepfather, grandmother, grandfather or grandchild.

Official means any elected or appointed official of the City.

Official action means any action that involves:

- a. Negotiating, approving, disapproving, administering, enforcing or recommending for or against a contract, purchase order, lease, concession, franchise, grant or other similar instrument in which the City is a party;
- b. Enforcing laws or regulations or issuing, enforcing or regulating permits;
- c. Selecting or recommending the selection of vendors, concessionaires or other types of entities to do business with the City;
- d. Appointing and terminating employees, temporary workers or independent contractors;
- e. Doing research for, representing or scheduling appointments for an official or employee; provided that these activities are provided in connection with that official or employee's performance of the actions specified in Subparagraphs (a) through (d) hereof. (Prior code 2-601; Ord. 01-07 §1, 2007)

Sec. 2-8-30. Gift ban.

(a) It is a violation of this Article for any official, employee or any immediate family member of an official or employee to solicit or to accept any of the following items if the official or employee is in the position to take an official action with regard to the donor or if the City has an existing, ongoing or pending contract, business or regulatory relationship with the donor:

- (1) A gift that would tend to improperly influence the official or employee to depart from the faithful and impartial discharge of his or her public duties; or
- (2) A gift that is solicited or given for the primary purpose of rewarding the official or employee for an official action he or she has taken.

(b) Officials, employees and members of their immediate family may accept the following even if the official or employee is in a position to take official action with regard to the donor or if the official or employee has an existing, ongoing or pending contract, business or regulatory relationship with the donor:

- (1) Gifts from other officials or employees and their immediate family members;
- (2) Campaign contributions as permitted by law;

(3) Nonpecuniary awards that are publicly presented by an organization in recognition of public service if the award is not extraordinary when viewed in light of the position held by the recipient;

(4) Educational scholarships and grants available to members of the general public who are similarly situated;

(5) Grants and services for medical, respite or hospice care or other social welfare needs available to members of the general public similarly situated;

(6) An occasional, unsolicited gift having a fair market value of fifty dollars (\$50.00) or less;

(7) Unsolicited informational material, publications or subscriptions related to the official's or employee's performance of his or her official duties;

(8) Items of perishable or nonpermanent value, including but not limited to meals, lodging or tickets to sporting, recreational educational or cultural events;

(9) An unsolicited token or award of appreciation in the form of a plaque, trophy, desk item, wall memento or other similar item;

(10) Payment of actual and necessary expenditures for registration, travel, lodging and meals for attendance at a convention, training seminar or other meeting at which the official or employee is scheduled to participate as a representative of the City or to attend as part of his or her official duties;

(11) An occasional unsolicited opportunity to participate in a business meeting or social function where a meal is served or entertainment is provided if the official or employee's attendance would not be considered extraordinary when viewed in light of the position held by the official or employee;

(12) Gifts received by an official or employee, or one (1) of their immediate family members, that are unrelated to the official's or employee's official duties; and

(13) Charitable or recreational scholarships received by an official or employee or one (1) of their immediate family members. (Prior code 2-602; Ord. 01-07 §1, 2007)

Sec. 2-8-40. Confidential information.

All confidential information shall be kept confidential. No disclosure any confidential information shall be made to anyone other than members of the City Council, the City Attorney or the Mayor. (Prior code 2-603; Ord. 01-07 §1, 2007)

Sec. 2-8-50. Enforcement and penalties.

(a) The City Council shall have exclusive authority for enforcement of violations of this Article by City Council members and the Mayor, the members of any board or commission appointed or overseen by the City Council, any member of the Personnel Board and any volunteer worker overseen by the City Council.

(b) The Mayor shall have exclusive authority for enforcement of violations of this Article by City employees, officers, volunteer firefighters, the members of any board or commission appointed or overseen by the Mayor and volunteer workers overseen by the Mayor.

(c) All complaints hereunder shall be filed with the Mayor or City Council, as appropriate, within sixty (60) days after the date of discovery of the alleged violation. All complaints shall be made in writing and signed by the complainant; anonymous complaints shall not be accepted.

(d) The Mayor or City Council, as appropriate, shall take such action and impose such penalties thereon, if any, as deemed proper. All persons alleged to have violated this Article shall be entitled to be heard on the matter prior to any action being taken. For employees, the procedures shall comply with the City's current personnel manual, and the penalties imposed on employees found to have violated this Article may include termination of employment.

(e) Final action by the Mayor or City Council shall be deemed final action by the City on the matter. (Prior code 2-604; Ord. 01-07 §1, 2007)

ARTICLE 9

Special Committees

Sec. 2-9-10. Definitions.

For purposes of this Article, a *special committee* shall be defined as a group established by resolution by the City Council pursuant to this Article which has specific duties and responsibilities and a defined purpose as established by the City Council. A special committee shall only be established if the City Council determines that such a special committee is necessary to assist the City Council with reports and recommendations on a specific and discrete project. A special committee shall not have any final decision-making authority, shall not be an agent of the City, shall not have authority to bind the City or issue requests for proposals or qualifications, and shall only serve in an advisory capacity to the City Council as set forth in this Article. (Prior code 2-530; Ord. 04-05 §1, 2005)

Sec. 2-9-20. Creation.

A special committee shall be established by the City Council by resolution, and the resolution establishing the special committee shall contain the following specific information:

(1) Name. Each special committee shall have the name as specified in the establishing resolution.

(2) Purpose. Each special committee shall have a specifically defined purpose as set forth in the establishing resolution.

(3) Duties and responsibilities. Each special committee shall have specifically defined duties and responsibilities which shall include, at a minimum, the following:

- a. To make reports to the City Council as specified by the City Council related to its charge or area of responsibility in the establishing resolution;
- b. To make recommendations to the City Council related to its charge or area of responsibility in the establishing resolution;
- c. To meet as required by the establishing resolution.
- d. To issue a final written recommendation to the City Council.

(4) Number of members. The number of members to serve on a special committee shall be determined in the establishing resolution for each special committee. (Prior code 2-531; Ord. 04-05 §1, 2005)

Sec. 2-9-30. Membership.

The members of any special committee shall be appointed by majority vote of the members of City Council present at a regular City Council meeting. The City Council may determine the nature of any application and screening process it determines appropriate, depending on the nature of the special committee being established and the duties and responsibilities thereof. Unless specifically provided to the contrary in the establishing resolution, all members of any special committee shall be City residents. (Prior code 2-532; Ord. 04-05 §1, 2005)

Sec. 2-9-40. Removal and resignation.

(a) Any member of a special committee may be removed by majority vote of the City Council for any one (1) or more of the following reasons:

(1) Unexcused absences. Unexcused absences from three (3) consecutive regular meetings of a special committee shall be considered an automatic resignation from the special committee unless the City Council specifically takes action to the contrary. In addition, the consistent failure to attend the regularly scheduled meetings of the special committee may also be grounds for removal by the City Council.

(2) Misconduct. Misconduct at meetings, which shall include any act that may interrupt the orderly process of said meetings.

(b) Any member of a special committee subject to removal as provided herein shall be provided the opportunity to resign prior to the City Council taking action on any proposed removal. In the event that a member chooses not to resign, the member shall be given no less than five (5) days' notice in writing that the City Council will be considering the member's removal, and said notice shall include the reasons for the proposed removal. The member shall be given an opportunity to respond to the proposed grounds for removal at a regular City Council meeting prior to the City Council taking any action to remove said member. (Prior code 2-533; Ord. 04-05 §1, 2005)

Sec. 2-9-50. Support duties.

(a) Facilities. The City shall provide City facilities for any special committee to conduct its meetings. However, nothing in this Section shall require all meetings to be held in City facilities in the event the special committee determines it necessary and appropriate to meet at another location.

(b) Leadership. Each special committee shall be led by a Chair, who shall be appointed by the City Council. The Chair shall be responsible for scheduling and leading the special committee meetings and activities, and shall be responsible for determining whether to excuse absences of special committee members, pursuant to Paragraph 2-9-40(a)(1).

(c) Minutes. Each special committee shall appoint a Secretary, who shall be responsible for keeping a full and accurate summary account and record of all meetings of the special committee. (Prior code 2-534; Ord. 04-05 §1, 2005; Ord. 12-08 §1, 2008)

Sec. 2-9-60. Dissolution.

Any special committee established pursuant to the provisions of this Article shall be dissolved by resolution of the City Council following the completion of its specifically defined duties and responsibilities as set forth in the establishing resolution. The City Council may also determine to dissolve any established special committee by resolution in the event the City Council determines that the special committee is no longer in the best interests of the City. Upon dissolution of any special committee, all records kept by the special committee shall be provided to the City Clerk. (Prior code 2-535; Ord. 04-05 §1, 2005; Ord. 12-08 §1, 2008)

ARTICLE 10

Board of Adjustment

Sec. 2-10-10. Creation.

In accordance with Section 11.4 of the Charter, the Board of Adjustment and Appeals ("the Board") has been created for the City. The term *Board of Adjustment*, as used throughout this Code, is synonymous with the term *Board of Adjustment and Appeals*, both terms referring to the Board created pursuant to Charter Section 11.4. (Ord. 12-08 §1, 2008; Ord. 07-09 §1, 2009)

Sec. 2-10-20. Membership.

(a) In addition to the five (5) regular members provided for by the Charter, the Mayor may appoint one (1) or more alternate members. An alternate member shall be appointed for an indefinite term and shall serve at the pleasure of the Mayor. If any regular member is absent from any meeting of the Board, an alternate member may serve in such absent member's place with all of the powers, duties, functions and responsibilities of such regular member.

(b) The Board shall elect a Chair from among its members and shall create and elect such other of its officers as it may determine. The term of the Chair shall be one (1) year, without limitation as to the number of terms. The Board shall hold such meetings as may be required to fulfill its purposes, and it shall adopt rules for the transaction of business. The Board shall keep a record of its

resolutions, transactions, findings and determinations, which record shall be public. With respect to any matter for which this Code does not provide a requirement as to the identity of the person or body to whom the Board is to report, the Board shall report to the City Council.

(c) Any appointment of a member to fill an unexpired term shall be for the balance of the term of the member being replaced.

(d) If any member ceases to reside in the City, his or her membership shall immediately terminate. (Prior code 23-421; Ord. 12-08 §1, 2008; Ord. 21-09 §1, 2009)

Sec. 2-10-30. Powers.

The Board shall have the following powers and duties:

(1) In accordance with Section 16-24-10, to hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, decision or refusal made by an administrative official or agency based upon or made in the enforcement of Chapter 16.

(2) In accordance with Section 16-24-60, to hear and decide applications for variances from the requirements of Chapter 16.

(3) In accordance with Section 18-1-30, to hear and decide appeals from the orders, requirements, decisions or determinations of the Building Official or other City official authorized to administer and enforce the provisions of Chapter 18. (Prior code 23-422; Ord. 12-08 §1, 2008; Ord. 07-09 §2, 2009)

ARTICLE 11

**Parks, Recreation, Historic
Preservation and Arts Advisory Board**

Sec. 2-11-10. Creation.

Pursuant to Section 11.1 of the Charter, the City Council hereby creates the Parks, Recreation, Historic Preservation and Arts Advisory Board (the "Board") with the powers and duties set forth in this Article. (Prior code 2-500; Ord. 06-11 §1, 2011)

Sec. 2-11-20. Membership.

(a) The Board shall consist of seven (7) members appointed by the Mayor. Three (3) of the members shall serve terms of five (5) years and four (4) members shall serve terms of four (4) years. No appointment to the Board shall be made without posting and publishing notice of the vacancy at least fourteen (14) days prior to the appointment. The Mayor shall consider the recommendation of the Board regarding any appointment.

(b) All members of the Board shall serve without compensation.

(c) Any member may be removed for negligence of duty, malfeasance or inefficiency by the Mayor with the approval of the City Council, after written notice of the charge by the Mayor and an opportunity for a hearing before the City Council.

(d) No person convicted of embezzlement, bribery, solicitation of bribery, perjury, subornation of perjury or any offense involving fraud shall be eligible to serve on the Board.

(e) No elected official, officer or employee of the City shall be appointed to the Board. (Prior code 2-501; Ord. 06-11 §1, 2011)

Sec. 2-11-30. Purpose and duties.

(a) The Board shall, upon the request of the City Council from time to time, cooperate with its liaison to make recommendations to the City Council on:

(1) Methods and procedures to preserve, enhance, protect and display items of historic, artistic and cultural value, such as pictures, albums, trophies and memorabilia;

(2) Methods and procedures to encourage and assist with the establishment of educational and cultural programs, tours and events of historic, artistic or cultural value;

(3) Maintenance and preservation of buildings, improvements, structures and facilities within the City as museums;

(4) Designation of historic landmarks in the City, as provided in Section 2-11-50;

(5) A proposed master plan for the maintenance of a modern park system;

(6) The portions of the proposed City budget pertaining to parks and recreation; and

(7) The establishment and conduct of recreational programs for the City.

(b) The Board shall choose its own Chair and Vice Chair and such other officers as it deems appropriate.

(c) The Board shall adopt its own rules of procedure, which shall provide that all meetings of the Board shall be open to the public, except that the Board may adjourn into executive session as provided by law. Such rules shall not conflict with the Charter or the ordinances of the City and shall not take effect until reviewed and approved by the City Council.

(d) The Board shall meet at least once each year with the City Council.

(e) The City Council may delegate such other duties to the Board as the City Council deems necessary to effect the purposes of the Board. (Prior code 2-502; Ord. 06-11 §1, 2011)

Sec. 2-11-40. Powers.

The Board is empowered to conduct activities in furtherance of the purposes and duties set forth in Section 2-11-30, such as holding public meetings, performing independent research, enlisting the

assistance of volunteers and others, coordinating with other agencies and similar activities. The Commission has only advisory power, and, except as may be otherwise set forth in this Article, shall report its recommendations to the City Council. The Parks and Recreation Director shall be the liaison between the Board, City staff members and the City Council. (Prior code 2-503; Ord. 06-11 §1, 2011)

Sec. 2-11-50. Nomination and designation of historic landmarks.

(a) Properties may be nominated for designation as historic landmarks by the property owner, a resident of the City or the Board, by filing a letter of nomination with the Board with a copy to the property owner. The property owner must consent to the nomination.

(b) Upon nomination, the Board shall determine whether the Board should recommend to the City Council that the property be designated as a historic landmark based on the criteria in Subsection (c) hereof. Such determination shall be based on all information provided to the Board and obtained by the Board through its own research.

(c) When making its determination, the Board shall consider the following criteria:

(1) The association of the property with events that have made a significant contribution to history;

(2) The connection of the property with persons of historical significance;

(3) The apparent distinctive characteristics of a type, period, method of construction or artisan on the property;

(4) The geographic importance of the property; and

(5) The possibility of important historical discoveries on the property.

(d) No property shall be eligible for nomination or designation as an historic landmark solely by virtue of its age.

(e) After consideration of the criteria set forth in Subsection (c) hereof, the Board may make a recommendation to the City Council that the property be designated as an historic landmark. The recommendation shall include a description of the property and the findings upon which the recommendation is based.

(f) Upon receipt of the Board's recommendation, the City Council, acting by resolution, may designate the property as an historic landmark. Upon designation, the City shall supply a plaque to be affixed to the outside of the building or placed on the property, including any information the City Council deems appropriate to convey the historic natures of the property.

(g) The City Clerk shall maintain a list of all historic landmark designations made by the City Council pursuant to this Article.

(h) Designation of a property as an historic landmark pursuant to this Article shall not restrict the property owner's rights with respect to the property. (Prior code 2-504; Ord. 06-11 §1, 2011)

ARTICLE 12

Reserved

ARTICLE 13

Planning and Zoning Commission

Sec. 2-13-10. Creation.

In accordance with Section 11.2 of the Charter, the Planning and Zoning Commission has been created for the City. With respect to any matter for which this Code does not provide a requirement as to the identity of the person or body to whom the Commission is to report, the Commission shall report to the City Council. (Ord. 12-08 §1, 2008; Ord. 21-09 §2, 2009)

Sec. 2-13-20. Purpose.

In addition to the functions set out in the Charter, the Planning and Zoning Commission is created for the following purposes:

- (1) To implement the provisions of Chapters 16 and 17, and to perform all functions and powers referred to in said chapters where reference is made.
- (2) To exchange information with the Board of Adjustment and with the various governmental agencies charged with planning and zoning responsibilities.
- (3) To have all other duties and powers incidental to the above and any and all powers and duties set out by state statute, except that nothing herein shall permit the Planning and Zoning Commission to make amendments or changes in the zoning of the City, such powers expressly being reserved by the City Council. (Ord. 12-08 §1, 2008)

ARTICLE 14

Edgewater Redevelopment Authority

Sec. 2-14-10. Creation.

In accordance with Section 11.1 of the Charter, and Resolution 8-82 of the City Council, as amended, the Edgewater Redevelopment Authority has been established. (Ord. 04-11 §1, 2011)

Sec. 2-14-20. Membership.

Any provision of Resolution 8-82 of the City Council notwithstanding, not more than two (2) commissioners of the Edgewater Redevelopment Authority may, without regard to their status as residents of the City, serve as commissioners of the Authority so long as each such individual is, and remains during all times that the individual serves as a commissioner of the authority: (i) an owner of real property in the City; (ii) an owner or manager of a business within the City; or (iii) a duly

authorized representative of such property or business owner. For purposes of this Section, an individual shall be deemed to be an "owner of real property" or an "owner of a business" if the individual holds a majority ownership interest in a real property or business within the City, or has control of a corporate or other business entity that holds a majority ownership interest in the real property or business within the City. For purposes of this Section, a "duly authorized representative" is an individual who has been and remains authorized in writing by an owner of real property or owner of a business to represent that owner as a commissioner of the Edgewater Redevelopment Authority. (Ord. 04-11 §1, 2011)

ARTICLE 15

Repealed

ARTICLE 16

Charter Review and Compliance Commission

Sec. 2-16-10. Creation.

(a) In accordance with Section 11.6 of the Charter, the Charter Review and Compliance Commission ("Commission") has been established.

(b) With respect to any matter for which this Code does not provide a requirement as to the identity of the person or body to whom the Commission is to report, the Commission shall report to the City Council.

(c) Pursuant to Section 11.1(2) of the City Charter, the City Clerk shall be the liaison to the Commission.

(d) Relating to the complaint process, in the event of a declaration of a conflict of interest by the City Attorney, the City Council shall provide for special legal counsel or counsels, to provide legal advice to the Commission, to review and/ or prepare such written documents as are necessary to ensure the Commission functions in accordance with law, and to consider prosecution of a person that has been found by the Commission to have willfully violated the Charter. (Ord. 25-10 §1, 2010)

Sec. 2-16-20. Membership.

As provided by the Charter, the City Council shall appoint five (5) regular members and one (1) alternate member to the Commission. If any regular member is absent from any meeting of the Commission, the alternate member shall serve in such absent member's place, with the powers, duties, functions and responsibilities of such regular member. (Ord. 25-10 §1, 2010)

Sec. 2-16-30. Rules of procedure.

Pursuant to Charter Section 11.1(6)(b), the Commission shall establish rules of procedure, which rules shall be subject to approval by the City Council, to include procedures for Charter review and

for conduct of the hearing on complaints of noncompliance with the Charter or willful violation of the Charter that are not inconsistent with the provisions of Sections 2-16-50 and 2-16-60 of this Article. (Ord. 25-10 §1, 2010)

Sec. 2-16-40. Review of the Charter.

(a) Pursuant to 11.7(3) of the Charter, the Commission shall establish a schedule for Charter review and reporting to the City Council for each six year period beginning on the date of adoption of the Charter.

(b) A request for review of any section or sections of the Charter may be filed with the Commission on a form provided by the City Clerk.

(c) Within ninety (90) days of receiving a request for review, the Commission shall hold a meeting, as defined in the Commission's rules of procedure, regarding the section or sections of the Charter cited in the request. (Ord. 25-10 §1, 2010)

Sec. 2-16-50. Limitations on complaints of Charter violations.

(a) The Commission shall hold hearings only on complaints alleging noncompliance with the Charter that are based upon an act or failure to act that occurred within three hundred and sixty five (365) days prior to the date of filing of the complaint of Charter noncompliance. In no event shall any hearing be held with respect to an allegation of non-compliance with the Charter against any person with respect to whom the Commission has previously conducted a hearing based upon the same or substantially the same facts and circumstances.

(b) In the event that the person alleged to have failed to comply with the Charter is a member of the Commission, or in the event that the Commission is alleged to have failed to comply with the Charter, then the complaint shall be heard by the City Council in the manner provided for in Section 7.5(2) of the Charter.

(c) In no instance shall a member of the Commission act as a Complainant or as a witness before the Commission. In no instance shall a member of Council act as a Complainant against the Commission or any member of the Commission or as a witness in any proceeding that considers a complaint against the Commission or a member of the Commission.

(d) Any member of the Commission, and any City Council member acting in the role of a Commissioner, shall recuse himself or herself from participating in a hearing before the Commission, or before the Council acting as the Commission, in the event that he or she has a conflict of interest, or personal knowledge of or involvement in evidentiary facts concerning the matter.

(e) Only members of the Commission or City Council members acting as the Commission who were present throughout the hearing shall participate in the deliberations. (Ord. 25-10 §1, 2010)

Sec. 2-16-60. Hearing complaints; process.

(a) Pursuant to Charter Section 11.7, the Commission shall review all complaints alleging noncompliance with the Charter, including allegations of willful Charter violations. Upon receipt of a

complete written complaint, the Commission shall, within thirty (30) days of the date the complaint was received, review the complaint and make an initial determination as to whether noncompliance with a specific Charter provision has been alleged and is supported by specific factual allegations, which allegations, if found to be true, would constitute noncompliance with the Charter.

(1) Each complaint alleging noncompliance with the Charter or allegations of willful Charter violation shall be made in writing and on a form provided for such purpose by the City Clerk and approved for such purpose by the Commission and the City Council.

(2) Each such form shall be completed, in all applicable parts, before the Commission may conduct a review or hearing concerning the complaint.

(3) If the initial review by the Commission results in a determination that noncompliance with a specific Charter provision has been alleged and is supported by specific factual allegations, which allegations, if found to be true, would constitute noncompliance with the Charter, then the Commission shall set the complaint for a hearing as set forth below.

(4) If the initial review by the Commission results in a determination that noncompliance with a specific Charter provision has not been alleged or, if alleged, is not supported by specific factual allegations, which allegations, if found to be true, would constitute noncompliance with the Charter, then the Commission shall not set the complaint

for a hearing and shall notify the Complainant, in writing, concerning the reason that no hearing was set.

(b) The Commission shall not make findings until the Commission has held a hearing to consider the same.

(c) The procedure for hearing, determining and reporting on all such complaints shall be as follows:

(1) The Commission shall set a date, time and location for a hearing to occur no sooner than thirty (30) days, and no later than sixty (60) days, from the date of the Commission's initial determination under Subsection 2-16-60(a) above.

(2) No such hearing shall be held until the party against whom the complaint is made ("Respondent") has been charged and notified in writing of the hearing and the opportunity to be heard; no such notice of hearing shall provide for less than fifteen (15) days between the date of service of the notice on the Respondent and the date of the hearing, and each such notice shall: (i) state whether the charge is one of willful violation of the Charter; (ii) attach a copy of the pertinent complaint; and (iii) be personally served on the Respondent;

(3) The Commission shall conduct its hearing on alleged noncompliance or alleged willful violation of the Charter according to a hearing script approved by City Council subject to, but not limited to, the requirements as follows:

a. The hearing officer shall read the charges against the Respondent on the record;

b. The Complainant shall present witnesses and/or his or her own testimony regarding the alleged complaint;

c. The Respondent, if present, shall have the right to question the Complainant and any witnesses presented by the Complainant;

d. The Respondent, if present, may present witnesses and/or his or her own testimony in response to the alleged complaints; if the Respondent desires to present his or her own testimony in response to a complaint, the Commission shall first advise the Respondent of his or her right to remain silent and of the fact that his or her testimony may be used against him or her in a court of law;

e. The Complainant shall have the right to question any witnesses presented by the Respondent and the right to question the Respondent if the Respondent presents his or her own testimony in response to the alleged complaint. The Respondent shall have the right to refuse to answer any question on the grounds that the answer may tend to incriminate him or her;

f. The Commission may question any witness and/or the Complainant; the Commission may question the Respondent if the Respondent presents his or her own testimony in response to the alleged noncompliance. The Respondent shall have the right to refuse to answer any question on the grounds that the answer may tend to incriminate him or her;

g. No public comment shall be taken at the hearing; and

h. Both the Complainant and the Respondent shall be provided an opportunity to make a closing statement or argument to the Commission, and the Respondent shall be provided with the last such opportunity.

(4) At the close of the hearing, the Commission shall, by a vote equal to or greater than a majority of the entire membership of the Commission (i.e., by greater than the affirmative vote of not less than 3 members of the Commission), and based on a preponderance of the evidence, determine whether to:

a. Make a finding of noncompliance with the Charter;

b. Make a finding that there was not noncompliance with the Charter;

c. If the complaint was one of willful Charter violation, make a finding of willful violation of the Charter and to forward the same to the City Attorney for possible prosecution in the Municipal Court; or

d. Make a finding that the evidence presented was insufficient to determine whether or not there was compliance with the Charter or whether a willful Charter violation occurred.

(5) The Commission shall, within fifteen (15) days of such determination, issue written findings of fact and conclusions to the City Council in the form of an advisory resolution. The resolution so issued shall be for purposes of review only.

(6) Pursuant to Section 11.7(2) of the Charter, the Commission shall forward any findings of willful Charter violation to the City Attorney for possible prosecution in the City's Municipal Court pursuant to Section 19.8 of the Charter. Findings of nonwillful Charter noncompliance shall not be prosecuted. (Ord. 25-10 §1, 2010)

Sec. 2-16-70. Willful violations of Charter; penalty.

(a) For the purposes of this Article, a person acts "willfully" or is "willful" with respect to a violation of the Charter when the person is aware that his or her conduct is practically certain to result in a violation of the Charter.

(b) It shall be unlawful for any person to willfully violate any provision of the City of Edgewater Home Rule Charter. A conviction for a willful violation of the Charter shall be punishable only by a fine. Upon a person's first conviction for a willful violation of the Charter, the fine imposed shall not exceed five hundred dollars (\$500.00). Upon a person's second conviction for a willful violation of the Charter, the fine imposed shall not exceed seven hundred and fifty dollars (\$750.00). Upon a person's third or greater conviction for a willful violation of the Charter, the Court may impose a fine equal to the maximum fine that the Court is authorized to impose. (Ord. 25-10 §1, 2010)