



**City of  
Thornton**

***Thornton***  
***City Charter***

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# CHARTER OF THE CITY OF THORNTON, COLORADO

## PREAMBLE

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We, the people of Thornton, Colorado, under the authority of the Constitution of the State of Colorado, do ordain, establish, and adopt this Charter for our municipal government.

## CHAPTER I NAME AND BOUNDARIES

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**1.1. NAME AND BOUNDARIES.** The municipal corporation heretofore existing as the “City of Thornton” in Adams County of Colorado shall remain and continue a body politic and corporate and under this Charter shall be known as the “City of Thornton” with the same boundaries until changed in a manner authorized by law.

## CHAPTER II MUNICIPAL POWERS

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**2.1. POWERS, RIGHTS, AND LIABILITIES.** By the name of the City of Thornton the municipal corporation shall have perpetual succession; shall own, possess and hold all property, real and personal heretofore owned, possessed and held by the City of Thornton and does assume and shall manage and dispose of all trusts in any way connected therewith; shall succeed to all the rights and liabilities and shall acquire all benefits and does assume and shall pay all bonds, obligations and indebtedness of said City of Thornton; may, in the name of the City of Thornton, sue and defend, plead and be impleaded in all courts and places and in all matters and proceedings; may purchase, receive, hold and enjoy, or sell and dispose of real and personal property; may have and use a common seal and alter the same at pleasure.

The City shall have all the power of local self-government and home rule and all power possible for a city to have, under the Constitution of the State of Colorado. The City shall also have all powers that now or hereafter may be granted to municipalities by the laws of the State of Colorado, and the enumeration of particular powers in this Charter is not exclusive of others. All such powers shall be exercised in the manner prescribed in this Charter or, if not provided for herein, in such manner as shall be provided by ordinance of the Council of the City. All ordinances of the City of Thornton in force at the time this Charter goes into effect shall continue in force except insofar as they may conflict with the provisions of this Charter or shall be amended or repealed by ordinances enacted under the authority of this Charter.

**2.2. FORM OF GOVERNMENT.** The municipal government provided by this Charter shall be known as the “Council-Manager Government.” Pursuant to its provisions and subject only to the limitations imposed by the State Constitution and by this Charter all powers of the City shall be vested in an elective Council and such other boards, commissions, departments, and officials as are provided for in this Charter.

## CHAPTER III ELECTIONS

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**3.1. REGULAR MUNICIPAL ELECTIONS.** Regular municipal elections shall be held on the first Tuesday in November in the odd-numbered years.

**3.2. SPECIAL MUNICIPAL ELECTION.** Special City elections shall be held when called by resolution of the Council at least forty (40) days in advance of such election, or when required by this Charter or statute. Any resolution calling a special election shall set forth the purpose of such election.

**3.3. LAWS GOVERNING ELECTIONS.** Regular and special municipal elections shall be governed by the Colorado Municipal Election Law as now existing or hereafter amended or modified, except as otherwise provided in this Charter or as Council

may prescribe by ordinance. The Council may by ordinance establish election procedures, the method for registration of electors, the number, qualifications and compensation for election judges and clerks, and the boundaries of election precincts.

#### **3.4. RECALL FROM OFFICE.**

- (a) Any person holding elective office may be recalled at any time after six months in office pursuant to the procedures set forth in this Charter, in those State statutes, as from time to time amended, which do not conflict with this Charter and which establish procedures for the recall of municipal elective officers, and in those City ordinances which do not conflict with the Charter or those State statutes.
- (b) A recall petition must be signed by registered electors of the City numbering at least twenty-five percent of the entire vote cast at the last preceding election for all candidates for the office which the incumbent sought to be recalled occupies. For the purpose of this Section, the "last preceding election" shall be the last preceding election at which the person sought to be recalled was elected to office, unless the person sought to be recalled was appointed to fill a vacancy, in which event it shall be the last preceding election at which the person who created the vacancy was elected to office.
- (c) No signature on a recall petition shall be valid if signed on a date more than sixty days prior to the date the signed petition is filed with the City Clerk.
- (d) No recall election shall be held if the person sought to be recalled occupies one of the offices to be filled at a regular election which is scheduled within ninety days after submission of the recall petition.
- (e) After one recall petition and election, no further petition shall be filed against the same person during the term for which such person was elected or appointed, unless the signers number at least fifty percent of the votes cast at the last preceding election for all candidates for the office held by such person, the number to be determined in the manner described in this Section.
- (f) A copy of the recall petition shall be filed with the City Clerk prior to any signatures being placed on the petition. The City Clerk shall provide, upon request, sample forms of petitions which conform to the requirements of this Charter.
- (g) The officer with whom any protest is filed shall have the power to issue subpoenas to compel the attendance of witnesses and the production of documents. Upon failure of any witness to obey the subpoena, the officer may enforce the subpoena as provided by ordinance or may petition the Municipal Court and, upon proper showing, the Court may enter an order compelling the witness to appear and testify or produce documentary evidence. Failure to obey the order of Court shall be punishable as a contempt of court.
- (h) Except as to requirements contained in this Charter, in the State statutes, as from time to time amended, applicable to the recall of municipal elective officers, and in City ordinances, the form, content, approval and other petition requirements in the municipal initiative statutes, as from time to time amended, shall apply as nearly as practicable to recall petitions.
- (i) If a regular Municipal election is scheduled to be held within ninety (90) days after submission of the recall petition, even though that election is not the one at which the office held by the person sought to be recalled would otherwise be filled, the recall election shall be held at the same time as that regular Municipal election.
- (j) If a general statewide election is scheduled to be held within ninety (90) days after submission of the recall petition, the recall election shall be held at the same time as that statewide election.

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

## **CHAPTER IV**

### **CITY COUNCIL - MEETINGS**

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**4.1. CITY COUNCIL.** The City Council shall consist of nine (9) members, one of whom shall serve as Mayor. The City Council shall constitute the legislative and governing body of the City and shall have power and authority, except as otherwise provided in this Charter, to exercise all powers conferred upon or possessed by the City, and shall have the power and authority to adopt such laws, ordinances and resolutions as it shall deem proper in the exercise thereof. The Council shall also have all legislative powers and functions of municipal government conferred by general law, except as otherwise provided in this Charter.

#### **4.2. WARDS.**

- (a) The City is hereby divided into four (4) wards. The Council shall change the boundaries of such wards to reflect population shifts at least once every ten (10) years. Changes in the boundaries of wards shall be made by ordinance adopted by the City Council, which changes shall be made at least one hundred eighty (180) days prior to any regular municipal election, except that territory added to the City shall become a part of the ward or wards as determined by ordinance even if the addition is effective within the one hundred and eighty day period. Wards shall be contiguous and compact, and, as far as practical, shall have approximately the same number of residents.
- (b) No change in the boundary of any ward shall operate to exclude any Councilmember from office before the expiration of the term for which the incumbent was elected or appointed.

#### **4.3. TERMS.**

- (a) The terms of office of the Councilmembers hereafter to be elected in accordance with the provisions of this Charter shall be for four (4) years commencing on the first Council meeting, regular or special, following their election and shall continue during the term for which they shall have been elected until their successors shall have been elected and qualified. Every two (2) years at the regular municipal election one Councilmember shall be elected from each ward for a four (4) year term.
- (b) A Mayor shall be elected at-large for a term of four (4) years, the term of the Mayor commencing at the same time as herein provided for Councilmembers.

**4.4. QUALIFICATIONS.** No person shall be eligible to be elected or appointed to the office of Mayor or Councilmember unless the person is a citizen of the United States, at least twenty-five (25) years of age, shall have been for one (1) year immediately preceding such election or appointment a resident of the City of Thornton, Colorado, and is a registered elector. In addition to these requirements no person shall be eligible for the office of Councilmember unless the person is and has been a resident of the ward for the time period required by the Colorado Municipal Election Code. Any person who is a resident of the City or of any area annexed to or consolidated with the City for the required length of time, as herein provided, shall be deemed to meet the resident requirements of this Section. A person who has been convicted of a felony shall not be eligible to become a candidate for City office. No person shall serve as Mayor or Councilmember while also holding another elected position in government.

#### **4.5. VACANCY.**

- (a) If a vacancy occurs in the office of Mayor, the Mayor Pro-Tem shall become the Acting Mayor immediately. The Acting Mayor shall serve until the next regular election and then the Acting Mayor shall resume the duties



as Councilmember for the remainder of that Councilmember's unexpired term of office. The term of office for Mayor at a regular election following a vacancy in that office shall be for four years.

- (b) If a vacancy occurs in the office of Councilmember, the Council shall appoint an eligible person to fill such vacancy to serve the remainder of the term of office that was vacated. Such appointment shall be by a majority of the members of the Council in office at the time.
- (c) A vacancy shall exist when an elective officer fails to qualify, dies, resigns, is removed from office, moves from the City, moves from the ward from which elected, is incapacitated or is absent continuously therefrom for more than three (3) months, is convicted of a felony, or is judicially declared mentally incompetent. That such cause of vacancy exists shall be established by competent evidence thereof and placed on record in the Council minutes. The Council shall determine the validity of the evidence and, based on its determination, decide when a vacancy exists.

**4.6. COMPENSATION OF MAYOR AND COUNCILMEMBERS.** The members of the Council shall receive such compensation as the Council shall by ordinance prescribe; but such compensation may increase or decrease only on the date of the first regular or special Council meeting following any regular election and only if the increase or decrease was adopted prior to the date of the election. The Mayor and Councilmembers may, upon order of the Council, be paid such necessary bona fide expenses incurred in service in behalf of the City as are authorized and itemized.

**4.7. OATH OF OFFICE.** Every elective and appointive officer of the City, before entering upon the duties of the office, shall take the oath or affirmation of office prescribed by Section 8 of Article XII of the Constitution of the State, together with an oath or affirmation to support this Charter and the ordinances of the City and to faithfully perform the duties of the office. In case of failure to comply with the provisions of this Section within ten (10) days from the date of appointment, or within ten (10) days from the date prescribed in this Charter to take office, such officer shall be deemed to have declined the office and such office shall thereupon become vacant unless the Council shall, by resolution, extend the time in which such officer may qualify as above set forth.

**4.8. MAYOR.**

- (a) The Mayor shall preside over meetings of the Council, shall have the right to speak and vote therein as any other member, shall be recognized as head of the City government for all ceremonial purposes, and shall execute and authenticate legal instruments requiring the signature of the Mayor.
- (b) The Mayor shall be a conservator of the peace, and in emergencies may exercise within the City the powers conferred by the Governor of the State of Colorado for purposes of military law, and shall have authority to command the assistance of all able-bodied citizens to aid in the enforcement of the ordinances of the City and to suppress riot and disorder. Except as may be required by statute, the Mayor shall exercise only such power as specifically conferred by this Charter or the Council. For the purposes of this Section 4.8, "emergencies" means existing conditions actually arising from unforeseen contingencies which immediately endanger public property, health, peace, or safety.

**4.9. MAYOR-PRO TEM.** The Council shall, during the first Council meeting, regular or special, following each regular election, elect one of its members to serve as Mayor-Pro Tem for a term of two (2) years. In the event of absence or disability of the Mayor, the Mayor-Pro Tem shall serve as Mayor. Such election shall be by written ballot and by majority of the members of the Council in office at the time. In the event of absence or disability of both the Mayor and the Mayor-Pro Tem, the Council may designate another of its members to serve as Acting Mayor during such absence or disability. The Mayor-Pro Tem and Acting Mayor, when serving as Mayor, shall have all the power, duties, responsibility and authority of the Mayor.

**4.10. REGULAR MEETINGS.** The Council shall provide by ordinance for the time and number of regular Council meeting or meetings each month provided the Council may, by resolution, change the time and place of any particular regular meeting.

**4.11. SPECIAL MEETINGS.** Special meetings of the Council shall be called by the Clerk on the written request of the Mayor, or by any three members of the Council on at least twenty-four (24) hours written notice to each member of the Council, served personally, left at the member's usual place of residence, or delivered electronically or by other technology to the member's residence; but a special meeting may be held on shorter notice if all members of the Council are present or have waived notice thereof in writing.

**4.12. BUSINESS OF SPECIAL MEETINGS.** No business shall be transacted at any special meeting of the Council unless the same has been stated in the notice of such meeting. However, any business which may lawfully come before a regular meeting may be transacted at a special meeting if all the members of the Council present consent thereto and all the members absent file their written consent.

**4.13. MEETINGS TO BE PUBLIC.** All regular and special meetings of the Council shall be open to the public and citizens shall have a reasonable opportunity to be heard under such rules and regulations as the Council may prescribe. The Council may hold executive sessions as the Council may determine and may exclude from said meetings the public and citizens, provided however, no formal and legally binding action by the Council for the City shall be taken at any such executive sessions.

**4.14. QUORUM.** A majority of the members of the Council in office at the time shall be a quorum for the transaction of business at all Council meetings.

**4.15. ORGANIZATION AND RULES OF THE COUNCIL.** The Council shall determine its own organization, rules, and order of business subject to the following provisions:

- (a) Minutes of each meeting shall be kept in the English language by the Clerk and shall be signed by the presiding officer and clerk of the meeting.
- (b) A vote upon all ordinances and resolutions shall be taken by a "Yes" or "No" vote and entered upon the records, except that where the vote is unanimous it shall only be necessary to state that the vote was unanimous.
- (c) There shall be no standing committees of the Council.
- (d) The Council shall follow Robert's Rules of Order, newly revised, as from time to time amended, except to the extent otherwise provided by this Charter or by ordinance.
- (e) The Council shall, by ordinance, adopt procedures relating to its organization and operation, including attendance at meetings, which are consistent with this Charter, and shall compile its procedures which are of a general and permanent nature in a procedures handbook.

**4.16. BOARD OF HEALTH.** The Council shall see that provision is made for the public peace and health, and for the safety of persons and property. The Council shall constitute the Board of Health of the City, and it and its officers shall possess all powers, privileges and immunities granted to boards of health by statute. The Council may by ordinance designate and appoint an existing area-wide health department as the City Health Department.

**4.17. POWER TO MAKE CONTRACTS.**

- (a) The Council may enter into contracts and leases on behalf of the City and may, by ordinance, delegate such power to officers or employees of the City subject to limits specified within the ordinance. All written contracts, to which the City is a party, including utilities contracts, shall be approved as to form by the City Attorney before final approval. All written contracts to which the City is a party shall be reviewed as to substance by the City Manager before final approval.
- (b) The Council may make contracts or spend money for capital improvements including those financed in whole or in part by issuance of bonds, and may make contracts or leases or contracts for services for a period

exceeding the budget year in which such contract or lease is made, if otherwise not prohibited under this Charter. The City may enter into long term contracts or leases.

- (c) Except for contracts issued for acquiring water and rights thereto, or for acquiring, improving, or extending a municipal water system and except for long term rentals and leaseholds entered into pursuant to Section 11.7, any contract which is made for a period exceeding the budget year in which it is made and which contains an express statement that the full faith and credit of the City is pledged for its payment shall be subject to the election requirement of Section 11.2(a) and the debt limitation of Section 11.3.

**4.18. CONTRACTS WITH OTHER GOVERNMENTAL BODIES.** In addition to any authority granted by state statute or constitution, the Council by resolution may enter into contracts with other governmental bodies to furnish governmental services and make charges for such services, or enter into cooperative or joint activities with other governmental bodies.

**4.19. APPOINTMENTS BY COUNCIL.** The Council shall appoint the officers and all members of the boards and commissions as provided in this Charter. Except as otherwise provided herein, such persons shall serve at the pleasure of Council and may be removed at any time, with or without cause.

**4.20. CONFLICT OF INTEREST.** No member of the Council shall be interested directly in any contract with the City. No member of the Council shall vote on any question in which the member has a financial interest, other than the common public interest, or on any question concerning the member's own conduct.

**4.21. ELECTIVE OFFICERS NOT TO BE EMPLOYED FOR TWO YEARS.** No elective officer, under this Charter, may be appointed to any City office or be employed by the City during the term of office for which elected or for two (2) years thereafter, provided that after the expiration of that term of office, the officer may be appointed as a member of an independent board or commission or fill a vacancy in the position of Councilmember.

**4.22. SELL OR OTHERWISE DISPOSE OF CITY PROPERTY.** Any property owned by the City may be sold or otherwise disposed of by the City on approval of the Council by resolution passed by majority vote of members of the Council. After approval by the City Council, the City Manager and City Clerk are authorized to execute for the City the required documents including deeds, bills of sale, assignments or other appropriate documents. The Council may, by ordinance, delegate to officers or employees of the City the power to sell or otherwise dispose of any personal property owned by the City, subject to the limits specified within the ordinance.

**4.23. CONTINUITY OF GOVERNMENT – DISASTERS AND EMERGENCIES.** The City Council shall provide by ordinance for continuity of government of the City in the event of natural or enemy-caused disaster or emergency. Such ordinance shall provide for an orderly line of succession of City elected officials with the authority to take appropriate action for the protection of life and property, and provide for alternative Council meeting locations or use of telecommunication systems for Council meetings during a disaster or emergency notwithstanding the provisions of this Charter.

## **CHAPTER V**

### **GENERAL ADMINISTRATIVE ORGANIZATION**

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**5.1. DEPARTMENTS CREATED.** The administrative functions of the City shall be performed by the departments as are or may be established by this Charter or ordinances of the City.

**5.2. OPERATION OF DEPARTMENTS.** All departments of the City except as otherwise provided in this Charter, shall be under the supervision and control of the City Manager, who shall have the right to divide such departments into separate divisions and to assign the various functions and duties to the different departments and divisions.

**5.3. CITY MANAGER - APPOINTMENT AND QUALIFICATIONS.** The Council shall appoint a City Manager within ninety (90) days after any vacancy exists in such position. The City Manager shall hold office at the pleasure of a majority of the Council, subject to the rights herein contained. The City Manager shall be selected solely on the basis of executive and administrative

qualifications with special reference to actual experience in and knowledge of accepted practice in respect to the duties of the office as hereafter set forth. At the time of appointment, the City Manager need not be a resident of the City or State, but during tenure of office the City Manager shall reside within the City. The entire time and business interest of the City Manager shall be devoted to the management of the City's affairs, and the City Manager shall not, while in office, be an employee of, or perform any executive duty for any person, firm, corporation or institution other than the City of Thornton. The salary of the City Manager shall be fixed by the Council. Before the City Manager may be removed at any time after one year of service, the City Manager may demand written charges and a public hearing on the same before the Council, and the same shall be given prior to the date on which final removal of the City Manager shall take effect. Pending such a hearing, the Council may suspend the City Manager from office; and during such suspension, the Council shall designate some properly qualified person other than a member of the Council to perform the duties of the office. Following the hearing, the Council may remove the City Manager by resolution declaring it finds and determines that such removal is to the best interest of the City. Such decision shall be final. Upon such termination, the Council may in its discretion, provide termination pay.

**5.4. CITY MANAGER - FUNCTIONS AND DUTIES.** The City Manager shall be the chief administrative officer of the City government and shall have the following functions and duties:

- (a) To be responsible to the Council for the efficient administration of all administrative departments of the City government except the department under the direction of the City Attorney. As to this department the powers herein granted shall not be applicable unless specifically provided.
- (b) To see that all laws and ordinances are enforced.
- (c) To appoint the heads of the several City departments whose appointment is not otherwise specified in this Charter, and to direct and supervise such department heads.
- (d) To give to the proper department or officials ample notice of the expiration or termination of any franchises, contracts or agreements.
- (e) To see that all terms and conditions imposed in favor of the City or its inhabitants in any public utility franchise, or in any contract, are faithfully kept and performed.
- (f) To recommend an annual budget to the Council and to administer the budget as finally adopted under policies formulated by the Council, and to keep the Council fully advised at all times as to the financial conditions and needs of the City.
- (g) To recommend to the Council for adoption such measures as the City Manager may deem necessary or expedient; and to attend Council meetings with the right to take part in discussions but not to vote.
- (h) To exercise and perform all administrative functions of the City that are not imposed by this Charter or ordinance upon some other official. Notwithstanding any other provision in this Charter to the contrary, the City Manager may, in the event of an emergency, exercise complete administrative authority over any department, department head, or City employee and all City owned property. The City Manager shall determine when such emergency exists.
- (i) To be responsible for the maintenance of a system of accounts of the City which shall conform to any uniform system required by the Council and which shall conform to generally accepted principles and procedures of governmental accounting. The City Manager shall submit financial statements to the Council monthly, or more often as the Council directs.
- (j) To act as Purchasing Agent for the City and in such capacity to purchase all supplies and equipment and dispose of the same in accordance with procedures established by the Council.
- (k) To establish, to the extent the authority is delegated by the City Council, personnel rules and regulations governing officers and employees of the City.

- (l) To perform such other duties as may be prescribed by this Charter or required of the City Manager by ordinance or by direction of the Council.
- (m) To prepare an annual report of the affairs of the City, including a financial report. Copies of such audit and annual report shall be made available for public inspection at the office of the City Clerk.

**5.5. ACTING CITY MANAGER.** The Council may appoint or designate an Acting City Manager during the period of vacancy in the office or during the absence of the City Manager from the City or disability of the City Manager. Such Acting City Manager shall, while in such office, have all the responsibilities, duties, functions, and authority of the City Manager.

**5.6. RELATIONSHIP OF COUNCIL TO ADMINISTRATIVE SERVICE.** Neither the Council nor any of its members shall dictate the appointment of any person to office by the City Manager or in any way interfere with the City Manager or other City officer to prevent the City Manager from exercising judgment in the appointment or employment of officers and employees in the administrative service. Except for the purpose of inquiry, the Council and its members shall deal with the administrative service solely through the City Manager and neither the Council nor any member thereof shall give orders to any of the subordinates of the City Manager.

**5.7. CLERK - FUNCTIONS AND DUTIES.**

- (a) The City Clerk shall be the Clerk of the Council and shall attend all meetings of the Council and shall keep minutes of its proceedings in the English language, and shall be appointed and removed by the City Manager with the approval of the Council.
- (b) The Clerk shall be custodian of the City seal and shall affix it to all documents and instruments requiring the seal, and shall attest the same. The Clerk shall also be custodian of all papers, documents, and records pertaining to the City, the custody of which is not otherwise provided for.
- (c) The Clerk shall certify by signature all ordinances and resolutions enacted or passed by the Council.
- (d) The Clerk shall have power to administer oaths of office.
- (e) The Clerk shall perform such other duties as may be prescribed by this Charter, by the Council or by the City Manager.

**5.8. CITY TREASURER - FUNCTIONS AND DUTIES.**

- (a) The City Treasurer shall be the Director of Finance. The Director of Finance shall be appointed by the City Manager with the approval of the City Council.
- (b) The Director of Finance shall keep and supervise all accounts and evidences of indebtedness of the City and shall receive and have custody of all monies of the City.
- (c) The Director of Finance shall keep and deposit all monies or funds in such a manner as may be directed by the City Manager or by ordinance.
- (d) The Director of Finance shall disburse all City funds in accordance with the provisions of this Charter and such procedures as may be established by ordinance.
- (e) The Director of Finance shall perform such other duties as may be prescribed by this Charter, by ordinance adopted pursuant to this Charter, or by the City Manager.

- (f) There shall be established, in conformity with generally accepted principles and procedures of governmental accounting, appropriate utility funds into which shall be deposited all revenues received from City utility services.

#### **5.9. CITY ATTORNEY.**

- (a) The Council shall appoint a City Attorney for an indefinite term. The City Attorney shall be an attorney at law admitted to practice law in the State of Colorado and have a minimum of five (5) years experience in the active practice of law. The Council may provide the City Attorney with such assistance as the Council may deem necessary.
- (b) The City Attorney shall act as legal advisor to, and be attorney and counsel for, the Council and shall be responsible solely to the Council. The City Attorney shall advise any officer or department head of the City in matters relating to the officer's or department head's official duties when so requested.
- (c) The City Attorney shall prosecute ordinance violations, shall conduct for the City cases in Court and before other legally constituted tribunals, and shall file with the Clerk copies of documents as the Council may direct.
- (d) The City Attorney shall prepare or review all ordinances, contracts, bonds and other written instruments which are submitted by the Council or City Manager and shall promptly give an opinion as to the legal consequences thereof.
- (e) The City Attorney shall call to the attention of the Council all matters of law, and changes or developments therein, affecting the City.
- (f) The City Attorney shall perform such other duties as may be prescribed by this Charter or by the Council.
- (g) The City Attorney or the Council may retain special legal counsel to handle any matter in which the City has an interest, or to assist and counsel with the City Attorney therein. The compensation of any special legal counsel retained by the City Attorney must be within budgetary limits established by the City Council.
- (h) The compensation of the City Attorney and of special legal counsel shall be set by the Council.

## **CHAPTER VI MUNICIPAL COURT**

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**6.1. MUNICIPAL COURT.** There shall be a Municipal Court, which shall be a qualified municipal court of record, to hear and determine all cases arising under this Charter or the ordinances of the City, subject to appeal in the manner provided by law. The Court may punish contempt of Court within limitations established by ordinance. The Court may enforce its orders and judgments as provided by general law; and may render final judgment on any forfeited bond or recognizance returnable to such Court subject to appeal as in other cases. Cash bonds may be provided for or taken in lieu of property, individual, or corporate surety bonds.

**6.2. PRESIDING OFFICER - QUALIFICATIONS AND COMPENSATION.** The Municipal Court shall be presided over and its functions exercised by one or more judges, who are registered electors of the State of Colorado, at least twenty-five (25) years of age, and licensed to practice law by the Supreme Court of the State of Colorado, appointed by the Council to serve at the pleasure of the Council. The Council shall designate the presiding judge. Each judge shall receive a fixed salary or compensation, not dependent upon the outcome of the matters to be decided, and to be fixed by the Council from time to time. In the event all regularly appointed judges are absent, disqualified or unable to act in any matter or case, the presiding judge or, in the absence of the presiding judge, the Mayor, may call any eligible person to act and serve temporarily.

- (a) The Council shall provide a suitable place and all supplies and things necessary for the proper functioning of the Court.
- (b) The forms of the complaint and all other rules, procedures and proceedings in the Municipal Court shall be fixed by the presiding municipal judge. The court costs, fines, surcharges, assessments and fees in the Municipal Court shall be prescribed by the Council by ordinance or resolution after receiving the recommendation of the presiding judge.

## **CHAPTER VII**

### **PERSONNEL AND CAREER SERVICE**

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#### **7.1. CAREER SERVICE SYSTEM**

- (a) The Council shall enact an ordinance establishing a Career Service System. The City Council shall have authority over the assignment of positions to the Career Service System.
- (b) The ordinance establishing a Career Service System shall embody the following principles but shall not necessarily be limited to them:
  - (1) Subject to approval of the Council, classification of all regular Career Service positions shall be made by the City Manager. The City Manager shall determine the duties, requirements, and qualifications for each position.
  - (2) Employment shall be based on open and competitive examinations as to fitness for employment consistent with generally accepted employment guidelines established by the City Manager upon recommendation of the department responsible for human resources. Actual employment shall be made by the City Manager.
  - (3) Employment and promotions shall be made by the City Manager from an eligibility list approved by the department responsible for human resources.
  - (4) Placement of names on the eligibility list for employment and promotions shall be as follows:
    - (i) If there are more than three (3) qualified applicants for a position and all are regular employees, competitive examinations shall be given. The names shall be placed on the eligibility list based on the final passing scores from high to low score.
    - (ii) If there are three (3) or fewer qualified applicants for a position and all are regular employees, the City Manager may determine whether competitive examinations will be given. In the absence of examinations, the names shall be placed on the eligibility list in alphabetical order by last name.
    - (iii) If any qualified applicant for a position is not a regular employee, competitive examinations shall be given. The names shall be placed on the eligibility list based on the final passing scores from high to low score.
    - (iv) Whenever a competitive examination is to be given pursuant to Paragraph (i) or (ii) of this Subsection (4), the City Manager may permit qualified applicants who are not regular employees to take the examination.
  - (5) Each regular employee in the Career Service System shall be subject to a one (1) year probation employment period or such other probation employment period as the Council may set by ordinance for the employee's position. After the department responsible for human resources has verified that the employee has been continuously employed as a regular employee for the applicable probationary period and has, as determined by the City Manager, satisfactorily met all the terms and conditions of the probationary period, the City Manager shall declare an employee in the Career Service System to be "certified" as of the end of the employee's probationary period.
  - (6) All certified employees who claim unjust suspension, demotion or discharge, shall have the right to request and receive a hearing as designated by ordinance. The decision following the hearing shall be final and binding on all parties. The procedure for the hearing shall be established by ordinance.

- (c) The City Manager or the Manager's designee shall annually conduct and complete a wage survey for all employees in the Career Service System. In preparing the pay plan, in addition to considering the wage survey, the City Manager or designee shall consider any recommendations and pay surveys made and conducted by employees or organizations representing employees. The pay plan, including fringe benefits shall be equal to general prevailing rates of employers (public and private sector) selected by the City Manager and approved by the City Council and shall provide like pay for like work. The City Council shall approve the pay plan.
- (d) The Council shall annually enact a pay plan for all positions in the Career Service System. The Council shall before adopting a pay plan, conduct a public hearing on the pay plan. At said hearing any employees or agents or representatives of employees, including unions, may appear in addition to any other interested parties. Prior to said hearing, each employee shall be given written notice of the hearing. A notice advertising the public hearing shall be published in a manner set forth by ordinance at least ten (10) days before said hearing.

Following said hearing the Council shall adopt a resolution enacting a pay plan for the next ensuing fiscal year meeting the requirements of this Section. The adoption of such pay plan shall constitute a legislative act and shall be final and binding as to all wages for the next ensuing fiscal year.

- (e) Fringe benefits and overtime pay shall be annually based on the wage survey, but such benefits and pay shall not be less than the following:
  - (1) In addition to the annual salaries as set out in the adopted pay plan, hours of active duty assigned to and performed by members of the Career Service in excess of the established work day or established work week, shall be compensated by overtime or compensatory time off.
  - (2) Each eligible employee of the City shall be provided with a pension plan. The City shall annually contribute to said fund in accordance with the provisions of the pension contract.
  - (3) Each full-time regular employee shall be eligible for the City's group insurance program which shall be a comprehensive program including health insurance, life insurance and disability insurance. The City shall annually provide in the budget monies for the City participation in this program.
  - (4) The City shall provide the following schedule of annual vacation leave for each employee:
    - 1 - 5 years - 12 days per year accrued  
at 1 day per month
    - 6 - 10 years - 15 days per year accrued  
at 1-1/4 days per month
    - 11 - 15 years - 18 days per year accrued  
at 1-1/2 days per month
    - 16 - 20 years - 21 days per year accrued  
at 1-3/4 days per month
    - Over 20 years - 24 days per year accrued  
at 2 days per month
  - (5) The City shall compensate employees of the City for ten (10) paid holidays per year.
  - (6) Sick leave shall be accumulated at a rate of one day per month of employment with the City.
  - (7) The City shall provide and/or furnish a uniform allowance to employees required to wear a uniform.
- (f) The policy and procedure concerning employee grievances are as follows:
  - (1) Grievances are employee complaints on those matters involving a phase of employment, working conditions or working relationships that are of concern and interest to an employee. Wherein such employee feels that the employee has been dealt with in an unfair or capricious manner in violation of the employee's rights as an employee, the employee may resort to the grievance procedure hereinafter provided.
  - (2) A grievance procedure is necessary to resolve grievances as quickly as possible, to correct the causes and prevent future similar complaints, to assure fair and equitable treatment of all levels of employees. An employee who feels aggrieved, may have another employee from within the aggrieved employee's



department attend each of the meetings with the aggrieved employee, upon requesting same from the aggrieved employee's supervisor. Every effort shall be made to resolve grievances through an oral discussion between the employee and the employee's immediate supervisor. If the dispute is not resolved in this manner, an established grievance procedure shall be followed. The grievance procedure shall not take more than thirty-five (35) calendar days. Time limits may be extended by mutual agreement or mitigating circumstances.

(g) As used in this Section 7.1:

- (1) "Employment" is the initial hiring of a person by the City Manager to work for the City and does not include a demotion, promotion or transfer.
- (2) "Regular employee" is an employee in a regular position, as established by the City Council, and may be within or outside the Career Service System.
- (3) "Certified employee" is a regular employee in the Career Service System who has been declared certified by the City Manager as provided herein.

**7.2. SURETY BONDS.** Except as otherwise provided in this Charter, all officers of the City whose duties involve the custody of public property or the handling of public funds, either by way of receipt or disbursement or both, and all other officers and employees so required by the Council shall, before they enter upon the duties of their respective offices, file with the City an official bond, in such form and amount as the Council shall direct and approve. Such official bond of every officer and employee shall be conditioned that the officer or employee will on demand deliver over to any successor in office, or other proper officer or an agent of the City, all books, papers, monies, effects, and property belonging thereto, or appertaining to the office, which may be in custody as an officer or employee; and such bonds may be further conditioned as the Council shall prescribe. The official bond of every officer whose duty it may be to receive or pay out money, besides being conditioned as above required, shall be further conditioned that the officer will, on demand, pay over or account for to the City, or any proper officer or agent thereof, all monies received as such officer or employee. The requirements of this paragraph may be met by the purchase of one or more appropriate blanket surety bonds covering all, or a group of, City employees and officers. The requirements of this paragraph may also be met by the purchase of one or more blanket crime insurance policies covering all, or a group of, City employees and officers as determined by the City Manager.

All official bonds shall be corporate surety bonds and the premiums thereon shall be paid by the City. The Clerk shall be custodian of all bonds of all officers or employees, except that the Treasurer shall be custodian of any bonds pertaining solely to the Clerk. In the event the offices of the Clerk and Treasurer are held by the same person, then the City Manager shall be custodian of any bonds pertaining to the Clerk and Treasurer.

**7.3. DELIVERY OF OFFICE.** Any officer or employee who ceases to hold such office or employment for any reason whatsoever shall within five (5) days, or sooner on demand, deliver to a supervisor or successor in office all books, papers, monies, and effects in the custody of such officer or employee. Any officer violating this provision may be proceeded against in the same manner as public officers generally for a like offense under the statute. Any employee found guilty by a competent tribunal of violating this provision may be punished by fine or imprisonment, or both, as determined by the Court.

**7.4. PECUNIARY INTEREST PROHIBITED.**

- (a) No contract or purchase involving an amount in excess of one hundred dollars (\$100.00) shall be made by the City in which an elective or appointive officer or any member of the officer's family has any pecuniary interest, direct or indirect. For the purposes of this Section 7.4 only, a "contract" shall include any arrangement or agreement pursuant to which any material, service or other thing of value is to be furnished to the City for a valuable consideration to be paid by the City or sold or transferred by the City, except the provision of personal services within the scope of employment as an officer of the City; the term "member of the officer's family" shall include spouse, children, and the spouse of any of them, and such other persons or classes of persons as may be provided by ordinance; and the term "officer" means each member of the City Council, each municipal judge, the City Manager, and the City Attorney.

- b) Without limiting the generality of Paragraph (a) of this Section, an officer shall be deemed to have a pecuniary interest in a contract if the officer or any member of the officer's family is an employee, partner, officer, director or sales representative of the person, firm or corporation with which such contract is made. Ownership, individually or in a fiduciary capacity, by an officer or member of the officer's family of securities, or of any beneficial interest in securities, of any corporation with which a contract is made, or which is a sales representative of any person, firm or corporation with which such contract is made, shall not be deemed to create a pecuniary interest in such contract unless the aggregate amount of such securities, or interest in such securities, so owned by such officer or the members of the officer's family, shall amount to ten (10) percent of any class of the securities of such corporation then outstanding.
- (c) Any officer who knowingly permits the City to enter into any contract in which the officer has a pecuniary interest without disclosing such interest to the Council prior to the action of the Council in authorizing such contract, shall be guilty of misconduct in office or employment.
- (d) The City Council shall adopt, by ordinance, a code of ethics which shall apply to City officers and employees, to members of City boards and commissions, and to such other persons or classes of persons as the City Council may provide. The ordinance shall not conflict with the Charter and shall include, at a minimum, provisions regulating conflicts of interest, appearances of impropriety, use or disclosure of confidential information, appearances before City boards and commissions, use of City property and employee services, conduct following termination of City employment or conclusion of a term of office, receipt of gifts or favors, and definitions of the terms contained in this Section 7.4. No such ordinance or amendment thereto shall be adopted as an emergency ordinance.

#### **7.5. COMPENSATION OF EMPLOYEES AND OFFICERS.**

- (a) The compensation of all employees and officers of the City whose compensation is not provided for herein shall be fixed by the appointing officer or body within the limits of budget appropriations and in accordance with any pay plan adopted by the Council. The City may, from time to time, contract for professional services, and for such services pay such fees and charges as may be agreed upon.
- (b) Nothing contained in this Section shall prohibit the payment of necessary bona fide expenses incurred in service in behalf of the City.

**7.6. ANTI-NEPOTISM.** The following relatives and their spouses (a) of any elective official or spouse, or (b) of the City Manager or spouse, are disqualified from holding any appointive office during the term for which said elective official was elected or during the tenure of office of the City Manager; child, grandchild, parent, grandparent, brother, sister, half brother and half sister. All relationships shall include those arising from adoption. This Section shall in no way disqualify such relatives or their spouses who are bona fide appointive officers or employees of the City at the time of the election of said elective official or the appointment of said City Manager.

## **CHAPTER VIII LEGISLATION**

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**8.1. PRIOR CITY LEGISLATION.** All valid bylaws, ordinances, resolutions, rules and regulations of the City which are not inconsistent with this Charter and which are in force and effect at the time of the effective date of this Charter shall continue in full force and effect until repealed or amended. Those provisions of any effective valid bylaw, ordinance, resolution, rule or regulation which are inconsistent with this Charter are hereby repealed.

**8.2. ORDINANCES AND RESOLUTIONS, AND MOTIONS.** In all legislative matters coming before it, the Council shall act only by ordinance, resolution or motion. In addition to such acts of the Council as are required by this Charter to be by ordinance, every act of the Council making an appropriation, authorizing the borrowing of money, levying a tax, establishing

any rule or regulation for the violation of which a fine or jail penalty is imposed, or placing any burden upon or limiting the use of private property, shall be by ordinance.

**8.3. FORM OF ORDINANCES.** All ordinances shall be introduced in written form and no ordinance or Section thereof shall be amended or repealed except by an ordinance regularly adopted. The enacting clause of all ordinances shall be: "Be it ordained by the City Council of the City of Thornton, Colorado".

**8.4. PROCEDURE FOR PASSAGE OF ORDINANCES.**

- (a) An ordinance may be introduced at any regular or special meeting and shall be read in full at the time it is introduced or, in cases where copies of the ordinance are available to the Council and to those persons in attendance at said Council meeting, said ordinance may be read by title only. It may be passed on first reading by the affirmative vote of not less than a majority of the members elected to the Council at the meeting at which it is introduced.
- (b) No ordinance may be passed on second and final reading earlier than ten (10) days after the first reading, provided this provision shall not apply to emergency ordinances.
- (c) An ordinance may be read by title only for its second reading at any regular or special meeting. It may be passed on second and final reading by a majority of the members of the Council present, provided a quorum exists. An ordinance may be amended after first reading and passage and before second reading and final passage, provided said amendment or amendments do not change the stated purpose of the ordinance. The text of any such amendment or amendments shall be read in full unless copies of the amendment or amendments are available to the Council and to those persons in attendance at the Council meeting.
- (d) The effective date of all ordinances shall be on the date of final passage unless another date is prescribed herein.
- (e) The yes and no votes shall be taken upon the passage of all ordinances, resolutions, and motions and entered upon the journal of the Council proceedings. Should any Councilmember being present refuse to vote on any measure, the Councilmember's vote shall be recorded in the affirmative, but no such vote shall be recorded if the Councilmember refuses to vote because of a conflict of interest.

**8.5. PASSAGE OF EMERGENCY ORDINANCES.** An ordinance which is declared therein to be an emergency ordinance which is immediately necessary for the preservation of the public peace, health, safety, or financial well-being of the City, may be enacted at the regular or special meeting at which it is introduced by seven affirmative votes without any requirement of prior posting or publication and without any requirement of a second reading and passage. Such emergency ordinances, after passage, shall be posted and the title published as required by this Charter.

**8.6. POSTING AND PUBLICATION.** The full text of each ordinance after passage on first reading and before second reading and final passage, and after second reading and final passage, shall be posted as provided for by ordinance of the Council. The title of each ordinance and a statement that the ordinance is on file in the City Clerk's office for public inspection shall be published in a manner set forth by ordinance as provided in this Charter after first passage and before second passage and again after second and final passage.

**8.7. AMENDMENT OR REPEAL.** No ordinance, section or subsection thereof shall be amended, superseded, or repealed except by an ordinance regularly adopted. No ordinance shall be amended by reference to its title only, but the revised sections or subsection of the ordinance, as amended, shall be reenacted. However, an ordinance, section or subsection thereof may be repealed by reference to its title and ordinance or code number only.

**8.8. RETAINING ORDINANCES.** All ordinances shall be retained by the Clerk and it shall be the duty of the Mayor and Clerk to authenticate such ordinances by their official signatures thereon, but the failure to so retain and authenticate an ordinance shall not invalidate it or suspend its operation.

**8.9. PENALTIES FOR VIOLATION OF ORDINANCES.** The Council may, by ordinance, provide for the enforcement of its ordinances by fine or imprisonment, or both.

**8.10. CODES.** The City Council may adopt, by ordinance, codes by reference in such manner as it deems appropriate.

**8.11. CODIFICATION OF ORDINANCES.** The Council shall direct and complete the codification of all ordinances of the City of a general and permanent nature and shall provide for the subsequent amendments thereto so that such amendments may readily be made a part of such published code and maintained thereafter in current form. Any such codification may originally include provisions not previously contained in ordinances of the City. The Council shall provide for making copies of the codification available for public inspection and for distribution to the public at a reasonable charge therefor and shall publish notice of the printing and availability of such codification before the effective date thereof. Such printing and making available of the codification and notice thereof shall constitute publication of any such codification, other provisions of this Charter for publication notwithstanding.

The copies of the ordinance and the codification thereof, and of provisions adopted by reference may be certified by the Clerk, and when so certified, shall be competent evidence in all Courts and other legally established tribunals as to the matter contained therein.

**8.12. INITIATIVE AND REFERENDUM.** The initiative and referendum apply only to ordinances of a legislative character. An ordinance may be initiated by petition, or a referendum on an enacted ordinance may be had by petition, as hereafter provided. The referendum provision of this Charter shall not apply to any ordinance which contains therein a declaration that said ordinance is necessary for the immediate preservation of the public peace, health or safety, nor shall the referendum provision apply to appropriations for the support and maintenance of any City department.

**8.13. INITIATIVE OR REFERENDUM PETITION.**

- (a) An initiative or referendum petition shall be signed by registered electors of the City numbering not less than ten (10) percent of the number of persons who were registered electors of the City, as of the date of the last regular City election, and all signatures on said petition shall be obtained within twenty-one (21) days before the date of filing the petition with the City Clerk. Any such petition shall be addressed to the Council and may be aggregate of two or more petition papers identical as to content and simultaneously filed by one person. An initiative petition shall set forth in full the ordinance it proposes to initiate, and no petition shall propose to initiate more than one ordinance. A referendum petition shall identify the ordinance or part thereof, or code section it proposes to have repealed. A referendum petition shall be void unless filed with the City Clerk within thirty (30) days from the effective date of the ordinances to which such petition refers.
- (b) Those State statutes applicable to the initiation or referral of a municipal ordinance and which do not conflict with this Charter shall apply to the initiation or referral of a City ordinance. The City Council may, by ordinance, provide for the withdrawal of any initiative or referendum petition, and establish initiative and referendum procedures which do not conflict with this Charter or with State statutes made applicable by this Charter.

**8.14. COUNCIL PROCEDURE ON INITIATIVE AND REFERENDUM PETITIONS.** Upon the presentation to the City Council of an initiative or referendum petition by the City Clerk, the Council shall, within thirty days, either:

- (a) Adopt the ordinance as submitted by an initiative petition;
- (b) Repeal the ordinance, or part thereof, referred to by a referendum petition; or
- (c) Submit the proposal provided for in the petition to the electors and schedule an election thereon.

**8.15. SUBMISSION OF INITIATIVE AND REFERENDUM ORDINANCE TO ELECTORS.** Should the Council decide to submit the proposal to the registered electors, it shall be submitted at the next Municipal election held in the City for any other purpose

or, in the discretion of the Council, at a special Municipal election called for that specific purpose. In the case of an initiative petition if no Municipal election is to be held in the City for any other purpose within one hundred fifty (150) days from the time the petition is presented to the Council and the Council does not enact the ordinance, then the Council shall call a special Municipal election within sixty (60) days from such date of presentation for the submission of the initiative proposal. The result of all Municipal elections held under the provisions of this Section shall be determined by a majority vote of the registered electors voting thereon.

#### **8.16. MISCELLANEOUS PROVISIONS ON INITIATIVE AND REFERENDUM.**

- (a) The presentation to the Council by the Clerk of a valid and sufficient referendum petition containing a number of signatures of registered electors of the City equal to ten (10) percent of the number of persons who were registered electors of the City as of the date of the last regular Municipal election, which signatures have been obtained within twenty-one (21) days before the date of filing the petition with the Clerk, shall automatically suspend the operation of the ordinance in question pending repeal by the Council or final determination by the electors.
- (b) An ordinance adopted by the electorate through initiative proceedings may not be amended or repealed for a period of six (6) months after the date of the election at which it was adopted, and an ordinance repealed by the electorate may not be reenacted for a period of six (6) months after the date of the election at which it was repealed; provided, however, that any ordinance may be adopted, amended, or repealed at any time by appropriate referendum or initiative procedure in accordance with the foregoing provisions of this Chapter or if submitted to the electorate by the Council on its own motion.
- (c) If two or more ordinances adopted at the same election shall have conflicting provisions, the provisions in the ordinance receiving the highest number of affirmative votes shall govern.
- (d) The Council, on its own motion, may submit any proposed ordinance or question to a vote of the registered electors at any regular or special election.
- (e) The City Clerk shall provide, upon request, sample forms of initiative and referendum petitions which conform to the requirements of this Charter.
- (f) An initiative or referendum petition may be withdrawn at any time prior to thirty (30) days preceding the day scheduled for a vote, by filing with the City Clerk a written request for withdrawal signed by a majority of the persons who are designated in the petition as representing the signers on matters affecting the petition. Upon the filing of such request, the petition shall have no further force or effect and all proceedings thereon shall be terminated.

#### **8.17. SINGLE SUBJECT REQUIREMENT – INITIATED AND REFERRED MEASURES.**

- (a) No measure proposing an amendment to the ordinances of the City by means of a petition for initiative or referendum shall be submitted to the registered electors of the City if the measure contains more than one subject.
- (b) The City Clerk shall approve for petition circulation measures proposing referred ordinances or initiated ordinances only when such measures contain a single subject.
- (c) As used in this section, the single subject requirement means that the matters in the measure submitted for voter approval are necessarily or properly connected and are not disconnected or incongruous.

## **CHAPTER IX**

### **GENERAL FINANCE - BUDGET, AUDIT**

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**9.1. FISCAL YEAR.** The fiscal year of the City and of all its agencies shall begin on the first day of January of each year and end on the thirty-first day of December of the same year unless otherwise provided by ordinance.

**9.2. BUDGET PROCEDURES.** The City Manager shall prepare and submit to the Council, as required by ordinance, a recommended budget covering a period including at least the next fiscal year, which shall include the Utilities Budget, and shall include therein at least the following information:

- (a) Detailed estimates of all proposed expenditures for each department, office, and agency of the City; and for the Court, showing the expenditures for corresponding items for the last preceding fiscal year in full; and for the current fiscal year.
- (b) Statements of the bonded and other indebtedness of the City, showing the debt redemption and interest requirements, the debt authorized and outstanding, and the condition of sinking funds, if any.
- (c) Detailed estimates of all anticipated revenues of the City from sources other than taxes with a comparative statement of the amounts received by the City from each of the same similar sources for the last preceding fiscal year in full, and for the current fiscal year.
- (d) A statement of the estimated balance or deficit for the end of the current fiscal year.
- (e) An estimate of the amount of money to be raised from current and delinquent taxes and the amount to be raised from bond issues which, together with any available unappropriated surplus and any revenues from other sources, will be necessary to meet the proposed expenditures.
- (f) Such other information as the Council may request or require.
- (g) If required by Council by resolution or ordinance, a schedule showing all recommended capital outlay expenditures during the following five (5) fiscal years, including recommended capital outlay expenditures for all City operations.

**9.3. BUDGET HEARING.** A public hearing on the proposed budget shall be held before its final adoption at such time and place as the Council shall direct. Notice of such public hearing and notice that the proposed budget is on file in the office of the Clerk shall be published at least one week in advance of the hearing. The complete proposed budget shall be on file for public inspection during office hours at such office for a period of not less than one (1) week prior to such hearing.

**9.4. ADOPTION OF BUDGET.** Prior to the end of each fiscal year, the Council shall by resolution adopt a budget for a period including at least the next fiscal year, and shall provide for a levy of the amount necessary for at least the next fiscal year to be raised by taxes upon real and personal property for City purposes. The Council shall thereupon cause the total levy to be certified to the County Assessor for collection. On or before the last day of the current fiscal year the Council shall appropriate, by ordinance, the money needed for City purposes during a period including at least the next fiscal year of the City. The annual appropriation ordinance shall be based upon the budget as adopted.

**9.5. BUDGET CONTROL.**

- (a) Except for purposes which are to be financed by the issuance of bonds or by special assessment, no money shall be drawn from funds of the City except in accordance with an appropriation thereof, nor shall any obligation for the expenditure of money be incurred without an appropriation covering all payments which will be due under such obligation in the current fiscal year, except that money from any contingency fund may be transferred by resolution at any time during the year.

- (b) The Council by resolution may transfer any unencumbered appropriation balance or any unappropriated surplus of any fund or any portion thereof from one account, department, fund or agency to another.
- (c) The Council may by ordinance, amend the appropriations ordinance during the fiscal year but any supplemental appropriations shall not exceed the amount by which actual and anticipated revenues of the year are exceeding the revenues as estimated in the budget, unless the appropriations are necessary to relieve an emergency endangering the public health, peace or safety. The Council may, by ordinance, reduce appropriations, except amounts required for debt and interest charges, to such a degree as necessary to keep expenditures within the revenues and for other purposes.
- (d) The City Manager shall submit to the Council data showing the relation between the estimated and actual revenues and expenditures to date on a monthly basis or more often if required by the Council.
- (e) The balance in any budget appropriation at the end of the fiscal year shall become a part of the same fund for the next fiscal year.
- (f) The City Manager may, at any time, transfer any unencumbered and unappropriated balance, or portion thereof, between accounts within any fund.

**9.6. DEPOSITORY.** The Council shall designate depositories for City funds, which shall be banks or savings and loan associations which are eligible public depositories under State law, and shall provide for the regular deposit in interest or non-interest bearing accounts of all City monies exclusive of investments as provided in Section 9.7. The Council shall provide for such security for City deposits as is authorized or permitted by statute, except that personal surety bonds shall not be deemed proper security.

**9.7. INVESTMENTS.** Subject to the provisions of this Charter, monies remaining in any fund which the City Treasurer may determine are available for investment may, in the discretion of the City Treasurer, be invested in one or more of the securities permitted by the statutes of Colorado for the investment of state funds or by the statutes of Colorado for the investment of municipal funds, or in bonds payable out of the revenues of any service or facility furnished by the City; or in general obligation bonds of the City. Interest on such investments shall be credited to the fund to which the invested money belongs, if such can be determined, otherwise to the General Fund of the City.

**9.8. INDEPENDENT AUDIT - ANNUAL REPORT.** Subject to the provisions of this Charter, independent audits shall be made of all City accounts at least annually, and more frequently if deemed necessary by the Council. Such audits shall be made by Certified Public Accountants, experienced in municipal accounting, selected by the Council.

**9.9. COPIES OF AUDIT.** Copies of such audit and annual report shall be made available for public inspection at the office of the City Clerk.

## **CHAPTER X**

### **TAXATION**

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**10.1. COLLECTION OF TAXES.** Until the Council shall otherwise provide by ordinance, the County Treasurer shall collect City taxes in the same manner and at the same time as State taxes are collected. In like manner the Council may provide for collection of special improvement assessments by said Treasurer. All laws of this State for the assessment of property and the levy and collection of general taxes, sale of property for taxes, and the redemption of the same, shall apply and have as full effect in respect to taxes for the City as of such general taxes, except as modified by this Charter. The County Treasurer shall report and pay to the City the amount of tax collections of the City for the preceding month.

**10.2. LIMITATION ON TAX INCREASES.** Any increase, as defined and interpreted in the Colorado Constitution, in property, sales or use tax rates shall be approved by the voters.

**10.3. AUTHORITY TO ACQUIRE PROPERTY.** In addition to all other power which it has to acquire property, the City of Thornton is hereby authorized to purchase or otherwise acquire property on which there are delinquent taxes and/or special assessments. The City may also dispose of any property acquired under this authority.

## **CHAPTER XI MUNICIPAL BORROWING**

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**11.1. FORMS OF BORROWING.** The City may borrow money and issue securities or enter into other obligations to evidence such borrowing in any form and in any manner determined by the Council to be advantageous to the City, and not in conflict with the provisions of this Charter.

### **11.2. GENERAL OBLIGATION SECURITIES.**

- (a) No securities which mature after the close of the fiscal year in which they are issued and which are payable in whole or in part from the proceeds of ad valorem property taxes or to which the full faith and credit of the City are pledged, shall be issued, except in pursuance of an ordinance, nor until the question of their issuance shall be submitted to a vote of the registered electors at a special or regular election and approved by a majority of those voting on the question.
- (b) The election requirement of Subsection 11.2(a) does not apply to securities issued for acquiring water and rights thereto, or acquiring, improving or extending a municipal water system.

**11.3. LIMITATION ON INDEBTEDNESS.** The City may issue general obligation securities and refunding securities which are general obligation securities only if the aggregate principal amount of all such securities does not exceed ten (10) percent of the assessed valuation of the taxable property within the City as shown by the last preceding assessment for City purposes. Excluded from this debt limitation shall be securities which mature prior to the close of the fiscal year in which they are issued, securities issued for acquiring water and rights thereto, or for acquiring, improving, or extending a municipal water system, or for refunding such water securities, and securities which have been refunded or otherwise defeased.

**11.4. REVENUE SECURITIES.** The City, pursuant to ordinance, shall have the power to issue revenue securities without an election for any public purpose payable in whole or in part from any source of revenues other than ad valorem property taxes or from any combination of sources of revenues other than ad valorem property taxes.

### **11.5. REFUNDING SECURITIES.**

- (a) The City, pursuant to ordinance, may issue its securities without an election for the purpose of refunding outstanding securities to accomplish any refunding purpose determined by the Council to be advantageous and favorable to the City. Any refunding securities which are revenue securities may be payable in whole or in part from any source of revenue other than ad valorem property taxes or any combination of sources of revenues other than ad valorem property taxes.
- (b) Refunding securities may be issued in such principal amount and otherwise on such terms as the Council may determine to be necessary or appropriate to accomplish the refunding purpose. The period of payment of refunding securities shall not exceed the time necessary or appropriate to accomplish the refunding purpose and in no event shall exceed a longer term than thirty (30) years from the date of the refunding bonds.

**11.6. SECURITIES, INTEREST, SALE.** The maximum interest rate and all other terms of securities shall be fixed by or pursuant to an ordinance and such securities shall be sold to the best advantage of the City as determined by the Council. All securities may contain provisions for calling the same prior to the final due date.

**11.7. LONG TERM RENTALS AND LEASEHOLDS.** In order to provide necessary land, buildings, equipment, and other property for governmental or proprietary purposes, the City is hereby authorized to enter into long term rental or leasehold agreements. Such agreements may include an option or options to purchase and acquire title to such leased or rented



property within a period of not exceeding the useful life of such property, and in no case exceeding forty (40) years. Each such agreement and the terms thereof shall be concluded by an ordinance duly enacted by the City, and no election shall be necessary to enter into such agreements. No such ordinance shall take effect before thirty (30) days after its passage. The Council is authorized and empowered to provide for the payment of said rentals from a general levy imposed upon both personal and real property included within the boundaries of the City, or by imposing rates, tolls, and service charges for the use of such property or any part thereof by others, or from any other available municipal income, or from any one or more of the above sources. The obligation to pay such rentals shall not constitute an indebtedness of the City within the meaning of this Charter or of the constitutional limitations on contracting of indebtedness by cities.

Property acquired or occupied pursuant to this Charter shall be exempt from taxation so long as used for authorized governmental or proprietary functions of the City.

**11.8. LIMITATION OF ACTIONS.** In addition to any other restrictions provided by ordinance, no action or proceeding, at law or in equity, to review any elections, acts or proceedings, or to question the validity of or to enjoin the performance of any act or the issuance or payment of any securities, or the levy or collection of any taxes, or for any other relief against any acts or proceedings of the City done or had under this Chapter XI of this Charter, and with reference thereto, whether based upon irregularities or jurisdictional defects shall be maintained, unless commenced within thirty (30) days after the election or performance of the act or effective date of the resolution or ordinance complained of, or else be thereafter perpetually barred.

## **CHAPTER XII**

### **IMPROVEMENT DISTRICTS**

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#### **12.1. POWER TO CREATE IMPROVEMENT DISTRICTS AND TO ACQUIRE, CONSTRUCT, OR INSTALL IMPROVEMENTS AND TO ISSUE SPECIAL ASSESSMENT SECURITIES.**

- (a) The Council shall have the power to contract for, acquire, construct, or install special or local improvements of every character within designated districts of said City, and to assess the cost thereof wholly or in part upon the property specially benefited.
- (b) The Council shall by ordinance prescribe the method and manner of creating special or local improvement districts, making such improvements, letting contracts therefor, assessing part or all of the cost thereof against the benefited property, and paying or issuing special assessment securities for costs and expenses of the organization of said districts and of the acquisition, construction, or installation of said improvements, and all things in relation thereto.
- (c) Nothing herein contained shall be construed to limit the power of the Council to otherwise act in accordance with the Constitution and Statutes of Colorado in carrying out such purposes.

#### **12.2. IMPROVEMENT DISTRICT SECURITIES - GENERAL BENEFIT.**

- (a) In consideration of general benefits conferred on the City at large from the acquisition, construction, or installation of improvements in special or local improvement districts, the City Council may levy annual taxes on all taxable property within the City at a rate not exceeding three (3) mills in any one year, the proceeds thereof to be disbursed among the following purposes with such priority as contracted for or as otherwise determined by the Council:
  - (1) Paying any assessment levied against the City itself, whether or not imposed on City-owned property, in connection with securities issued for any special or local improvement districts;
  - (2) Advancing money to provide for the payment of principal or interest, or both, on securities issued for any special or local improvement district; or

- (3) Establishing reserves or otherwise securing the payment of securities issued for any special or local improvement district in the manner provided for in the authorizing ordinance(s).
- (b) In lieu of such tax levies, the Council may, in its sole discretion, apply any available money of the City for the purposes listed above in Paragraph (a), but in no event shall the amount so applied (together with any such taxes so collected) in any one year exceed the amount which would result from a tax levied in such year as herein limited. In the event of such application, the City may reimburse itself from taxes levied (not exceeding three (3) mills), or from the collection of assessments, to replace moneys so applied. The Council may direct by ordinance the disposition of such taxes or of such available moneys, or of any surplus assessments, including without limitation the deposit of such moneys to the surplus and deficiency fund provided for in Section 12.3 of this Charter.
- (c) The provisions of this Section do not limit or impair the powers granted in any other section of this Charter.
- (d) Securities of any special or local improvement district payable from special assessments, which payment may be secured or additionally secured as provided in this Section, shall not be subject to any debt limitation nor exhaust the City's debt incurring power, nor shall such securities be required to be authorized at any election; and such securities shall not be held to constitute a prohibited lending of credit or donation, nor to contravene any constitutional, statutory, or Charter limitation or restriction.

**12.3. SURPLUS AND DEFICIENCY FUND.** Where all outstanding securities have been paid in a special or local improvement district and any moneys remain to the credit of the district, the Council may transfer such moneys to a special surplus and deficiency fund. The Council may prescribe by ordinance the manner in which any moneys deposited in said surplus and deficiency fund may be applied.

**12.4. ADDITIONAL COMMITMENT TO PAY IMPROVEMENT DISTRICT SECURITIES.** If the City has so contracted in the ordinance(s) authorizing the issuance of improvement district securities, and if at least four-fifths of the outstanding securities for such special or local improvement district have been paid and canceled, and if for any reason the remaining assessments are not paid in time to take up the remaining securities of the district, then the City shall pay the remaining securities when due and shall reimburse itself by collecting the unpaid assessments due the district.

**12.5. REVIEW OF IMPROVEMENT DISTRICT PROCEEDINGS.** In addition to any other restrictions provided by ordinance, no action or proceeding, at law or in equity, to review any acts or proceedings, or to question the validity or enjoin the performance of any act, or the issue or collection of any bonds, or the levy or collection of any assessments, authorized by this Charter, or for any other relief against any acts or proceedings done or had under this Chapter, or of the City, with reference thereto, whether based upon irregularities or jurisdictional defects, shall be maintained, unless commenced within thirty (30) days after the performance of the act or the effective date of the resolution or ordinance complained of, or else be thereafter perpetually barred.

## **CHAPTER XIII**

### **LAND USE AND PLANNING**

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**13.1. COMPREHENSIVE PLAN.** The Master Plan for the City shall also be known as the Comprehensive Plan. The Council shall approve the Comprehensive Plan and any amendments after considering any recommendations by boards or commissions. The Council shall periodically update the Comprehensive Plan and subsidiary land use, functional, or infrastructure plans, and may receive recommendations from boards or commissions on such updates as designated by resolution. The Council shall adopt and amend plans for clearing and rebuilding of blighted areas and plan for redevelopment in the City, and may receive recommendations from boards or commissions on such plans as designated by resolution.

**13.2. LAND DEVELOPMENT AND GROWTH MANAGEMENT.** The City may establish and collect from development projects payments, charges or impact fees for public improvements and facilities, dedications of property and fees in lieu thereof, and requirements to recover costs for public facilities provided to serve future land development in order for new development,

not current citizens, to bear its proportionate share of the costs of public improvements and facilities reasonably necessitated by growth. Further, the City may regulate the rate of growth or adopt other measures to promote quality and coordinated development.

## **CHAPTER XIV**

### **BOARDS AND COMMISSIONS**

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#### **14.1. GENERAL PROVISIONS.**

- (a) The City Council shall establish by ordinance all citizen boards and commissions necessary and required to carry out the duties and responsibilities provided in City codes and ordinances.
- (b) All regular and special meetings of such boards and commissions shall be open to the public, except that any such board or commission may hold executive sessions if and to the extent permitted by ordinance, but no formal or legally binding action shall be taken at any such executive session. Copies of all minutes of such meetings shall be kept and placed in the office of the City Clerk for public inspection. Public records of such boards and commissions shall be open for inspection as and to the extent provided by the State public records statutes.

## **CHAPTER XV**

### **FRANCHISES**

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**15.1. FRANCHISES REMAIN IN EFFECT.** All franchises to which the City is a party when this Charter becomes effective shall remain in full force and effect in accordance with their respective terms and conditions.

#### **15.2. GRANTING OF FRANCHISES.**

- (a) All franchises and all renewals, and extensions thereof and amendments thereto shall be granted only by ordinance. No exclusive franchise shall ever be granted. No franchise shall be granted for a longer period than twenty (20) years.
- (b) Any ordinance granting a franchise shall be subject to an election upon the submission of a referendum petition in the manner provided in this Charter, except that the ordinance granting such franchise shall be subject to an election notwithstanding a declaration in such ordinance that the ordinance is necessary for the immediate preservation of the public peace, health, or safety, and except that such a petition need be signed by only five (5) percent of the number of persons who were registered electors of the City as of the date of the adoption of the ordinance. If such an election is ordered, the grantee of the franchise shall deposit the cost thereof with the City Clerk in an amount determined by the City Manager. No franchise election shall be held until the grantee deposits the cost thereof with the City Clerk in an amount determined by said City Manager.
- (c) No such franchise ordinance shall be approved by the Council before thirty (30) days after application therefor has been filed with Council nor until a public hearing has been held thereon, nor until the grantee named therein has filed with the Clerk an unconditional acceptance of all terms of such franchise.

**15.3. TERMS AND CONDITIONS.** The Council shall, by ordinance, establish procedures, terms, fees, compensation, conditions, and other matters which the Council deems appropriate relating to the granting of franchises.

**15.4. REVOCABLE PERMITS.** The Council may grant a permit at any time for the temporary use or occupation of any public right-of-way, street, alley, or public place, provided such permit shall be revocable by the Council at its pleasure whether such right to revoke be expressly reserved in such permit or not.

## **CHAPTER XVI**

### **MISCELLANEOUS**

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**16.1. VESTED RIGHTS CONTINUED.** After the effective date of this Charter the City shall be vested with all property, monies, contracts, rights, credits, effects and the records, files, books, and papers belonging to it under and by virtue of operation under statutes governing second class cities.

No right or liability, either in favor of or against the City, existing at the time this Charter becomes effective and no suit or prosecution of any character shall in any manner be affected by any change, resulting from the adoption of this Charter, but the same shall stand or proceed as if no change had been made. All debts and liabilities of the City shall continue to be the debts and liabilities of the City, and all fines and penalties imposed at the time of such change shall be collected.

**16.2. INTERPRETATIONS.** Except as otherwise specifically provided or indicated by the context:

- (a) All words used in this Charter indicating the present tense shall not be limited to the time of the adoption of this Charter but shall extend to and include the time of the happening of any event or requirement for which provision is made herein.
- (b) The singular number shall include the plural, and the plural number shall include the singular.
- (c) The word "person" may extend and be applied to bodies politic and corporate and to partnerships as well as to individuals.
- (d) The word "officer" shall include the Mayor and other members of the Council, the administrative officers, members of City boards and commissions created by or pursuant to this Charter.
- (e) The word "statute" shall denote the laws of the State of Colorado in effect at the time the provision of the Charter containing the word "statute" is to be applied.
- (f) All references to section numbers shall refer to section numbers of this Charter.
- (g) The word "appropriation" shall mean the authorized amount of funds set aside for expenditure during a specific time for a specific purpose.
- (h) The word "City" shall mean the City of Thornton, Colorado, a municipal corporation.
- (i) The word "Clerk" shall mean City Clerk unless otherwise indicated.
- (j) The word "Council" shall mean City Council.

**16.3. SATURDAYS, SUNDAYS AND HOLIDAYS.** Whenever the date fixed by this Charter or by ordinance for the doing or completion of any act falls on a Saturday, Sunday or legal holiday, such act shall be done or completed as provided by ordinance.

**16.4. PUBLICATIONS.** The City Council shall, by ordinance, establish publication requirements.

**16.5. EMINENT DOMAIN.** In carrying out the powers and duties imposed upon it by this Charter or by the general statutes, the City shall have power to acquire within or without its corporate limits, lands, buildings, water, water rights and water storage rights, water and sewer properties, and other properties, and any interest in land and air rights over land, and may take the same upon paying just compensation to the owner as provided by law.

**16.6. CITY NOT TO PLEDGE CREDIT.** The City shall comply with Colorado Constitution Article XI, Section 1, as from time to time amended.

**16.7. CHAPTER AND SECTION HEADINGS.** The chapter, section and subsection headings used in this Charter are for convenience only and shall not be considered as part of the Charter.

**16.8. SEVERABILITY OF CHARTER PROVISIONS.** If any provision, section, article or clause of this Charter in the application thereof to any person or circumstances shall be found to be invalid by a court, such invalidity shall not affect any remaining portion or application of the Charter which can be given effect without the invalid portion or application, provided such remaining portions or applications are not determined by the court to be inoperable, and to this end this Charter is declared to be severable.

## **CHAPTER XVII**

### **TRANSITIONAL PROVISIONS**

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**17.1. EFFECT OF AMENDMENTS AND REPEALERS.** Approval by the electors of any Charter Amendment which repeals any section or portion of this Charter shall not be construed to be a limitation, denial, or suspension of any power of the City of Thornton, or any power of its elected City Council otherwise vested in or authorized to the City or the City Council by the constitution or the statutes of the State of Colorado; except as expressly provided by new language, such amendments shall be construed to the end that repealers or deletions eliminate obsolete, unnecessary and limiting language in the original Charter Document which previously served to restrict the powers of the City and the elected City Council.

## **CHAPTER XVIII**

### **COLLECTIVE BARGAINING FOR FIRE FIGHTERS AND POLICE OFFICERS**

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**18.1. STATEMENT OF POLICY.** The protection of the public health, safety and welfare demand that fire fighters and police officers not be accorded the right to strike or engage in any work stoppage, slowdown or mass absenteeism. This necessary prohibition does not, however, require the denial to such employees of the City other well-recognized rights of employees, such as the right to organize, be represented by an employee organization of their choice, and the right to bargain collectively concerning wages, rates of pay, hours, grievance procedure, working conditions, and other terms and conditions of employment.

It is hereby declared to be the policy of the City of Thornton to accord to fire fighters and police officers all the rights of labor other than the right to strike or organize any work stoppage, slowdown or mass absenteeism. To provide for the exercise of these rights, a method of resolution of disputes is hereby established in lieu of the right to strike. The establishment of this method of dispute resolution shall be deemed to be a recognition of the necessity to provide an alternative mode of settling disputes where employees such as fire fighters and police officers, as a matter of public policy, must be denied the right to strike.

**18.2. DEFINITIONS.** As used in this Chapter and its subparts, the following terms shall, unless the context requires a different interpretation, have the following meanings:

- (a) The term “fire fighter” shall mean the following regular employees of the Fire Department of the City of Thornton: sworn fire fighters up to and including the rank of Captain, and emergency medical technicians who are not supervisors and whose primary responsibilities are responding to emergency calls for fire suppression and/or emergency medical services.
- (b) The term “police officer” shall mean all full-time sworn police officers at or below the rank of Sergeant in the Police Department of the City of Thornton.
- (c) The term “bargaining unit” shall mean one of the two approved bargaining units, (1) the fire fighter bargaining unit consists of the fire fighters described in Section 18.2(a); and (2) the police officer bargaining unit consists of the police officers described in Section 18.2(b).

- (d) The term “corporate authorities” or “City” shall mean the proper officials, including but not limited to, the Chief of the Fire Department, Chief of the Police Department, Department of City Personnel or Human Resources, the City Manager, and the City Council, whose duty it is to establish the wages, salaries, rates of pay, hours, working conditions, or other terms and conditions of employment of fire fighters and police officers.
- (e) The term “sole and exclusive collective bargaining agent” or “bargaining agent” shall mean an employee organization chosen by the fire fighters to represent the fire fighter bargaining unit and an employee organization chosen by the police officers to represent the police officer bargaining unit pursuant to Section 18.4 for the purpose of collective bargaining.
- (f) The term “final offer” shall be the written offer made latest in time by a party but at least seven (7) days prior to the start of an advisory fact finding hearing.
- (g) The term “economic issues” shall mean issues that concern rates of pay or benefits.

**18.3. RIGHT TO ORGANIZE AND BARGAIN COLLECTIVELY.**

- (a) Fire fighters and police officers shall have the right to bargain collectively with the City and to be represented by an employee organization in such collective bargaining respecting wages, rates of pay, hours, grievance procedure, working conditions and all other terms and conditions of employment, except pensions and the public and management rights contained in Subsection (b) herein.
- (b) Public and Management Rights. The following are the inherent and exclusive rights of the City and these shall not be the subjects of collective bargaining:
  - (i) To direct the work of its employees;
  - (ii) To hire, promote, demote, classify, evaluate and retain employees in positions with the City;
  - (iii) To demote, suspend and discharge or otherwise discipline employees for proper cause;
  - (iv) To transfer, assign and schedule employees, but nothing contained in this Paragraph (iv) shall prohibit bargaining over scheduling and the procedures for transfer and assignment;
  - (v) To determine whether to layoff employees because of lack of work, lack of funds, or for other legitimate reasons, provided that nothing contained in this Paragraph (v) shall prohibit bargaining over the process used to determine how any layoff will be accomplished;
  - (vi) To determine and implement the methods, equipment, facilities and other means and personnel by which municipal operations are to be conducted, and to take the steps it deems necessary to maintain the efficiency and safety of said operations and of the personnel engaged therein; and
  - (vii) To determine its budget, organization, and the merits, necessity and level of any activity or service provided by the City, provided, however, that nothing contained in Paragraphs (vi) and (vii) shall prohibit bargaining over minimum manning requirements.

This Subsection (b) shall not be construed as limiting, diminishing or repealing in any way the Career Service System provisions appearing in Chapter VII of this Charter.

**18.4. SELECTION AND RECOGNITION OF BARGAINING AGENT.**

- (a) The sole and exclusive collective bargaining agent for the purpose of collective bargaining shall be the sole and exclusive representative of all of the fire fighters and all of the police officers, as applicable, if the majority of the fire fighters and the majority of the police officers voting in separate elections vote for such collective bargaining agent.
- (b) When a question arises concerning the selection of a bargaining agent for the fire fighter bargaining unit or for the police officer bargaining unit, the Election Commission shall determine the question thereof by taking a

secret ballot of fire fighters or police officers and certifying in writing the results thereof to the person, persons, employee organization and corporate authorities involved, said secret ballot election to be conducted not less than fifteen (15) days nor more than thirty (30) days from the date of filing the petition. The Election Commission shall certify the results of the above-described election within one (1) working day of the close of the polls.

- (c) Questions concerning the selection of a bargaining agent for the fire fighter bargaining unit or the police officer bargaining unit may be raised only by petition of any fire fighter, group of fire fighters, or of any police officer, group of police officers, or any employee organization representing or wishing to represent fire fighters or police officers and only if such petition is signed by at least thirty-three (33) percent of the fire fighters or thirty-three (33) percent of the police officers. Such a petition may be submitted at any time to the City Clerk provided that in the event there is a fire fighter bargaining agent or police officer bargaining agent then certified or recognized by the City, no petition may be filed until said certified or recognized fire fighter bargaining agent or police officer bargaining agent has had a twelve (12) month period in which to attempt to enter into a collective bargaining agreement with the City, unless said fire fighter bargaining agent or police officer bargaining agent can be shown to have been initiated, created, or dominated by the corporate authorities or persons acting on behalf of the corporate authorities; and provided further that no petition may be filed during the term of an existing fire fighter collective bargaining agreement or police officer collective bargaining agreement, except during the period from January 1 to January 31 of the final year of such fire fighter or police officer collective bargaining agreement. The Election Commission shall make such rules as are necessary and provide appropriate forms for the filing of such petition and conducting of such elections.
- (d) The employee organization selected by the majority of the fire fighters or the majority of the police officers voting in separate elections conducted pursuant to Subsection (b) of this Section shall be recognized by the City as the sole and exclusive collective bargaining agent for the fire fighter bargaining unit or sole and exclusive collective bargaining agent for the police officer bargaining unit unless and until recognition of such labor organization is withdrawn by a vote of a majority of the fire fighters or police officers voting in the election.

#### **18.5. OBLIGATION TO BARGAIN IN GOOD FAITH.**

- (a) It shall be the obligation of the City to meet separately and bargain in good faith with the representative or representatives of the fire fighter bargaining agent or the police officer bargaining agent at all reasonable times and places within forty-five (45) days after receipt of written notice from said fire fighter or police officer bargaining agent of the request for a meeting for collective bargaining purposes. This obligation shall include the duty to cause any agreements resulting from negotiations to be reduced to a written contract, which contract shall be for a term of at least one (1) year, and not more than three (3) years.
- (b) It shall be the obligation of the bargaining agent of the fire fighters or the bargaining agent of the police officers to meet separately and negotiate in good faith with the City and/or its designated representatives at all reasonable times and places. This obligation shall include the duty to cause any agreements to be reduced to a written contract, which contract shall be for a term of at least one (1) year, and not more than three (3) years.
- (c) In any advisory fact finding hearing conducted pursuant to this Chapter, the advisory fact finding board shall consider any evidence about either the corporate authorities' or the fire fighter bargaining agent's or police officer bargaining agent's refusal to negotiate in good faith. If the advisory fact finding board concludes that either the corporate authorities or the fire fighter bargaining agent or police officer bargaining agent has failed to negotiate in good faith, it shall utilize this conclusion pursuant to Section 18.9 and may base its findings and recommendations on this conclusion.

**18.6. UNRESOLVED ISSUES SUBMITTED TO ADVISORY FACT FINDING.** In the event that the fire fighter bargaining agent or police officer bargaining agent and the corporate authorities are unable, within thirty (30) days from and including the date of their first meeting, to reach an agreement on a contract, any and all unresolved issues shall be submitted to advisory fact

finding. Submission of unresolved issues to advisory fact finding shall not cause the obligation of the parties to bargain in good faith to cease. Any or all issues which are unresolved between the bargaining agent and the corporate authorities within the time periods contained in this paragraph may be agreed to by the parties at any time prior to the second reading by the City Council of an ordinance to conduct a referendum vote of the people pursuant to Section 18.11. In the event the fire fighter bargaining agent or police officer bargaining agent and corporate authorities are able to reach agreement upon any or all issues prior to the receipt of the recommendations of the advisory fact finding board, then the board shall make no recommendations on such issue or issues. In the event that following receipt of the recommendation of the advisory fact finding board the fire fighter bargaining agent or police officer bargaining agent and the corporate authorities are able to reach an agreement upon any or all issues prior to a second reading by the City Council of an ordinance to conduct a referendum vote, then those agreed upon issues shall not be submitted to said referendum vote.

**18.7. FACT FINDING BOARD - COMPOSITION.** Within three (3) days from the expiration of the time period referred to in Section 18.6. hereof, the fire fighter bargaining agent or police officer bargaining agent or the corporate authorities shall inform the American Arbitration Association, or its successor organization, that a fact finding board is required. Within ten (10) days thereafter, the appropriate arbitration association shall submit simultaneously to each party an identical list of seven (7) persons as proposed members of the board. It shall have been previously determined by the appropriate arbitration association that the proposed members of the board shall be available and will accept appointment as fact finders within the time period specified hereafter. Within seven (7) days from the mailing date of the list, each party shall cross off two (2) names from the list, and shall number the remaining names indicating the order of its preference and return the list to the appropriate arbitration association. If a party does not return the list within the time specified, all persons named therein shall be deemed acceptable. Within ten (10) days after the time the list must be returned to the appropriate association, the arbitration association shall do the following:

- (1) From among the persons who have been approved on both lists, and in accordance with the designated order of mutual preference, it shall appoint three (3) fact finders to serve.
- (2) It shall select from among said three (3) fact finders a person to serve as chairman.
- (3) It shall notify the parties of such appointments.

**18.8. HEARINGS.**

- (a) The fact finding board shall, acting through its Chairman, call a hearing to be held within twenty-one (21) days after the date of the appointment of the Chairman, and shall, acting through its Chairman, give at least ten (10) days notice in writing to each of the other two fact finders, the fire fighter bargaining agent or the police officer bargaining agent and the corporate authorities of the time and place of such hearing. The hearing shall be informal, and the rules or evidence prevailing in judicial proceedings shall not be binding. Any and all documentary evidence and other data deemed relevant by the fact finders shall be received in evidence. The fact finders shall have the power to administer oaths and to require by subpoena the attendance and testimony of witnesses and the production of books, records and other evidence relating to or pertinent to the issues presented to them for determination.
- (b) The hearings conducted by the fact finders shall be concluded within fourteen (14) days of the time of commencement. Within five (5) days following the conclusion of the hearings, the parties may, if they deem necessary, submit written briefs to the fact finders. Within ten (10) days of receipt of such briefs, or within ten (10) days after conclusion of the hearings if no post-hearing briefs are filed, the fact finders shall make written findings and a written opinion and decision on the issues presented, a copy of which shall be mailed or otherwise delivered to the fire fighter bargaining agent or the police officer bargaining agent and its designated representative and the corporate authorities. A majority decision of the fact finders shall be the recommendation to both the fire fighter or police officer bargaining agent and the corporate authorities. Said written findings, opinions and decisions, and recommendations shall be reached and discussed in accordance with the provisions of Section 18.9.

**18.9. FACTORS TO BE CONSIDERED BY THE FACT FINDING BOARD.** The fact finders shall conduct the hearings and render their decision upon the basis of a prompt, peaceful and just settlement of all unresolved issues between the fire fighter or



police officer bargaining agent and the corporate authorities. The factors to be given weight by the fact finders in arriving at a decision shall include:

- (1) Comparison of wage rates, hours, terms and conditions of employment of the fire fighters, with wage rates, hours, terms and conditions of employment of fire departments in comparable cities and towns in the United States; or the comparison of wage rates, hours, terms and conditions of employment of the police officers, with wage rates, hours, terms and conditions of employment of police departments in comparable cities and towns in the United States.
- (2) Interest and welfare of the public, and the financial ability of the City to finance the cost items proposed by each party.
- (3) Other similar standards recognized in the resolution of interest disputes including but not limited to a comparison of the peculiarities of either fire fighter employment or police officer employment, as applicable, in regard to other trades, professions or occupations, specifically:
  - (a) hazards of employment,
  - (b) physical qualifications,
  - (c) educational qualifications,
  - (d) mental qualifications,
  - (e) job training and skills,
  - (f) degree of responsibility exercised, and
  - (g) work schedules.

**18.10. FINAL OFFER PROCEDURE.** The fact finding board shall recommend either the final offer of the corporate authorities or the final offer of the fire fighter bargaining agent, or the final offer of the corporate authorities or the police officer bargaining agent, as applicable, on each issue and shall state its reasons for recommending such position.

**18.11. ELECTION PROCEDURE FOR IMPASSE RESOLUTION.**

- (a) The recommendations of the fact finders shall be advisory only. Within seven (7) days of receipt of the recommendations of the fact finders, the City and the fire fighter or police officer bargaining agent, as applicable, shall meet and simultaneously, in writing, notify each other of their respective determinations to accept or reject those recommendations. Failure by either the City or the fire fighter or police officer bargaining agent to so notify the opposite party within these time limits shall be deemed rejection of the fact finders' recommendations by the defaulting party.
- (b)
  - (i) In the event the City or the fire fighter bargaining agent or police officer bargaining agent is unwilling to enter into a collective bargaining agreement containing the recommendations of the fact finders, the corporate authorities shall cause the recommendations of the fact finders to be referred to a vote of the people not less than thirty (30) nor more than sixty (60) days from the date of the fact finders' recommendations. The final offer concerning those issues still in dispute of the party or parties rejecting the fact finders' recommendations shall also be placed on the ballot. The only issues that will be submitted to such an election will be economic issues or issues that change the rights of fire fighters contained in the fire fighter collective bargaining agreement or change the rights of police officers contained in the police officer collective bargaining agreement in effect at the time of the adoption of this Chapter or issues that the parties to the negotiations agree in the applicable fire fighter collective bargaining agreement or police officer collective bargaining agreement may be placed on the ballot.
  - (ii) The ballot for any election conducted pursuant to Subparagraph (i) of this Section shall list the recommendations of the fact finders first. The determination in an appropriate circumstance of whether the final offer of the fire fighter or police officer bargaining agent or the final offer of the corporate authorities shall be listed second shall be made by lot or by a flip of a coin.
  - (iii) At any election conducted pursuant to Subparagraph (i) of this Section, voters shall be permitted to vote in favor of adopting either the recommendations of the fact finders, or the final offer of the corporate authorities, or the final offer of the fire fighter bargaining agent or police officer bargaining agent, whichever is on the ballot. The proposal receiving approval by a majority of those voting on the proposal(s) shall be deemed approved and be binding upon the parties. If no proposal receives a majority vote, the two proposals receiving the most votes will be placed on a run-off election ballot

within forty (40) days. In no event shall any issue upon which the fire fighter bargaining agent or police officer bargaining agent and the corporate authorities have reached an agreement prior to the second reading by the City Council of an ordinance to call a referendum election pursuant to this Section be included in such referendum election.

**18.12. COST OF ELECTION.** The cost of any special election conducted solely pursuant to Section 18.11 and a pro rata portion of the cost of any special or general election conducted in part pursuant to Section 18.11 shall be paid by the party refusing to implement the recommendations of the fact finders. In the event both parties to a particular fact finding proceeding refuse to implement the recommendations of the fact finders, the parties shall share equally the cost of conducting an election conducted pursuant to Section 18.11. The Election Commission shall determine the cost involved in any special election and shall also determine the pro rata share of the party or parties refusing to implement the recommendations of the fact finders for the cost incurred by reason of such refusal.

**18.13. FEES AND EXPENSES OF FACT FINDING.** The necessary fees and necessary expenses of fact finding shall be shared equally by the City and by the fire fighter or police officer bargaining agent.

**18.14. COLLECTIVE BARGAINING AGREEMENT - WHAT CONSTITUTES.** The collective bargaining agreement between the City and the bargaining agent of the fire fighters or bargaining agent of the police officers shall consist of any and all terms actually agreed to by the parties, or accepted by the parties from the recommendations of the fact finders, or selected by the electorate pursuant to this Chapter.

**18.15. REQUEST FOR COLLECTIVE BARGAINING.** Whenever wages, rates of pay, or any other matter requiring appropriation of money by the City are included as matters of collective bargaining under this Chapter, it is the obligation of the fire fighter bargaining agent or police officer bargaining agent to serve written notice of request for collective bargaining on the corporate authorities no later than the third Monday in February of the year in which money can be appropriated by the City to cover the contract period which will be the subject of the collective bargaining procedure.

**18.16. BENEFITS NOT TO BE REDUCED.** Those benefits granted to fire fighters or police officers by this Charter, or by applicable ordinances, personnel policy or procedure, or by state statute shall remain in full force and effect until such time as the benefits provided by these provisions may be modified by the terms of a collective bargaining agreement or agreements entered into pursuant to the requirements and provisions of this Chapter of the Charter and the subdivisions hereof, provided however, that no person who is either receiving or has contributed monies toward a fire fighter's or police officer's pension shall cease in any manner to be eligible for the full pension which was contemplated on the date of the adoption of this Chapter unless they voluntarily withdraw from the same.

**18.17. PROHIBITION.**

- (a) No fire fighter, police officer, or person seeking admission as a fire fighter or police officer shall be appointed, promoted, reduced, removed or in any way favored or discriminated against because of race, of sex, of political or religious opinions or other affiliations or non-affiliations or in violation of Federal, State, or the City's anti-discrimination laws; provided that it shall be permissible and it shall not be in violation of this Charter for the City to enter into an agreement with the bargaining agent of the fire fighters or the bargaining agent of the police officers which requires the payment by fire fighters or police officers to said fire fighter or police officer bargaining agent of an amount not to exceed the normal dues and assessments required of members of said fire fighter bargaining agent or police officer bargaining agent if a majority of the fire fighters voting in an election of the fire fighter bargaining unit or police officers voting in an election of the police officer bargaining unit conducted by the Election Commission, approve including such a provision in any fire fighter or police officer collective bargaining agreement entered into between the City and said fire fighter or police officer bargaining agent.
- (b) Fire fighters and police officers shall have the right to form, join and participate in the activities of employee organizations of their own choosing for the purpose of representation on the matters of wages, benefits, and other terms or conditions of employment. Members of the fire fighter bargaining unit or police officer

bargaining unit shall also have the right to refuse to join or participate in any activities of employee organizations and shall have the right to represent themselves individually and have individual grievances adjusted without resort to employee organizations; provided, however, that a representative of the fire fighter bargaining agent or police officer bargaining agent shall have the right to be present in any such adjustments which deal with the provisions of the fire fighter collective bargaining agreement or police officer collective bargaining agreement, and any resolution reached as a result of such individual representation or grievance must be in accord with the terms of any fire fighter or police officer collective bargaining agreement actually in effect and applicable to such fire fighter bargaining unit members or police officer bargaining unit members. Except as provided in Paragraph (a) of this Section, neither the City, nor any member of the fire fighter bargaining unit or police officer bargaining unit, nor any employee organization, nor any officially recognized fire fighter bargaining agent or police officer bargaining agent shall interfere with, intimidate, restrain, coerce or discriminate against any employee because of the exercise of the foregoing rights.

#### **18.18. FIRE CHIEF AND POLICE CHIEF.**

- (a) The Fire Chief shall be in direct command of the Department of Fire. The Fire Chief shall assign all members of the Fire Department to their respective posts, shifts, details, and duties; shall make rules and regulations with approval of the City Manager and in conformity with the ordinances and resolutions of the City concerning the operation of the Fire Department and the conduct of all employees thereof; and shall be responsible for the efficiency, discipline, and good conduct of the Department and for the care and custody of all property used by the Department.

The Fire Chief shall, subject to approval of the City Manager and Council, have further power to make regulations with force of law, implementing and giving effect to the laws and ordinances and resolutions relating to fire prevention and fire safety. The Fire Chief shall not either make or enforce any assignment, rule or regulation, or order, which is not in conformity with the provisions of any fire fighter collective bargaining agreement entered into pursuant to this Chapter of the Charter between the City and the bargaining agent of the fire fighters.

- (b) The Police Chief shall be in direct command of the Police Department. The Police Chief shall assign all members of the Police Department to their respective posts, shifts, details, and duties; shall make rules and regulations with approval of the City Manager and in conformity with the ordinances and resolutions of the City concerning the operation of the Police Department and the conduct of all employees thereof; and shall be responsible for the efficiency, discipline, and good conduct of the Department and for the care and custody of all property used by the Department. The Police Chief shall, subject to approval of the City Manager and Council, have further power to make regulations with force of law, implementing and giving effect to the laws and ordinances and resolutions related to the Police Department and police public safety.

The Police Chief shall not either make or enforce any assignment, rule or regulations, or order, which is not in conformity with the provisions of any police officer collective bargaining agreement entered into pursuant to this Chapter of the Charter between the City and the bargaining agent of the police officers.

**18.19. IMPACT UPON CAREER SERVICE SYSTEM.** This Chapter shall not in any way be construed to expand, modify, delete, circumscribe or alter the Career Service System established pursuant to Chapter VII of this Charter except as specifically stated herein, to wit, Sections 7.1.(c) and 7.1.(d) shall not apply to fire fighters or police officers upon the certification of a fire fighter or police officer bargaining agent pursuant to Section 18.4. herein and furthermore that all other provisions of Section 7.1 shall remain in effect for fire fighters and police officers only until modified by or included in a fire fighter or police officer collective bargaining agreement between the City and the fire fighter or police officer bargaining agent. No rule or regulation of the Career Service System either in effect at the time of the adoption of this Chapter or thereafter adopted shall be enforced or applied as to any fire fighter or police officer covered by a collective bargaining agreement arrived at pursuant to this Chapter XVIII where to do so would contravene the terms of such a collective bargaining agreement. In the event of any conflict between a rule or regulation of the Career Service System and a fire fighter or police officer collective bargaining

agreement, the provision of the fire fighter or police officer collective bargaining agreement shall control and supersede said rule or regulation.

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

**18.21. STRIKES.**

- (a) The protection of the public health, safety and welfare demands that neither the sole and exclusive collective bargaining agent of the fire fighters or sole and exclusive collective bargaining agent of the police officers, nor the fire fighters, nor the police officers, nor any person acting in concert with them, will cause, sanction, or take part in any strike, walkout, sitdown, slowdown, stoppage of work, retarding of work, abnormal absenteeism, withholding of services, or any other interference with the normal work routine.
- (b) A violation of any provision of this Section by the sole and exclusive bargaining agent of the fire fighters or sole and exclusive bargaining agent of the police officers shall be cause for the City to terminate the fire fighter or police officer collective bargaining agreement with said agent upon giving written notice to that effect to the chief representative of said fire fighter or police officer agent, in addition to whatever other remedies may be available to the City at law or in equity.

**18.22. TIME LIMITS.** Any time limit contained in this Chapter, except ones governing notice and timing of elections, may be modified for that year upon the written consent of the City and the applicable fire fighter bargaining agent or police officer bargaining agent.