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ARTICLE 1

City Council and Legislative Acts

Division 1 City Council

Sec. 2-1-10. City Council and Mayor terms.

(a) Terms. At the November 2001 regular election of the City, eight (8) Council Members shall be elected. The City Council candidate receiving the most votes in each City Council District shall be elected to a four-year term. At the November 2001 regular election, the City Council candidate receiving the second most votes in each City Council District shall be elected to a two-year term. All City offices elected for four-year terms, beginning with the November 2001 regular election, shall every four (4) years thereafter be filled by election for four-year terms. At the November 2003 election and every four (4) years thereafter, such City Council offices shall be filled by election for four-year terms.

(b) At the November 2001 regular election of the City, the Mayor shall be elected to a four-year term. (Prior code 2.2.1; 2.2.2; Ord. 2007-O-14 §1; Ord. 2008-O-16 §3)

Sec. 2-1-20. Compensation.

(a) Beginning with the commencement of terms of office to be elected at or after the November 6, 2001 regular election, and appointed terms of office appointed after such date, the following officers of the City of Centennial shall receive the following compensation for all months in office, the elected or appointed Mayor shall receive the sum of eight hundred fifty dollars (\$850.00) per month for his or her services.

(b) Each elected or appointed Council Member shall receive the sum of seven hundred dollars (\$700.00) per month for his or her services.

(c) The Council Member appointed Mayor Pro Tem shall also receive the additional sum of fifty dollars (\$50.00) per month for all months such Council Member also holds the office of Mayor Pro Tem. (Prior code 2.5.101; Ord. 2007-O-14 §1)

Sec. 2-1-30. Boards and commissions.

In the absence of commissions and boards appointed by the City Council, the City Council shall sit and act as, and assumes all powers otherwise granted to, any commission or board or other implementing body as provided in this Code. Without limiting the scope of this appointment, in the absence of commissions and boards appointed by the City Council, the City Council shall specifically assume and exercise the powers and duties placed upon the municipal Planning Commission, pursuant to Section 31-23-227(1), C.R.S.; the powers of the Zoning Commission pursuant to Sections 31-23-211, 31-23-227(1) and 31-23-306, C.R.S.; and the powers of the Board of Adjustment pursuant to Section 31-23-307(1), C.R.S. (Prior code 2.2.3; Ord. 2007-O-14 §1)

Division 2
Publicizing Ordinances

Sec. 2-1-110. Method and timeline of publicizing ordinances.

Pursuant to the authority set forth in Section 7.5 of the Charter, it shall be sufficient publicizing of an ordinance if an ordinance is:

(1) Posted in full on the City's website not less than three (3) days prior to first reading before the City Council;

(2) Published by title only in a newspaper of general or limited circulation within the City to ensure general coverage within the City as soon as possible and at all times at least three (3) days prior to the meeting at which any public hearing on such ordinance shall take place. Such publication shall include a statement that the full text of the ordinance is available for public inspection in the office of the City Clerk, that the ordinance may be obtained by contacting the City Clerk and that the full text of the ordinance is available on the City's website;

(3) Posted in full on the City's website within two (2) business days after final passage, as and if amended on final passage; and

(4) Published by title only in a newspaper of general or limited circulation within the City to ensure general coverage within the City as soon as possible and at all times at least ten (10) days following final passage. Such publication shall include a statement that the full text of the ordinance is available for public inspection in the office of the City Clerk, that the ordinance may be obtained by contacting the City Clerk and that the full text of the ordinance is available on the City's website. (Ord. 2008-O-27 §1)

Sec. 2-1-120. Ordinance titles.

At a minimum, titles of ordinances shall summarize the principal topic of the ordinance and identify whether fees, costs, charges or penalties, if any, are proposed by the ordinance. (Ord. 2008-O-27 §1)

Sec. 2-1-130. Effective date of ordinances.

(a) Unless a later date is specified in the text of an ordinance, ordinances, other than emergency ordinances, shall take effect and be enforced thirty (30) days after final publication of the title in the newspaper in accordance with Section 2-1-110 above.

(b) Emergency ordinances for which immediate effectiveness is deemed necessary for the immediate preservation of the public peace, health or safety shall take effect immediately upon passage by an affirmative vote in compliance with the provisions of Section 7.6 of the Charter. (Ord. 2008-O-27 §1)

ARTICLE 2

Officers and Employees

Division 1 General Provisions

Sec. 2-2-10. Reserved.

Division 2 City Manager

Sec. 2-2-110. Creation of position.

The City Council, in accordance with Article VIII of the City of Centennial Home Rule Charter hereby creates the position of City Manager. (Prior code 2.5.201; Ord. 2010-O-06)

Sec. 2-2-120. Appointment; compensation; qualifications.

(a) The City Manager shall be appointed by the City Council and shall serve at the pleasure of the City Council. The City Manager shall be selected solely on the basis of demonstrated executive and administrative qualifications, with special preference given to the candidate's experience and training.

(b) The City Manager shall receive such compensation as negotiated by contract and agreed to by the City Council and the City Manager.

(c) At the time of appointment, the City Manager need not be a resident of the City, but shall establish residency in the City within sixty (60) days of appointment, and permanent residency within nine (9) months of appointment, or as otherwise agreed to by the City Council. The City Manager shall reside within the City limits for so long as he or she is employed by the City. (Prior code 2.5.202; Ord. 2010-O-06)

Sec. 2-2-130. Position description; duties.

(a) Responsibilities and General Authority. The City Manager shall be the chief administrative and executive officer of the City. To that end, the City Manager shall have full and complete authority to carry out the administrative affairs of the City, including City-governed general improvement districts, Centennial Urban Redevelopment Authority, and to implement the legislative policies, ordinances, resolutions, and directives of the City Council subject only to any limitations imposed by the City Council, Charter, ordinance, resolution, or any employment agreement between the City and the City Manager.

(b) Specific Authority. Without limiting the foregoing general authority, the City Manager shall be specifically authorized to exercise the following authority without prior City Council approval:

(1) To execute on behalf of the City all contracts, agreements, and purchase orders for goods and services, provided that sufficient funds have been budgeted and appropriated by the City

Council and the contract, agreement, or order does not exceed \$300,000 for public works or capital improvement projects and does not exceed \$150,000 for items not related to public works or capital improvement projects, or those contracts identified and authorized in the annual budget that are in excess of the limit established above not to exceed the amount identified in the budget or as otherwise appropriated by City Council. A report of all transactions approved by this authorization in excess of \$150,000 shall be provided to City Council with monthly financial statements.

(2) To grant and accept on the City's behalf all easements, licenses, and other interests in real property so long as the interest granted is subordinate to and does not substantially impair the City's use of the property.

(3) To employ, direct, discipline and to discharge all employees, and to establish compensation for all employees subject to funding provided by the Council through the annual budget.

(4) To approve and authorize the execution of accounts receivable, accounts payable, and payroll, provided that sufficient funds are budgeted and appropriated.

(5) To approve and process all documentation and tasks necessary to conduct the financial affairs of the City including, but not limited to, all operations associated with banking and investment of City funds, authorizing the distribution of accounts payable and payroll, preparing and filing reports and statements, and certifying mill levies.

(6) To promulgate all administrative policies, including but not limited to financial, recordkeeping, personnel, and purchasing, consistent with all federal, state, and local laws, and not exceeding the annual budget as approved by City Council. Copies of all financial and purchasing policies shall be posted on the City's official website and attached to the annual budget. Policies shall be effective upon approval by the City Manager which approval shall be subject to ratification, including modification prior to ratification, by the City Council.

(7) During an emergency and unless otherwise restricted by the City Council, to incur financial obligations and execute contracts and agreements on behalf of the City for expenditures that shall not exceed the City's total budgeted and reserved funds. The City Manager shall immediately notify the City Council of any financial obligations entered into under this emergency authority. For purposes of this provision, an *emergency* shall be a situation involving or threatening the health and safety of persons, or the imminent damage or destruction of property.

(c) Limitations on Authority. The City Manager shall not be authorized to:

(1) Execute intergovernmental agreements, memoranda of understanding, or other forms of contracts with other governments, governmental agencies, special districts or political subdivisions, unless specifically authorized by ordinance or resolution of the City Council; provided, however, that intergovernmental agreements or memoranda of understanding committing less than \$100,000 in funds or for a term of six (6) months or less may be approved by the City Manager. The City Manager shall provide a copy of any City Manager-approved agreement to each member of the City Council upon approval.

(2) Execute agreements or contracts for judicial or legal services unless specifically authorized by ordinance or resolution of the City Council.

(3) Sell or convey City-owned real property held and used for municipal purposes except as provided by Paragraph 2-2-130(b)(2).

(4) Incur debt or issue multi-year fiscal debt or multi-year financial obligations within the meaning of Article X, Section 20 of the Colorado Constitution.

(5) Designate an election official or exercise any power or duty held by the City Council pursuant to applicable election laws.

(6) Approve the annual budget for the City or any City-governed general improvement district or other city-owned or managed authority or agency.

(7) Certify the mill levy for the City or any City-operated improvement district or authority.

(8) Exercise legislative power unless specifically delegated by the City Council as may be permitted by law.

(d) Delegation of Authority. The City Manager may delegate duties and responsibilities held by the City Manager to department directors or division managers, in order to implement efficient and effective governance. This provision shall not apply to the Specific Authority identified in Paragraph 2-2-130(b)(1) unless otherwise approved by City Council.

(e) Supervision. The City Manager shall report to the City Council. (Prior code 2.5.203; Ord. 2004-O-45 §1; Ord. 2007-O-14 §1; Ord. 2010-O-06)

Sec. 2-2-140. Reserved.

Sec. 2-2-150. Relationship of City Council to Administrative Service.

Neither the City Council nor any member thereof shall have authority to require the hiring, promotion, suspension, transfer or termination of any person by the City Manager. Except for the purpose of making specific inquiries, all members of the City Council shall deal with administrative personnel or consultants solely through the City Manager or the City Manager's designee, and no member of the City Council shall give orders to any employee of the City. (Prior code 2.5.204; Ord. 2010-O-06)

Editor's Note: See Section 8.8 of the City of Centennial Home Rule Charter.

Sec. 2-2-160. Responsibilities of City Council.

(a) Nothing in this Article shall impair the responsibility of the City Council for the legislative affairs of the City as required by the laws of the State, the Charter, and the ordinances of the City.

(b) The City Manager, or in the absence of the Manager, a designee of the City Manager, shall attend all special and regular City Council meetings to provide input on any matters he or she deems essential to the operations of the City. The City Manager is invited to participate in any discussions

before the City Council but shall not have the authority to cast a vote in any matter before the City Council. (Prior code 2.5.205, 2.5.206; Ord. 2010-O-06)

Sec. 2-2-170. Dismissal.

The City Manager shall serve at the pleasure of the City Council and may be removed by a majority vote of the City Council at any regular meeting or special meeting called for that purpose, and subject to the City Manager's employment contract. (Prior code 2.5.207; Ord. 2010-O-06)

ARTICLE 3

Municipal Court

*Division 1
General*

Sec. 2-3-10. Creation of Municipal Court.

There is hereby created and established a qualified Municipal Court of the City. (Ord. 2005-O-07 §1-3.1.101)

Sec. 2-3-20. Definitions.

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this Section:

Assistant Municipal Judge means all Municipal Judges other than the Presiding Municipal Judge. Any reference to an "Associate Municipal Judge" or a "Substitute Municipal Judge" in state statute or in this Code shall mean an Assistant Municipal Judge. Assistant Municipal Judges shall act in the case of temporary absence, sickness, disqualification or other inability of the presiding Municipal Judge to act.

Charging document means the document commencing or initiating a traffic infraction matter or offense matter, whether denoted as a complaint, summons and complaint, citation, penalty assessment notice, parking assessment or other document charging the person with the commission of one (1) or more traffic infractions, major offenses or minor offenses.

Court Clerk means that person or those persons who are employed in such position by the City from whom the Municipal Judge makes appointments to assist in the courtroom and to conduct those duties in the courtroom as delegated by the Municipal Judge and as set by local rules. In addition, the Court Clerk shall assist the Municipal Court Administrator with those functions of the Municipal Court as delegated to such clerks by the Municipal Court Administrator. The compensation of the Court Clerks shall be determined by the City through the budget, be based upon experience and other considerations.

Defendant means any person charged with the commission of a traffic infraction, major offense or minor offense.

Judgment means a finding by the court of guilt or liability against any person for the commission of a traffic infraction, major offense, or minor offense.

Major offense means a violation of a provision of this Code, including codes adopted by reference, which states that: (1) the violation constitutes a major offense; or (2) the violation may be punished by a fine or by imprisonment not exceeding one hundred eighty (180) days, or by both such fine and imprisonment, and which may or may not include other penalties or charges.

Minor offense means a violation of a provision of this Code, including codes adopted by reference, which states that: (1) the violation constitutes a minor offense; or (2) the violation may be punished by a fine and either makes no reference to the penalty of imprisonment or which states that the violation is not subject to imprisonment. A minor offense shall constitute a civil matter and not a criminal violation.

Motor Vehicle Division means the Motor Vehicle Division of the Colorado Department of Revenue and any successor agency or organization.

Municipal Court (or Court) means the City of Centennial Municipal Court, which shall be a qualified Municipal Court of Record as defined in Section 13-10-102, C.R.S., operating in conformity with either local charter or ordinance containing provisions requiring the keeping of a verbatim record of the proceeding and evidence at trials by either electronic devices or stenographic means, and requiring as a qualification for the office of Municipal Judge of such Court that he or she has been admitted to and is currently licensed in the practice of law in the State.

Municipal Court Administrator means the City employee assigned by the City Manager to the duties of the general supervision and management of the functions of the Municipal Court. The compensation of the Municipal Court Administrator shall be a fixed annual salary determined by the City through the budget, based upon experience and other considerations. The Municipal Court Administrator has authority to delegate appropriate courtroom and court business functions to court clerks.

Municipal Judge means and includes the Presiding Municipal Judge and any Assistant Municipal Judge, unless the context requires otherwise.

Officer means a peace officer who tenders or serves a charging document under these rules.

Penalty means a fine imposed pursuant to this Code for the violation of a traffic infraction.

Presiding Municipal Judge means a Municipal Judge appointed by the City Council as the presiding judicial officer of the Court to serve as the primary liaison of the Municipal Judges to the City Council.

Traffic infraction means a violation of any provision of Chapter 8 of this Code. Any person against whom judgment is entered for a traffic infraction under this Code shall be subject to the penalty of a fine and shall not be subject to imprisonment on account of such judgment. A traffic infraction minor offense shall constitute a civil matter and not a criminal violation. (Ord. 2005-O-07 §1-3.1.102; Ord. 2006-O-23 §§1—3, 5, 6; Ord. 2007-O-14 §1;)

Sec. 2-3-30. Appointment of Municipal Judges.

The City Council, by resolution, shall appoint the Presiding Municipal Judge for a term of not less than two (2) years to preside over the Municipal Court. An Assistant Municipal Judge may be appointed by the City Council for a term as necessary to transact the business of the Court. Upon a vacancy in the position of the Presiding Municipal Judge, the City Council can appoint a new Presiding Municipal Judge for the remainder of the unexpired term. (Ord. 2005-O-07 §1-3.1.103; Ord. 2006-O-23 §2)

Sec. 2-3-40. Qualifications of Judges.

A Municipal Judge shall be at least twenty-five (25) years of age and engaged in the practice of law for at least five (5) years, and is admitted to and remains at all times during service as a Municipal Judge licensed in the practice of law in the State. (Ord. 2005-O-07 §1-3.1.104)

Sec. 2-3-50. Compensation of Judges.

(a) The compensation of the Presiding Municipal Judge shall be a fixed annual salary payable on a periodic basis in conformity with the City's regular payroll practices in such amount and on such other terms as set by agreement entered into between the City and the Presiding Municipal Judge or by resolution of the City Council, as amended from time to time.

(b) The compensation of an Assistant Municipal Judge shall be based on hours of service or number of court sessions served and shall be as set by resolution of the City Council, as amended from time to time, or as agreed to in writing executed by the City and the Assistant Municipal Judge. (Ord. 2005-O-07 §1-3.1.105; Ord. 2006-O-23 §§2, 7)

Sec. 2-3-60. Oath of office.

Before entering upon the duties of office, a Municipal Judge shall take an oath of affirmation, given by the Mayor or the Mayor Pro Tem, that he or she will support the Constitution and laws of the United States, the Constitution and laws of the State of Colorado, and the laws of the City, and will faithfully perform the duties of office. (Ord. 2005-O-07 §1-3.1.106)

Sec. 2-3-70. Removal of Judge.

A Municipal Judge may be removed by City Council during his or her term of office only for cause. A Municipal Judge may be removed for cause for:

- (1) Conviction of a felony or any other crime involving moral turpitude;
- (2) Any disability that renders the Judge unable to perform the essential job functions;
- (3) Willful or persistent failure to perform his or her duties; or
- (4) Being a habitual intemperate. (Ord. 2005-O-07 §1-3.1.107)

Sec. 2-3-80. Jurisdiction.

The Municipal Court has original, exclusive jurisdiction over all cases arising under this Code and other ordinances of the City. (Ord. 2005-O-07 §1-3.1.108)

Sec. 2-3-90. Powers.

Unless otherwise limited by this Article, the Municipal Judge shall have all legal and equitable powers necessary and appropriate to enforce the Court's orders, judgments and decrees, and to supervise the operation of the Municipal Court, including but not limited to the power to:

- (1) Enforce subpoenas issued by any board, commission, officer or other body of the City authorized by law or ordinances to issue subpoenas, by imposing fines and penalties for failure to comply with any such subpoena;
- (2) Assess and collect penalties;
- (3) Order and enforce by contempt the abatement of nuisances and violation of zoning regulations;
- (4) Issue search warrants;
- (5) Summon and compel the attendance of jurors;
- (6) Punish violations of this Code and contempt of the Municipal Court by a fine not to exceed one thousand dollars (\$1,000.00), and/or imprisonment not exceeding one (1) year in conformity with this Article;
- (7) Make procedures for conducting the business of the Municipal Court, subject to the requirement that such procedures shall be reduced to writing, must be consistent and conform with this Article and must be approved by the City Council before becoming effective; and
- (8) Perform other responsibilities prescribed by this Code and ordinances of the City. (Ord. 2005-O-07 §1-3.1.109)

Sec. 2-3-100. Court sessions.

In consultation with the Municipal Court Administrator and based on the availability of administrative staffing, the Presiding Municipal Judge shall fix regular sessions of the Municipal Court for the conduct of Court business and the trial of cases. Special Court sessions may be set at any time, including Sundays, holidays and nights. All sessions shall be open to the public unless the nature of the case is such that it would be in the interest of justice to exclude persons not directly connected with the proceedings. The Municipal Judge may order the courtroom cleared of all persons not a party to the proceeding in such situations. The Municipal Judge, on his or her own motion or upon motion of a party to the proceeding, may also order the courtroom cleared of all but persons involved in a hearing, trial or other proceeding involving a juvenile charged with any violation of this Code, with the exception of traffic infractions. Any person failing or refusing to leave the courtroom after having been ordered by the Municipal Judge to do so shall be guilty of a violation of this Article

and, upon conviction, shall be punished as provided in this Article. (Ord. 2005-O-07 §1-3.1.110; Ord. 2006-O-23 §4)

Sec. 2-3-110. Recording of sessions.

Either electronic devices or stenographic means shall be used to keep a verbatim record of the proceedings and evidence at trials. (Ord. 2005-O-07 §1-3.1.111; Ord. 2006-O-23 §4)

Sec. 2-3-120. Rules of procedure.

The Municipal Court shall be governed by the Colorado Municipal Court Rules of Procedure and the state statutes. The Presiding Municipal Judge may issue local rules of procedure consistent with rules of procedure adopted by the Colorado Supreme Court and provisions of this Code. (Ord. 2005-O-07 §1-3.1.112)

Sec. 2-3-130. Performance bonds.

The bonds required under Section 13-10-109, C.R.S., as amended from time to time, are waived by the City. (Ord. 2006-O-23 §8)

Sec. 2-3-140. Monthly accounting by Municipal Court Administrator.

The Municipal Court Administrator shall file monthly reports with the City Manager of all monies collected. (Ord. 2005-O-07 §1-3.1.114; Ord. 2006-O-23 §4)

*Division 2
Court Procedures*

Sec. 2-3-210. Bench warrants.

In the case of a major offense, if a defendant fails to appear for arraignment or trial at the time or place required in the summons or other notice or otherwise fails to appear as required by statute, rule or ordinance or by the Court, or fails to pay any fine or costs or obey any lawful order of the Court, the Court may issue a bench warrant directed to any law enforcement officer, commanding such officer to apprehend the defendant and bring the defendant forthwith before the Court. (Ord. 2005-O-07 §1-3.1.115)

Sec. 2-3-220. Contempt of Court.

(a) When the Court finds any person to be in contempt, the Court may vindicate its dignity by imposing on the contemnor a fine and/or imprisonment as set forth in this Article.

(b) *Contempt of Court* means:

(1) Any act or omission of any person, including any officer of the Court in his or her official transactions, which is offensive to the authority or dignity of the Court or which obstructs or interferes with the administration of justice;

(2) Disobedience or resistance of any person to or interference with any lawful writ, process, order, rule, decree or command of the Court; or

(3) Any other act or omission designated as contempt by statute or other rule or law of the State or the City.

(c) In presence of Court. When a contempt is committed in the presence of the Court, it may be punished summarily. In such case, an order shall be made from the bench reciting the facts constituting the contempt, adjudging the contemnor guilty of contempt and prescribing the punishment. Such order shall be final and conclusive but may be appealed as provided by law.

(d) Out of presence of Court - traffic infractions and minor offenses. When it appears to the Court by motion supported by affidavit that a contempt has been committed out of the presence of the Court related to a case in which a traffic infraction or minor offense is charged, the Court may ex parte order a citation to issue to the person so charged to appear and show cause at a time designated why he or she should not be punished for contempt. The citation and a copy of the motion and affidavit shall be served upon such person within a reasonable time before the time designated. The Court shall hear the evidence for and against the person charged with contempt, and the Court may find him or her guilty of contempt and by order prescribe punishment. A fine may be imposed not exceeding the damages suffered by the contempt, plus costs of the contempt proceeding, plus reasonable attorney's fees in connection with the contempt proceeding, payable to the person damaged thereby, which person may include the Court but shall not include the Municipal Judge.

(e) Out of presence of Court — major offenses. When it appears to the Court by motion supported by affidavit that a contempt has been committed out of the presence of the Court related to a case in which a major offense is charged, the Court may ex parte order a citation to issue to the person so charged to appear and show cause at a time designated why he or she should not be punished for contempt. The citation and a copy of the motion and affidavit shall be served upon such person within a reasonable time before the time designated. If such person fails to appear at the time so designated, or if the Court so orders when the citation is issued or thereafter, a warrant for his or her arrest may be issued; such warrant shall fix the time for the production of such person in Court. The Court shall direct by endorsement thereon the amount of the bail required. If such person is arrested under the warrant issued by the Court, makes bond and fails to appear at the time designated in the warrant, or at any time to which the hearing may be continued, the bond may be forfeited and the amount thereof, to the extent of the damages suffered by the contempt, shall be paid to the person damaged thereby, which person may include the Court but shall not include the Municipal Judge. If the person arrested fails to make bond, he or she shall be kept in custody, subject to the order of the Court. The Court shall hear the evidence for and against the person charged with contempt, and the Court may find him or her guilty of contempt and by order prescribe punishment. A fine may be imposed not exceeding the damages suffered by the contempt, plus costs of the contempt proceeding, plus reasonable attorney's fees in connection with the contempt proceeding, payable to the person damaged thereby, which person may include the Court but shall not include the Municipal Judge. If the contempt consists of the failure to perform an act in the power of the person to perform, he or she may be imprisoned until its performance. In addition thereto, to vindicate the dignity of the Court, if the citation so states, a fine or imprisonment may be imposed. If any such fine is not paid, the Court may order the contemnor imprisoned until payment. (Ord. 2005-O-07 §1-3.1.116)

Sec. 2-3-230. Classification of offenses and infractions.

There shall be the following classifications of offenses and infractions within the City, each defined in Section 2-4-20: major offense; minor offense; and traffic infraction. (Ord. 2005-O-07 §1-3.1.118)

Sec. 2-3-240. Filing of charging document.

In all cases arising under the provisions of this Code, a charging document setting forth the violation shall be filed by any person in the Municipal Court, which charging document shall be in the name of the City by and on behalf of the People of the State. (Ord. 2005-O-07 §1-3.1.119)

Sec. 2-3-250. Plea agreements.

(a) In general. Where it appears that the efficient administration of justice will be served, the Prosecuting Attorney may engage in plea discussions for the purpose of reaching a plea agreement. A plea agreement shall be discussed and reached in accordance with the provisions of Section 16-7-301 et seq., C.R.S.

(b) Deferred prosecution. The Court may, prior to the entry of a plea of guilty and with the consent of the defendant, his or her attorney and the Prosecuting Attorney, order the prosecution of the offense to be deferred for a period not to exceed one (1) year. During such time, the Court may place the defendant under such reasonable terms and conditions and/or on supervised or unsupervised probation as the defendant, his or her attorney and the Prosecuting Attorney may agree; however, no jail time may be imposed as a condition of such deferred prosecution.

(c) Deferred sentence. In any case in which the defendant has entered a plea of guilty, the Court has the power, with the written consent of the defendant, his or her attorney and the Prosecuting Attorney, to continue the case for a period not to exceed one (1) year from the date of entry of such plea for the purpose of entering judgment and sentence upon such plea of guilty. During such time, the Court may place the defendant under such reasonable terms and conditions and/or on supervised or unsupervised probation as the defendant, his or her attorney and the Prosecuting Attorney may agree.

(d) Dismissal of action or revocation. Any charges deferred pursuant to Subsections (b) and (c) of this Section shall be dismissed, with prejudice, upon the defendant's satisfactory completion of the period of probation. If the conditions imposed on the defendant pursuant to Subsections (b) and (c) are violated, the Prosecuting Attorney may file a motion to revoke the deferred prosecution or sentence. The determination of whether or not a violation has occurred shall be made by the Court after a hearing held upon notice of the same of not less than five (5) days, unless such notice is waived, to the defendant and his or her attorney of record. The motion to revoke the deferred prosecution shall be made during the period of probation or within thirty (30) days thereafter. (Ord. 2005-O-07 §1-3.1.120)

Sec. 2-3-260. Imposition of Court costs.

The Municipal Court is empowered, in its discretion, to assess the following costs against any defendant who is found guilty of violating any provisions of this Code or any of the ordinances of the

City or against any defendant who is granted a deferred prosecution or deferred sentence. The defendant's obligation to pay such costs is separate from and in addition to the obligations to pay any fines or penalties imposed. The Municipal Court may in its discretion increase, decrease or waive any of the following fees and costs in any individual case when deemed reasonable and just.

(1) Court costs. Court costs of twenty-five dollars (\$25.00) may be assessed against every defendant who enters a plea of guilty or no contest to any ordinance violation before the Court or who fails to appear to a scheduled trial; court costs of fifty dollars (\$50.00) may be assessed against every defendant who is found guilty after a trial in the Municipal Court to any ordinance violation.

(2) Witness fees. A witness fee of five dollars (\$5.00) per witness per day or part of a day in which the witness is actually in Court, up to a maximum of fifty dollars (\$50.00), plus mileage of thirty-seven cents (\$0.37) per mile for each mile actually and necessarily traveled from the witness's residence to the Court may be assessed, but no City officer or employee may receive such witness fee. A witness fee of five dollars (\$5.00) per appearing witness may be assessed against any defendant who fails to appear to a scheduled trial.

(3) Bench warrant fee. Fifty dollars (\$50.00) per warrant issued plus any costs incurred for transporting the defendant from his or her place of arrest to the City.

(4) Probationary or other services. Twenty dollars (\$20.00) per month for probationary treatment services for the defendant or useful public service by the defendant, plus any actual costs for receipt of any services the defendant may be required to receive in accordance with the order of the Court.

(5) Jail costs. Actual per-day cost charged to the City by the Arapahoe County Jail or Arapahoe Sheriff for each day a defendant is sentenced to jail.

(6) Late fee/time payment fee. A late fee of twenty-five dollars (\$25.00) shall be added for any payment that is not made within the time allowed by the Court. A time payment fee of twenty-five dollars (\$25.00) shall be added for any payment for which the Court, in its discretion, grants a stay of execution.

(7) Other costs. Restitution or other costs may be assessed as deemed appropriate by the Court. (Ord. 2005-O-07 §1-3.1.121)

Sec. 2-3-270. Restitution.

The Municipal Judge is empowered to order a defendant who is found guilty of violating any provision of this Code or any of the ordinances of the City or who is granted a deferred prosecution or deferred sentence to make restitution or reparation, or both, to the victim of the defendant's conduct for the damage or injury that was sustained. (Ord. 2005-O-07 §1-3.1.123)

Sec. 2-3-280. Probation.

The Municipal Judge is empowered to place a defendant who is found guilty of violating any provision of this Code or any of the ordinances of the City or who is granted a deferred prosecution or

deferred sentence on probation for a period not to exceed one (1) year. Such probation may be supervised or unsupervised and may be made conditional upon the successful completion of reasonable terms and conditions. Revocation of probation shall occur in the same manner as revocation of a deferred prosecution or deferred sentence. The Municipal Judge is empowered to utilize such probationary services as are provided by the City Council or with which the Court may contract at no cost to the City. (Ord. 2005-O-07 §1-3.1.124)

Sec. 2-3-290. Incarceration.

Each person sentenced to jail by the Municipal Court shall serve the sentence in the Arapahoe County Jail pursuant to terms and agreements between the City and Arapahoe County, and shall be entitled to the same treatment as those prisoners in the Arapahoe County Jail sentenced for violations of criminal statutes of the State. (Ord. 2005-O-07 §1-3.1.125)

Sec. 2-3-300. Appeals.

Appeals from the Municipal Court shall be to the Arapahoe County District Court, and shall be in accordance with the practice and procedure provided by Sections 13-6-310 and 16-2-114, C.R.S., and applicable rules of procedure, as provided by Section 13-10-116, C.R.S. (Ord. 2005-O-07 §1-3.1.126)

Sec. 2-3-310. Parental responsibility.

Whenever a minor under the age of eighteen (18) years residing or living with his or her parents is convicted of a violation of a municipal ordinance for which the Court imposes a fine, restitution or court fees or costs, the parents of the minor shall be jointly responsible for payment of such fine, restitution or court costs or fees. It shall be an affirmative defense to the obligation created by this Section if the parent demonstrates to the Court that, at the time of the offense, either:

- (1) The parent did not have lawful custody of the minor;
- (2) The minor was not residing with the parent; or

(3) The minor is emancipated. For purposes of this Section only, the term emancipated minor means a minor over fifteen (15) years and under eighteen (18) years of age who has, with real or apparent assent of his parents, demonstrated his or her independence from his or her parents in matters of care, custody and earnings. The term may include but shall not be limited to any such minor who has the sole responsibility for his or her own support, who is married or who is in the military. (Ord. 2005-O-07 §1-3.1.127)

Sec. 2-3-320. Stays of execution.

In the absolute discretion of the Municipal Judge, a stay of execution on fine payment or a stay of execution of an order of imprisonment may be granted to enable the defendant to pay the fine or satisfy the penalty at a later date or in installments. (Ord. 2005-O-07 §1-3.1.128)

Sec. 2-3-330. Setting of fines.

(a) Fines for major and minor offenses. The Municipal Judge shall have the authority and discretion to set fines for major offenses and minor offenses by adopting a fine schedule by judicial order that conforms to the following:

(1) Where the applicable provision of this Code expressly establishes a minimum or maximum fine for a first violation, the Municipal Judge shall adhere to such stated minimum or maximum fine for a first violation unless the Municipal Judge finds that extenuating or mitigating circumstances beyond the reasonable control of the defendant existed which would render such minimum fine inequitable or unfair.

(2) Where the applicable provision of this Code expressly establishes a minimum or maximum fine for a second violation or for subsequent violations, the Municipal Judge shall adhere to such stated minimum or maximum fine for the second violation or subsequent violations unless the Municipal Judge finds that the defendant was without knowledge of the existence of the violation and such absence of knowledge was not due to the defendant's intentional disregard or willful ignorance.

(b) Fines for traffic infractions. Subject to the provisions of Subsection (a) above, the Municipal Judge shall have the authority and discretion to set fines for traffic infractions as set forth in Section 2-4-560. (Ord. 2005-O-07 §1-3.1.129)

Sec. 2-3-340. Failure to appear or pay fine.

(a) For violation of a traffic infraction: If a person: (1) receiving a charging document or documents charging a traffic infraction fails to pay the fine and surcharge for the violation as shown on the charging document on or before the date specified thereon and fails to appear in person or by counsel before the Municipal Court on the return date specified thereon, or (2) fails to pay the fine as ordered by the Court on the due date therefor, the Court shall proceed as set forth in Section 2-4-560.

(b) For violation of a minor offense: If a person: (1) receiving a charging document charging a minor offense subsequently fails to appear in person or by counsel before the Municipal Court on the return date specified thereon and, if a fine is shown on such charging document, such person fails to pay the fine and surcharge for the violation on or before the date specified on the charging document, or (2) fails to pay the fine as ordered by the Court on the due date therefor, the Court may:

(1) In the case of a failure to appear where judgment has not yet entered, enter a default judgment convicting the person of the offense;

(2) Cause the Municipal Court Administrator to pursue payment of all amounts owing (together with costs of collection) in accordance with the City's collection policies; and

(3) In the Court's discretion, the Court may also give notice to pay the fine and all surcharges and costs due within two (2) weeks from the date of the notice before initiating collection procedures authorized hereunder.

(c) For violation of a major offense: If a person receives a charging document charging a major offense and such person fails to appear in person or by counsel before the Municipal Court for the return date thereon, the Court may:

(1) Issue a bench warrant for the person's arrest pursuant to Rule 204(f) of the Colorado Rules of Municipal Court Procedure; and

(2) Require upon arrest, pursuant to Rule 246 of the Colorado Rules of Municipal Court Procedure, the deposit of bail or the posting of a bond to cover bail in an amount to be determined by application of the criteria set forth in Section 16-4-105(1), C.R.S., as such facts are known, and compelling the person's appearance at the next available court trial date before release of any such bail or bond. Failure to appear before the Municipal Court when scheduled following arrest shall result in forfeiture of all or part of the bail amount to the Municipal Court as the law shall permit. (Ord. 2005-O-07 §1-3.1.130; Ord. 2006-O-23 §4)

Division 3
Traffic Infractions

Sec. 2-3-410. In general.

Notwithstanding any provisions of this Code or any other code adopted by reference by the City, including the Model Traffic Code, to the contrary, all violations of any provision classified as a traffic infraction in Section 2-3-20 of this Article shall constitute civil matters and not criminal violations. (Ord. 2005-O-07 §1-3.2.101)

Sec. 2-3-420. Scope and purpose.

This Division is promulgated to govern practice and procedures for the handling of traffic infractions, as described in Section 2-3-20 of this Article. The purpose is to provide for the orderly, expeditious and fair disposition of such infractions. For this purpose, the rules apply concepts of both civil and criminal law, as deemed appropriate, to establish informal hearing procedures in the Municipal Court. (Ord. 2005-O-07 §1-3.2.102)

Sec. 2-3-430. Application.

This Division applies to actions in which only the commission of traffic infractions are charged. In any action in which the commission of a traffic infraction and an offense are alleged in a charging document, the action shall be treated as one (1) proceeding governed by the rules, ordinances and statutes applicable to the alleged offense. (Ord. 2005-O-07 §1-3.2.103)

Sec. 2-3-440. Fines.

(a) Fines for traffic infractions. The Municipal Judge shall have the authority to set fines for traffic infractions by adopting a fine schedule by order. Such fines shall fall within the ranges established by this Section or other applicable Code section. The Municipal Court shall have the ability to waive, in part or in whole, fines based on appropriate conditions of deferrals or other plea agreements.

(b) Established ranges of fines for traffic infractions for which points are assessed. Fine amounts for traffic infractions for which points may be assessed pursuant to Section 42-2-127, C.R.S., shall be based on the original charge and not on the charge as amended and for which judgment is entered as the result of any plea negotiations, and shall be as follows:

- (1) Three (3) or less points - not less than seventy-five dollars (\$75.00).
- (2) Four (4) points – not less than one hundred dollars (\$100.00).
- (3) More than four (4) points – not less than one hundred fifty dollars (\$150.00).

(c) Established ranges of fines for parking violations. Except for violations of Section 8-2-80 of this Code, fine amounts for traffic infractions based on a violation of the parking restrictions set forth in Part 12 of the Model Traffic Code, as adopted by the City, shall be as follows:

- (1) Violation of Section 1208 of the Model Traffic Code concerning parking in a parking space reserved for use by persons with disabilities – not less than one hundred dollars (\$100.00).
- (2) Violation of Section 1204 of the Model Traffic Code involving standing or parking in an officially signed fire lane – not less than one hundred dollars (\$100.00).
- (3) Other parking violations – not less than thirty-five dollars (\$35.00). (Ord. 2005-O-07 §1-3.2.104)

Sec. 2-3-450. No jury trial for traffic infractions.

A defendant brought to trial solely upon a traffic infraction shall have no right to a trial by jury as contemplated by Section 13-10-114, C.R.S., or Rule 223, Colorado Municipal Court Rules of Procedure, and trial of a traffic infraction shall be to the Court. No defendant found civilly liable for a traffic infraction shall be punished by imprisonment for the infraction. (Ord. 2005-O-07 §1-3.2.105)

Sec. 2-3-460. Commencement of action.

An action under these rules is commenced by the tender or service of a charging document upon a defendant or by conspicuously attaching a parking assessment to the subject vehicle and by the filing of a charging document with the Municipal Court. (Ord. 2005-O-07 §1-3.2.106)

Sec. 2-3-470. Payment before appearance.

(a) The Municipal Court Administrator shall accept payment of a penalty assessment notice by a defendant without an appearance before the Court if payment is made within the period following the issuance of the charging document and ending at the time scheduled for the first hearing, provided that the Municipal Court Administrator has a copy of the charging document.

(b) At the time of payment, the defendant shall sign a waiver of rights and acknowledgement of guilt or liability or tender a no contest plea upon a form approved by the Judge.

(c) This procedure shall constitute an entry and satisfaction of judgment. (Ord. 2005-O-07 §1-3.2.107; Ord. 2006-O-23 §4)

Sec. 2-3-480. First hearing.

(a) If the defendant has not previously acknowledged guilt or liability and satisfied the judgment, he or she shall appear before the Court at the time scheduled for first hearing.

(b) The defendant may appear in person or by counsel, who shall enter appearance in the case; provided, however, that, if an admission of guilt or liability is entered or a no contest plea is tendered, the Court may require the presence of the defendant for the assessment of the penalty.

(c) If the defendant appears in person, the Court shall advise the defendant in writing or in open court of the following:

(1) The nature of the infractions alleged in the charging document;

(2) The penalty, any fees and costs that may be assessed and the penalty points that may be assessed by the Motor Vehicle Division against the driving privilege, if any, upon receipt from the Court of notice of conviction;

(3) The consequences of the failure to appear at any subsequent hearing, including entry of judgment against the defendant and reporting of the judgment to the Motor Vehicle Division, which may assess points against the driving privilege and may cancel a driver's license or deny an application for or renewal of a driver's license;

(4) The right to be represented by an attorney at the defendant's expense;

(5) The right to deny the allegations and to have a hearing before the Court;

(6) The right to remain silent, because any statement made by the defendant may be used as evidence against the defendant;

(7) The fact that guilt or liability must be proven by the City beyond a reasonable doubt;

(8) The right to testify, subpoena witnesses, present evidence and cross-examine any witnesses for the City;

(9) The fact that any answer must be voluntary and not the result of undue influence or coercion on the part of anyone; and

(10) The fact that an admission of guilt or liability constitutes a waiver of the foregoing rights and any right to appeal.

(d) The defendant personally or by counsel shall answer the allegations in the charging document either by admitting guilt or liability, by tendering a no contest plea or by denying the allegations.

(e) If the defendant admits guilt or liability or tenders a no contest plea, the Court shall enter judgment and assess the appropriate penalty, fees and costs after determining that the defendant

understood the rights set forth in this Section and has made a voluntary, knowing and intelligent waiver of rights.

(f) If the defendant denies the allegations, the matter shall be set for final hearing, and the defendant, prosecuting attorney and officer shall be notified. (Ord. 2005-O-07 §1-3.2.108)

Sec. 2-3-490. Discovery.

(a) Discovery shall not be available prior to final hearing.

(b) At the time of final hearing, the defendant shall be entitled to inspect all documents that the prosecuting attorney intends to present to the Court in the presentation of evidence. (Ord. 2005-O-07 §1-3.2.109)

Sec. 2-3-500. Subpoena.

(a) A subpoena shall be issued only for the attendance of a witness or for the production of documentary evidence at the final hearing.

(b) A subpoena shall be issued by the Municipal Court Administrator at the request of the defendant, prosecuting attorney or officer, or by counsel who has entered an appearance in the case.

(c) The service of a subpoena shall be by first class mail if the person to whom it is directed waives personal service. No fees or mileage need be tendered with service by mail.

(d) If the person to whom a subpoena is directed does not waive personal service, the issuance and service of a subpoena shall be as provided in Rule 217 of the Colorado Municipal Court Rules of Procedure, except as otherwise provided in this Article. (Ord. 2005-O-07 §1-3.2.110; Ord. 2006-O-23 §4)

Sec. 2-3-510. Eligible point reductions.

If a person receives a charging document pursuant to Section 1701 of the Model Traffic Code for a violation for which points may be assessed against the person's driver's license pursuant to Section 42-2-127, C.R.S., and such person pays the fine before the date payment is due, the Court shall report to the Motor Vehicle Division a conviction of a lesser offense which carries with it points equal to the reduced number of points, and the points assessed for the violation shall be reduced as follows:

(1) For a violation having an assessment of three (3) or more points under the Model Traffic Code, the points are reduced by two (2) points;

(2) For a violation having an assessment of two (2) points under the Model Traffic Code, the points are reduced by one (1) point. (Ord. 2005-O-07 §1-3.2.111)

Sec. 2-3-520. Final hearing.

The hearing of all traffic infractions shall be conducted pursuant to the Colorado Rules of Evidence, and the order of proceedings shall be those followed by the Court in hearing major offenses and minor offenses tried to the Court. (Ord. 2005-O-07 §1-3.2.112)

Sec. 2-3-530. Judgment after final hearing.

(a) If all elements of a traffic infraction are proven beyond a reasonable doubt, the Court shall find the defendant guilty or liable and enter appropriate judgment.

(b) If any element of a traffic infraction is not proven beyond a reasonable doubt, the Court shall dismiss the charge and enter appropriate judgment; provided, however, that the Court may find the defendant guilty of or liable for a lesser included traffic infraction if based on the evidence offered, and enter appropriate judgment.

(c) If the defendant is found guilty or liable, the Court shall assess the appropriate penalty and any additional costs or fees generally imposed in connection with municipal offenses.

(d) The judgment shall be satisfied upon payment to the Municipal Court Administrator of the total amount assessed as set forth above.

(e) If the defendant fails to satisfy the judgment immediately following the final hearing or within the time allowed by a reasonable extension granted upon a showing of good cause by and upon application of the defendant, then such failure shall be treated as a default as set forth in Section 2-3-560 below. (Ord. 2005-O-07 §1-3.2.113; Ord. 2006-O-23 §4)

Sec. 2-3-540. Post-hearing motions.

There shall be no post-hearing motions except for a motion to set aside a default judgment as provided in Section 2-3-560 below. (Ord. 2005-O-07 §1-3.2.114)

Sec. 2-3-550. Continuances.

Continuances may be granted on a showing of good cause by the City or the defendant. (Ord. 2005-O-07 §1-3.2.115)

Sec. 2-3-560. Default.

(a) If a person: (1) receiving a charging document charging a traffic infraction fails to pay the fine and surcharge for the violation as shown on the charging document on or before the date specified thereon and fails to appear in person or by counsel before the Municipal Court on the return date specified thereon, or (2) fails to pay the fine as ordered by the Court on the due date therefor, the Court shall:

(1) Enter a default judgment convicting the person of the traffic infraction as contemplated in Section 42-2-127(6)(a), C.R.S., in a judgment amount equal to the appropriate penalty which would be assessed after a finding of guilt or liability and any additional fees or costs assessable generally upon conviction of a traffic infraction;

(2) Submit a transcript of record containing the conviction and assessment of points to the Motor Vehicle Division pursuant to Rule 255(b) of the Colorado Rules of Municipal Court Procedure; and

(3) Cause the Municipal Court Administrator to pursue payment of all amounts owing (together with costs of collection) in accordance with the City's collection policies.

(b) The Court may set aside a judgment entered under this Section upon a showing of good cause or excusable neglect by the defendant. A motion to set aside the judgment shall be made to the Court not more than seven (7) calendar days after entry of judgment.

(c) The defendant may satisfy a judgment entered under this rule by paying the Clerk.

(d) No warrant shall issue for the arrest of a defendant who fails to appear at a hearing or fails to satisfy a judgment, as long as such defendant's drivers license is issued by the State of Colorado or one (1) of the states that participates in the interstate Nonresident Violator Compact of 1977, codified at Section 24-60-2101, C.R.S. (Ord. 2005-O-07 §1-3.2.116; Ord. 2006-O-23 §4)

Sec. 2-3-570. Appeal.

Appeal of any finding of guilt or liability for a traffic infraction shall be subject to the same rules and procedures applicable to convictions of municipal offenses generally. (Ord. 2005-O-07 §1-3.2.117)

Sec. 2-3-580. Collection of judgments.

Upon finality of a judgment for a traffic infraction, and in addition to all legal and administrative enforcement or collection procedures and remedies otherwise available, the City Attorney is authorized to file a civil action with any state court having appropriate jurisdiction, which filing shall include the transcript of the case certified by the Municipal Court Administrator, praying for judgment based thereon. Upon the entry of such judgment, the City Attorney shall be authorized to proceed with all judgment execution and collection procedures authorized by law for the amount of the judgment, costs and fees incurred in the proceedings and legal interest. (Ord. 2005-O-07 §1-3.2.118; Ord. 2006-O-23 §4)

ARTICLE 4

Boards and Commissions

Sec. 2-4-10. Applicability.

This Article shall apply to the Planning and Zoning Commission, the Board of Adjustment, the Board of Review and the Liquor Licensing Authority (collectively referred to as "boards and commissions"). In the event of a direct and irreconcilable conflict between the provisions of this Article and any other ordinance or resolution of the City, this Article shall control. (Ord. 2004-O-19 §1)

Sec. 2-4-20. Definitions.

The following terms and phrases shall have the following meaning for purposes of this Article:

Board or commission means the Planning and Zoning Commission, the Board of Adjustment, the Board of Review or the Liquor Licensing Authority.

Opening means a position made available due to the expiration of a term of office or due to the creation of a new position on a board or commission. An opening shall include both a regular member position and an alternate member position.

Vacancy means a position made available prior to the expiration of the applicable term of office due to resignation, incapacitation, ineligibility or other reason. A vacancy shall include both a regular member position and an alternate member position. (Ord. 2004-O-19 §1)

Sec. 2-4-30. Regular and alternate positions.

(a) Every board or commission shall be comprised of the number of regular members as required by applicable state law or this Code.

(b) Every board or commission shall include two (2) alternate member positions. The two (2) alternate member positions shall be designated as a first alternate and a second alternate. A person serving in a position as an alternate shall have the right to participate in all meetings of the board or commission to the same extent as a regular member, except that a person serving in the position of alternate shall not be entitled to cast a vote on any matter.

(c) An alternate member shall be temporarily assigned by the chairperson of the board or commission to serve in the position of a regular member in the event of an absence of a regular member during all or any portion of a meeting of the board or commission. When assigned to fill a regular position during a meeting, the alternate member shall assume all rights, duties and obligations of the regular member during the period of assignment and may cast a vote on any matter pending before the board or commission. Assignment shall terminate upon the earlier of the return of the regular member to the meeting or the adjournment of the meeting. (Ord. 2004-O-19 §1)

Sec. 2-4-40. Appointment Committees.

(a) The City Council shall cause to be created when necessary one (1) or more ad hoc committees, to be known as an *Appointment Committee*. It shall be the duty of an Appointment Committee to solicit, accept and review applications for appointment membership to specific openings on a board or commission and to interview and recommend appointment of a candidate to fill a specific opening on a board or commission. A separate Appointment Committee shall be formed for the consideration of all open positions existing at any one (1) time on each board or commission.

(b) Membership on an Appointment Committee will be comprised of five (5) persons.

(c) Unless otherwise determined by the City Council, two (2) members shall be Council Members selected by the City Council, two (2) members shall be regular members of the board or commission for which appointments are being considered, and one (1) member shall be either an administrative staff person or a resident of the City as selected by the City Manager. The City Council shall designate one (1) of the Appointment Committee's two (2) Council Members as the chairperson of the Appointment Committee.

(d) An Appointment Committee shall determine the appropriate process for the solicitation and recommendation of candidates to fill openings on a board or commission. At a minimum, such process shall include publication of a notice of openings, candidates' submission of an application and summary of qualifications, an interview of qualified candidates and preparation of a written recommendation for appointment to be submitted to the City Council. An Appointment Committee's recommendation for appointment shall identify one (1) candidate for each opening and, when possible, one (1) additional candidate as a secondary recommendation in the event a recommended candidate withdraws prior to appointment or is not selected for appointment by the City Council.

(e) The Appointment Committee shall endeavor to recommend candidates possessing the skills, interests and experience that will best serve and complement the board's and commission's existing membership and expertise. The diversity of representation upon a board or commission based on the members' district residency shall not be a factor for selection, except that such diversity may be considered where two (2) or more candidates are otherwise equally qualified to fill an opening.

(f) An Appointment Committee shall be dissolved upon the City Council's appointment of members to the openings on the board or commission. (Ord. 2004-O-19 §1; Ord. 2008-O-16 §3)

Sec. 2-4-50. Appointment to an opening on a board or commission.

In the event of an opening on a board or commission, an Appointment Committee shall be convened and shall deliver to the City Council a recommendation for appointment to such opening in accordance with Section 2-4-40 above. Upon receipt of the Appointment Committee's recommendation, the City Council shall, by majority vote, appoint a member to the opening by resolution. (Ord. 2004-O-19 §1)

Sec. 2-4-60. Appointment to a vacancy on a board or commission.

A vacancy on a board or commission shall be filled in accordance with the following procedures:

(1) A vacancy in the position of a regular member shall be filled by the first alternate. Where all alternate member positions are vacant, the Mayor, following consultation with the City Council, shall appoint a person to serve in the position of a regular member.

(2) A vacancy in the position of first alternate shall be filled by the second alternate. Where all alternate member positions are vacant, the Mayor, following consultation with the City Council, shall appoint a person to serve in the position of the first alternate.

(3) A vacancy in the position of second alternate shall be filled by an appointment by the Mayor, following consultation with the City Council. (Ord. 2004-O-19 §1)

Sec. 2-4-70. Reappointment of incumbent members.

(a) An incumbent regular or alternate member previously appointed to an opening on the board or commission by the City Council may seek reappointment to an opening on the same board or commission. Such incumbent member may express his or her desire for reappointment by delivering a letter expressing the member's desire to be reappointed to the City Clerk by the close of any applicable opening application deadline. The incumbent member need not complete any formal

application that may be required for consideration of appointment to such opening pursuant to Section 2-4-40 above. Such incumbent member's letter shall be supplemented by a report prepared by the administrative staff to the board or commission summarizing the member's history of meeting attendance and absence. Current members of the board or commission may submit to the City Clerk a statement of support or opposition to the incumbent member's reappointment.

(b) An incumbent regular or alternate member previously appointed to an opening on the board or commission by the Mayor may seek reappointment to an opening on the same board or commission. To apply for reappointment, such incumbent member shall be required to submit an application and summary of qualifications as required of all other candidates by the Appointment Committee pursuant to Section 2-4-40 above. (Ord. 2004-O-19 §1; Ord. 2010-O-12 §1)

Sec. 2-4-80. Compensation of board and commission members.

Board and commission members shall be entitled to a stipend for meeting attendance in an amount established by resolution of the City Council. Other than such stipend, members of boards and commissions shall not be entitled to any other compensation or reimbursement of expenses. (Ord. 2004-O-19 §1)

ARTICLE 5

Employees and Employment Matters

Sec. 2-5-10. Deductions allowable from payroll compensation. (Initiated Ballot Language; November 6, 2007)

No payroll deduction shall be taken from the payroll compensation of any employee except for deductions required by federal law; tax withholdings, judicial liens and garnishments, including court-ordered child support, domestic support and maintenance obligations and payments; deductions for employee benefits and pensions as established by law for such employee; and deductions for contributions to charities and organizations exempt from federal income tax under Paragraph 501(c)(3) of the Internal Revenue Code of 1986. Provided that, any such employee authorizing a charitable deduction shall provide written authorization consenting to such charitable deduction, at least annually. A charge may be assessed to a charitable organization that receives the benefit from the payroll deduction to offset the cost for this service. (Ord. 2007-O-29 §1)

Sec. 2-5-20. Employee benefits may be established.

The City Manager may establish, in consultation with the City Council and subject to annual appropriations, one (1) or more employee benefits or benefit programs for which employees may voluntarily participate and may contribute funding through payroll deductions. Any such employee benefit or program established by the City Manager pursuant to this Section shall be deemed "established by law" for purposes of Section 2-5-10 above; provided, however, that nothing in this Section shall require any such benefit or program to be established, continuously maintained or funded by the City, and any such benefit or program may be expanded, eliminated or modified, in whole or in part, at any time. (Ord. 2007-O-29 §1)

ARTICLE 6

Municipal Elections

Sec. 2-6-10. Election Commission.

(a) Commission established. Pursuant to the authority set forth in Section 5.2 of the Charter of the City, there is hereby established an Election Commission.

(b) Composition and appointments. The Election Commission shall consist of five (5) members with two (2) alternate members appointed by City Council in accordance with the procedures set forth in Article 4 of this Chapter. Subject to Subsection (d) below, membership on the Election Commission shall be the City Clerk and four (4) resident members who are residents and registered electors of the City. Alternate members shall be residents who are registered electors of the City. When possible, the appointment committee shall consider the goal of distributing representation on the Election Commission among the four (4) Council districts in making its recommendations for appointment. No resident member shall be eligible for appointment to or, if appointed, may continue to serve as a member of, the Election Commission if such person:

(1) Is related by blood, marriage or adoption to another Election Commission member or a candidate for election to a municipal office for the City;

(2) Has not maintained his or her residence within the City for at least one (1) year prior to appointment and throughout the appointment;

(3) Holds any elective office of the City;

(4) Is an employee of the City;

(5) Is a candidate for elected municipal office for the period leading up to the election for which such person is a candidate and any period following the election for which filings under Article 45 of Title 1, C.R.S., are required to be made or until any election contests have been finally resolved; or

(6) Is identified as an organizer, member, officer or registered agent of a candidate committee, an issue committee or political organization in any report filed in accordance with Article 45 of Title 1, C.R.S. (but not to include a contributor to any such candidate, committee or organization), for the period leading up to the election for which such committee or organization has made the required filings and any period following the election for which filings are required to be made or until any election contests have been finally resolved.

Any person who is ineligible for appointment pursuant to Paragraphs (3) through (6) above may apply for appointment to the Election Commission but, if appointed, must resign the position that results in such ineligibility as described in Paragraphs (3) through (6) within ten (10) business days of the date of appointment to the Election Commission.

(c) Chair. Unless otherwise determined by unanimous vote of the Election Commission, the City Clerk shall be the chairperson of the Election Commission.

(d) Term of office.

(1) Each appointed resident member shall serve for a three-year term, except that, at the initial appointments upon formation of the Election Commission, in order that the terms of members shall be staggered, two (2) members shall be appointed to a two-year term, one (1) member shall be appointed to a three-year term and the elected City Clerk shall be appointed as a resident member for a one-year term. There are no limits on the number of terms a member may serve.

(2) Until January 11, 2010, or such earlier time as the position of elected office of City Clerk is terminated in accordance with Section 8.7 of the Home Rule Charter, the Deputy City Clerk and not the City Clerk shall serve as the chairperson of the Election Commission.

(e) Removal. All members appointed by City Council shall serve at the pleasure of the City Council and may be removed with or without cause and with or without notice and hearing, at the sole discretion of the City Council; provided, however, that removal shall be mandatory in the event of any of the following:

(1) Refusal to comply with applicable statutes, ordinances, resolutions or laws.

(2) Continuing obstructive, offensive, harassing, argumentative or disrespectful behavior that diminishes the ability of the Election Commission to effectively and efficiently perform its duties as set forth herein.

(3) Absence without approved excuse granted by a majority of the Election Commission for twenty-five percent (25%), or absence with or without excuse for fifty percent (50%) or more, of the meetings of the Election Commission in any twelve-month period.

(4) Disclosure of any confidential information of the Election Commission, to include preliminary drafts of reports and work product, as defined in the Colorado Open Records Act, as may be amended from time to time.

(f) Vacancy. Where a vacancy in a resident member position on the Election Commission occurs due to removal, resignation or any other reason, the vacancy shall be filled in accordance with Section 2-4-60 of this Code. Any member removed from an appointed position on the Election Commission under Subsection (e) above shall be ineligible to apply for any further appointment to the Election Commission.

(g) Powers. The Election Commission shall meet at least once every calendar quarter at a date and time to be determined by the chairperson or by the rules or bylaws adopted by such Commission and on an as-needed basis and shall have the following duties and responsibilities:

(1) To assist the designated Election Official in the performance of such official's duties when requested by such official;

(2) To recommend to City Council an ordinance to change the boundaries of the four (4) City Council districts in compliance with Section 2.3 of the Charter when completion of a federal census indicates that the districts no longer have approximately the same number of voters;

(3) Consistent with state law and local ordinance, to establish election policies and procedures for all municipal elections that are not coordinated elections with the County and to review and approve election plans;

(4) To make recommendations to the City Council on the appropriate form of municipal-only regular or special elections, such as whether such elections should be held by mail ballot;

(5) At such Official's request, to advise the designated Election Official on other policies related to any regular or special municipal election and to troubleshoot identified election questions; and

(6) Consistent with state law and local ordinance, to make recommendations on the qualifications and appointment of election judges.

(h) Bylaws. The Election Commission may adopt bylaws and rules of procedure governing its members, which shall become effective upon approval by the City Council. City Council shall have the right to establish, amend, alter or modify the Election Commission's bylaws or rules. The bylaws shall also address the issue of conflicts of interest for members of the Election Commission and provide a process for identifying and redressing any such conflicts.

(i) Assistance from City Manager. The City Manager shall provide such records, information, supplies, clerical help, budget data, meeting space and other general assistance as is requested by the chairperson of the Election Commission, provided that such request shall be reasonable both as to extent and content so as not to place an undue burden upon the administration of the City. (Ord. 2009-O-01 §1)

ARTICLE 7

Mayor-Council Appointment of City Representatives

Sec. 2-7-10. Applicability and intent.

This Article shall apply to any City appointment of a person to serve in a representative capacity on any board, commission, body or other organization not otherwise subject to appointment in accordance with Article 4 of this Chapter. This Article is intended to provide for an efficient process of mayoral nomination of City representatives subject to the City Council's authority to consider and, if deemed appropriate, overrule an appointment. (Ord. 2010-O-07 §1)

Sec. 2-7-20. Mayoral nominations and Council approval.

(a) Mayoral nomination. At the commencement of each year, the Mayor may submit nominations to the City Council of individuals to serve as City representatives on any board, commission, body or organization not otherwise appointed in accordance with Article 4 of this Chapter. Such mayoral nomination shall be made in the form of a written resolution to be presented to the City Council at a regular or special meeting. The nominating resolution may include nominations for appointment of persons to more than one (1) board, commission, body or organization. In order to determine appointees' interest and qualifications prior to making a

nomination, the Mayor shall be authorized to consult with Council members, City staff and citizens and shall have the discretion to direct the City Manager's publication of one (1) or more notices of openings for appointment.

(b) Council ratification. The City Council may approve the Mayor's nominations by the approval of the resolution presented by the Mayor. Approval of the resolution shall require a vote of a majority of a quorum present and voting. The City Council may, by majority vote of a quorum present, strike any mayoral nomination and either substitute another nominee or leave any appointment unfilled. (Ord. 2010-O-07 §1)

Sec. 2-7-30. Term of appointment, removal and substitution of appointee.

(a) Term. Unless otherwise provided by the Council-approved resolution, appointments made in accordance with this Article shall be for a term to expire on the earlier of: (i) the anniversary of the date of approval of the appointing resolution; (ii) the date of approval of a new resolution appointing a person to the same position; (iii) death, incapacity or resignation of the appointed person; or (iv) removal.

(b) Removal. Every appointee shall serve at the pleasure of the City Council. Any person appointed in accordance with this Article may be removed from such appointment by the City Council with or without cause, notice or hearing. Removal shall be made by the approval of a resolution declaring the removal from appointment and an effective date of removal. Such resolution shall require a vote of a majority of a quorum present and voting. Upon removal, the position shall be subject to substitution of an appointee as provided in Subsection (c) below.

(c) Substitution. If an appointee is unable or unwilling to continue service, the appointee may resign the appointment by notifying the Mayor. Following such resignation, or in the event of removal from appointment as provided by Subsection (b) above, the Mayor may administratively designate another person to fulfill the remainder of a vacated term. The Mayor's designation shall be communicated to the City Council during a regular or special meeting of the City Council. The substitution shall be deemed effective unless a majority of a quorum of the Council present and voting at such regular or special meeting objects to the Mayor's designation. In the event of objection, the vacancy shall be subject to appointment by mayoral nomination and Council approval by resolution in the same manner as provide in Section 2-7-20 of this Article. (Ord. 2010-O-07 §1)