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CHAPTER 1

Official Code

Sec. 1-1-1. Municipal Code.

The following Code constitutes the official compilation, revision, reenactment and codification of the ordinances of the City of Pueblo, Colorado, of a general and permanent nature, and it shall be known as the "1971 Code of Ordinances of the City of Pueblo" and may be cited under that name or as the "Pueblo Municipal Code" or the "P.M.C." (1957 Code, §1-1; Ord. No. 6213, 7-28-97)

Sec. 1-1-2. Publication; use as evidence.

This Code is hereby ordered published in bound loose-leaf form and copies thereof, duly certified by the City Clerk, shall be received without further proof as prima facie evidence of the provisions of this Code in all courts and administrative tribunals of this State. A copy of any section or subsection of this Code duly certified by the City Clerk shall be received without further proof as prima facie evidence of the provisions of said section or subsection in all courts and administrative tribunals of this State.

Sec. 1-1-3. Numbering of Code.

In this Code all paragraphs are numbered as sections or subsections. The digits to the left indicate the Title; the digits in the center indicate the Chapter; and the digits to the right indicate the Section.

Sec. 1-1-4. Catchlines.

The descriptive headings or catchlines of the various sections and subsections hereof were formulated and inserted for convenience only, and shall not be deemed to be a part of the sections or subsections or to affect the meaning or construction of any of the provisions hereof, nor unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted. (1957 Code, §1-3)

Sec. 1-1-5. Definitions and rules of construction.

In the construction of this Code and of all ordinances, the following definitions shall be observed, unless the context clearly indicates otherwise:

- (1) The singular number includes the plural.
- (2) Words used in the present or past tense include the future as well as the present or past.
- (3) Words used in the masculine gender comprehend, as well, the feminine and neuter.

(4) The word *Code* shall refer to this Code (herein designated as the primary Code); the word *code* shall refer to such secondary code or codes as may be adopted in this primary Code by reference, as the context shall indicate.

(5) The word *person* shall extend and be applied to associations, clubs, societies, firms, partnerships, copartnerships and bodies politic and corporate as well as to individuals, including the officers of such associations, corporations, etc.

(6) The words *the City* or *this City* shall be construed as if the words *of Pueblo* followed them and shall extend to and include its several officers, agents and employees.

(7) The word *writing* includes printing, writing and typewriting.

(8) The word *signature* includes any name, mark or sign written with the intent to authenticate any instrument of writing.

(9) The word *oath* includes affirmation and the word *swear* includes the word *affirm*. Every mode of oral statement under *oath* or *affirmation* is embraced in the term *testify* and every written one in the term *dispose*.

(10) The words *official time* whenever used shall mean Standard Time or Daylight Saving Time as may be in current use within the City.

(11) The word *day* shall be any twenty-four-hour period from midnight to midnight; the word *month* shall mean a calendar month unless otherwise expressed; the word *quarter* shall mean any three-month period ending with the last day of March, June, September and December; and the word *year* shall mean any one (1) calendar year unless otherwise expressed.

(12) Whenever a notice is required to be given or an act to be done a certain length of time before any further proceedings shall be had, the day on which such notice is given, or such act is done, shall not be counted in computing the time, but the day on which such proceeding is to be had shall be counted.

(13) The word *shall* is mandatory; *may* is discretionary.

(14) The word *property* includes both real and personal property, and includes both publicly owned and privately owned property.

(15) The terms *land*, *real estate* and *real property* include lands, tenements, hereditaments, water rights, possessory rights and claims.

(16) The term *personal property* includes every species of property except real property.

(17) The words *public thoroughfare* shall include streets, alleys, lanes, courts, boulevards, public ways, public squares, public places and sidewalks.

(18) The word *owner* applied to a building or land shall include any part owner, joint owner, tenant in common, joint tenant, contract purchaser or lessee of the whole or of a part of such building or land.

(19) The word *or* may be read *and*, and the word *and* may be read *or* if the same requires it.

(20) The word *tenant* or *occupant* applied to a building or land shall include any person who occupies the whole or any part of such building or land, whether alone or with others.

(21) Words prohibiting anything being done, except in accordance with a license or permit or authority from an officer of the City, shall be construed as giving such officer power to license, permit or authorize such thing to be done.

(22) The word *municipality* shall mean this City.

(23) Whenever the words *Department of Health* or *Health Department* are used, they shall mean the City-County Health Department, or its successor in function. References to *Director of Public Health* shall refer to the Chief Administrative Officer of such Department.

(24) Whenever in this Code or in any code adopted herein it is provided that anything must be done to the approval or permission of or subject to the direction of, any administrative officer or employee of the City, this shall be construed to give such officer or employee only the discretion of determining whether the rules and standards established by this Code or by any code adopted herein have been complied with; and no such provision shall be construed as giving any administrative officer or employee discretionary powers as to what such regulations or standards shall be, or power to require conditions not prescribed by this Code or by any code adopted herein or to enforce the provisions thereof in an arbitrary or discriminatory manner.

(25) Whenever the *Charter* is referred to herein, it shall mean the Charter of the City adopted April 6, 1954, as amended, copies of which are on file in the office of the City Clerk.

(26) The term *Municipal Court* shall mean the same thing as Police Magistrate's Court or Police Court, and *Municipal Judge*, as used in this Code, shall mean the same thing as Police Magistrate or Police Judge.

(27) In the interpretation and application of any provision of this Code, it shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Where any provision of the Code or any secondary code adopted herein imposes greater restrictions upon the subject matter than the general provisions imposed by the Code, the provision imposing the greater restriction or regulation shall be deemed to be controlling.

(28) The words *Chief Inspector*, *Chief Building Inspector* or *Building Official* mean the Chief Building Inspector or such officers, inspectors, deputies and assistants in the Building Inspection Department who may be authorized to enforce specific provisions of this Code or any secondary code adopted herein.

(29) The words *the State* or *this State* shall be construed to mean the State of Colorado.

(30) The words *the County* or *this County* shall mean the County of Pueblo.

(31) Whenever the words *Council* or *City Council* are used, they shall be construed to mean the City Council of the City of Pueblo.

(32) Wherever the words *City Engineer, Director of Transportation* or *Assistant City Manager for Transportation* are used, they shall be construed to mean the Director of Public Works of the City of Pueblo.

(33) Whenever the word *Mayor* is used, it shall be construed to mean the President of the Council of the City of Pueblo.

(34) Whenever reference is made to officials, boards and commissions by title only, i.e., *City Clerk, the Treasurer, the Civil Service Commission*, etc., they shall be deemed to refer to the officials, boards and commissions of the City of Pueblo.

(35) Whenever the words *Director of Finance* or *City Treasurer* are used, they shall mean the Director of Finance of the City of Pueblo.

(36) Whenever the words *District Court* are used, they shall mean the District Court of the Tenth Judicial District of the State of Colorado, sitting in and for the County of Pueblo.

(37) Unless the context herein otherwise indicates, the word *sidewalk* shall mean that area of the public street, way or easement from the property line to the curb line or the lateral lines of a roadway.

(38) The word *street* shall mean every way or place of whatever nature open to the use of the public for purposes of vehicular travel.

(39) The word *roadway* shall mean those portions of a street or highway improved, designed or ordinarily used for vehicular travel. In places where a curb is installed, the word roadway shall include the curb.

(40) The word *alley* shall mean every street or way within a block set apart for public use, vehicular travel and local convenience, except foot paths.

(41) Wherever in this Code or the ordinances of this City a reference is made to several sections and the section numbers given in the reference are connected by the word to, the reference includes both sections whose numbers are given and all intervening sections.

(42) Whenever the words *Department of Zoning* or *Director of Zoning* appear in this Code, such words shall be construed to mean the Department of Land Use Administration and Director of Land Use Administration, respectively. (1957 Code, §§1-2, 1-2.1; Ord. No. 6941 §5, 1-27-03)

Sec. 1-1-6. Amendments; effect of new ordinances.

(a) All ordinances passed subsequent to the adoption of this Code which amend, repeal or in any way affect this Code may be numbered in accordance with the numbering system of this Code and printed for inclusion therein. When subsequent ordinances repeal any chapter, section or subsection or any portion thereof, such repealed portions may be excluded from the Code by omission from reprinted pages affected thereby. The subsequent ordinances as numbered and printed, or omitted in the case of repeal, shall be prima facie evidence of such subsequent ordinances until such time that

this Code and subsequent ordinances numbered or omitted are readopted as a new Code by the City Council.

(b) Amendments to any of the provisions of this Code shall be made by amending such provisions by specific reference to the section number of this Code in the following language: "That Section _____ of the 1971 Code of Ordinances of the City of Pueblo is hereby amended to read as follows:" The old provisions and the new provisions shall then be set out in full; the old provisions to be enclosed in brackets, and the new provisions to be underscored. In the event a new section not heretofore existing in the Code is to be added, the following language shall be used: "That the 1971 Code of Ordinances of the City of Pueblo is hereby amended by adding a section, to be numbered _____, which said section reads as follows:" The new section shall then be set out in full as desired.

(c) All subsections, sections, chapters, titles or provisions desired to be repealed shall be repealed by specific reference to the subsection, section, chapter or title number, as the case may be. (1957 Code, §1-6)

Charter Reference. For provisions relative to manner of enactment of legislation, see Charter §3-21; for manner of amending ordinances, see Charter §3-16.

Sec. 1-1-7. Ordinances and codes adopted by reference.

(a) As used in this Section, *code* shall mean any published compilation of statutes, ordinances, rules, regulations or standards adopted by the federal government or the State, by an agency of either of them, or by any municipality within the State, and published compilations of any organization or institution such as, but not limited to, building codes, fire prevention codes, traffic codes and the like.

(1) *Primary code* shall mean any Code which is directly adopted by reference in whole or in part by any ordinance passed pursuant to this Section.

(2) *Secondary code* shall mean any code which is incorporated by reference, directly or indirectly, in whole or in part, in any primary code or in any secondary code.

(3) *Published* shall mean issued and printed, lithographed, multigraphed, mimeographed or similar form.

(b) The City Council may enact any ordinance which adopts any code by reference, in whole or in part; and such primary code thus adopted may in turn adopt by reference, in whole or in part, any secondary codes duly described therein. Every primary code and every secondary code which is incorporated in any such adopting ordinance shall be specified in the title of the ordinance.

(c) The procedure for passing any ordinance adopting any code by reference shall be the same as that procedure for passing any other ordinance, provided that the notice of public hearing thereon shall also state that a copy of the primary code and also a copy of the secondary codes, if any, being considered for adoption, are on file with the City Clerk, and are open to public inspection. The notice shall also contain a description of the subject matter of the code and of any secondary code adopted therein by reference, the name and address of the agency by which each has been promulgated and the date of publication of such code or codes.

(d) A copy of each primary code adopted by reference, and of each secondary code pertaining thereto, shall be distributed to each Council member and a copy shall be filed in the office of the City Clerk at or before the first presentation of the adopting ordinance, and shall be kept there for public inspection while the ordinance is in force. Following the adoption of any code, the City Clerk or the Chief Enforcement Officer of said code shall at all times maintain a reasonable supply of copies of the primary code and of any secondary codes incorporated in it by reference available for purchase by the public at a moderate price, not to exceed actual cost plus a handling charge of twenty-five cents (\$.25) per copy.

(e) If at any time any code which has previously been adopted by reference shall be amended by the agency or municipality which originally promulgated, adopted or enacted it, the City Council may adopt such amendment by reference through the same procedure as required for the adoption of the original code; or an ordinance may be enacted in regular manner, setting forth the entire text of such amendment. Copies of such codes in published form, or of any section or subsection thereof, typewritten or reproduced by any means, duly certified by the City Clerk, shall be received without further proof as prima facie evidence of the provisions of such codes or portions thereof in all courts and administrative tribunals of this State.

Sec. 1-1-8. Effect of repealing ordinances.

The repeal of any provision of this Code shall not affect any right which has accrued, any duty imposed, any penalty incurred, any action or proceedings as commenced under or by virtue of the provision repealed, or the tenure of office of any officer holding office at the time when such repeal shall take effect; nor shall the repeal of any provision of any ordinance revive any ordinance theretofore repealed or superseded which was in effect before or at the time the repealed ordinance became effective. (1957 Code, §1-4)

Sec. 1-1-9. Severability.

The provisions of this Code are hereby declared to be severable, and if any section, provision or part thereof shall be held unconstitutional or invalid, the remainder of this Code shall continue in full force and effect, it being the legislative intent that this Code would have been adopted even if such unconstitutional or invalid matter had not been included therein. It is further declared that if any provision or part of this Code, or the application thereof to any person or circumstances, is held invalid, the remainder of this Code and the application thereof to any other person shall not be affected thereby. (1957 Code, §1-5)

Sec. 1-1-10. Altering Code.

It shall be unlawful for any person to change or amend by additions or deletions any part or portion of this Code, to insert or delete pages or portions thereof, or to alter or tamper with such Code in any manner whatsoever which will cause the law of the City to be misrepresented thereby. (1957 Code, §1-7)

Sec. 1-1-11. Notice; procedure; manner of service.

Except as otherwise provided in this Code, whenever notice to a party to do or not to do some act is required or permitted, the following rules shall govern:

(1) To what applicable. All notices of whatsoever kind or nature, now or hereafter required by this Code or any ordinance, order, resolution or directive of the City Council to be served upon any person shall be served in the following manner unless otherwise expressly provided in the particular Code provision, ordinance or order providing for the giving of such notice; provided, however, that nothing contained in this Section shall in any manner be construed to affect the process or notices issued by the Municipal Court or the Judge thereof.

(2) Issuance of notice by City Clerk or department head. The notice may be signed and issued by the City Clerk, under the Seal of the City, or it may be signed and issued by the director of the department charged with the giving of such notice.

(3) Contents. The notice shall:

- a. Contain the name and address of the party to whom it is directed.
- b. State the purpose for which such notice is given.
- c. State the time within which the party to whom it is directed shall do or accomplish that which it is the purpose of the notice to notify him or her to do.
- d. State the consequences of his or her failure to comply therewith.

(4) By whom served. Notice may be served by any member or employee of any department of the City charged with the issuance of such notice, by any police officer of the City, or by any other person over the age of eighteen (18) years who shall have no interest in the subject matter of the notice.

(5) Personal service; upon whom served. Personal service shall be as follows:

a. Upon a natural person over the age of eighteen (18) years, by delivering or mailing a copy thereof to him or her, or by leaving a copy at his or her usual place of abode, with some member of his or her family over the age of eighteen (18) years, or at his or her usual place of business, with his or her principal employee on duty, stenographer, bookkeeper or chief clerk; or by delivering a copy to an agent authorized by appointment or by law to receive service of process.

b. Upon a natural person under the age of eighteen (18) years by delivering or mailing a copy thereof to him or her and delivering or mailing a copy thereof to his or her father, mother or guardian, or if there is none in the City, by delivering or mailing a copy thereof to any person in whose care or control he or she may be, with whom he or she resides, or in whose service he or she is employed.

c. Upon a person for whom a conservator has been appointed, by delivering or mailing a copy thereof to such conservator.

d. Upon a partnership, or other unincorporated association, by delivering or mailing a copy thereof to one (1) or more of the partners or associates, or a managing or general agent thereof.

e. Upon a private corporation, by delivering or mailing a copy thereof to any officer, manager, general agent or agent for process. If no such officer or agent can be found in the City, such copy may be delivered or mailed to any stockholder, agent, member or principal employee found in the City. If such service is upon a person other than an executive officer, the secretary, general agent or agent for process, the City Clerk shall mail a copy thereof to the corporation at its last known address, at least fifteen (15) days before the time stated in the notice on which or within which the corporation to whom it is directed shall do or accomplish that which it is the purpose of the notice to command it to do.

f. Upon a public corporation or other public agency subject to notice, by delivering or mailing a copy thereof to the principal officer, chief clerk or other executive employee thereof.

(6) Service by mail. If service is had by mail, the City Clerk, the director of the department charged with the giving of such notice or his or her chief clerk or secretary shall send by certified mail, requesting a return receipt signed by the person to be served, or any person upon whom personal service could be made on his or her behalf, a copy of the notice addressed to such person at his or her usual place of abode or his or her usual place of business. Such service shall be complete on the date of the signing of a certificate in proof thereof, together with such signed return receipt attached thereto. Return of the return receipt to the sender with the notation that such mail was refused shall be conclusive evidence that the person to whom it was addressed has received proper notification.

(7) Service by publication.

a. Service by posting or publication may be allowed when the notice affects specific property, either real or personal.

b. Service by posting or publication may be had on the following parties:

1. Unknown persons.

2. Corporations. When such corporation cannot be served because no person can be found within the City upon whom such service can be made.

3. Nonresidents. This shall include nonresidents of the City; persons who have departed from the City without intention of returning; persons who conceal themselves to avoid service of process; or persons whose residence and whereabouts are unknown and who cannot be found in the City.

c. On the date of such publication, or within five (5) days prior thereto, the City Clerk or responsible department shall mail a copy of the notice to each person to whom the notice is addressed, as provided in Subsection (6) of this Section, unless such notice shall have previously been mailed as provided therein and returned without delivery.

(8) Manner of proof.

a. If served by a police officer or City employee, by his or her certificate with a statement as to date, place and manner of service.

b. If by any other person, by his or her affidavit thereof with the same statement.

c. If by mail, by the certificate of the City Clerk or other person mailing the same, showing the date of the mailing; and the return receipt, showing the date of receiving or refusal of same.

d. If by publication, by the affidavit of publication, together with a certificate as to the mailing of the notice where mailing is required.

e. If by posting, by the certificate of the person posting the same, showing the date, place and manner of posting.

f. By the written admission or waiver of service by the person to be served, duly signed and acknowledged. Acknowledgment of such admission or waiver of service may be taken before a notary public.

(9) Refusal of copy. If the person to be served refuses to accept a copy of the notice, service shall be sufficient if the person serving the same shall state the general nature of the notice and offer to deliver a copy thereof.

(10) Service upon attorney representing party to whom notice is addressed. Whenever under this Code or any ordinance, order or resolution, service of a notice is required or permitted to be made upon a party represented by an attorney, the service shall be made upon the attorney unless service upon the party himself or herself is directed by the ordinance, order or resolution or is ordered by the City Council. Service upon the attorney may be made by delivering a copy to him or her personally or by mailing it to him or her at his or her address as given to the City Clerk or the department charged with giving such notice. Delivery of a copy within this Subsection means handing it to the attorney; or leaving it at his or her office with his or her clerk or other person in charge thereof; or, if there is no one in charge, leaving it in a conspicuous place therein; or, if the office is closed or the attorney to be served has no office, leaving it at his or her dwelling house or usual place of abode with some member of the family over the age of eighteen (18) years residing therein. Service by mail is complete upon mailing. (1957 Code, §1-10; Ord. No. 2603, 2-13-61)

CHAPTER 2

Penalties

Sec. 1-2-1. General penalty; continuing violations; adjudging fines and imprisonment.

(a) It shall be unlawful for any person to violate, disobey, omit, neglect, refuse or fail to comply with or resist the enforcement of any provision of this Code or any secondary code adopted herein.

(b) Where no specific penalty is provided therefor, the violation of any provision of this Code or of any secondary code adopted herein shall be punished by a fine not exceeding one thousand dollars (\$1,000.00) or imprisonment for a term not exceeding one (1) year, or by both such fine and imprisonment, the amount of such fine or term of such imprisonment to rest within the discretion of the Municipal Judge.

(c) The imposition of a penalty shall not excuse any violation, permit it to continue or prevent the enforced removal of prohibited conditions.

(d) Unless otherwise indicated, a separate violation shall be deemed committed upon each day or portion thereof during or on which any violation of any provision of this Code or any secondary code adopted herein occurs or continues. (1957 Code, §1-8; Ord. No. 7937 §1, 12-8-08)

Sec. 1-2-2. Judgments and sentences to run consecutively.

All judgments and sentences imposed and ordered by the Municipal Court shall run consecutively unless otherwise specifically provided by the Judge of such Court in such judgments and sentences. (1957 Code, §1-9)

Sec. 1-2-3. Cumulative remedies.

(a) Whenever any act or condition constitutes a nuisance or provides a cause of action for injunction or other civil remedy, said remedies shall be considered to be cumulative and, in addition to the penalties hereinabove provided, an action for abatement, injunction or other civil remedy may be brought against such violator.

(b) The suspension or revocation of any license, permit or other privilege conferred by the City shall not be regarded as a penalty for the purposes of this Code.

(c) When work or activity for which a permit or license is required by this Code or any code adopted herein is commenced without first having acquired such permit or license, the specified fee shall be doubled, but the payment of such double fee shall not relieve any person from fully complying with all the requirements of this Code or any code adopted herein, or from any other prescribed penalties. Payment of such double fee or any unpaid portion thereof may be compelled by civil action in any court of competent jurisdiction. The acceptance of any portion less than the entire amount of such double fee by any officer or employee of the City shall not constitute a waiver or release of the balance thereof.

Sec. 1-2-4. Presumption of responsibility.

The occupant of any premises upon which any violation of any provisions of this Code or of any code adopted hereby is apparent, the owner of any object or material placed or remaining anywhere in violation of any provision of this Code or of any code adopted hereby, and the occupant of any premises served by an excavation or structure illegally made or erected, shall be presumed to be responsible for the violation so evidenced and subject to the penalty provided therefor.

Sec. 1-2-5. Failure to pay fine; imprisonment.

(a) The City hereby provides that upon a plea and proof that a person is unable to pay any fine imposed by this Code, the Municipal Judge may order its payment in reasonable, equal monthly installments beginning thirty (30) days after the imposition of the fine until the fine is satisfied in full.

(b) Upon default by the defendant of any such monthly installments, the entire balance of the fine shall immediately be due and payable by the defendant, and the Municipal Judge who imposed the fine shall be immediately notified of such default.

(c) The Municipal Judge, upon receipt of notice of such a default, shall set a date and place of hearing with proper notice to the defendant, ordering the defendant to appear for reconsideration of his or her sentence. Such notice shall be made by personal service at least five (5) days prior to the date set for hearing.

(d) After hearing, the Municipal Judge may reduce the defendant's fine, suspend it or modify his or her installment plan or, if none of those alternatives is warranted, the Municipal Judge may sentence said defendant to a jail term to achieve the needed penological objective. (Ord. No. 4035, 6-9-75)

Sec. 1-2-6. Penalties; power to pardon.

The President of the Council shall have power to grant pardons and to remit fines and penalties imposed for any violation of any provision of this Code, but in every case where he or she may exercise this power, he or she shall report such action to the City Council at its next meeting, with his or her reasons.

Sec. 1-2-7. Liability of owner for nuisance caused by tenant.

(a) Fines or other liability may be imposed upon any owner of real property for any nuisance prohibited by this Code and committed on the property by a tenant in lawful possession of the property, provided that notification of the nuisance is served on the property owner and tenant of the property before the imposition of such fine or other liability.

(b) In addition to any other method of service provided under this Code, service of the notification upon the tenant is satisfied either by mailing the same, first class mail, postage prepaid, to the street address associated with the property and addressed to the occupant, or by posting same upon the property.

(c) This Section shall have no application to or otherwise limit the liability an owner may have with respect to the summary abatement of nuisance which constitutes an emergency and a immediate threat to the safety or health of the public. (Ord. No. 7385 §1, 10-11-05)

Sec. 1-2-8. Parental responsibility.

(a) Whenever a minor under the age of eighteen (18) years is convicted of or pleads guilty or nolo contendere to any violation of this Code, or any secondary code adopted herein, and the Court imposes a fine and/or court costs pursuant to such conviction or plea, the parents of the minor shall be jointly and severally liable for the payment of such fine and/or court costs. It shall be an affirmative defense to the obligation created by this Section if the parent demonstrates to the Court that:

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

(3) The minor is an emancipated minor.

(b) For the purposes of this Section only, the term *emancipated minor* means an individual under the age of eighteen (18) years whose parents have surrendered parental responsibilities or custody and the right to the care and earnings of such individual, and are no longer under a duty to support or maintain such individual. (Ord. 7487 §1, 7-10-06)

Sec. 1-2-9. Restitution.

In addition to any and all other punitive sanctions which may be imposed for a violation of any provision of this Code or any secondary code adopted herein, the Municipal Court has the power to order restitution. (Ord. No. 7972 §1, 2-23-09)

CHAPTER 3

The City

Sec. 1-3-1. City map.

(a) The map entitled "Official Map of the City of Pueblo, Colorado, as prepared by the Director of Public Works for the City of Pueblo and dated the 1st day of August, 1971," shall be and is hereby adopted as the Official Map of the City. The Official Map shall be identified by the signature of the Director of Public Works, attested by the City Clerk, and bearing the seal of the City under the following words: "This is to certify that this is the Official Map referred to in Section 1-3-1 of the 1971 Pueblo Municipal Code" together with the date of most recent certification by the Director of Public Works. If changes are made in City boundaries by annexation to or disconnection from the City, such changes shall be entered in an official Journal promptly as follows: "On [date] by official action of the City Council [District Court if disconnection], the following changes were made in the Official Map: [brief description of nature of change]," which entry shall be signed by the Director of Public Works. All entries in the Journal shall be drawn on the Official Map, which shall be brought up-to-date and recertified at least once each calendar year. The Official Map and Journal shall be located in the office of the Director of Public Works.

(b) A copy of said map or any portion of said map, reduced or enlarged to any scale, certified by the Director of Public Works, whose signature is attested by the City Clerk, to be a true copy of said Official Map or a portion thereof, giving the date of the last change, shall be received as prima facie evidence of the facts appearing thereon.

Sec. 1-3-2. Replacement of City map.

In the event the Official Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the City Council may by resolution adopt a new Official Map which shall supersede the prior Official Map. The new Official Map may correct drafting or other errors or omissions in the prior Official Map, but no such correction shall have the effect of amending the original plat of the City on file in the office of the Secretary of State together with plats showing annexations to or disconnection from the City since that time. The new Official Map shall be identified by the signature of the Director of Public Works, attested by the City Clerk

and bearing the seal of the City under the following words: "This is to certify that this Official Map supersedes and replaces the Official Map certified by the Director of Public Works of Pueblo on the _____ day of _____, 19__." Unless the prior Official Map has been lost or has been totally destroyed, the prior map or any significant parts thereof remaining shall be preserved, together with all available records pertaining to its certification and amendments.

Sec. 1-3-3. City seal.

The City shall have a seal, the engraved impression of which is as follows: Four (4) flags, each representing the countries or territory -- Spain, France, Mexico, Texas -- which have had domain over this region, plus the flag of the United States over which are the inscribed words, "UNDER FIVE FLAGS"; Fort Pueblo, a site which was the first permanent structure in this territory; waves representing the confluence of the Fountain and Arkansas Rivers; and the words, "City of Pueblo, Colorado" and "incorporated 1870" surrounding this graphic. (1957 Code, §2-2; Ord. No. 4992, 8-9-82)

CHAPTER 4

City Council

Sec. 1-4-1. Council procedures and rules.

The City Council by resolution shall adopt suitable rules to govern its procedures.

Editor's Note: Up-to-date Council rules are included as Appendix A of this Code.

Sec. 1-4-2. Council meetings; regular and special; place; calling; notice; public forum.

(a) Regular meetings of the City Council shall be held in the Council Chambers on the second and fourth Monday of each month, commencing promptly at 7:30 p.m.

(b) Special meetings shall be called upon request of the President or a majority of the members of the Council. Notice of special meetings shall be served upon members of the City Council personally or at their places of residence not less than eighteen (18) hours prior to the time fixed for the meeting. The notice of each special meeting shall include the purpose or purposes of the meeting, the subject or subjects to be discussed and copies of all ordinances, resolutions or motions to be introduced and presented a first time at the meeting.

(c) Public forum. The City Council shall permit a public forum to occur prior to the commencement of any business at regular City Council meetings occurring on the second and fourth Mondays of each month, to include any regular meeting where City Council has elected to change the meeting date. The public forum shall permit up to six (6) people to speak, for five (5) minutes per speaker, when there are people present who wish to address the City Council. The public forum shall occur during the televised portion of the meeting, and speakers shall be permitted to address the City Council on camera. (1957 Code, §2-4; Ord. No. 3817, 2-11-74; Ord. No. 7865 §1, 11-4-08, passed at 11-4-08 election)

Charter Reference. §3-15.

Sec. 1-4-3. Execution of official papers; authorized signatures; attestation; ratification of existing papers.

(a) The President of the Council, or in his or her absence or inability to act, the Vice President of the Council, shall sign all ordinances, deeds, contracts, conveyances, licenses, warrants, bonds, coupons and other instruments.

(b) The signature of the President of the Council shall be attested by the City Clerk, and the instrument shall be sealed with the seal of the City.

(c) Warrants, coupons, licenses and such other instruments as the City Council, by resolution or ordinance, may direct, may be signed by facsimile signature; provided, however, that no deed of conveyance of real property or contract of more than one (1) year's duration shall be valid unless signed by the true signature, attested and sealed as herein provided.

(d) All deeds, contracts, conveyances or other instruments heretofore signed by the President of the Council are hereby ratified and confirmed, the same as though duly authorized by the City Council prior to the signing thereof. (1957 Code, §2-5)

Charter References. For requirement that President of the Council sign all ordinances, see Charter, §3-21. For requirements as to executing legal instruments, see §3-4.

Sec. 1-4-4. Advisory committees.

(a) The President of the Council may from time to time create a committee or committees and appoint members thereto to advise him or her in matters relating to public affairs. All members of such committees shall serve without pay and at the pleasure of the President of the Council. At the time of creating any such committee or appointing or removing any member thereof, the President shall inform the City Council at the next regular Council meeting.

(b) The City Council may by resolution create a committee or committees to advise and make recommendations to the City Council in matters relating to the disposition of specific Council affairs. All members of such committees shall serve without pay and for such term as the City Council shall direct in the resolution creating the committee. Appointment to such committee may be by the President of the Council with or without the consent of the City Council or by the City Council, as said resolution shall provide.

Sec. 1-4-5. Term of City Council member of Planning and Zoning Commission.

The City Council member of the Planning and Zoning Commission shall serve at the pleasure of the City Council but, in no event, longer than the term for which he or she has been elected to serve on the City Council. In the event of reelection to the City Council, such Council member shall be eligible for reappointment to the Planning and Zoning Commission so long as he or she shall continue to be a member of the City Council. (1957 Code, §2-12.5)

Sec. 1-4-6. Annual audit; employing accountants; report.

Annually the City Council shall provide for a special audit of the general accounts of the City, and for that purpose the City Council shall secure the professional services of certified public accountants

familiar with municipal accounting. The report of such audit shall be made available to the public as a public record. (1957 Code, §2-7)

Charter Reference. For relevant provisions, see Charter, §3-10.

Sec. 1-4-7. Special privileges, cost of.

Whenever application shall be made for the grant of a franchise right, change of street name, street or alley vacation, to procure a copy of the transcript of any record made before the City Council, or for any other grant or privilege of benefit to the applicant, the City Clerk shall require the applicant to deposit with the Director of Finance such reasonable amount as shall be estimated to be sufficient to pay the cost of advertising, recording, printing, reproducing, transcribing or other special services which may be necessary. The unused balance of such deposit, if any, shall be refunded to the applicant. No portion of such costs actually expended shall be refunded in the event the applicant shall not obtain the special benefit sought. (1957 Code, §2-6.1)

Sec. 1-4-8. Instruments affecting land, recording.

The City Clerk shall record in the office of the County Clerk and Recorder all documents approved by the City Council which shall affect any interest in land; provided, however, that amendments to the Zoning Map or rezoning any tract or parcel of land within the City shall not be so recorded. The cost of such recording shall be paid by the person benefited thereby. No instrument or document affecting any interest in land shall be deemed to be finally approved by the City Council until the same shall have been recorded, except as herein provided. (1957 Code, §2-6.2)

Sec. 1-4-9. Council executive meetings.

(a) The City Council shall sit with open doors at all sessions and shall keep a journal of its proceedings which shall be a public record. All meetings of a quorum of the City Council are declared to be public meetings and open to the public at all times except, by majority vote of the members present at a Council meeting or meeting of the Executive Committee of the Council, the Council may go into executive meeting closed to the public for which no journal is required to be kept, for any of the following purposes, provided that the general nature of such purpose is announced before the vote to go into executive meeting is taken:

- (1) Consideration of documents or testimony given in professional confidence, or which are confidential under any federal, state or local law or regulation, or concerning which there exists a legally recognized expectation of privacy.
- (2) Discussion of existing or prospective personnel of the City, including without limitation the appointment, removal or performance of the City Manager or any department head.
- (3) Consideration and evaluation of evidence or testimony, including the credibility of witnesses, presented during any quasi-judicial proceedings or hearing.
- (4) Consideration and determination of its position relative to issues that may be subject to negotiation, to receive reports on negotiations progress and status, to develop strategy and to instruct its negotiators. Issues that may be subject to negotiation include, without limitation,

pending or threatened litigation or legal claims involving the City, collective bargaining and other contract negotiations, and acquisition, sale or lease of property.

(b) No final policy decision, ordinance, resolution, rule, regulation, formal action or any action approving a contract or calling for the payment of money shall be made, adopted or approved at any executive meeting. No tentative vote or "straw poll" shall be taken or any commitment respecting a vote shall be made by any Council member at any executive meeting.

(c) Any vote or official action upon any matter considered at an executive meeting shall be taken at an open meeting of the City Council.

(d) No chance meeting or social gathering shall be used to circumvent the intent or the provisions of this Section.

(e) Any policy, decision, ordinance, resolution, rule, regulation or other formal action made or taken contrary to the provisions of this Section shall be voidable by a court of competent jurisdiction, provided that any proceedings to void such action must be commenced within one (1) year thereafter. (Ord. No. 5538, 5-8-89)

CHAPTER 5

Administration; City Manager and Department Heads

Sec. 1-5-1. Definitions.

As used in this Chapter, unless the context otherwise requires:

(1) *Administrative staff* or *staff* or *staff member* shall include the City Manager and assistants to the City Manager, department heads and any employee while acting in the capacity of City Manager or department head.

(2) *Division* shall mean the organization of a department by principal function or distribution of work.

Sec. 1-5-2. City Manager.

The City Manager shall be the Chief Executive of the City government, shall enforce the laws of the City and require the faithful performance of all administrative duties. His or her duties are enumerated below and in the Charter:

(1) Duties.

a. Appoint, dismiss, etc. Appoint competent, qualified staff and employees to the administrative service and have the power to dismiss, suspend and discipline, in accordance with the Charter and civil service provisions of this Code, all staff members and employees in the administrative service under his or her control. He or she shall also have the power to authorize a department head or staff member responsible to him or her to appoint and remove subordinates serving under that department head or staff member.

b. Appoint to acting capacity. Designate himself or herself or some other staff member or employee to perform the duties of any position in the administrative service under his or her control. Such person shall be designated a deputy or acting department head and shall serve with the same powers and functions as the department head.

(2) Powers.

a. Prescribe rules. Have the power to prescribe such rules and regulations as he or she shall deem necessary or expedient for the conduct of administrative agencies subject to his or her authority, and have the power to revoke, suspend or amend any rule or regulation of the administrative service by whomever prescribed.

b. Investigate. Have the power, either by himself or herself or by any staff member or person designated for the purpose by him or her, to investigate and to examine or inquire into the affairs or operation of any department, division, bureau or office; and when so authorized by the City Council, have power to employ consultants and professional counsel to aid in such investigations, examinations or inquiries.

c. Overrule administrative staff. Have the power to set aside any action taken by a department head, and may supersede him or her in the functions of his or her position.

d. Assign duties. Have the power to direct any department, division or bureau to perform work for any other department, division or bureau, provided that nothing contained herein shall be construed to authorize the City Manager to assign the duties and functions of any department established by Charter to another department.

e. Appoint administrative committees. Have the power to designate from the administrative service such committees and the officers thereof as he or she shall find necessary for the proper consideration of administrative problems. Such committees shall meet at the request of the City Manager and shall make such recommendation on matters referred to them as they shall find necessary for the best interests of the City.

Sec. 1-5-3. Departmental organization; divisions.

(a) The administrative service of the City shall be divided under the City Manager into the following departments and heads thereof, and may be divided into the following divisions:

<u>Department</u>	<u>Head</u>
(1) Finance	Director of Finance
(2) Records	City Clerk
(3) Police	Chief of Police
a. Records Division	
b. Patrol Division	
c. Investigation Division	
d. Crime Prevention	
e. Division	
f. Traffic Division	
g. Detention Division	

h. Animal Control Division	
(4) Fire	Fire Chief
a. Fire-fighting Division	
b. Fire Prevention Division	
c. Communications Division	
d. Training Division	
(5) Public Works	Director of Public Works
a. Engineering Division	
b. Streets and Shop Division	
c. Building Inspection Division	
d. Sewage Disposal Plant	
e. Building Maintenance	
(6) Parks and Recreation	Director of Parks and Recreation
a. Park Maintenance	
b. Recreation Division	
c. Swimming Pools Division	
d. Golf Course Division	
e. Cemeteries Division	
(7) Aviation	Director of Aviation
a. Airport Operation	
b. Property Management	
(8) Purchasing	Purchasing Agent
<u>Department</u>	<u>Head</u>
(9) Law	City Attorney
(10) Personnel	Personnel Director
(11) Transportation	Director of Transportation
a. Traffic Engineering	
b. Public Parking	
c. Transit and Transportation	
d. Radio, Telephone and Other Communications	
(12) Zoning Administration	Director of the Department of Zoning Administration
(13) Department of Information	Information Specialist
(14) Department of Housing	Director of Housing

(b) The designation of divisions and the description of division functions as set forth in this Chapter shall not be deemed to limit a department head from reorganizing his or her department from time to time as circumstances may require. Any such reorganization shall be reported to the City Manager without unnecessary delay and shall become effective immediately upon regulation issued by the City Manager.

(c) Reference to a department or department head in this Code by any title other than as set forth in this Section shall be construed to refer to the department or department head as set forth herein. (Ord. No. 3524, 2-14-72; Ord. No. 3604, 9-11-72; Ord. No. 3890, 7-22-74; Ord. No. 3985, 2-24-75)

Sec. 1-5-4. Oaths of office.

(a) The City Clerk may deputize any or all persons in the Personnel Department to give the oath of office as required by Charter. Such oath, when signed, may be filed in the Employee's Personnel File and, for that purpose only, the Personnel Office is designated as a branch of the City Clerk's office.

(b) Form of Oath for Employees.

State of Colorado)
County of Pueblo) ss.
City of Pueblo)

I, _____, do solemnly swear (or affirm) that I will support the Constitution of the United States, the Constitution of the State of Colorado, and the Charter and Ordinances of the City of Pueblo; and that I will, to the best of my ability, faithfully perform the duties of office or employment during my continuance therein, and to the best of my knowledge and ability, maintain an efficient service in the City, free from partisan distinction and control, (so help me God. [Omit if affirmation])

Subscribed and sworn to before me this ____ day of _____, 19__.

Sec. 1-5-5. Bonds.

(a) Required. The holders of the following named positions shall, before entering upon the duties of their respective positions, give a good and sufficient surety company bond to the City, conditioned upon the faithful performance and discharge of their respective duties and for proper application and payment of all money or property coming into their hands by virtue of their positions, in the following amounts:

City Manager	\$10,000
Director of Finance	50,000
City Clerk	5,000
Director of Public Works (City Engineer)	3,000

City Attorney	1,000
Judge of Municipal Court	1,000
Other Employees	5,000

The cost of such bonds shall be paid by the City.

(b) All City employees handling City funds may be covered by a blanket faithful performance bond with the same conditions, or give separate bonds.

Sec. 1-5-6. Administrative policy and procedures.

(a) Administrative Staff. Each staff member shall perform all duties required of his or her position by state law, the Charter, this Code and ordinances of the City, and such other duties not in conflict therewith as may be required by the City Manager.

(b) Department Heads. The head of each department shall:

(1) Be immediately responsible to the City Manager for the effective administration of his or her respective department and all activities assigned thereto.

(2) Keep informed as to the latest practices in his or her particular field and inaugurate, with the approval of the City Manager, such new practices as appear to be beneficial to the service and to the public.

(3) Submit annual reports of the activities of his or her department to the City Manager, or more frequently if the City Manager shall so require.

(4) Establish and maintain a system of filing and indexing records and reports in sufficient detail to furnish all information necessary for proper control of departmental activities and to form a basis for the periodic reports to the City Manager, and deliver all records to his or her successor.

(5) Have power, when authorized by the City Manager, to appoint and remove, subject to civil service personnel provisions of this Code, all subordinates under him or her. Make rules and regulations with the approval of the City Manager in conformity with this Code, governing the conduct of the employees under his or her supervision and the operation of his or her department.

(6) Be responsible for the proper maintenance of all City property and equipment used in his or her department.

(c) Departments. Each department shall furnish, upon the direction of the City Manager, any other department such service, labor and materials as may be requisitioned by the head of such department, and as its own facilities permit, through the same procedure and subject to the same audit and control as other expenditures are incurred.

(d) Operation of Administrative Service. All units in the administrative service shall:

(1) Be open and operative such hours as the City Manager in writing shall direct, including Saturdays, Sundays and legal holidays.

(2) Deposit daily with the Director of Finance any moneys received directly from the public; provided that daily receipts of less than twenty-five dollars (\$25.00) may be deposited with the Director of Finance as frequently as the City Manager in writing shall direct.

(3) Requisition moneys belonging to the City only in the manner prescribed by law.

(e) Building Inspection Division. An inspector, including the division head, within the Building Inspection Division of the Department of Public Works shall not inspect any work in which he or she has any financial or other personal interest, and shall not engage in the business of contracting, supplying materials or performing work in the building trade over which he or she has inspection duties. (Ord. No. 3928, 11-11-74)

Sec. 1-5-7. Department of Records.

The Department of Records is hereby created, which shall be directed by the City Clerk, whose duties are enumerated below and in the Charter. The City Clerk shall:

(1) Serve as Clerk of the City Council.

(2) Be responsible for the recording, filing, indexing and safekeeping of all proceedings of the City Council.

(3) Record in full, uniformly and permanently, all ordinances and authenticate the same.

(4) Publish all ordinances in full or by title, and such legal notices required by law or ordinance, as the City Council shall direct.

(5) Keep and maintain all election records and have custody of all property used in connection with elections.

(6) Notify the appointing authority of the impending expiration of the term of office of a member of any Board or Commission, said notice to be given at least thirty (30) days before such expiration.

(7) Keep official seal. Be the custodian of the official seal of the City. (Ord. No. 3925, 11-11-74)

Sec. 1-5-8. Settlement of claims.

The following City officials shall have authority to adjust, settle, compromise or submit to arbitration any action, causes of action, accounts, debts, claims, demands, disputes and matters in favor of or against the City or in which the City is concerned as debtor or creditor, now existing or which may hereafter arise, not involving or requiring payment to exceed one thousand dollars (\$1,000.00), and with the permission of the City Manager may do likewise in matters in the amounts as set forth below, provided that funds sufficient to settle same have been appropriated in an account therefor and an unexpended balance exists therein:

(a) City Attorney: matters where the amount paid by the City in settlement of a claim against the City, or the amount relinquished or forgiven on a claim that the City has against others, does not exceed twenty thousand dollars (\$20,000);

(b) City Attorney with the approval of the City Manager: matters where the amount paid by the City in settlement of a claim against the City, or the amount relinquished or forgiven on a claim that the City has against others, does not exceed forty thousand dollars (\$40,000);

(c) A Committee comprised of the City Manager, City Attorney and the Risk Manager: matters where the amount paid by the City in settlement of a claim against the City, or the amount relinquished or forgiven on a claim that the City has against others, does not exceed sixty thousand dollars (\$60,000). (Ord. No. 8138,12-08-10)

CHAPTER 6

Municipal Court

Sec. 1-6-1. Municipal Court.

A Municipal Court vested with exclusive original jurisdiction of all causes arising under the Charter and the ordinances of the City is hereby created and established as a qualified municipal court of record. The Municipal Court shall keep a verbatim record of the proceedings and evidence at trials by either electronic devices or stenographic means. (1957 Code, §2-13; Ord. No. 4115, 12-22-75; Ord. No. 8040 §1, 8-10-09)

Sec. 1-6-2. Municipal Judges.

The City Council shall appoint as many Municipal Judges as may be required to conduct the affairs of the Municipal Court. All Municipal Judges shall be attorneys admitted to practice law in the State. Each Municipal Judge shall be appointed for a term of two (2) years and may be removed by the City Council for cause. (Ord. No. 4115, 12-22-75)

Sec. 1-6-3. Presiding Judge.

The City Council shall appoint one (1) of the Municipal Judges to act as a Presiding Judge. The Presiding Judge shall supervise all of the Court's personnel and act as Municipal Court Administrator. (1957 Code, §2-15; Ord. No. 4115, 12-22-75)

Sec. 1-6-4. Compensation for Judges.

Municipal Judges are unclassified employees of the City, and their salaries shall be set by the City Council and shall be budgeted as an item of the annual budget. (1957 Code, §2-14; Ord. No. 4115, 12-22-75)

Sec. 1-6-5. Substitute Judge.

The Presiding Municipal Judge shall appoint a Substitute Judge to temporarily serve when no regular Municipal Judge is able to preside due to illness, disqualification or similar grave reason. All

Substitute Judges shall be attorneys admitted to the practice of law in the State. No appointment as a Substitute Judge shall be for a period longer than five (5) consecutive days without the previous approval of the City Manager or the City Council. Substitute Judges shall be paid at least fifty dollars (\$50.00) for each day actually served from funds budgeted to the Municipal Court. (Ord. No. 4115, 12-22-75)

Sec. 1-6-6. Rules of procedure; notice of alibi.

(a) Except as otherwise provided in this Chapter, all proceedings in the Municipal Court shall be conducted pursuant to the Municipal Court Rules of Procedure promulgated by the Colorado Supreme Court. The Presiding Judge shall establish in the Clerk's office, as authorized under Rule 210 of the Colorado Municipal Court Rules of Procedure, a violations bureau and schedule of fines for designated traffic and other offenses.

(b) In the event a defendant charged with any municipal offense intends to introduce evidence at trial that he or she was at a place other than that identified in the complaint at the time of the offense, he or she shall file with the Municipal Court and serve upon the City Attorney, not less than twenty (20) days prior to the date of trial, a written statement specifying the place where he or she claims to have been and the names and addresses of the witnesses he or she will call to support the defense of alibi. Within a reasonable time after service of the defendant's written statement, the prosecuting attorney assigned to the case shall file with the Court and serve upon the defendant or the defendant's attorney a statement specifying the names and addresses of the witnesses he or she will call in rebuttal of the testimony offered by the alibi witnesses named in the defendant's statement. If either the defendant or the prosecuting attorney fails to file and serve the statements required by this Section, the Court shall exclude evidence offered in support of the defense of alibi or in rebuttal thereof, as the case may be, unless the Court finds upon good cause shown that such evidence should be admitted in the interest of justice. (Ord. No. 4115, 12-22-75; Ord. 5752, 5-11-92)

Sec. 1-6-7. Records of Court.

The Clerk of the Court shall keep records and submit summarized monthly reports to the City Manager of all complaints filed, fines collected and the final disposition or present status of all cases before the Court. Such records shall be maintained to show the number of each type of violation coming before the Court or for which a fine was paid. Such records shall be public records. (1957 Code, §2-43; Ord. No. 3348, 4-27-70; Ord. No. 4115, 12-22-75)

Sec. 1-6-8. Witness appearance bond; forfeiture.

Whenever any complaint is filed in the Municipal Court by a complainant not a police officer or an employee of the City acting in his or her official capacity, such complainant shall post a cash bond in such amount as the Presiding Municipal Judge shall designate with the Clerk of the Municipal Court at the time the complaint is filed, for the purpose of securing the appearance and testimony of such complainant at the trial of said complaint. Such bond shall be returned in full to the complainant by whom it was posted after that complainant's testimony has been heard at trial. In the event that the complainant shall not appear at the trial or shall refuse to testify, such appearance bond shall automatically be forfeited to the City. The forfeiture of such bond shall not be construed to deny the jurisdiction of the Municipal Court to punish for contempt but shall be cumulative with all other

powers and remedies of the Court to compel attendance and testimony of witnesses. (1957 Code, §2-44; Ord. No. 3348, 4-27-70; Ord. No. 4115, 12-22-75; Ord. No. 5793, 4-12-93)

Sec. 1-6-9. Code of Judicial Conduct.

(a) The Colorado Code of Judicial Conduct as adopted and as same may be hereafter amended and promulgated by the Colorado Supreme Court is hereby made applicable to Municipal Judges. Municipal Judges shall comply with the Colorado Code of Judicial Conduct and for such purpose Municipal Judges are part-time judges as defined in Canon 8B thereof. A Municipal Judge to whom the Colorado Code of Judicial Conduct becomes applicable shall arrange his or her affairs as soon as reasonably possible to comply with it, provided, that a Municipal Judge who holds a nonpartisan elective office may serve the balance of his or her current term in office but shall not be a candidate for reelection.

(b) A violation of the Colorado Code of Judicial Conduct or Section 1-6-9(a) above by a Municipal Judge shall at the discretion of the City Council constitute cause for removal. (Ord. No. 6876 §1, 8-26-02)

Sec. 1-6-10. Imposition of costs.

Whenever any person is convicted of a municipal offense, including any traffic violation, the Municipal Court shall, in addition to any fine and imprisonment imposed, assess against the offender the amount of costs reasonably incurred by the City in the prosecution. Such costs may include, but are not limited to, statutorily and ordinance-imposed surcharges, witness fees and mileage paid to witnesses, costs for issuance and execution of warrants, Colorado Division of Motor Vehicles outstanding judgment warrant fees, docket fees, jury fees, deferred sentence fees, record check fees, payment plan fees, late payment fees, fees for certifying any record, fees for service of process, actual costs paid to any expert witness and any fees for interpreters. The Presiding Municipal Judge may adopt a schedule setting forth an itemization of fees and costs incurred in such cases, which shall be posted in the office of the Clerk of the Municipal Court. (Ord. No. 7937 §2, 12-8-08)

CHAPTER 7

Rules for Administrative and Quasi-Judicial Hearings

Sec. 1-7-1. Purpose and applicability.

The purpose of the rules of procedure contained in this Chapter is to provide a uniform, consistent and expeditious method of procedure for the conduct of all hearings held before the City Council, or any board, commission or official of the City. The provisions of this Chapter shall be applied uniformly in all such hearings; provided, however, that any board, commission or official may supplement the provisions of this Chapter by the adoption of further rules of proceedings not inconsistent herewith. All rules adopted to supplement the provisions of this Chapter by any board, commission or official shall be reduced to writing and copies thereof shall be made available to the public. Nothing herein contained shall be construed or interpreted to grant to any person a right to appeal to the City Council or to any board, commission or official of the City, or to have a hearing before the same, unless the provision of any applicable state statute, the Charter or other City

ordinance grants such a right, the sole purpose of this Chapter being to establish procedural rules for hearings otherwise required by the provisions of other laws.

Sec. 1-7-2. Definitions.

(a) As used in this Chapter:

(1) *Administrative body* shall mean the City Council or any board, commission or official of the City.

(2) *Clerk* shall mean the City Clerk or the secretary or recording clerk of any board or commission or other appropriate person.

(3) *Applicant* shall mean the petitioner, appealing party or complainant.

(4) *Opponent* shall mean any person in interest opposing the applicant.

(5) *Interested party* shall mean any person having a direct and substantial interest in the outcome of an administrative act, or any person having a right of appeal therefrom by virtue of any state statute, Charter provision or ordinance.

(6) *Moving party* shall mean the party upon whom falls the burden of proving the issue before the administrative body. In disciplinary matters before the Civil Service Commission, the moving party shall be the department head from whose order the matter is appealed. In matters concerning the revocation or suspension of licenses, the moving party shall be the enforcement officer or the City.

(b) Department heads or authorized officials or employees of the City may be an applicant, an opponent or an interested party, as the case may be.

Sec. 1-7-3. Nature of hearings.

(a) Quasi-Judicial Hearings. The provisions of Section 1-7-7 hereof shall be applicable only to those hearings where the administrative body is called upon to exercise a power of a judicial or quasi-judicial nature which, for purposes of this Chapter, shall be deemed to consist only of the following:

(1) Hearings before City Council:

a. Upon application for the issuance, or hearings for the suspension or revocation, of liquor or fermented malt beverage licenses;

b. Upon ordinances which zone or rezone realty;

c. Upon subdivision ordinances;

d. Appeals relating to issuance, suspension or revocation of licenses or permits; and

e. Upon all appeals from the decisions of any City official, board or commission, where such an appeal is otherwise authorized, and which requires an evidentiary hearing to determine such appeal.

(2) Hearings before the Board of Adjustment and Appeals:

- a. Upon appeals from any decision of the Department of Building Inspector; and
- b. Upon requests for a variance or exception from the terms of any ordinance.

(3) Hearings before the Civil Service Commission upon grievances and upon appeals from disciplinary action imposed upon employees.

(4) Hearings before any board, commission or official respecting the issuance, suspension or revocation of any license issued by the City.

(b) Legislative (Administrative) Hearings. All other hearings before an administrative body shall be deemed to be administrative hearings, the purpose of which is to obtain information to enable the City Council to determine legislative policy, to enable any board or commission to make recommendations to the City Council upon proposed or pending legislation, or to promulgate authorized rules and regulations. Such hearings shall be conducted in compliance with the provisions of Sections 1-7-4, 1-7-5 and 1-7-6, and in such a manner so as to enable any person desiring to be heard a reasonable opportunity for the presentation of his or her views, but there shall be no requirement for compliance with the provisions of Section 1-7-7. (Ord. No. 6992 §1, 5-27-03)

Sec. 1-7-4. Commencement of proceedings.

(a) All proceedings conducted pursuant to this Chapter shall be commenced in the manner provided by the Charter, statute or ordinance governing the matter.

(b) In any proceeding involving the appeal of a decision of a City official, board or commission, the appeal shall be commenced by the applicant filing a written notice of appeal with the clerk of the administrative body which will hear the appeal within thirty (30) days from the date of the decision being appealed, unless a different time for appeal is set by the statute, Charter or ordinance involved. The notice of appeal may be in any form so long as it shall contain a short and plain statement of the decision being appealed, and shall be signed by the applicant or by his or her agent or attorney.

Sec. 1-7-5. Referral to administrative body.

Upon receipt by the clerk of any application, petition, notice of appeal or other instrument initiating a hearing, the same shall be referred to the administrative body which shall set a date, time and place for hearing thereon; provided, however, that the administrative body may authorize its clerk to set a date, time and place for hearing upon receipt of any such instrument. Notice thereof shall be given to the initiating party and to all other parties to whom notice is required by law to be given.

Sec. 1-7-6. Notice; postponement or continuance.

(a) If required, public notice of the date, time and place of the public hearing shall be given in the manner provided by the law pursuant to which said hearing is to be held. In the absence of provisions

specifically providing the manner in which public notice is to be given in such cases, notice of the date, time, place and purpose of the hearing to be held shall be published once in a daily newspaper of wide distribution and general circulation printed and published in the City not less than ten (10) days prior to the date of said hearing.

(b) In the event a hearing is continued or postponed, notice shall be given of the date, time and place to which the hearing shall be continued or postponed, either by causing further notice to be published as above provided or by publicly announcing such postponement or continuance at the date, time and place set in the original notice.

Sec. 1-7-7. Quasi-judicial hearings.

(a) Rights of Participants. Quasi-judicial hearings shall be conducted under procedures designed to ensure all interested parties due process of law and shall, in all cases, provide the following:

- (1) The administration of oaths of all parties or witnesses who appear for the purpose of testifying upon factual matters;
- (2) The cross-examination of witnesses by the interested parties;
- (3) The stenographic, or other verbatim, reproduction of all testimony presented in said hearing; and
- (4) A written decision by the hearing body which shall set forth the factual basis and reasons for the decision rendered.

(b) Order of Procedure. In quasi-judicial hearings, the following order of procedure shall be observed:

- (1) First, there shall be presented those documents showing the regularity of the commencement of the proceedings and the due form of the required notice given.
- (2) Next, the moving party shall present such material evidence, if any, as he or she desires.
- (3) Upon completion of the presentation of the moving party's evidence, the administrative body may call upon any person present in support of the applicant's position to present such other evidence and information as may be relevant and material.
- (4) Thereafter, the administrative body shall call for the representation of testimony and evidence from any person present at the hearing who desires to oppose the evidence of the moving party.
- (5) The moving party shall then be given an opportunity to present any further matter in opposition or rebuttal to the matters presented by the opponents.
- (6) All documents, or other items of physical evidence, shall be marked as exhibits with such identifying symbols as may be necessary to determine the exhibit referred to by any witness or other person.

(c) Rules of Evidence. The administrative body shall not be required to observe formal rules of evidence, but may consider any matter which a majority thereof concludes is reasonably reliable and calculated to aid the hearing body in reaching a fair and accurate determination of the issues involved.

(d) Cross-Examination. Cross-examination of witnesses shall be limited to interested parties.

(e) Deliberations and Notice of Decision. Each administrative body is authorized to deliberate upon the issues presented at the hearing in private, nonpublic sessions; provided that no decision shall be effective except upon a vote of the members of the administrative body conducted in an open session thereof, which vote shall be duly recorded in the minutes of the administrative body. All decisions shall be in writing and a copy of the same shall be delivered to the applicant and other interested parties, in person or by certified mail at the address set forth in the application, petition, complaint or notice of appeal, unless said decision is to be embodied in an ordinance or unless the statute, Charter or ordinance under which the hearing is being conducted requires notice of the decision to be given in a different manner.

Sec. 1-7-8. Preserving order; limitations.

(a) Each administrative body shall have the right to preserve order during any hearing to take such steps, including the ejection of any disorderly or obstreperous person interfering with its proceedings as may be necessary.

(b) The administrative body may, prior to any presentations and as a condition to the taking of testimony or information from any person, require the registration of all persons desiring to be heard during the hearing.

(c) The administrative body may restrict the testimony of any person to the material issues pending before it and, to prevent duplicative or cumulative presentations, it may limit the presentation of evidence and cross-examination and may impose reasonable time limitations upon all parties.

Sec. 1-7-9. Presiding officers; powers.

Subject to appeal to a majority of the administrative body, the presiding officer shall have authority to:

- (1) Administer oaths and affirmations;
- (2) Sign and issue subpoenas upon application of any interested party;
- (3) Rule upon offers of proof and receive evidence;
- (4) Dispose of motions relating to the discovery and production of relevant documents and things for inspection, copying or photographing;
- (5) Regulate the course of the hearing, set the time and place for continued hearings and fix the time for the filing of briefs and other documents;

(6) Direct the parties to appear and confer to consider the simplification of the issues, admissions of fact or documents to avoid unnecessary proof, and limitation of number of expert witnesses;

(7) Dispose of: motions to dismiss for lack of jurisdiction over the subject matter or parties or for any other ground; motions to amend applications and other proceedings; motions to intervene; procedural requests; or similar matters;

(8) Make initial or preliminary decisions; and

(9) Take any other action authorized by rule of the administrative body.

Sec. 1-7-10. Enforcement of subpoenas.

(a) Action for the enforcement of a subpoena shall be commenced by filing a petition therefor with the Municipal Court, which shall forthwith issue an order to the recalcitrant witness commanding him or her to show cause why he or she should not comply with such subpoena. The Municipal Court shall sustain such subpoena to the extent that it is found to be in accordance with law and shall issue an order requiring the appearance of witnesses or the production of data within a reasonable time, under penalty of punishment for contempt of court.

(b) It shall be unlawful for any person without good cause to fail or refuse to comply with a subpoena issued by any administrative body of the City. Conviction of such failure shall not relieve the person under subpoena from the obligation to comply therewith or relieve him or her from contempt proceedings thereunder.

Sec. 1-7-11. Administrative notice.

An administrative body may take notice of general technical or scientific facts within its knowledge, and its own records of matters pending or previously determined by the administrative body concerning the same property, the same persons or the same issues, without further proof thereof, but only if such fact or record so noticed is specified in the record or is brought to the attention of the parties before final decision, and every party is afforded an opportunity to controvert the fact or record so noticed. In like manner, and without specifying the same in the record, an administrative body may take notice of the Constitution and laws of the State, and the Charter and ordinances of the City.

Sec. 1-7-12. Witness fees.

Witnesses shall receive the same fees for appearance before an administrative body as before the Municipal Court.

Sec. 1-7-13. Legal officer; appointment; functions.

In any quasi-judicial hearing, the administrative body may call upon the Municipal Court to act as or to appoint a Substitute Judge as provided in Section 1-6-2 to act as Legal Officer during the conduct of such hearing. Such Legal Officer shall exercise all the functions and powers of the Presiding Officer of such administrative body, as set forth in Section 1-7-9. At the close of testimony

the Legal Officer shall inform the administrative body of the law applicable to the matter which is the subject of the hearing, but he or she shall not otherwise participate in the deliberations of the administrative body. At the close of deliberations of the administrative body, the Legal Officer shall prepare the necessary Findings of Fact upon which the administrative body shall base its Final Decision in the matter before it. A Substitute Judge appointed to act as Legal Officer in any quasi-judicial hearing shall receive the same compensation as for acting in Municipal Court, such compensation to be paid from monies appropriated to the use of the administrative body requesting his or her appointment.

Sec. 1-7-14. Judicial review and enforcement.

(a) Any party aggrieved by the decision of an administrative body in any quasi-judicial hearing, or the City itself, may apply to have said decision reviewed by a court of competent jurisdiction, in accordance with the provisions of Rule 106(a)(4), Colorado Rules of Civil Procedure, provided that the action is commenced not more than thirty (30) days subsequent to the date of said decision or within such shorter time as may be required by the statute, Charter or ordinance under which such hearing was held. The person applying to the court for review shall be required to pay the cost of preparing a transcript of proceedings before the administrative body whenever such a transcript is requested by such person or when such a transcript is required to be furnished pursuant to court order.

(b) In the event that such judicial review results in a judicial declaration setting aside or reversing said decision, the administrative body which rendered such decision may take such steps as may be necessary to obtain an appellate review of the same. Should any party not comply with any decision of any administrative body, the administrative body involved, or the City itself, in addition to any other legal remedies which may exist therefor, may petition any court of competent jurisdiction for the entry of a judicial decree compelling compliance with said decision. (Ord. No. 5131, 2-27-84)

CHAPTER 8

**Municipal Contracts - Nondiscrimination and Equal
Employment Opportunity Requirements**

Sec. 1-8-1. Definitions.

For purposes of this Chapter, the following words shall have the following meanings:

(1) *Municipal contract* or *contract* shall mean any written agreement to which the City or any of its agencies or departments is a party and under which a contractor shall perform work for or furnish and provide supplies, services or materials to the City.

(2) *Contractor* shall mean any person, firm, partnership or corporation performing work for or furnishing and providing supplies, services or materials to the City or any of its agencies or departments under a municipal contract.

(3) *Applicable state statutes* shall mean Section 24-34-402, C.R.S., discriminatory and unfair employment practices based upon race, color, religion, sex, age or national origin.

(4) *Complying Affirmative Action Program* shall mean a written affirmative action program meeting all of the requirements of Chapter 60 of Title 41, Code of Federal Regulations (41 C.F.R., Chapter 60), including all parts and subparts thereof.

(5) *Designated City representative* shall mean the City's Purchasing Agent, Director of Human Resources and any other City employee or agent designated in writing by the City Manager. (Ord. No. 4479, 5-22-78; Ord. No. 7452 §1, 4-10-06)

Sec. 1-8-2. Legislative intent.

It is the policy of the City to provide equal opportunity in employment without regard to race, color, religion, sex or national origin. It is hereby deemed and declared to be for the public welfare and in the best interests of the City to require bidders and contractors furnishing and providing work, services, supplies and materials to the City under municipal contracts not to discriminate in the hiring and promoting of employees in order to further equal employment opportunities for members of minority groups and women. (Ord. No. 4479, 5-22-78)

Sec. 1-8-3. Bidding for municipal contracts.

If bidding is required in order for the City to make an award for a municipal contract, the bidding specifications for each such municipal contract shall require the bidder to commit to and meet the nondiscrimination and equal employment requirements of this Chapter. Failure to subscribe to and accept the nondiscrimination and equal employment requirements of this Chapter shall render a bidder ineligible for a municipal contract award and ineligible to participate in the work for which a municipal contract award is made. (Ord. No. 4479, 5-22-78)

Sec. 1-8-4. Municipal contract provisions.

The contractor shall meet and comply with the following provisions which shall be contained in all municipal contracts:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, age or national origin. The contractor will take affirmative action in all areas of employment to ensure that applicants for employment are employed, and that employees are treated during employment, without regard to race, color, religion, sex, age or national origin. *Areas of employment* shall mean and include, but shall not be limited to the following: initial employment, upgrading, demotion, transfer, recruitment, recruitment advertising, layoffs, terminations, rates of pay, terms of compensation, and selection for training, including apprenticeship. The contractor will post in conspicuous places, available to employees and applicants for employment, notices to be provided by the City setting forth the provisions of this nondiscrimination and equal employment opportunity paragraph.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, age or national origin.

(3) The contractor will meet and comply with the letter and spirit of this Chapter 8 and applicable state statutes. If this municipal contract involves construction work or the providing of

supplies or materials in excess of ten thousand dollars (\$10,000.00) in the building and construction trades industry, the contractor shall have adopted and file with the City a copy of a Complying Affirmative Action Program. The requirement for having adopted and filing a Complying Affidavit Action Program applies to all such construction contracts, regardless of whether federal financial assistance has been provided for the construction project.

(4) In the event of the contractor's noncompliance with the nondiscrimination and equal employment requirements of this Chapter 8 the contract may be cancelled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further contracts with the City.

(5) The contractor will include the provisions of paragraphs (1) through (4) in every subcontract in excess of ten thousand dollars (\$10,000.00) entered into by the contractor to provide and furnish work, services, supplies or materials under a municipal contract. (Ord. No. 4479, 5-22-78; Ord. No. 7452 §2, 4-10-06)

Sec. 1-8-5. Compliance review.

(a) The Designated City Representative shall have the power to review, upon not less than five (5) days' notice and during normal business hours, the employment practices of contractors during the performance of every such municipal contract, and of subcontractors during the performance of every subcontract awarded thereunder, in order to obtain information relating to compliance or noncompliance with the nondiscrimination and equal employment opportunity requirements of this Chapter.

(b) When a written complaint is filed and an investigation by the Designated City Representative indicates that there has been a violation of this Chapter or when a compliance review by the Designated City Representative indicates that a contractor or subcontractor has violated this Chapter, he or she shall issue and cause a notice of violation to be served on said contractor or subcontractor. Said notice shall specify the violations and shall direct the contractor or subcontractor to respond in writing within ten (10) days to show cause why the sanctions of this Chapter should not be imposed. The Designated City Representative shall forward a copy of the notice of violation and the response of the contractor or subcontractor to the City Manager within thirty (30) days from the date of the notice of violation.

(c) The City Manager shall review the notice of violation and the contractor or subcontractor's response and shall determine whether any violations have occurred. If the City Manager determines that a violation has occurred, he or she may impose such sanctions as he or she deems appropriate, including but not limited to suspending or terminating the contract involved, or any portion or portions thereof, or causing to be removed from the list of eligible prequalified contractors the names of contractors and subcontractors found to be in noncompliance with the nondiscrimination and equal employment opportunity requirements of this Chapter and the provision of any such contract or subcontract awarded thereunder until such time as the City Manager is satisfied that such contractors or subcontractors are in compliance with the nondiscrimination and equal employment opportunity requirements of this Chapter. (Ord. No. 4479, 5-22-78; Ord. No. 7452 §2, 4-10-06)

Sec. 1-8-6. Federal requirements govern.

Whenever the provisions and requirements of this Chapter, or of the bidding specifications, conflict in any way or to any degree with the nondiscrimination and equal employment opportunity requirements of the United States and any such contract under consideration is funded in whole or in part by the United States or is otherwise subject to requirements having the force of law of the United States, such requirements of the United States shall govern and control. (Ord. No. 4479, 5-22-78)

Sec. 1-8-7. Penalties.

In addition to the remedies set forth in this Chapter, it shall be a municipal offense for any person to violate any provisions of this Chapter, and any person found guilty of the same shall be punished as set forth in Section 1-2-1 of this Code. (Ord. No. 4479, 5-22-78; Ord. No. 7452 §2, 4-10-06)

CHAPTER 9

Code of Ethics

Sec. 1-9-1. Legislative declaration.

The City Council recognizes the importance of the participation of the citizens of the City in all levels of government in the City. The City Council further recognizes that, when citizens of the City obtain public office, conflicts may arise between the public duty of such a citizen and his or her private interest. The City Council hereby declares that the prescription of uniform standards of conduct for City officials and employees consistent with those applicable to local governments adopted by the Colorado legislature is beneficial to the citizens of the City. The provisions of this Chapter recognize that some actions are conflicts per se between public duty and private interest while other actions may or may not pose such conflicts depending upon the surrounding circumstances. (Ord. No. 6323, 5-26-98)

Sec. 1-9-2. Definitions.

As used in this Chapter, unless the context otherwise requires:

(1) *Boards and commissions* means all boards and commissions appointed by the City Council.

(2) *Business* means any corporation, limited liability company, partnership, sole proprietorship, trust or foundation, or other individual or organization carrying on a business, whether or not operated for profit.

(3) *City official* means an elected or appointed official of the City, including appointed members of boards and commissions, but excluding an employee of the City.

(4) *Compensation* means any money, thing of value or economic benefit conferred on or received by any person in return for services rendered or to be rendered by himself or herself or another.

- (5) *Employee* means any temporary or permanent employee of the City.
- (6) *Family* means spouse, child, father, mother, brother or sister.
- (7) *Financial interest* means a substantial interest held by an individual which is:
 - a. An ownership interest in a business;
 - b. A creditor interest in an insolvent business;
 - c. An employment or a prospective employment for which negotiations have begun;
 - d. An ownership interest in real or personal property;
 - e. A loan or any other debtor interest; or
 - f. A directorship or officership in a business.

(8) *Official act* or *official action* means any vote, decision, recommendation, approval, disapproval or other action, including inaction, which involves the use of discretionary authority. (Ord. No. 6323, 5-26-98; Ord. 7484 §1, 7-10-06)

Sec. 1-9-3. Public trust; breach of fiduciary duty.

(a) The holding of public office or employment is a public trust, created by the confidence which the electorate reposes in the integrity of City officials and employees. A City official or employee shall carry out his or her duties and services in a competent, unbiased, open and honest manner for the benefit of the people of the City and shall maintain the highest standards of personal and professional conduct, decorum and integrity.

(b) A City official or employee whose conduct departs from his or her fiduciary duty is liable to the people of the City as a trustee of property and shall suffer such other liabilities as a private fiduciary would suffer for abuse of his or her trust. The City Attorney may bring appropriate judicial proceedings on behalf of the people of the City. Any moneys collected in such actions shall be paid to the general fund of the City. Judicial proceedings pursuant to this Section shall be in addition to any criminal action which may be brought against such City official or employee. (Ord. No. 6323, 5-26-98; Ord. 7484 §1, 7-10-06)

Sec. 1-9-4. Rules of conduct for all City officials and employees.

(a) Proof beyond a reasonable doubt of commission of any act enumerated in this Section is proof that the actor has breached his or her fiduciary duty and the public trust. A City official or an employee shall not:

- (1) Disclose or use confidential information acquired in the course of his or her official duties in order to further substantially his or her personal financial interests; or
- (2) Accept a gift of substantial value or a substantial economic benefit tantamount to a gift of substantial value:

a. Which would tend improperly to influence a reasonable person in his or her position to depart from the faithful and impartial discharge of his or her public duties; or

b. Which he or she knows or which a reasonable person in his or her position should know under the circumstances is primarily for the purpose of rewarding him or her for official action he or she has taken.

(b) An economic benefit tantamount to a gift of substantial value includes without limitation a loan at a rate of interest substantially lower than the commercial rate then currently prevalent for similar loans and compensation received for private services rendered at a rate substantially exceeding the fair market value of such services.

(c) The following shall not be considered gifts of substantial value or gifts of substantial economic benefit tantamount to gifts of substantial value for purposes of this Section:

(1) Campaign contributions and contributions in kind reported as required by Section 5-2-1;

(2) An occasional nonpecuniary gift, insignificant in value;

(3) A nonpecuniary award publicly presented by a nonprofit organization in recognition of public service;

(4) Payment of or reimbursement for actual and necessary expenditures for travel and subsistence for attendance at a convention or other meeting at which such City official or employee is scheduled to participate;

(5) Reimbursement for or acceptance of an opportunity to participate in a social function or meeting which is offered to such City official or employee which is not extraordinary when viewed in light of the position held by such City official or employee;

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

(7) Payment for speeches, appearances or publications reported pursuant to Section 24-6-203, C.R.S.;

(8) Compensation from employment, including other government employment, in addition to that earned from being a member of the City Council or by reason of service in other public office.

(d) The provisions of this Section are distinct from and in addition to the reporting requirements of Section 5-2-1 of this Code and Section 24-6-203, C.R.S. and do not relieve an incumbent in or elected candidate to public office of the City from reporting an item described in Subsection (c) of this Section, if such reporting provisions apply. (Ord. No. 6323, 5-26-98)

Sec. 1-9-5. Ethical principles.

(a) The principles in this Section are intended as guides to conduct and do not constitute violations as such of the public trust of office or employment in the City.

(b) A City official or an employee should not acquire or hold an interest in any business or undertaking which he or she has reason to believe may be directly and substantially affected to its economic benefit by official action to be taken by an agency, official or employee over which he or she has substantive authority.

(c) A City official or an employee should not, within six (6) months following the termination of his or her office or employment, obtain employment in which he or she will take direct advantage, unavailable to others, of matters with which he or she was directly involved during his or her term of employment. These matters include rules, other than rules of general application, which he or she actively helped to formulate and applications, claims or contested cases in the consideration of which he or she was an active participant.

(d) A City official or an employee should not perform an official act directly and substantially affecting a business or other undertaking to its economic detriment when he or she has a substantial financial interest in a competing firm or undertaking. (Ord. No. 6323, 5-26-98)

Sec. 1-9-6. Reserved.

Sec. 1-9-7. Personal interest rules of conduct for City officials and employees.

(a) Proof beyond a reasonable doubt of commission of any act enumerated in this Section is proof that the actor has breached his or her fiduciary duty and the public trust.

(b) A City official or employee shall not:

(1) Engage in a substantial financial transaction for his or her private business purposes with a person whom he or she inspects or supervises in the course of his or her official duties; or

(2) Perform an official act directly and substantially affecting to its economic benefit a business or other undertaking in which he or she or his or her family either has a substantial financial interest or is engaged as counsel, consultant, representative or agent.

(c) A member of the City Council who or whose family has a personal or private interest in any matter proposed or pending before the City Council shall disclose such interest to the City Council and shall not vote thereon and shall refrain from attempting to influence the decisions of the other members of the City Council in voting on the matter.

(d) It shall not be a breach of fiduciary duty and the public trust for a City official or employee to:

(1) Use City facilities or equipment to communicate or correspond with a member's constituents, family members or business associates; or

(2) Accept or receive a benefit as an indirect consequence of transacting City business. (Ord. No. 6323, 5-26-98)

Sec. 1-9-8. Reserved.

Sec. 1-9-9. Powers of the City Attorney.

The City Attorney may issue advisory opinions to persons subject to the provisions of this Chapter concerning issues relating to the requesting person's conduct and the provisions of this Chapter with such deletions as are necessary to protect the identity of the requesting party or the party about whom the opinion is written. The requesting person may also request an advisory opinion from the Secretary of State pursuant to Section 24-18-111, C.R.S. (Ord. No. 6323, 5-26-98; Ord. 7484 §1, 7-10-06)

Sec. 1-9-10. Interests in contracts.

City officials or employees shall not be interested in any contract made by them in their official capacity or by any body, agency or board of which they are members or employees. A former employee may not, within six (6) months following the termination of his or her employment, contract or be employed by an employer who contracts with the City involving matters with which he or she was directly involved during his or her employment. For purposes of this Section, the term:

- (1) *Be interested in* does not include holding a minority interest in a corporation.
- (2) *Contract* does not include:
 - a. Contracts awarded to the lowest responsible bidder based on competitive bidding procedures;
 - b. Merchandise sold to the highest bidder at public auctions;
 - c. Investments or deposits in financial institutions which are in the business of loaning or receiving moneys;
 - d. A contract with respect to which any City official or employee has disclosed a personal interest and has not voted thereon. Any such disclosure shall be made to the City Council. (Ord. No. 6323, 5-26-98; Ord. 7484 §1, 7-10-06)

Sec. 1-9-11. Interest in sales or purchases.

(a) City officials shall not be purchasers at any sale or vendors at any purchase made by them in their official capacity.

(b) Notwithstanding anything contained in this Chapter to the contrary, no City official or employee of the City shall be financially interested, directly or indirectly, in the sale of any land, materials, supplies or services to the City, except it be by competitive bidding or not exceeding the sum of one hundred dollars (\$100.00) in any calendar year; in cases of emergency necessary to protect the public health, safety and welfare, competitive bidding may be waived. Members of boards or commissions shall be permitted to provide technical or professional services to the City where such services are exempt from the requirements of competitive bidding. (Ord. No. 6323, 5-26-98; Ord. 7484 §1, 7-10-06)

Sec. 1-9-12. Voidable contracts.

Every contract made in violation of any of the provisions of Section 1-9-10 or 1-9-11 shall be voidable at the instance of any party to the contract except the City official interested therein. (Ord. No. 6323, 5-26-98)

Sec. 1-9-13. Applicability.

This Chapter shall apply to all elected and appointed officials of the City, all employees of the City and all City boards and commissions. This Chapter is intended to conform, as nearly as may be, to Article 18, Title 24, C.R.S. To the end that the interpretation of this Chapter shall be uniform with the interpretation of such state law, the content of each section have, as near as practicable, been kept consistent with such state law applicable to local government officials, employees and boards and commissions. However, all matters referred to herein are expressly and specifically declared to be local and municipal matters under Article XX of the Constitution of the State, and in the event of conflict between this Chapter and Article 18, Title 24, C.R.S., this Chapter shall govern and control. (Ord. No. 6323, 5-26-98)

CHAPTER 10

Contracts for City Improvements

Sec. 1-10-1. Purpose.

The purpose of this Chapter is to interpret and construe the meaning of the words *lowest and best bid* contained in Section 7-32 of the Charter and procedures relating to contracts for City improvements. (Ord. No. 6510, 2-28-00)

Sec. 1-10-2. Definitions.

For the purpose of this Chapter and Section 7-32 of the Charter, the following words shall have the following meanings:

(1) *City improvement* shall mean the process of building, altering, repairing, improving, installing or demolishing any public structure, building, bridge, sewer, street or any other public improvement and related facilities of any kind. For purposes of this Chapter, *public* means and includes any structure, building or other improvement in which the City has an ownership or possessory interest.

(2) *Lowest and best bid* shall mean the lowest responsive bid submitted by a responsible bidder in compliance with the invitation to bid meeting the standards, requirements and specifications contained in the invitation to bid.

(3) *Responsible bidder* shall mean a person who is qualified and financially able to timely perform the work or services described in the invitation to bid who is not disqualified under Section 1-10-4(d). (Ord. No. 6510, 2-28-00)

Sec. 1-10-3. Contracts.

All City improvements except those performed directly by a City department or in a special or local improvement district shall be contracted for as provided in this Chapter. (Ord. No. 6510, 2-28-00)

Sec. 1-10-4. Formal bidding procedures.

(a) The Purchasing Agent shall, on the basis of specifications prepared by the Department of Public Works, or prepared by an architect or engineer engaged by resolution of City Council for a specific City improvement, and approved by the Director of Public Works, the Director of the department concerned and the City Manager, advertise for and receive bids for any City improvement. The period from the date of advertisement for bids and receipt of bids shall be commensurate with the nature and complexity of the work and size of the City improvement and, except in an emergency, shall not be less than fifteen (15) calendar days.

(b) All bids for City improvements shall be submitted in sealed form to the Purchasing Agent who shall publicly open the bids at the time specified in the advertisement or notice, examine and tabulate the bids and present the results to a Committee of Awards consisting of the City Manager, the Director of Public Works and the head of the department concerned. After examination and tabulation, the results shall be subject to inspection by competing bidders. The Committee of Awards shall have the following alternatives:

- (1) Accept the lowest and best bid and recommend to the City Council that it authorize the City improvement be performed;
- (2) Reject all bids and order the Purchasing Agent to readvertise for bids; or
- (3) Abandon the project.

(c) If the basis for the recommendation is the lowest bid, the records shall show the computations, assumption and other data upon which the recommendation was based.

(d) If the recommendation is for award of a contract to a person who did not submit the lowest bid based upon a finding that the lower bidders were not responsible, the records shall show a full documentation of the reasons for disqualifying the lower bidders, which reasons may include, but are not limited to:

- (1) Conviction of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract or in the performance of such contract or subcontract;
- (2) Conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, or receiving stolen property;
- (3) Conviction under state or federal antitrust statutes arising out of the submission of bids or proposals;

(4) Material failure to perform in accordance with the terms of one (1) or more contracts, following notice of such failure, or materially unsatisfactory performance of one (1) or more contracts;

(5) The person is currently under debarment by any other governmental entity which is based upon a settlement agreement or a final administrative or judicial determination issued by a federal, state or local governmental entity;

(6) The person is not qualified or financially able to timely perform the work; or

(7) The person is not or will not be duly licensed to perform the work on the date of contract award.

(e) If the recommendation is for award of a contract to a person who did not submit the lowest bid based upon a finding that the lower bids were not responsive, the records shall show a full documentation of the following:

(1) The reasons the bids were not responsive; or

(2) The reasons the bids did not meet all of the standards, requirements and specifications contained in the invitation to bid.

(f) Nothing contained in this Chapter shall prevent the Committee of Awards from rejecting all bids or from waiving all or any informalities or minor noncompliance with the standards, requirements and specifications contained in the invitation to bid.

(g) Each bid, with the name of the bidder, shall be entered of record, and each record, with the successful bid, if any, shall be preserved for a period of five (5) years by the Purchasing Agent and open to public inspection. (Ord. No. 6510, 2-28-00)

Sec. 1-10-5. Informal bidding procedures.

(a) The Purchasing Agent at the request of the Director of Public Works and with the approval of the City Manager may forego the formal bidding procedures set forth in this Chapter when a City improvement is necessary to address an emergency or for any City improvement which is estimated to amount to less than ten thousand dollars (\$10,000.00).

(b) For purposes of this Section, an *emergency* is defined as an unforeseen situation which, if continued to exist, would endanger the health or safety of the public or employees of the City and requires a remedy sooner than a contract for the City improvement would be completed if the normal bidding procedures were followed; or, an unforeseen situation which would place an excessive financial burden on the City unless addressed in a shorter time than the bidding procedures require.

(c) Contracts for City improvements in an emergency, or for any City improvement which is estimated to amount to less than ten thousand dollars (\$10,000.00), may be awarded by informal bidding procedures upon notice reasonably calculated to inform potential bidders in a manner that will achieve maximum competition among bidders and maximum economy to the City under the

conditions then prevailing. However, no contract for City improvements shall be subdivided to avoid the formal bidding procedures or any other provision of this Chapter. (Ord. No. 6510, 2-28-00)

Sec. 1-10-6. Award of contract.

(a) Every contract for any City improvement shall be authorized by the City Council, except contracts for City improvements in any emergency may be authorized in writing by the City Manager upon request of the Director of Public Works. Contracts for City improvements in an emergency authorized by the City Manager shall be presented to the City Council for ratification and approval at the next regular meeting of the City Council. City Council authorization and approval shall be by resolution unless such action is required to be by ordinance.

(b) No contract for any City improvement shall be awarded until the Director of Finance shall certify there is a balance of appropriation and available funds for the proposed expenditures. (Ord. No. 6510, 2-28-00)

CHAPTER 11

Sale, Purchase and Lease of Real and Personal Property

Sec. 1-11-1. Legislative intent.

All matters referred to in this Chapter are expressly and specifically declared to be local and municipal matters under Article XX of the Colorado Constitution. This Chapter is adopted pursuant to the provisions of said Article XX, and it is hereby intended that the provisions of this Chapter shall supercede and preempt all Colorado statutory provisions, if any, in conflict herewith. (Ord. No. 7724 §1, 1-28-08)

Sec. 1-11-2. Definitions.

As used in this Chapter, unless the context otherwise requires:

(1) *Lease purchase agreement* means any installment purchase agreement for the purchase of real or personal property which requires payments during more than one (1) fiscal year or any agreement for the lease or rental of real or personal property which requires payments during more than one (1) fiscal year and under which title to the property may be purchased for a specified purchase price or may be transferred at the end of the term for nominal or no additional consideration.

(2) *Management agreement* means any agreement with a third person to manage and operate any real property, together with facilities thereon, owned by the City. (Ord. No. 7724 §1, 1-28-08)

Sec. 1-11-3. Powers of the City Council.

(a) The City Council has the power by ordinance:

(1) To sell and dispose of public buildings, real property used for park purposes or other real property used for any governmental purpose upon such terms and conditions as the City Council

may determine, provided that the City Council finds and determines that such sale and disposition is in the best interest of the City.

(2) To dedicate or abandon streets, alleys or other public highways.

(b) The City Council has the power, by resolution adopted at any regular meeting of the City Council, upon such terms and conditions as the City Council may determine:

(1) To sell and dispose of any real or personal property, or any combination thereof, owned by the City, including land acquired from the federal government, except real property used for any governmental purpose which shall be by ordinance.

(2) To lease any real or personal property, or any combination thereof, together with facilities thereon, owned by the City, including entering into management agreements therefor.

(3) To purchase, acquire or lease real or personal property, or any combination thereof, for any governmental or proprietary purpose.

(4) To enter into lease-purchase agreements in order to provide necessary land, buildings, equipment and other property for any governmental or proprietary purpose; provided, however, that:

a. Payments required under any lease-purchase agreement in any subsequent fiscal year shall be contingent upon funds for that purpose being appropriated and budgeted.

b. The duration of any lease-purchase agreement, including all optional renewal terms, shall not exceed the weighted average useful life of the assets being financed. In the case of a lease-purchase agreement involving both real property and other property, the lease-purchase agreement shall provide that the real property involved shall be amortized over a period not to exceed its weighted average useful life, and the other property shall be separately amortized over a period not to exceed its weighted average useful life. This provision shall not prevent the City from releasing property from a lease-purchase agreement pursuant to an amortization schedule reflecting the times when individual pieces of property have been amortized.

(c) The provisions of Subsection (b) above shall not prevent the City Council from exercising any of the powers therein specified by ordinance. (Ord. No. 7724 §1, 1-28-08)

Sec. 1-11-4. Prior transactions.

All sales, purchases, transfers, deeds of conveyance and leases of real or personal property, or any combination thereof, including lease-purchase agreements and management agreements approved by the City Council in compliance with the provisions of this Chapter on or before January 28, 2008, and executed by the President of the City Council or, in his or her absence or disability, by the Vice-President of the City Council, are hereby confirmed and ratified. (Ord. No. 7724 §1, 1-28-08)