

**CITY OF WHEAT RIDGE, COLORADO
INTRODUCED BY COUNCIL MEMBER SNELL
COUNCIL BILL NO. 15
ORDINANCE NO. 1800
Series of 2024**

TITLE: AN ORDINANCE SUBMITTING A BALLOT QUESTION TO THE VOTERS OF THE CITY AT THE NOVEMBER 5, 2024 SPECIAL MUNICIPAL ELECTION, TO AMEND THE WHEAT RIDGE HOME RULE CHARTER TO ELIMINATE REDUNDANT REFERENCES, CONFORM TO CURRENT STATUTORY AND CASE LAW AND MAKE OTHER NON-SUBSTANTIVE REVISIONS

WHEREAS, pursuant to Charter Section 16.8 and C.R.S. 31-2-210, the City Council of the City of Wheat Ridge, Colorado has the authority to refer ballot questions amending the City's Home Rule Charter to the electorate; and

WHEREAS, the Council wishes to refer a ballot question amending the Charter to eliminate redundant references, conform to current statutory and case law and make other non-substantive revisions; and

WHEREAS, the Council wishes to set a ballot title for the same.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WHEAT RIDGE, COLORADO:

Section 1. Ballot question referred and ballot title set.

The following ballot question is hereby referred to the electorate of the City at the November 5, 2024, special municipal election:

Ballot Question and Title:

Shall the Home Rule Charter of the City of Wheat Ridge Colorado be amended to: eliminate redundant references; conform to statutory changes in Colorado legislation and court decisions; make uniform all references to persons and officers; clarify notice and publication requirements; clarify the duties of the Mayor, City Clerk, City Treasurer, City Judge, and City Manager to reflect current practice; and correct inconsistencies in reference to terms of office as a result of prior Charter amendments?

Yes/For: _____

No/Against: _____

Full Text of Amendment:

Amend identified sections of the Charter to read as shown on the attached Exhibit A which is fully incorporated herein by this reference.

Section 2. Safety Clause. The City Council hereby finds, determines, and declares that this Ordinance is promulgated under the general police power of the City of Wheat Ridge, that it is promulgated for the health, safety, and welfare of the public and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The City Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be attained.

Section 3. Effective Date. This Ordinance shall take effect immediately upon adoption at second reading and signature by the Mayor as permitted by Section 5.11 of the Charter.

INTRODUCED, READ, AND ADOPTED by a vote of 8 to 0 on this 12th day of August 2024 and ordered published by title and in full on the City's website as provided by the Home Rule Charter, and Public Hearing and consideration on final passage set for Monday, August 26, 2024 at 6:30 p.m., as a virtual meeting and in the Council Chambers, 7500 W. 29th Avenue, Wheat Ridge, Colorado.

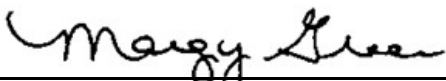
READ, ADOPTED AND ORDERED PUBLISHED on second and final reading by a vote of 8 to 0, this 26th day of August 2024.

SIGNED by the Mayor on this 27th day of August 2024.



Bud Starker, Mayor

ATTEST:



Margy Greer, Sr. Deputy City Clerk



Approved As To Form



Gerald E. Dahl, City Attorney

First Publication: August 13, 2024

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EXHIBIT A
Proposed Charter Amendments
[attached]

PART I CHARTER¹

PREFATORY SYNOPSIS

On November 2, 1976, the citizensresidents of Wheat Ridge voted for the creation of a Home Rule Charter Commission and selected a diversified group of citizensresidents to draft a proposed Charter. The twenty-one (21) elected members of the Charter Commission submit to the voters of the City their proposed Home Rule Charter which has been framed in conformity with article XX of the Constitution of the State of Colorado and the Municipal Home Rule Act of 1971.

The commission members have drafted a Charter to achieve a simple and direct form of local government based upon sound principles. It is designed to meet the present and future needs of the citizensresidents of Wheat Ridge. The underlying concept of this document is the need for a flexible and responsive government with maximum financial control exercised by the citizensresidents. Such a philosophy emphasizes public involvement and encourages citizen participation in matters of local and municipal concern. The commission believes that this charter provides for effective government through local self-determination by separating legislative and administrative branches.

The charter provides for the Council-Manager form of government. The mayor presides over council meetings and possesses the power of veto. The mayor shall be the recognized head of the city government for all legal and ceremonial purposes and shall be the conservator of the peace.

The city council is established as the policy-making legislative body of the city. The council consists of eight (8) members with two (2) members elected from each of four (4) districts. The council shall appoint citizensresidents to all boards and commissions on an equal representation basis.

The charter provides that all elections are to be nonpartisan and conducted in accordance with Colorado Municipal Election Law. All city officials are elected for a ~~four~~two-year term of office thereby providing maximum accountability to the citizensresidents. The treasurer and city clerk remain elected officers of the city. The city council also appoints a city manager to run the daily affairs of the city.

The rights of the people have been retained through powers of recall, initiative and referendum. Significant tax limitations existing under present state law also are incorporated into this charter.

The proposed charter is a document of consensus and compromise. The significant consideration is the charter itself and there is no substitute for reading it in its entirety.

(Ord. No. 1996-1038, § 1, 7-22-96)

PREAMBLE

We, the people of the City of Wheat Ridge, Colorado, under the authority of the Constitution of the State of Colorado and in order to exercise the rights, privileges and responsibilities of self-government granted to use by the said Constitution, do ordain and establish this home rule charter for the City of Wheat Ridge, Colorado.

¹ Editor's note(s)—The City Charter is published as amended with no rewording. The printing style, however, has been made consistent with the Code. [The certificate of the charter commission has not been published.]

CHAPTER I. GENERAL PROVISIONS

Sec. 1.1. Name and boundaries.

The municipal corporation heretofore existing as the "City of Wheat Ridge" in Jefferson County of Colorado shall remain and continue as a body politic and corporate and under this Charter shall be known as the "City of Wheat Ridge" with the same boundaries until changed in a manner authorized by law.

Sec. 1.2. Rights and liabilities.

By the name of the City of Wheat Ridge, the municipal corporation shall have perpetual succession, shall own, possess and hold all property, real and personal, heretofore owned, possessed and held by the City of Wheat Ridge and does assume and manage and dispose of all trusts in any way connected therewith; shall succeed to all the rights and liabilities and shall acquire all benefits and does assume and shall pay all bonds, obligations and indebtedness of said City of Wheat Ridge; may, in the name of the City of Wheat Ridge, sue and defend, plead and be impleaded in all courts and places and in all matters and proceedings; may purchase, receive, hold and enjoy, or sell and dispose of real and personal property.

Sec. 1.3. Powers of self-government.

The city shall have all the power of local self-government and home rule and all powers possible for a city to have under the Constitution of the State of Colorado. The city shall also have all powers that now or hereafter may be granted to municipalities by the statutes of the State of Colorado. The enumeration of particular powers in this Charter shall not be deemed to be exclusive of others. All such powers shall be exercised in the manner prescribed in this Charter or, if not provided for herein, in such manner as shall be provided by ordinance of the council of the city.

Sec. 1.4. Form of government.

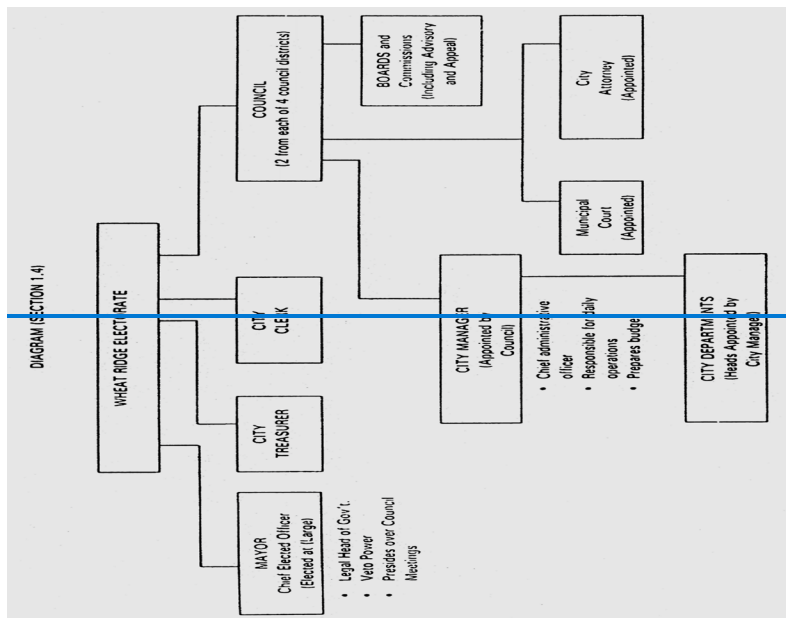


Diagram (Section 1.4)

~~(Ord. No. 1996-1034, § 1, 7-22-96)~~

The municipal government established by this Charter shall be the Council-Manager form of government. In a Council-Manager government, an elected city council serves as the city's primary legislative body and appoints a chief administrative officer called a city manager to oversee day-to-day municipal operations, to draft a budget, and to implement and enforce the council's policy and legislative initiatives.

Sec. 1.5. Present ordinances.

All ordinances of the City of Wheat Ridge in force at the time this Charter goes into effect shall continue in force except insofar as they may conflict with the provisions of this Charter or shall be amended or repealed by ordinances enacted under the authority of this Charter.

CHAPTER II. ELECTIONS

Sec. 2.1. Colorado municipal elections laws adopted.

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

Sec. 2.2. ~~Municipal~~RegularGeneral and special ~~municipal~~ elections.

A general municipal election shall be held on the first Tuesday in November ~~of 1979~~of each odd numbered calendar year, and every two (2) years thereafter. Any special municipal election may be called by resolution or ordinance of the city council at least sixty (60) days in advance of such election. The resolution or ordinance calling a special municipal election shall set forth the purpose or purposes of such election. Polling places for all municipal elections shall be open from 7:00 a.m. to 7:00 p.m. on election day.

(Ord. No. 1328, § 1, 11-2-04)

Sec. 2.3. Disclosure.

The city council shall, within six (6) months of the adoption of this Charter, adopt and thereafter maintain, by resolution or ordinance, an election code of ethics covering the conduct of municipal elections and conduct of candidates for municipal office; and which shall include, but not necessarily be limited to, disclosure of all campaign contributions and expenditures of an amount in excess of that which the council may determine and the names of the contributions and the recipients thereof.

Sec. 2.4. Election commission.

- (a) An election commission is hereby created, consisting of the city clerk and two (2) registered electors of the city. These two (2) registered electors during their term of office shall not be elected city officers or employees or candidates or nominees for elective city office. These two (2) members shall be appointed by the city council in the first December meeting following a regular city election, for a term of two (2) years.
- (b) The city clerk shall be chairperson. The election commission shall have charge of all activities and duties required of it by statute, ordinance and this Charter relating to the conduct of elections in the city. In any case where election procedure is in doubt, the election commission shall prescribe the procedure to be followed.

- (c) ~~The commission shall provide procedures to establish~~Where residency is in question, proof of residency qualification ~~where residency is in question shall be established and confirmed by the State of Colorado Department of State.~~ Upon a showing for good cause, the election commission may require proof of residency by any person registered to vote or attempting to register to vote in the City of Wheat Ridge. Said person shall not be qualified to vote in any municipal election until the election commission is satisfied that ~~hesaid person~~ has presented sufficient proof of residency as required by statute or ordinance adopted pursuant to this Charter.
- (d) The election commission shall provide for: ballots, sample ballots and any voting methods as approved by state statutes; the determination of the winner by lot in the event of a tie vote; the canvass of returns; and the issuance of appropriate certificates.
- (e) A member of the election commission shall not act as a judge of an election.

Sec. 2.5. Nonpartisan elections.

All special and general elections shall be nonpartisan. No candidate for any municipal office shall run under any party label.

Sec. 2.6. Recall from office.

Any incumbent of an elective office may be removed from office at any time after holding office for six (6) months, by the qualified electors of the city in the manner herein provided.

Sec. 2.7. Recall procedure.

The procedure hereunder to effect the recall of any elective officer shall be as follows: One (1) or more registered electors, in the case of a council member, residing in the councilmember's district, and in the case of any other elective officer residing in the city, shall file with the city clerk an affidavit of not more than two hundred (200) words stating the reasons for the recall of the elective officer sought to be removed. The city clerk shall, within ~~forty eight (48) hours~~two (2) business days after the filing of said affidavit, mail a copy by registered mail to the elective officer sought to be recalled, who may file with the city clerk a sworn statement in defense of the charges made against ~~him~~that elective officer. After the affidavit has been filed, the city clerk shall issue a petition for recall of the elective officer and said petition may be circulated and signed by registered electors who would be entitled to vote upon the proposed recall question.

A petition signed by registered electors entitled to vote for a successor of the incumbent sought to be recalled, equal in number to twenty-five (25) percent of the entire votes cast in the last preceding election for that position, demanding a recall of the officer named in the petition shall be filed in the office of the city clerk.

The registered electors shall be the sole and exclusive judges of the legality, reasonableness, and sufficiency of such grounds assigned for such recall, and said grounds shall not be open to review.

The recall petition shall be filed with the requisite information and signatures with the city clerk within sixty (60) days after issuance. If said petition is filed within the time specified, and is proper in all respects, the council shall set a date for a recall election to be held within ~~ninety (90) sixty (60)~~ days from the date of filing with the city clerk, unless a general or special municipal election will be held within one hundred eighty (180) days following the filing of the petition in which case the recall election shall be held in conjunction therewith. At such recall election, the question of the proposed recall of a councilmember elected from a district within the city shall be submitted only to the registered electors of the district from which the councilmember was elected, and the question of the proposed recall of any other elective officer shall be submitted to the registered electors of the city.

The ballot upon which such proposed recall is submitted shall set forth the following question:

Shall (name of person against whom the recall petition is filed) be recalled from the office of (title of office)?

Following such question shall be the words "yes" and "no."

On such ballots, under the question, there shall be printed the names of those persons who have been nominated as candidates to succeed the person sought to be recalled; ~~but no vote cast shall be counted for any candidate for such office unless the voter also voted for or against the recall of such person sought to be recalled from said office. The foregoing sentence or instructions shall be printed on the ballot.~~ The name of the person against whom the petition is filed shall not appear on the ballot as a candidate for the office.

Any registered elector desiring to become a candidate at a recall election shall file ~~his~~ petition with the city clerk ~~shall~~ not less than twenty-five (2025) days ~~after the date for the recall election has been set prior to the recall election.~~ All petitions and procedures shall be in conformance with the other provisions of elections in this Charter.

If a vacancy occurs in said office after a proper petition for a recall election has been filed with the city clerk, the election to fill the vacancy shall nevertheless proceed as provided in this article.

The council shall make such additional rules and regulations as necessary to implement the above procedures.

(Ord. No. 865, § 3(A), 6-24-91)

CHAPTER III. MAYOR AND ADMINISTRATION

Sec. 3.1. Election of mayor.

The mayor shall be elected by the greatest number of votes cast for that office by the electors of the City of Wheat Ridge at ~~each the relevant~~ general municipal election, and shall have the same qualifications as members of the council. ~~Commencing with the general municipal election held on the first Tuesday after the first Monday in November, 1997, his~~ ~~the mayor's~~ term of office shall be for four (4) years and shall commence ~~on his~~ upon the taking of the oath of office at the ensuing organizational meeting of the city council held after the election in the year elected and shall continue during the term for which ~~he~~ the mayor shall have been elected until ~~his~~ successor shall have been elected and duly qualified.

No person shall serve in the office of mayor for more than two (2) consecutive terms of office. ~~This limitation on the number of consecutive terms shall apply to terms of office commencing on or after November 4, 1997.~~ Any person who succeeds to the office of mayor, and who serves at least one-half of a term in the office, shall be considered to have served a full term in that office. Terms are considered consecutive unless separated by at least four (4) full years.

(Ord. No. 864, § 3(a), 6-24-91; Ord. No. 1997-1081, § 1, 7-28-97; Ord. No. 1519, § 1, 8-27-12)

Editor's note(s)—The amendments to § 3.1 above were ratified at referendum held Nov. 4, 1997 and Nov. 6, 2012.

Sec. 3.2. Power and duties of the mayor.

The mayor shall be the recognized head of the city government for all legal and ceremonial purposes. All ~~contracts in writing binding the city, all~~ conveyances of interests in land by the city; and any other documents requiring ~~his~~ the mayor's signature shall be signed by the mayor (or person acting as mayor as herein provided).

The mayor shall be the chief elected officer of the city. The mayor shall be responsible for the efficient administration of all affairs of the city placed in ~~his~~the mayor's charge. The mayor shall serve as a liaison between the city council and the city administration, including, but not limited to, attendance at meetings and special events involving the city administration.

The mayor shall be a conservator of the peace, and in emergencies may exercise within the city the powers conferred by the Governor of the State of Colorado for the purposes of military law, and shall have the authority to command the assistance of all able-bodied ~~citizens~~residents to aid in the enforcement of the ordinances of the city and to suppress riot and disorder. Except as may be required by statute, the mayor shall exercise such other powers as shall be conferred by the council ~~shall confer upon him~~.

The mayor shall have the power to veto any ordinance passed by the council in accordance with the procedure set forth in section 5.14 of this Charter. The mayor shall also preside over city council meetings.

In the event of a tie vote by the city council, except upon adoption or amendment of the budget, the mayor shall cast a tie-breaking vote. In no other instance shall the mayor cast a vote on a matter presented to the council for decision. On any ordinance upon which the mayor has cast a tie-breaking vote, the mayor shall not exercise ~~his~~the power to veto said ordinance.

(Ord. No. 863, § 3, 6-24-91; Ord. No. 1996-1038, § 1, 7-22-96)

Sec. 3.3. Mayor pro tempore.

The council shall elect one (1) of its members to serve as the mayor pro tempore of the city. ~~He~~The mayor pro tempore shall serve in place of the mayor during the absence or disability of the mayor with all powers and duties of the mayor, except ~~he~~the mayor pro tempore shall not have the power to veto ordinances. In case of a vacancy in the office of mayor, the mayor pro tempore shall serve as mayor only until the vacancy is filled, as provided in section 3.11.

Sec. 3.4. City Manager.

The city manager shall be the chief administrative officer of the city. The council, by majority vote of all members, shall appoint a city manager who shall serve at the pleasure of the council, without definite term and at a salary fixed by the council. The council shall appoint a city manager within a reasonable time after a vacancy exists in the position. During the period of any vacancy or extended absence in the office of city manager, the council shall appoint an acting city manager. The city manager may appoint an employee of the city as acting city manager during the temporary absence (not to exceed thirty (30) days) of the city manager. Any acting city manager shall have all of the responsibilities, duties, and authority of the city manager. ~~Pursuant to Charter section 17.7, the city administrator~~manager serving upon the effective date of this section 3.4, as amended, shall be deemed to have been appointed city manager as provided hereby.

The city manager shall be appointed with regard to fitness, competency, training, and experience in professional ~~urban-public~~ administration. At the time of ~~his~~the appointment, the city manager need not be a resident of the city, but during ~~his~~the city manager's tenure in office ~~he~~, shall reside within the city. No mayor shall be appointed city manager during or within one (1) year after the termination of ~~his~~the city manager'smayor's elected term.

The city manager is responsible to the council for the operation of the city and may be dismissed by the council should it determine that such removal is in the best interest of the city. Dismissal of the city manager shall be by a majority vote of all members of the council. The council shall assure that the city manager performs ~~his~~all duties as provided by this Charter.

The duties of the city manager shall include, but not be limited to, the following:

- (a) Be responsible for the enforcement of the laws and ordinances of the city;
- (b) Hire, suspend, transfer and remove city department ~~heads~~directors, who serve under the jurisdiction, and at the will of, the city manager;
- (c) Make appointments of subordinates on the basis of merit and fitness;
- (d) Cause a proposed budget to be prepared annually and submitted to the council and be responsible for the administration of the budget after its adoption;
- (e) During the month of July, and as often as the council may require, prepare and submit to the council a budget status and forecast report with any recommendations for remedial action;
- (f) Prepare and submit to the council, as of the end of the fiscal year, a complete report on finances and administrative activities of the city for the preceding year and, upon the request of the council, make written or verbal reports at any time concerning the affairs of the city under ~~his~~the city manager's supervision;
- (g) Keep the council advised of the financial condition and future needs of the city and make such recommendations to the council for adoption as ~~he may deem~~be deemed necessary or expedient;
- (h) Exercise supervision and control over all departments; ~~under his~~the city manager's jurisdiction;
- (i) Be responsible for the enforcement of all terms and conditions imposed in favor of the city in any contract or public utility franchise, and upon knowledge of any violation thereof, report the same to the council for such action and proceedings as may be necessary to enforce the same;
- ~~(j) Execute on behalf of the city all contracts binding the city;~~
- ~~(k)~~ Provide for engineering, architectural, maintenance, and construction service required by the city;
- ~~(l)~~ Attend council meetings and participate in discussions with the council in an advisory capacity;
- ~~(m)~~ Perform such other duties as may be prescribed by this Charter, by ordinance or required of ~~him~~the city manger by council and which are not inconsistent with this Charter.

(Ord. No. 865, § 3(B), 6-24-91; Ord. No. 1996-1038, § 1, 7-22-96)

Sec. 3.5. Administrative departments.

The administrative functions of the city shall be performed by the departments existing at the time this Charter is adopted and such other departments as may be hereafter established by ordinance. The council may, by ordinance, consolidate, merge or abolish any of said departments. Each department shall be under the immediate control and supervision of a department ~~head~~director appointed by the city manager and subject to dismissal by ~~him~~the city manager.

(Ord. No. 1996-1038, § 1, 7-22-96)

Sec. 3.6. Relationship of ~~administrative-city manager service~~ to council.

~~The city manager~~~~City managers~~The city manager shall be held accountable to the council for ~~his~~their actions and those of ~~his~~their subordinates.

(Ord. No. 1996-1038, § 1, 7-2-96)

Sec. 3.7. Election of city clerk.

The city clerk shall be elected by the greatest number of votes cast for that office by the electors of the City of Wheat Ridge at ~~each the relevant~~ general municipal election, and shall have the same qualifications as members of the council. ~~Commencing with the general municipal election held on the first Tuesday after the first Monday in November, 1999, his/her~~the city clerk's term of office shall be for four (4) years and shall commence ~~on~~ his/her upon the taking of the oath of office at the ensuing organizational meeting of the city council held after the election in the year elected and shall continue during the term for which ~~he/she shall have~~the city clerk has been elected until ~~his/her a~~ successor shall have been elected and duly qualified.

(Ord. No. 1999-1168, § 1, 8-26-99; Ord. No. 1519, § 1, 8-27-12)

Editor's note(s)—Amendments to § 3.7 above were ratified at referendum Nov. 2, 1999 and Nov. 6, 2012.

Sec. 3.8. Duties of the city clerk.

- (a) The city clerk shall be the clerk of the council and shall attend all meetings of the council and shall keep a permanent journal of its proceedings.
- (b) The city clerk shall be the custodian of the seal of the city and shall affix it to all documents and instruments requiring the seal and shall attest the same. ~~He~~The city clerk shall also be custodian of all papers, documents and records pertaining to the city, the custody of which is not otherwise provided for.
- (c) The city clerk shall certify by ~~his~~ signature, all ordinances and resolutions enacted or passed by the council.
- ~~(d) The city clerk shall provide and maintain in his office a~~(d) A supply of forms for all petitions required to be filed for any purpose by the provisions of this Charter or by ordinance enacted hereunder, shall be provided and maintained in the city clerk's office.
- (e) The city clerk shall have power to administer oaths of office.
- (f) The city clerk shall be the chairperson of the election commission.
- (g) The city clerk shall publish all notices, proceedings, and other matters required to be published.
- ~~(h) The city clerk shall supervise the staff under his~~the city clerk's jurisdiction.
- ~~(hi)~~ The city clerk shall perform such other duties as may be prescribed by this Charter or by ordinance.

Sec. 3.9. Election of city treasurer.

The city treasurer shall be elected by the greatest number of votes cast for that office by the electors of the City of Wheat Ridge at ~~each the relevant~~ general municipal election, and shall have the same qualifications as members of the council. ~~Commencing with the general municipal election held on the first Tuesday after the first Monday in November, 1999, his/her~~the city treasurer's term of office shall be for four (4) years and shall commence ~~on his/her~~upon the taking of the oath of office at the ensuing organizational meeting of the city council

held after the election in the year elected and shall continue during the term for which ~~he/she~~ the city treasurer shall have been elected until ~~his/her~~ successor shall have been elected and duly qualified.

(Ord. No. 1999-1169, § 1, 8-26-99; Ord. No. 1519, § 1, 8-27-12)

Editor's note(s)—Amendments to § 3.9 above were ratified at referendum Nov. 2, 1999 and Nov. 6, 2012.

Sec. 3.10. Duties of the city treasurer.

- (a) It shall be the city treasurer's responsibility to establish a system of accounting and auditing for the city which shall reflect, in accordance with generally accepted accounting principles, the financial condition and operation of the city.
- (b) The city treasurer shall be custodian of all public monies belonging to or under the control of the city, or any office, department, or agency of the city, and shall deposit or invest all monies as directed by the council. All interest earnings shall be the property of the city and shall be accounted for and credited to the proper city fund.
- (c) The city treasurer shall collect, receive, and disburse on proper authorization, all monies receivable by the city and all other monies for which the city is responsible for holding in trust.
- (d) ~~The treasurer shall supervise the staff under his~~ the treasurer's jurisdiction.
- (~~de~~) The city treasurer shall perform all other duties as may be required by ordinance pursuant to this Charter.

Sec. 3.11. Vacancies in elective offices.

- (a) An elected official shall continue to hold ~~his~~ office until ~~his~~ successor is duly qualified. An elective office shall become vacant whenever any officer is recalled, dies, becomes incapacitated, resigns, refuses to serve, ceases to be a resident of the city, or is convicted of embezzlement of public money, bribery, perjury, solicitation of bribery or subornation of perjury ~~a felony~~.
- (b) If a vacancy occurs in the office of mayor, the council shall act to call a special election within sixty (60) days to elect a new mayor, unless said vacancy occurs within one hundred eighty (180) days of the general municipal election.
- (c) If a vacancy occurs in the office of the city clerk or city treasurer, no special election shall be called but such vacancy shall be filled by appointment by the council for the remainder of the term.

Sec. 3.12. Compensation of elected officials.

Elected officials shall receive such compensation as the council shall prescribe by ordinance; provided ~~they~~ the council shall neither increase nor decrease the compensation of any elected official during ~~his~~ the elected official's term of office. Elected officials may, upon order of the council, be paid such necessary bona fide expenses incurred by ~~him~~ the elected official in service in behalf of the city as are authorized and itemized.

Sec. 3.13. Oath of office.

Every elected officer under this Charter, before entering upon the duties of his an elected office, shall take an oath or affirmation of office, that ~~he~~ said officer will support the Constitution and the laws of the United States and of the State of Colorado, and this Charter and the ordinances of the city, and will strive to be responsive to all

~~citizens~~residents of the city and will faithfully perform the duties of ~~his~~the elected office upon which ~~he~~the officer is about to enter.

In case of failure to comply with the provisions of this section within ten (10) days from the date of ~~his~~an elected officer's appointment, or within ten (10) days from the date prescribed in this Charter to take office, such officer shall be deemed to have declined the office and such office shall thereupon become vacant unless the council shall by motion or resolution, extend the time in which such officer may qualify as set forth in this section.

Sec. 3.14. Conflict of interest.

No elected official during ~~his~~the term of office shall be a compensated employee of the city, nor shall ~~he~~an elected official have any material or significant financial interest, direct or indirect, with the city. In the event that any elected official or any member of ~~his~~an elected official's family ~~has~~have such interest, said elected official shall declare such interest. If any elected official fails to declare such interest, the council shall determine by a majority vote whether said interest does in fact constitute a conflict of interest. When such conflict of interest is established, the council shall take any action it deems to be in the best interest of the city.

Sec. 3.15. Bonding of employees.

All city officials and employees dealing directly with municipal funds or substantial inventories of material and supplies shall post bond in an amount and under such conditions as required by the council, and at the expense of the city.

CHAPTER IV. COUNCIL

Sec. 4.1. The city council.

The city council shall consist of eight (8) members. Two (2) councilmembers shall be elected from each of the four (4) districts.

Sec. 4.2. Council districts.

The city is hereby divided into four (4) districts. The districts shall be contiguous and compact, and shall be approximately equal in population.

The council shall complete the apportionment of the city into four (4) districts prior to December 31, 1978, for the purpose of the November 6, 1979, general municipal election. Thereafter the council shall cause such changes as are necessary to carry out the intent of this section to be made no less than six (6) months prior to the general municipal election every four (4) years.

Sec. 4.3. Terms of office.

- (a) The terms of office of the councilmembers hereafter to be elected in accordance with the provisions of this Charter shall commence ~~on their~~upon the taking the oath of office at the ensuing organizational meeting of the city council held after the election in the year elected and shall continue during the term for which ~~they~~the councilmember shall have been elected until their successors shall have been elected and duly qualified.
- (b) At the general municipal election held on the first Tuesday in November of each odd-numbered calendar year, one councilmember from each of the four (4) council districts shall be elected to a four-year term of office by the greatest number of the votes cast for that office.

- (c) It is the intent of this section that councilmembers serve four-year staggered terms of office with four (4) councilmembers elected at each general municipal election.

(Ord. No. 1997-1082, § 1, 7-28-97; Ord. No. 1519, § 1, 8-27-12)

Editor's note(s)—The amendments to § 4.3 above were ratified at referendum held Nov. 4, 1997 and Nov. 6, 2012.

Sec. 4.4. Qualifications.

- (a) No person shall be eligible to hold the office of a councilmember unless, at the time of ~~his~~the election, ~~he~~such person is a registered elector, as defined by Colorado Revised Statutes, and is a resident of the district from which ~~he~~said person is elected for a period of at least twelve (12) consecutive months immediately preceding the date of the election.

In the event of annexation, any person who lives in the annexed area for a period of twelve (12) consecutive months immediately preceding the date of election will be deemed a resident of the city, and a resident of the district and may run as a councilmember from that district. In the event that council boundary lines are changed, a prospective councilmember shall be eligible to run from the newly defined district if ~~he~~that individual has been a resident of the city and the district from which ~~he~~such individual is elected for a period of at least twelve (12) consecutive months immediately preceding the date of election.

- (b) Each councilmember shall maintain ~~his~~ residency in the city and district throughout ~~his~~the term of office. If an elected official shall move from the city or district during ~~his~~the term of office, ~~his~~the seat shall be declared vacant and such vacancy shall be filled by the city council as provided by this Charter.
- (c) The city council shall be the judge of the election and qualifications of its own members.
- (d) No person shall serve in the office of city councilmember for more than two (2) consecutive terms of office. ~~This limitation of the number of consecutive terms shall apply to terms of office commencing on or after November 4, 1997, except as provided at subsection (e) hereof.~~ Any person who succeeds to the office of councilmember, and who serves at least one-half of a term in that office, shall be considered to have served a full term in that office. Terms are considered consecutive unless separated by at least four (4) full years.
- (e) ~~Incumbent councilmembers as of November 3, 1997, shall be eligible for re-election as follows:~~
- ~~(1) Incumbent councilmembers who will complete six (6) consecutive years in office on November 4, 1997, are eligible for re-election for either one two-year term or one four-year term in the November 4, 1997 election.~~
- ~~(2) Incumbent councilmembers who will complete four (4) consecutive years in office on November 4, 1997, are eligible for re-election for one two-year term in the November 4, 1997, election and one subsequent four-year term in the November, 1999, election or one four-year term in the November 4, 1997, election.~~
- ~~(3) Incumbent councilmembers who will complete two (2) consecutive years in office on November 4, 1997, are eligible for re-election for one two-year or one four-year term in the November 4, 1997, election and one subsequent four-year term in either the November, 1999 or 2001 election.~~
- ~~(4) A person elected in the November 4, 1997, election for a two-year term who is not an incumbent on November 3, 1997, may be re-elected for two (2) additional four-year terms in November, 1999 and 2003.~~

(Ord. No. 864, § 2, 6-24-91; Ord. No. 865, § 3(A), 6-24-91; Ord. No. 866, § 1, 6-24-91; Ord. No. 1997-1082, § 1, 7-28-97)

Editor's note(s)—The amendments to § 4.4 above were ratified at referendum Nov. 4, 1997.

Sec. 4.5. Vacancies.

- (a) A councilmember shall continue to hold ~~his~~ office until ~~his~~ successor is duly qualified. A council position shall become vacant whenever any councilmember is recalled, dies, becomes incapacitated, resigns, refuses to serve, or ceases to be a resident of the city or district from which elected, or is convicted of a felony.
- (b) Within thirty (30) days after a vacancy occurs on the council, the remaining councilmembers shall choose by majority vote a duly qualified person from the proper district to fill such vacancy. ~~He~~Said person shall serve ~~the unexpired term~~ until the following municipal election and ~~his~~ successor is duly qualified. If three (3) or more council vacancies exist simultaneously, the remaining councilmembers shall, at the next regular meeting of the council, ~~act to~~ call a special election within sixty (60) days to fill such vacancies, provided there will not be a general municipal election within one hundred eighty (180) days and provided that their successors have not previously been elected.

Sec. 4.6. Compensation.

The members of the council shall receive such compensation as the council shall prescribe by ordinance; provided, however, that the compensation of any member during ~~his~~the term of office shall not be increased or decreased. Councilmembers may, upon order of the council, be paid such necessary bona fide expenses as may be incurred by them in service in behalf of the city as are authorized and itemized.

Sec. 4.7. Powers of council.

The council shall constitute the legislative body of the city and shall have all legislative powers and functions of municipal government, except as otherwise provided in this Charter, and shall have the power and authority to adopt such ordinances, resolutions, motions and rules as it shall deem proper.

Sec. 4.8. Oath of office.

Every councilmember under this Charter, before entering upon the duties in ~~his~~the office, shall take an oath or affirmation of office, that ~~he~~the councilmember will support the Constitution and the laws of the United States and of the State of Colorado, and this Charter and the ordinances of the city, and will strive to be responsive to all ~~citizens~~residents of the city, and will faithfully perform the duties of ~~his~~the office upon which ~~he~~the councilmember is about to enter.

In case of failure to comply with the provisions of this section within ten (10) days from the date prescribed in this Charter to take office, such officer shall be deemed to have declined the office and such office shall become vacant unless council shall by motion or resolution extend the time in which such officer may qualify as above set forth.

Sec. 4.9. Relationship to administrative service.

No member of the council shall dictate the appointment or duties of any department ~~head~~director or employee of the city, except as expressly provided in this Charter. The council and its members shall deal with the administrative service of the city solely through the city manager, and neither council nor its members shall give orders or reprimands to any employee or subordinate of the city manager. The council retains the prerogative of requiring the city manager to make verbal or written reports of ~~his~~the city manager's activities, those of ~~his~~the city manager's subordinates and the administrative service under ~~his~~the city manager's charge, not in conflict with other provisions of this Charter.

(Ord. No. 1996-1038, § 1, 7-22-96)

Sec. 4.10. Conflict of interest.

No member of the council, during ~~his~~the councilmember's term of office, shall be a compensated employee of the city, nor shall ~~he~~the councilmember have any material or significant financial interest, direct or indirect, with the city. In the event that any councilmember or any family member ~~of his family has~~have such interest, said councilmember shall declare such interest. If any councilmember fails to declare such interest, the remaining members of the council shall determine by a majority vote whether said interest does in fact constitute a conflict of interest. When such conflict of interest is established, the remaining councilmembers shall take any actions ~~they~~deemdeemed to be in the best interest of the city.

CHAPTER V. COUNCIL PROCEDURE AND LEGISLATION

Sec. 5.1. Regular meetings.

The council shall meet regularly at least twice each month at a day and hour to be fixed by the rules of council. The council shall determine the rules of procedure governing meetings. At the first regular meeting following each general municipal election, the council shall organize as a matter of business and shall not be restricted from transacting other proper business.

Sec. 5.2. Special meetings.

- (a) A special meeting may be called by the city clerk on the written request of the mayor or any two (2) members of the council provided that each member of the council is given written notice at least twenty-four (24) hours before the time set for such meeting. Such notice may be either personally served ~~or~~, or sent via electronic mail to each councilmember. Notice of such special meeting shall also be posted in the office of city clerk and published in any manner permitted for publication of ordinances pursuant to section 5.12(h) of the Charter at least twenty-four (24) hours prior to such a special ~~session~~meeting.
- (b) An emergency special meeting may be called by the city clerk at any time on a written request from the mayor or five (5) members of the council. Such request shall state that the matter to be considered is an emergency of such gravity that irreparable harm would come to the city if there was any further delay in council action. The nature of the emergency shall be stated in detail in a written notice to each councilmember, a notice posted in the office of the city clerk, and in the minutes of the special meeting. A vote shall also be taken at the beginning of such special meeting as to whether there is in fact an emergency and the vote of each member of the council shall be individually recorded.

(Ord. No. 1351, § 1, 8-23-05)

Sec. 5.3. Business at special meetings.

No business shall be discussed or transacted at any special meeting of the council unless it has been stated in the official notice of such meeting issued by the city clerk.

Sec. 5.4. Quorum; adjournment of meeting.

A majority of the members of the council in office at the time shall be a quorum for the transaction of business at all council meetings, but in the absence of a quorum a lesser number may adjourn any meeting to a later time or date, and in the absence of all members the city clerk may adjourn any meeting for not longer than one (1) week.

Sec. 5.5. Council attendance at meetings.

A majority of the members of the council may, by vote, either request or compel the attendance of its members and other officers of the city at any meeting of the council. Any member of the council or other officer who then [when] notified of such request for ~~his~~ attendance fails to attend such meeting for reasons other than confining illness or absence from the city, or because said councilmember or officer is attending a meeting as a representative of the city, shall be deemed guilty of misconduct in office unless excused by the council.

Sec. 5.6. Meetings to be public.

All regular and special meetings of the council shall be open to the public, except executive sessions held in accordance with section 5.7, and ~~citizens~~residents shall have a reasonable opportunity to be heard under such rules and regulations as the council may prescribe.

Sec. 5.7. Executive sessions.

- (a) An executive session of the city council may be convened only if the majority of the council vote publicly to hold such a session, the subject matter to be considered is one of those listed in subsection (b) of this section and a public announcement is made as to which category of subsection (b) the matter concerns. No formal votes may be taken in any executive session.
- (b) An executive session may be convened only on the following matters:
 - (1) *Legal Consultation.* The city council may convene an executive session under the following conditions:
 - (A) A suit has been filed against the city or the city has received formal written notice that a suit against the city is imminent.
 - (B) The city council is considering instituting legal action against another party.
 - (C) The city council has knowledge of violations of the law and is considering the possibility of criminal prosecution.
 - (D) Conferences with the city attorney for the purpose of receiving legal advice on specific legal questions.
 - (2) *Personnel Matters.* Personnel matters concerning individual city employees and council appointees may be considered in an executive session. ~~Individual city employees may request such a session.~~ Notwithstanding Charter section 3.4, the city manager shall not attend an executive session concerning ~~his/her~~ the city manager's own performance unless the council so directs.
 - (3) *Real Estate Appraisals.* The city council may convene an executive session to consider real estate appraisals made for the purpose of the possible acquisition of real property or an interest therein for public use, or the sale of any real property owned by the city. However, no executive session shall be convened to discuss the merits of purchasing real property for public use or the sale of real property owned by the city, or any other matters pertaining to land acquisition or sale.
- (c) The city clerk shall make a ~~tape~~ recording ~~and prepare the minutes~~ of all executive sessions. Such recordings ~~and minutes~~ shall be closed to the public unless a majority of the council votes to make them available to the public. The mayor, any member of the council, or the city attorney may examine such ~~tapes or minutes~~ recordings at any reasonable time under the direct supervision of the city clerk. The city clerk may

also release such ~~tapes and minutes~~ recordings pursuant to a valid court order in any action challenging the legitimacy of an executive session.

(Ord. No. 1996-1038, § 1, 7-22-96; Ord. No. 1999-1173, § 1, 8-23-99; Ord. No. 1225, § 1, 9-10-01)

Sec. 5.8. Council acts.

The council shall act only by ordinance, resolution or motion. All legislative enactments of a permanent nature shall be by ordinance; all other actions, except as provided in this Charter, may be in the form of resolutions or motions. All ordinances and resolutions shall be confined to one (1) subject, except in the case of repealing ordinances. ~~Ordinances making appropriations shall be confined to the subject of appropriation, but may include more than one (1) appropriation.~~

Sec. 5.9. Voting.

The vote by "yes" or "no" shall be taken upon the passage of all ordinances, resolutions, and motions and entered upon the minutes of the council proceedings. Every ordinance shall require the affirmative vote of the majority of the entire council for final passage, except as provided for zoning and rezoning ordinances in section 5.10, sale of real property in section 16.5 or elsewhere provided in this Charter. Resolutions and motions shall require the affirmative vote of a majority of the councilmembers present. No member of the council shall vote on any question in which ~~he~~ the councilmember has a personal or financial interest, other than the common public interest, or on any question concerning ~~his~~ the councilmember's own conduct, and in said instances the member shall disclose this interest to the council. On all other questions each member who is present shall vote unless excused by the unanimous consent of the remaining members present. Any member refusing to vote, except when not so required by this paragraph, shall be guilty of misconduct in office. At the request of any member of the council any vote shall be taken simultaneously in a manner prescribed by the council; provided, however, that the vote of each member shall be publicly announced immediately thereafter.

Sec. 5.10. Action by ordinance required.

In addition to such acts of the council as are required by other provisions of this Charter to be by ordinance, every act amending or repealing any ordinance or section of an ordinance, ~~making an appropriation~~, creating an indebtedness, authorizing borrowing of money, levying a tax, establishing any rule or regulation for the violation of which a penalty is imposed, or placing any burden upon or limiting the use of private property, shall be by ordinance; provided, however, that this section shall not apply to the budget adoption in section 10.9. Zoning and rezoning shall be governed by the statutes of the State of Colorado as now existing or hereafter amended or modified unless superseded by new procedures set forth in a duly adopted ordinance, except as follows:

The council shall have the power to amend, supplement, change, or repeal the regulations, restrictions and boundaries of zoning districts within the city. Such changes shall be adopted by ordinance after a public hearing at which parties in interest and ~~citizens~~ residents shall have an opportunity to be heard.

In the event of a protest against such changes signed by the owners of twenty (20) percent or more of the area:

- (1) Of the property included within the proposed change; or,
- (2) Of those immediately adjacent to the rear or any side of the property, extending one hundred (100) feet from the property; or,
- (3) Of those directly opposite across the street from the property, extending one hundred (100) feet from the street frontage of such opposite property,

such changes shall not become effective except by the favorable vote of three-fourths of the entire city council. Where land within the area proposed for change, or adjacent or opposite land as defined above is owned by the City of Wheat Ridge, such property shall be excluded in computing the required twenty (20) percent, and owners of noncity land within the one-hundred-foot limit as defined above shall be considered adjacent or opposite despite such intervening city land.

The written protest to such changes shall be submitted to the city council no later than the hearing on the proposed amendment. At least fifteen (15) days' notice of the time and place of the hearing, and the address and legal description of the property, shall be published in an official paper or paper of general circulation within the city, and notice of the hearing shall also be posted on the property so that it is easily visible to neighboring property owners. Said notices shall contain the statement that specific plans for the proposed changes are available for inspection at the Wheat Ridge City Hall. The procedure for receiving and determining the validity of protests and conducting the required hearing shall be established by the council by ordinance.

(As amended 7-12-83. Effective upon adoption 7-12-83)

Sec. 5.10.1. Building height and density limitations.

(a) *Height limitations.* The city shall not, by ordinance, resolution, motion, permit, or other action, or variance except as provided in subsection (e), allow the construction of buildings or other structures which exceed the following maximum heights:

- (1) Thirty-five (35) feet for the following: All residential, planned residential and agricultural districts, including any created after passage of this amendment; residential buildings when built in nonresidential districts; the hospital-one district; and the restricted commercial-one district.
- (2) Fifty (50) feet for the following: Any other commercial, planned commercial, industrial or planned industrial districts; the public buildings and facilities district; commercial and office buildings constructed in the hospital-two district; and any nonresidential district created after passage of this amendment.
- (3) Sixty-five (65) feet, but in no event more than six (6) stories above grade, for new hospitals in the hospital-two district, on a minimum lot area of fifty (50) acres; however, additions attached to existing hospitals in this district may be built to a height not to exceed the height of the existing building.

The height limitations established shall not apply to the following: ~~S~~Church steeples, silos, decorative domes and cupolas not used for human occupancy or any commercial, business or industrial use, nor to windmills, chimneys, ventilators, transmission towers, solar heating and cooling devices, water towers, antennas, or necessary mechanical appurtenances normally carried above the roofline, but the city council may, by ordinance, establish height limitations for these structures.

(b) *Density Limitations.* The city shall not, by ordinance, resolution, motion, variance, permit or other action, allow the construction of residential buildings in any zone district which exceed a maximum of twenty-one (21) ~~family~~ units per acre, except that nursing homes shall not be required to meet this density maximum. In order that land required to support a previous building permit not be used again as a means of circumventing the above maximum, the following shall apply: No subdivision, variance, rezoning or permit shall be approved or granted on said land which subtracts the supporting land and thereby leaves the existing building nonconforming by these standards. The maximum of twenty-one (21) units per acre shall apply to the total parcel, including both existing and proposed construction.

(c) *Definitions.*

- (1) *Height*: The vertical distance measured from the average elevation of the finished grade of the building to the highest point of the roof surface if a flat roof, to the deck line of a mansard roof, and to the mean height level between eaves and ridge for a gable, hip, gambrel or other roof.
 - (2) *Residential*: Intended for human occupancy, including homes for the aged and nursing homes, but excluding hospitals, and motels and hotels for transient occupancy.
 - (3) ~~*Residential*~~*Family unit*: One (1) or more persons ~~related by blood, marriage, or adoption, or no more than three (3) unrelated persons~~ living together as a single ~~housekeeping residential~~ unit. This definition is intended to be utilized and applied only as a standard for computing maximum density in new, multiunit construction; it shall not, unless reenacted as a portion of the Wheat Ridge Code of Laws, be utilized for any purpose except density computations under this Charter section. ~~If a single housekeeping unit is designed for the use of more than three (3) unrelated persons, such as, but not limited to, the handicapped or elderly, each three (3) persons in any such unit shall constitute one (1) family unit.~~
- (d) *Nonconforming structures*. This amendment applies only to new construction; buildings and other structures legally in existence at the time of passage of this amendment shall not become nonconforming because of the adoption of these new density and height limits.
 - (e) *Variances*. The board of adjustment shall have the power to interpret terms and definitions in this amendment, and to allow a variance to maximum height, not to exceed ten (10) percent, upon a finding that not granting the variance would cause an extreme hardship. The city council and other boards may not grant variances from these standards, but nothing in this amendment shall be construed to limit the council from imposing more stringent height and density standards in any zoning district.
 - (f) Notwithstanding any other provision of this section 5.10.1, the limitations upon building height and residential density contained herein shall not apply within the following areas of the city: (1) that area described in the Wheat Ridge Town Center Project Urban Renewal Plan, adopted December 14, 1981 and amended by Resolution 13-2001 on April 23, 2001, specifically as diagramed in Exhibits 1 and 2 and described in Exhibit 3 of said resolution, and (2) that area described in the Wadsworth Boulevard Corridor Redevelopment Plan, adopted October 22, 2001, without modifying any current zoning on any property and preserving existing height and density limitations in the Wheat Ridge Code of Laws unless and until modified through future ordinances approved by city council after public hearings.
 - (g) Notwithstanding any other provision of this section 5.10.1, the limitations upon building height and residential density contained herein shall not apply within the following areas of the city: (1) that area described in the West 44th Avenue/Ward Road redevelopment plan, adopted October 22, 2001, and (2) that area described in the I-70/Kipling Corridors Urban Renewal Plan, adopted August 10, 2009, excluding therefrom all properties in the plan area along the Kipling Street Corridor South of 44th Avenue and all properties in the plan area east of Interstate 70, North of 32nd Avenue, west of Ward Road and south of the ~~WEST~~West 44th Avenue/Ward Road Redevelopment Plan Area, without modifying any current zoning on any property and preserving existing height and density limitations in the Wheat Ridge Code of Laws unless and until modified through future ordinances approved by city council after public hearings.

(Adopted 7-12-83; effective upon adoption; Ord. No. 1452, §§ 1, 2, 8-24-09)

Sec. 5.11. Form of ordinances.

Every ordinance shall be introduced in written or printed form. The enacting clause of all ordinances shall be: BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WHEAT RIDGE. The effective date of all ordinances shall be fifteen (15) days from the date of final publication of said ordinance unless another date is prescribed therein, or otherwise provided for elsewhere in this Charter.

Sec. 5.12. Procedure.

Except for emergency ordinances, ordinances making general codifications of existing ordinances, and ordinances adopting standard codes, the following procedure for the enactment of ordinances shall be followed:

- (a) The ordinance shall be introduced at any regular meeting of the council by any member thereof.
- (b) The ordinance shall be read in full or, in cases where copies of the ordinance are available to the council and to those persons in attendance at said council meeting, said ordinance may be read by title only.
- (c) After the first reading of the ordinance, the same shall be approved or rejected by a vote of the council.
- (d) If the ordinance is approved on first reading, it shall be published in full. The council shall set a day, hour, and place at which the council shall hold a public hearing on the ordinance and notice of said day, hour and place shall be included in the first publication.
- (e) The ordinance shall be introduced at council a second time, at a meeting not earlier than seven (7) days after first publication, for final approval, rejection, or other action as may be taken by vote of the council. This meeting may be the same meeting at which the public hearing on the ordinance is held, but the public hearing shall precede action on the ordinance. The ordinance may be amended before final approval by vote of the council.
- (f) After final approval, an ordinance shall be published by title or in full as the council may determine. If amended, an ordinance shall be published by title and full text of the amendment or in full as the council may determine.
- (g) Whenever an ordinance shall be published by reference or by title, the publication shall contain a summary of the subject matter of said ordinance and shall contain a notice to the public that copies of the proposed ordinance are available at the office of the city clerk. The publication of any ordinance, by reference or by title, as provided herein must set forth in full any penalty clause contained in said ordinance.
- (h) The requirements for publication of ordinances contained herein may be satisfied by publication in a newspaper of general circulation in the City of Wheat Ridge, by posting a copy thereof at the location or locations designated by resolution of the council, by posting on the city's website, by posting on the Internet, or in any other manner determined by the council to adequately advise the public.

(Ord. No. 1351, § 1, 8-23-05)

Sec. 5.13. Emergency ordinances.

Emergency ordinances for the immediate preservation of public property, health, peace, or safety shall be approved only by the majority vote of councilmembers present at the meeting. The facts showing such urgency and need shall be specifically stated in the measure itself. No ordinance making a grant of any special privilege, levying taxes, or fixing rates charged by any city-owned utility shall ever be passed as an emergency measure. An emergency ordinance shall require passage at one (1) meeting of the council. However, neither a public hearing nor a first publication as provided in section 5.12 shall be required. An emergency ordinance shall take effect upon final passage. Publication shall be within ten (10) days after passage, or as soon thereafter as possible. An emergency ordinance shall not be in effect longer than ninety (90) days after passage, and shall not again be passed as an emergency ordinance.

Sec. 5.14. Veto by mayor.

The mayor shall have the power to veto any ordinance passed by the council subject to the following:

- (a) Every ordinance passed by the council shall be presented to the mayor within forty-eight (48) hours thereafter. If ~~he approves~~approved, such ordinance ~~he shall sign it~~be signed by the mayor within three (3) days after receiving it.
- (b) The mayor must exercise the power of veto with a complete written explanation of the reasons therefor addressed and delivered to each councilmember within seven (7) days from the date of its final passage.
- (c) The mayor's veto may be overridden only by an affirmative vote of three-fourths of the entire council at the next regular meeting following the veto.
- (d) If the mayor does not return the ordinance with ~~his~~the veto to the council within the time specified, it shall take effect as if ~~he~~it had been approved ~~it~~.
- (e) The mayor shall not have veto power on any emergency ordinance.

Sec. 5.15. Codification of ordinances.

The council shall cause the ordinances to be codified and thereafter maintained in current form. Revisions to the codes may be accomplished by reference as provided in section 5.16.

Sec. 5.16. Standard codes adopted by reference.

Standard codes, promulgated by the federal government, the State of Colorado, or by any agency of either of them, or by any municipality within the State of Colorado, or by any recognized trade or professional organization, or amendments or revisions thereof, may be adopted by reference; provided the publication of the ordinances adopting any said code shall advise that copies are available for inspection at the office of the city clerk, and provided that any penalty clause in any code may be adopted only if set forth in full and published in the adopting ordinance.

Sec. 5.17. Severability of ordinances.

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

Sec. 5.18. Disposition of ordinances.

A true copy of every ordinance, as adopted by the council or electorate, shall be numbered and recorded in the official records of the city. Its adoption and publication shall be authenticated by the signatures of the mayor or mayor pro tempore, and the city clerk and by the certificate of publication. The failure to record, or authenticate any ordinance shall not, however, invalidate, suspend, or void such ordinance.

Sec. 5.19. Public records.

All public records of the City of Wheat Ridge shall be open for inspection by any person at reasonable times in accordance with state statutes existing at the present time or hereafter enacted or hereafter amended by ordinance adopted pursuant to this Charter.

Sec. 5.20. Street width designation.

The city council shall have the sole authority and responsibility to determine the width of all city streets within the boundaries of the City of Wheat Ridge. Such authority and responsibility cannot be delegated to any other body or individual(s), the only exception being the election procedure specifically set forth in this Charter section. Street width shall be determined by the flowline of the street. Flowline is defined as the measurement from the inside edge of one (1) curb to the inside edge of the opposite curb. Where no curb is planned to be constructed, flowline shall be defined as the measurement from the outside edge of one (1) side of the driving surface of the street, to the outside edge of the opposite side of the driving surface of the street.

Within one (1) year prior to construction or reconstruction of a street, the city council shall hold a public hearing to determine the flowline of such street. Following the public hearing, the council shall adopt such flowline as the street's official street width designation.

In the event of a protest against such proposed street width designation signed by the owners of:

- (1) Twenty (20) percent of the property immediately adjacent or contiguous to either side of such street;
or
- (2) Ten (10) percent of the property lying within three hundred (300) feet of either side of such street,

such proposed street width designation shall not become effective except by the favorable vote of three-fourths ($\frac{3}{4}$) of the entire city council. Property does not need to be entirely contained within the three hundred (300) foot area to be used in the computation of the ten (10) percent necessary to file a protest. Only the portion of the property that actually lies within the three hundred (300) foot area is used to compute the ten (10) percent required to file a protest. Where the City of Wheat Ridge owns property or has right-of-way within three hundred (300) feet of either side of the street, then such city-owned land or right-of-way shall be excluded from the computation of the required percentage of properties needed to file a protest to the proposed street width designation. Owners of noncity land shall be considered immediately adjacent or contiguous to the street, or within three hundred (300) feet of either side of such street, despite such intervening city-owned land or right-of-way.

The written protest to such proposed street width designation shall be submitted to the city council no later than the conclusion of the public hearing on the proposed street width designation. At least fifteen (15) days' notice of the time and place of the hearing shall be published in the newspaper used by the city to publish legal notices, and notice of such public hearing shall be mailed by certified letter to all property owners within three hundred (300) feet of both sides of such street.

Said notice shall contain:

- (1) A description of the proposed street width designation and a statement that the specific plans for the proposed street width designation are available for inspection at the Wheat Ridge Municipal Building;
and
- (2) An explanation of the right of the property owners to protest such proposed street width designation, and how to exercise such right; and
- (3) The full and complete text of this Charter section.

All publication and notification requirements set forth in this Charter section shall be performed by the city clerk.

If at any time within forty-five (45) days after a favorable vote by city council of such proposed street width designation, a petition signed by at least five (5) percent of the registered electors of the city council district(s) immediately adjacent or contiguous to such street be presented to the council against the going into effect of such proposed street width designation; the same shall thereupon be immediately suspended and the council shall publish notice of and call an election upon the proposed street width designation. Said election shall be held not less than thirty (30) days nor more than one hundred eighty (180) days after publication of the notice thereof.

Only registered electors in the city council district(s) immediately adjacent or contiguous to such street shall be eligible to vote on the proposed street width designation. If a majority of the registered electors in the city council district(s) immediately adjacent or contiguous to such street voting thereon vote for such proposed street width designation, the proposed street width designation shall be deemed approved. For purposes of ballot tabulation, the total votes of all electors who cast ballots from one or more city council district(s) shall be counted together.

If any provision of this Charter section or the application in any particular case, is held invalid, the remainder of this Charter section and its application in all other cases shall remain unimpaired. Anything in the Charter or ordinances of the City of Wheat Ridge in conflict or inconsistent with the provisions of this Charter section is hereby declared to be inapplicable to the matters and things covered and provided for by this Charter section. This Charter section shall take effect immediately upon passage.

(Amend. of 11-7-95)

CHAPTER VI. INITIATIVE AND REFERENDUM

Sec. 6.1. Initiative.

- (a) Any proposed ordinance may be submitted to the council by petition signed by registered electors of the city equal in number to the percentage hereinafter required.
- (b) An initiative petition accompanying the proposed ordinances signed by registered electors of the city equal in number to fifteen (15) percent of the total vote cast, in the City of Wheat Ridge, in the last gubernatorial election, shall be filed with the city clerk at least sixty (60) days prior to any general or special municipal election, and shall contain a request that said proposed ordinance be submitted to a vote of the people if not passed by the council. The council shall within thirty (30) days after the attachment of the city clerk's certificate of sufficiency to the accompanying petition either (1) pass said ordinance without alteration, or (2) call a special election, unless a general municipal election is fixed within one hundred eighty (180) days thereafter, and at such special or general municipal election, said proposed ordinance shall be submitted without alteration to the vote of the registered electors of the city.
- (c) An initiated ordinance shall be published in like manner as other proposed ordinances. The ballot upon which such proposed ordinance is submitted shall state briefly the nature for the proposal and it shall contain the words "FOR THE ORDINANCE" and "AGAINST THE ORDINANCE." If a majority of the registered electors voting thereon shall vote in favor thereof, the same shall thereupon without further publication become an ordinance of the city.
- (d) The provisions of this section shall in no way affect nor preclude the procedures for recall of any elected official or officer as provided in this Charter.

Sec. 6.2. Referendum.

- (a) The referendum shall apply to all ordinances passed by the council.
- (b) If at any time within forty-five (45) days after the final passage of an ordinance to which the referendum is applicable, a petition signed by registered electors equal in amount to at least ten (10) percent of the total vote cast, in the City of Wheat Ridge, in the last gubernatorial election be presented to the council against the going into effect of any ordinance, the same shall thereupon be suspended and the council shall reconsider such ordinance; and if the same be not entirely repealed shall submit the same to a vote of the registered electors of the city in a manner as provided in respect to the initiative at the next regular municipal election, or at a special election called therefor. If a majority of the registered electors vote in favor of such ordinance, it shall go into effect without further publication.

Sec. 6.3. Ordinances referred to the people.

- (a) The council, on its own motion, shall have the power to submit at a general or special election any proposed ordinance or question to a vote of the people in a manner as in this Charter is provided.
- (b) If provisions of two (2) or more proposed ordinances adopted or approved at the same election conflict, the ordinance or provision in conflict receiving the highest affirmative vote shall become effective.

Sec. 6.4. Certificate of city clerk; amendment of petition.

Within ten (10) days from the filing of any initiative or referendum petition, the city clerk shall ascertain whether the petition is signed by the requisite number of registered electors, and if sufficient shall attach thereto a certificate of sufficiency showing the result of such examination. If the petition is insufficient, the city clerk shall issue a certificate of insufficiency and on the same day send a copy of the same to forthwith in writing notify one (1) or more of the persons designated as filing the same on the petition. Commencing on the day after the date of the certificate of insufficiency, tThe petition may thereafter then be amended within ten (10) days from the filing of the certificate by the petitioners obtaining additional signatures of registered electors only during said ten (10) day period. The city clerk, within five (5) working days after such amendment, shall make the examination of the amended petition and attach thereto a certificate of the result. If still insufficient, the city clerk shall return the petition to one (1) of the persons designated thereon as filing it, without prejudice to the filing of a new petition for the same purpose, but such petition shall not be refiled within one (1) year after return by the city clerk.

Sec. 6.5. Prohibition of amendment or reenactment.

An ordinance adopted by the electorate may not be amended or repealed for a period of six (6) months after the date of the election at which it was adopted, and an ordinance repealed by the electorate may not be reenacted for a period of six (6) months after the date of the election at which it was repealed; provided however, that ordinances may be adopted, amended or repealed at any time by appropriate referendum or initiative procedure in accordance with the foregoing provisions of this Charter, or if submitted to the electorate by the council on its own motion.

Sec. 6.6. Implementation.

The council may adopt such additional rules and regulations by ordinance as are deemed necessary to implement this chapter on initiative and referendum.

CHAPTER VII. PERSONNEL

Sec. 7.1. Personnel system.

The council may establish, modify, or eliminate a system or systems to handle personnel matters as it deems necessary.

CHAPTER VIII. LEGAL AND JUDICIARY

Sec. 8.1. City attorney.

The council shall appoint a city attorney to serve for an indefinite term at the pleasure of the council. ~~He~~The city attorney shall be an attorney-at-law admitted to practice in Colorado and have at least five (5) years' experience in the practice of law. The council may provide the city attorney such assistants, facilities and considerations as council may deem necessary, and may on its own motion or upon request of the city attorney, employ special counsel. The council shall establish compensation for the city attorney, ~~his~~the city attorney's assistants and special counsel.

The city attorney shall be the legal representative of the city and shall represent the city in all cases and in all courts. The city attorney shall act as legal adviser to the council and other city officials in matters relating to their official powers or duties when requested and shall provide a copy of any written opinion to the city clerk.

The city attorney shall also perform such other duties as the council may prescribe by ordinance or resolution.

Sec. 8.2. Municipal court.

There shall be a municipal court which shall have jurisdiction to hear and determine all cases arising under this Charter or the ordinances of the City of Wheat Ridge. The council shall appoint a presiding judge. The council may also appoint one (1) or more associate judges, who shall sit at such times and upon such cases as shall be determined by the presiding ~~municipal~~ judge. Such associate judge shall have all the powers of a ~~municipal presiding~~ judge and ~~his~~any orders and judgments shall be those of the municipal court.

All judges shall be members in good standing of the Bar of the State of Colorado, and shall have a minimum of five (5) years' experience on the bench or in the active practice of law in the State of Colorado immediately prior to appointment.

Sec. 8.3. Tenure and removal of judges.

The council shall appoint all judges for a term of two (2) years and they may be removed by the council during their term only for cause. A judge may be removed for cause if a judge:

- (a) ~~He is~~is found guilty of a felony or any other crime involving moral turpitude;
- (b) ~~He has~~Has a disability which interferes with the performance of ~~his~~ duties, and which is, or is likely to become, of permanent character;
- (c) ~~He has~~Has willfully or persistently failed to perform ~~his~~the duties; or
- (d) ~~He is~~is habitually intemperate.

Sec. 8.4. Duties of the presiding judge.

The presiding judge shall have the following duties, in addition to presiding in court, the presiding judge:

- (a) ~~He shall~~ Shall formulate and amend the local rules of the court with the approval of the Colorado Supreme Court.
- (b) ~~He shall~~ Shall ~~supervise all court personnel.~~
- (c) ~~He shall~~ Shall ~~submit a yearly budget request to the council for the proper functioning of the court.~~

Sec. 8.5. Compensation of judges.

All judges shall receive a fixed salary or compensation set by the council, by ordinance, and such salary or compensation shall not be dependent upon the outcome of the matters to be decided by the judges. A judge's compensation may not be reduced during the term of ~~his~~ the judge's appointment.

CHAPTER IX. BOARDS AND COMMISSIONS

Sec. 9.1. Existing boards and commissions.

All boards and commissions in existence at the time of adoption of this Charter, shall continue in existence as provided in the respective ordinances, except as otherwise provided by ordinance or this Charter.

Sec. 9.2. Right to establish.

The council shall have the power and authority to create boards and commissions as deemed necessary including advisory and appeal boards. Advisory boards may be created by resolution. All other boards and commissions, including appeal boards, shall be created by ordinance, which shall set forth the powers and duties delegated to such board or commission.

Sec. 9.3. Appointments to boards or commissions.

The council shall make all appointments to all boards and commissions and shall specify the term of office of each individual in order to achieve overlapping tenure. All boards and commissions shall have approximately equal representation from each council district. All members shall be residents of the city, registered voters and shall be subject to removal for just cause by the council. The council shall also make appointments to fill vacancies for unexpired terms.

Sec. 9.4. Procedures of boards and commissions.

Each board and commission shall operate in accordance with its own rules of procedure except as otherwise directed by the council. All meetings of any board or commission shall be open to the public except that any board or commission may hold an executive session provided that the same provisions that apply to the city council in section 5.7 shall be applicable. Minutes of all board and commission meetings shall be kept in the office of the city clerk.

CHAPTER X. FINANCE AND BUDGET

Sec. 10.1. Fiscal year.

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

Sec. 10.2. Submission of budget.

Prior to the beginning of each fiscal year, the city administration shall prepare and submit to the council a recommended budget for the next fiscal year and an accompanying message.

Sec. 10.3. Budget message.

The city ~~administration manager's~~ message shall explain the budget both in fiscal terms and in terms of the work programs. It shall outline the proposed financial policies of the city for the next fiscal year, describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures and revenues, together with the reasons for such changes, summarize the city's debt position, and include such other material as the ~~administration-city manager~~ deems desirable or which the city council may require.

Sec. 10.4. Budget content.

The budget shall provide a complete financial plan of all municipal funds and activities for the next fiscal year and, except as required by ordinance or this Charter, shall be in such form as the city ~~administration manager~~ deems desirable or the council may require. In organizing the budget, the city ~~administration manager~~ shall utilize the most feasible combination or expenditure classification by fund, organization unit, program, purpose or activity, and object. It shall begin with a clear general summary of its contents and shall be arranged so as to show comparative figures for actual and estimated income and expenditures of the preceding fiscal year. It shall include the following in separate sections unless otherwise provided by ordinance:

- (a) Anticipated revenues classified as cash surplus, miscellaneous revenues, and amounts to be received from ad valorem taxes; cash surplus being defined for purposes of this Charter as the amount by which cash is expected to exceed current liabilities and encumbrances at the beginning of the next fiscal year;
- (b) Proposed expenditures for current operations during the next fiscal year, detailed by offices, departments and agencies in terms of their respective work programs, and the method of financing such expenditures;
- (c) A reasonable provision for contingencies;
- (d) A capital depreciation account;
- (e) Required expenditures for debt service, judgments, cash deficient recovery and statutory expenditures;
- (f) Proposed capital expenditures during the next fiscal year, detailed by offices, departments and agencies when practicable, and the proposed method of financing each such capital expenditure;
- (g) Anticipated net surplus or deficit for the next fiscal year for each utility owned or operated by the city and the proposed method of its disposition; subsidiary budgets for each such utility giving detailed income and expenditure information shall be attached as appendices to the budget;
- (h) The bonded and other indebtedness of the city, showing the debt redemption and interest requirements, the debt authorized and unissued, and the condition of sinking funds, if any;
- (i) Such other information as the council may request.

Sec. 10.5. Balanced budget required.

The total of proposed expenditures shall not exceed the total of estimated revenue.

Sec. 10.6. Capital program.

- (a) The city ~~administration~~manager, with such assistance as the council may direct, shall prepare and submit to the council a long-range capital program, simultaneously with the recommended budget.
- (b) The capital program shall include the following, unless otherwise provided by ordinance:
 - 1. A clear general summary of its contents;
 - 2. A list of all capital improvements which are proposed to be undertaken during the following fiscal years, with appropriate supporting information as to the necessity for the improvement;
 - 3. Cost estimates, method of financing and recommended schedules for each such improvement;
 - 4. The estimated annual cost of operating and maintaining the facilities to be constructed or acquired;
 - 5. Such other information as the council may request.

This information shall be revised or extended each year with regard to capital improvements still pending or in process of construction or acquisition.

Sec. 10.7. Public hearing.

A public hearing on the proposed budget and proposed capital program shall be held before its final adoption at such time and place as the council may direct. Notice of such public hearing and notice that the proposed budget is on file for public inspection in the office of the city clerk shall be published one (1) time at least seven (7) days prior to the hearing.

Sec. 10.8. Council amendments.

After the public hearing, the council may adopt the budget with or without amendment. In amending the budget, it may add or delete any programs or increase or decrease any amounts, except expenditures required by law or for debt service or for estimated cash deficit. However, the total of proposed expenditures shall not exceed the total of estimated revenue.

Sec. 10.9. Council budget adoption.

The council shall adopt the budget by resolution on or before the final day established by statute for the certification of the next year's tax levy to the county. If it fails to adopt the budget by this date, the amounts appropriated for the operation for the current fiscal year shall be deemed adopted for the next fiscal year on a month-to-month basis, with all items in it prorated accordingly, until such time as the council adopts the budget for the next fiscal year.

Sec. 10.10. Property tax levy and budget appropriations.

Adoption of the budget by council shall constitute appropriations of the amounts specified therein as expenditures from the funds indicated and shall constitute a levy of the property tax therein proposed. Council shall cause the same to be certified to the county as required by statute.

Sec. 10.11. Budget status report.

During the month of July, and as often as the council may require, the ~~administration-city manager~~ shall present a budget status and forecast report to the city council with any recommendations for remedial action.

Sec. 10.12. Amendments after adoption.

- (a) *Supplemental Appropriations.* If during the fiscal year the city ~~administration-manager~~ determines that there are available for appropriation revenues in excess of those estimated in the budget, the council by resolution may make supplemental appropriations for the year up to the amount of the excess.
- (b) *Emergency Appropriations.* To meet a public emergency affecting life, health, property, public safety or the public peace, the council may make emergency appropriations. Such appropriations may be made by emergency ordinance in accordance with section 5.13 of this Charter. To the extent that there are no available unappropriated revenues to meet such appropriations, the council may by emergency ordinance authorize the issuance of emergency notes, which may be renewed from time to time, but the emergency notes and renewals of any fiscal year shall be paid not later than the last day of the fiscal year next succeeding that in which the emergency appropriation was made.
- (c) *Reduction of Appropriations.* If at any time during the fiscal year it appears probable to the ~~administration~~ city manager that the revenues available will be insufficient to meet the amount appropriated, this shall be reported to the council without delay, indicating the estimated amount of deficit, any remedial action taken and recommendation as to any other steps to be taken. The council shall then take action to prevent or minimize any deficit and for that purpose it may by resolution reduce one (1) or more appropriations.
- (d) *Transfer of Appropriations.* Any time during the fiscal year, the ~~administration-city manager~~ may transfer part or all of any unencumbered appropriation balance among programs within a fund, department, office or agency. ~~and, upon written request by the administration, the council may by resolution transfer part or all of any unencumbered appropriation balance from one (1) department, office, agency, or object to another.~~
- (e) *Limitation—Effective Date.* No appropriation for debt service may be reduced below any amount required to be appropriated or by more than the amount of the unencumbered balance thereof. The supplemental and emergency appropriation and reduction or transfer of appropriations authorized by this section may be made immediately upon adoption.
- (f) *No Contract to Exceed Appropriation.* During each and any fiscal year, no contract entered into by or on behalf of the city shall expend or contract to expend any money, or to incur any liability, nor shall any contract be entered into nor any bid be awarded by or on behalf of the city which, by its terms, involves the expenditure of money for any of the purposes for which provision is made either in the adopted budget or adopting resolution, including any legally authorized amendments thereto, in excess of the amount appropriated in the budget or approved contract or bid award. Any contract or bid award, either verbal or written, made in violation of the provisions of this section shall be void as to the city and no city monies from any source whatsoever shall be paid thereon.

(Ord. No. 867, § 3(b), 6-24-91)

Sec. 10.13. Lapse of appropriation.

Every appropriation, except an appropriation for a capital expenditure fund or special fund, shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered. An appropriation for a capital expenditure fund or special fund shall continue in effect until the purpose for which it has been established is accomplished or abandoned.

Sec. 10.14. Public record.

Copies of the budget and capital program as adopted shall be public records and shall be made available to the public in the city clerk's office.

Sec. 10.15. Independent audit.

An independent certified audit shall be made of all city accounts annually, and more frequently if deemed necessary by the council. Such audit shall be made by certified public accountants experienced in municipal accounting selected by the council.

CHAPTER XI. TAXATION

Sec. 11.1. Tax authority and limitations.

The council shall have the authority to levy and impose taxes for municipal purposes and to provide for their collection, provided that there shall not be an increase of rate of sales tax unless and until such rate increase shall be approved by a majority of the electorate voting at a regular or special municipal election. The council shall also have authority to levy and provide for collection of special assessments for local improvements as provided in this Charter or by ordinance. Increases in ad valorem shall be subject to the same limitations and review procedures now or hereafter provided by state statute for statutory cities.

(Ord. No. 865, § 3(C), 6-24-91)

Sec. 11.2. Collection of taxes.

- (a) Unless otherwise provided by ordinance, the county treasurer shall collect city ad valorem taxes in the same manner and at the same time as general ad valorem taxes are collected. In like manner, the council may provide for collection of special improvement assessments by the county treasurer.
- (b) All statutes of this state for the assessment of property and the levy and collection of ad valorem taxes, sale of property for taxes, and the redemption of the same, shall apply and have the full force and effect in respect to taxes for the city as to such general ad valorem taxes, except as may be modified pursuant to this Charter.

Sec. 11.3. Authority to acquire property.

In addition to all other power which it has to acquire property, the city is hereby authorized to purchase or otherwise acquire property on which there are delinquent taxes or special assessments. The city may also dispose of any property acquired under this authority.

CHAPTER XII. MUNICIPAL FUNDING

Sec. 12.1. Forms of borrowing.

The city may borrow money for any municipal purpose as provided herein and issue the following securities to evidence such indebtedness:

- (a) Short-term notes.
- (b) General obligation bonds and other like securities.
- (c) Revenue bonds and other like securities.

- (d) Special or local improvement bonds and other like securities.
- (e) Any other legally recognized security which the council may provide.

Sec. 12.2. Short-term notes.

The city, upon the affirmative vote of the majority of the entire council in office at the time the vote is taken, is hereby authorized to borrow money without an election in anticipation of the collection of taxes or other revenues and to issue short-term notes to evidence the amount so borrowed. Any such short-term notes shall mature before the close of the fiscal year in which the money is so borrowed except as is permitted in the provision of this Charter pertaining to emergency appropriations.

Sec. 12.3. General obligation bonds.

No bonds or other evidence of indebtedness payable in whole or in part from the proceeds of ad valorem taxes or to which the full faith and credit of the city are pledged, shall be issued, except in pursuance of an ordinance, nor until the question of their issuance shall, at a special or regular election, be submitted to a vote of the qualified registered electors of the city, and approved by a majority of those voting on the question, except as provided in sections 12.2, 12.4, 12.5, 12.6, 13.3, and 13.4 and provided further that such securities issued for acquiring water and rights thereto, or acquiring, improving or extending a city water system or sewer system or any combination of such purposes, may be so issued without an election.

Sec. 12.4. Revenue bonds.

The city, pursuant to ordinance, and without an election, may borrow money, issue bonds, or otherwise extend its credit for purchasing, constructing, condemning, otherwise acquiring, extending, or improving a water, electric, gas, or sewer system, or other public utility or income-producing project or for any other capital improvement; provided that the bonds or other obligations shall be made payable from the net revenues derived from the operation of such system, utility or other such project or capital improvement, and provided further, that any two (2) or more of such systems, utilities, projects or capital improvements may be combined, operated, and maintained as joint municipal systems, utilities, projects or capital improvements, in which case such bonds or other obligations shall be made payable out of the net revenue derived from the operation of such joint systems, utilities, projects or capital improvements.

Sec. 12.5. Revenue bonds funded by sales and use tax.

In addition to the provisions of section 12.4 relating to revenue bonds, the city shall have the authority to issue revenue bonds payable from the revenue and income of the project, facility, or improvement to be constructed or installed with the proceeds of the bond issue, or payable in whole or in part from the available proceeds of a city sales and use tax which may be imposed pursuant to chapter XI.

Sec. 12.6. Refunding bonds.

- (a) The council may authorize, by ordinance, without an election, the issuance of refunding bonds or other like securities for the purpose of refunding and providing for the payment of the outstanding bonds or other like securities of the city as the same mature, or in advance of maturity by means of an escrow or otherwise.
- (b) Any refunding bonds or other like securities issued for the purpose of refunding revenue bonds or other revenue securities shall be payable from the revenues pledged to the original bond issue.

Sec. 12.7. Limitations on indebtedness.

The aggregate amount of bonds or other evidences of indebtedness of the city shall not exceed three (3) percent of the actual valuation of the taxable property within the city as shown by the last preceding assessment for city purposes; provided however, in determining the amount of indebtedness, there shall not be included within the computation:

- (a) Bonds or other evidences of indebtedness, outstanding or authorized to be issued for the acquisition, extension or improvement of a municipal waterworks system or municipal storm sewer, sanitary sewer, combined storm and sanitary sewers, or sewage disposal systems;
- (b) Short-term notes;
- (c) Special or local improvement securities;
- (d) Securities payable from the revenues of an income-producing system, utility, project, or other capital improvement or from city sales or use taxes;
- (e) Long-term installment contracts other than real property acquisitions, rentals and leaseholds pursuant to section 12.9.

Sec. 12.8. Bonds: Interest, sale, prepayment.

- (a) The terms and maximum interest rate of general obligation or revenue bonds or other like securities shall be fixed by the authorizing ordinance and such securities shall be sold to the best advantage of the city.
- (b) Any refunding bond may be exchanged dollar for dollar for a bond refunded.
- (c) All bonds may contain provisions for calling the same at designated periods prior to the final due date, with or without the payment of a prior redemption premium.

Sec. 12.9. Long-term installment contracts, rentals and leaseholds—City property.

- (a) In order to provide necessary land, buildings, equipment, and other property for governmental or proprietary purposes, the city is hereby authorized to enter into long-term installment purchase contracts and rental or leasehold agreements. Such agreements may include an option or options to purchase and acquire title to such property within a period not exceeding the useful life of such property. Each such agreement and the terms thereof shall be concluded by an ordinance duly enacted by the council.
- (b) The council is authorized and empowered to provide for the said payments at their discretion from any available municipal revenues.
- (c) The obligation created hereunder shall not constitute an indebtedness of the city within the meaning of the legal limitations on contracting of indebtedness contained in this chapter.

(Ord. No. 865, § 3(C), 6-24-91)

Sec. 12.10. Approval of tax increment financing, revenue sharing and cost sharing agreement.

Any action by an agency, agent, authority, commission, committee, city council, department, employee or official of the City of Wheat Ridge, approving or changing a sales or property tax increment financing (TIF), revenue sharing or cost sharing arrangement pursuant to Part 1 of the Colorado Urban Renewal Law, must be ratified by the Wheat Ridge City Council via a vote on a formal agenda item, at a regularly scheduled business meeting, that is advertised as a public hearing.

If the value of the said sales or property tax increment financing (TIF), revenue sharing or cost sharing exceeds two million five hundred thousand dollars (\$2,500,000.00), the city council action of approval must be ratified by the registered electors of the City of Wheat Ridge at a special or regular election.

The base amount for voter approval of any sales or property tax increment financing (TIF) will be any financing exceeding two million five hundred thousand dollars (\$2,500,000.00). To account for inflation and/or increased construction costs, every third year after March 1, 2015, the base amount will be increased by five (5) percent.

Effective date: This amendment will take effect and apply to all actions undertaken by an agency, agent, authority, commission, committee, city council, department, employee or official of the City of Wheat Ridge subsequent to March 1, 2015 and thereafter.

(Approved by electorate 11-3-15)

The Jefferson County Colorado District Court has held this section unconstitutional and therefore ineffective, with the sole exception of the method of city council approval (via a vote on a formal agenda item, at a regularly scheduled business meeting, that is advertised as a hearing) of "urban renewal plans" and "plan modifications" which already require approval by the council under CRS 31-25-107. See, Longs Peak Metropolitan District v. City of Wheat Ridge, Case No. 17CV 30542 (September 8, 2017).

CHAPTER XIII. IMPROVEMENT DISTRICTS

Sec. 13.1. Creation of special or local improvement districts.

Special or local improvement districts created pursuant to this Charter may, in the discretion of council, be so created only upon receipt by the council of a petition for an ordinance by the owners of more than fifty (50) percent of the landowners residing in the proposed district.

Sec. 13.2. Power to create special or local improvement districts.

- (a) Upon receipt of a petition, as described in section 13.1, the city shall have the power to create special or local improvement districts within designated districts in the city, to contract for, construct or install special or local improvements of every character within the said designated districts, to assess the cost thereof, wholly or in part, upon the property benefited in such district, and to issue special or local improvement bonds therefor.
- (b) The council shall, by ordinance, prescribe the method and manner of creating such improvements, of letting contracts therefor, issuing and paying bonds for construction or installation of such improvements, including the costs incidental thereto, for assessing the costs thereof and for all things in relation to the authority herein created.
- (c) Except as otherwise provided by Charter or by ordinance, the statutes of the State of Colorado shall govern the creation and organization of special or local improvement districts, the assessment of costs, the issuance of bonds therefor and all things in relation thereto.

Sec. 13.3. Improvement district bonds; levy for general benefit to special fund; pledge of credit.

- (a) In consideration of general benefits conferred on the city at large from the construction or installation of improvements in special or local improvement districts, created pursuant to section 13.1, the city council may contract by ordinance prior to the issuance of any bonds of any special or local improvement district,

that the payment of such bonds, both as the principal, interest and costs appertaining thereto become due, is additionally secured by a special fund herein created, and pursuant thereto may, subject to the limitations of section 11.1, levy annual taxes on all taxable property within the city at a rate not exceeding two (2) mills in any one (1) year, to be disbursed as determined by the council, for the purpose of advancing money to maintain current payments of interest and equal annual payments of the principal amount of said bonds or for any prior redemption premium appertaining to such bonds.

- (b) The proceeds of such taxes shall be placed in a special fund and shall be disbursed only for the purposes specified in this section, provided, however, that in lieu of such tax levied, the council may annually transfer to such special fund any available money of the city, but in no event shall the amount transferred in any one (1) year exceed the amount which would result from a tax levied in such year as herein limited.

As long as any bonds issued for special or local improvement districts hereafter organized, remain outstanding, the tax levy or equivalent transfer of money to the special fund created for the payment of said bonds shall not be diminished in any succeeding year until all of said bonds and the interest thereon shall be paid in full, unless other available funds are on hand therefor, or such bonds and interest are paid by the city as provided in section 13.5 of this Charter.

- (c) In addition to the above, the council may finance the city's share of the cost of any special improvement project, whether or not such cost is assessed against city-owned property, by the issuance of special improvement district bonds, and shall appropriate annually an amount sufficient for the payment of that portion of the share of such costs then due. Such bonds shall not be subject to any election requirement or debt limitation which might otherwise exist pursuant to this Charter or other applicable law.
- (d) After the bonds have been retired in full, any monies remaining in such special funds shall be transferred as provided in section 13.4.
- (e) Bonds of any special or local improvement district payable from special assessments, which payment may be additionally secured as provided in this section, shall not be subject to any debt limitation nor affect the city's debt-incurring power, nor shall such bonds be required to be authorized at any election; and such bonds shall not be held to constitute a prohibited lending of credit or donation, nor to contravene any constitutional, statutory, or Charter limitation or restriction.

Sec. 13.4. Transfers from unencumbered special or local improvement district funds.

Where all outstanding bonds of a special or local improvement district have been paid and money remains to the credit of the district or in a special fund created pursuant to section 13.3 for the said bond issue, it may be transferred, in whole or in part, by ordinance, to a surplus and deficiency fund, and whenever there is a deficiency in any special or local improvement district fund to meet the payment of outstanding bonds and interest due thereon, the deficiency shall be paid out of the said fund; or in the alternative, council, may by ordinance, transfer all or part of any unencumbered balance from a special or local improvement district fund or a special fund created pursuant to section 13.3 for the said bond issues to any other city fund.

Sec. 13.5. Payment of bonds by city.

Whenever a special or local improvement district has paid and cancelled three-fourths of its bonds issued and for any reason the remaining assessments are not paid in time to redeem the final bonds of the district, the city shall pay the bonds when due and reimburse itself by collecting the unpaid assessments due the district.

Sec. 13.6. Review of improvement district proceedings.

No action or proceeding, at law or in equity, to review any acts or proceedings, or to question the validity of, or enjoin the performance of the issue or collection of any bonds, or the levy or collection of any assessments authorized by this chapter, or for any other relief against any acts or proceedings of the city done or had under this chapter, shall be maintained against the city, unless commenced within thirty (30) days after the date of passage of the resolution or ordinance complained of, or else be thereafter perpetually barred.

CHAPTER XIV. INTERGOVERNMENTAL RELATIONS

Sec. 14.1. Regional service authorities.

In the interest of governmental services provided on a regional or area-wide basis and the benefits realized by the City of Wheat Ridge from said services, the council may ~~by ordinance provide~~ approve grants of municipal funds ~~by ordinance provide grants of municipal funds~~ and services on a regional or area-wide basis, ~~existing at the time this Charter becomes effective or thereafter created~~. The council shall also have the authority to allow city participation in said service authorities in any manner it deems in the best interest of the city.

Sec. 14.2. Cooperative intergovernmental contracts.

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

CHAPTER XV. UTILITIES AND FRANCHISES

Sec. 15.1. General powers.

The city shall have and exercise with regard to all utilities and franchises, all municipal powers, including without limitation, all powers now existing and which may be hereafter provided by the constitution and statutes. The right of the city to construct, lease, purchase, acquire, condemn or operate any public utility, work or way is expressly reserved. Except as otherwise provided by constitution, or this Charter, all powers concerning the granting, amending, revoking, or otherwise dealing in franchises, shall be exercised by the council. Any utility serving entirely within the corporate boundaries of the city may be acquired, purchased, or constructed without the requirement of an election.

Sec. 15.2. Water rights.

The city shall have the authority to buy, sell, exchange, lease, own, control and otherwise deal in water rights.

Sec. 15.3. Utility rates.

The council shall, by ordinance, establish rates, rules and regulations and extension policies for services provided by city-owned utilities, both within and outside the corporate limits of the city.

Sec. 15.4. Management of municipal utilities.

All municipally owned or operated utilities shall be administered as a regular department of the city.

Sec. 15.5. Use of public places by utilities.

Every public utility, whether it has a franchise or not, shall pay such part of the cost of improvement or maintenance of streets, alleys, bridges, and other public places as shall arise from its use thereof and shall protect and save the city harmless from all damages arising from said use. Every such public utility may be required by the city to permit joint use of its property and appurtenances located in the streets, alleys or other public places of the city by the city and by other utilities insofar as such joint use may be reasonably practicable.

Sec. 15.6. Granting of franchises.

- (a) With the exception of cable franchises, no franchise shall be granted except upon approval by a majority of the registered electors voting thereon.
- (b) The council shall establish by ordinance the terms, fees, compensation, conditions, and any other matters related to the granting of franchises.

(Ord. No. 865, § 3(A), 6-24-91; Ord. No. 1498, § 1, 8-22-11)

Sec. 15.7. Existing franchises.

All franchise ordinances and agreements of the city in effect at the time this Charter is effective shall remain in full force and effect in accordance with their respective terms and conditions unless modified by another franchise.

Sec. 15.8. Transit facilities.

Council may require by ordinance and by fair apportionment of the cost, any railroad or other transportation system to elevate or lower any of its right-of-way or tracks running over, under, along or across any public thoroughfare; and to construct and maintain all street crossings, bridges, viaducts and other conveniences in good condition with proper approaches and safety devices.

Sec. 15.9. Revocable permits.

The council may grant a permit at any time for the temporary use or occupation of any street, alley, or city-owned place, provided such permit shall be revocable by the council at its pleasure, regardless of whether or not such right to revoke be expressly reserved in such permit.

Sec. 15.10. Franchise records.

The city shall cause to be kept in the office of the city clerk an indexed franchise record in which shall be transcribed copies of all franchises heretofore and hereafter granted. The index shall give the name of the grantee and any assignees. The record, a complete history of all such franchises, shall include a comprehensive and convenient reference to all actions at law affecting the same, and copies of all annual reports and such other matters of information and public interest as the council may from time to time require.

CHAPTER XVI. MISCELLANEOUS LEGAL PROVISIONS

Sec. 16.1. Reservation of power.

The power to supersede any law of this state now or hereafter in force, insofar as it applies to local or municipal affairs shall be reserved to the city, acting by ordinance subject only to restrictions of article XX of the Constitution of the State of Colorado.

Sec. 16.2. Bequests, gifts and donations.

The council, on behalf of the city, may receive or refuse bequests, gifts and donations of all kinds of real and personal property in fee simple or trust for public, charitable or other purposes, and do all things and acts necessary to carry out the purpose of such gifts, bequests and donations with the power to manage, sell, lease or otherwise dispose of the same in accordance with the terms of the gift, bequest or trust, or the council may delegate such power to persons as it may deem advisable.

Sec. 16.3. Liability of the city.

No action for recovery of compensation for personal injury, death or property damage against the city on account of its negligence or other tort shall be maintained unless written notice of the alleged time, place and cause of injury, death or property damage is given to the city clerk by the person injured, ~~his~~ the injured person's agent or attorney, within one hundred eighty (180) days of the occurrence causing the injury, death or property damage. The notice given under the provisions of this section shall not be deemed invalid or insufficient solely by reason of an inaccuracy in stating the time, place or cause of injury, if it is shown that there was no intent to mislead and that the city, in fact, was not misled thereby. This provision shall not be construed as a waiver of any governmental immunity the city may now, or in the future, have.

Sec. 16.4. Eminent domain.

The city shall have the right of eminent domain within or without its corporate limits as provided by the Constitution of the State of Colorado and statutes.

Sec. 16.5. Sale of real property.

The city shall not sell or dispose of municipally owned buildings or real property for a public purpose, without first obtaining the approval, by ordinance, of three-fourths of the entire council. Unanimous approval of the entire council, by ordinance, shall be necessary for sale or disposition of designated park land.

Sec. 16.6. Severability of Charter provisions.

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

Sec. 16.7. Charter amendments.

This Charter may be amended at any time in the manner provided in section 16.8 of this Charter. Nothing herein contained shall be construed as preventing the submission to the people of more than one (1) Charter amendment at any one (1) election. If provisions of two (2) or more proposed amendments conflict or are inconsistent and are adopted or approved at the same election, the amendment receiving the highest affirmative vote shall become effective.

Sec. 16.8. Procedure to amend the Charter.

Proceedings to amend this Charter may be initiated by:

- (a) A petition signed by at least five (5) percent of the registered electors of the City of Wheat Ridge; or

- (b) An ordinance adopted by the council submitting the proposed amendment to a vote of said registered electors.

Within thirty (30) days from the initiation of proceedings to amend this Charter, the council shall publish notice of and call an election upon the proposed amendment, which election shall be held not less than thirty (30) nor more than one hundred eighty (180) days after publication of the notice thereof. Notice of a proposed Charter amendment shall contain the full text thereof.

If a majority of the registered electors voting thereon vote for a proposed amendment, the amendment shall be deemed approved.

Sec. 16.9. Charter repeal.

This Charter may be repealed as provided by the Constitution and the statutes of the State of Colorado as now existing or hereafter amended or modified.

Sec. 16.10. Interpretations.

Except as otherwise specifically provided or indicated by the context thereof, all words used in this Charter indicating the present tense shall not be limited to the time of the adoption of this Charter but shall extend to and include the time of the happening of any event for which provision is made herein. The singular number shall include the plural, the plural shall include the singular ~~and the masculine gender shall extend to and include the feminine gender and neuter~~, and the word "person" may extend and be applied to bodies politic and corporate and to partnerships as well as to individuals.

Sec. 16.11. Definitions.

As used in this Charter, the following words and phrases shall have the following meaning:

- (a) *Ad valorem or general property tax.* A tax levied on property in the form of a percentage of the value of the property.
- (b) *Appropriation.* The authorized amount of monies set aside for expenditure during a specific time for a specific purpose.
- (c) *City.* The City of Wheat Ridge, Colorado, a municipal corporation.
- (d) *City administration.* The ~~elected mayor and~~ city manager of the City of Wheat Ridge appointed pursuant to this Charter.
- (e) City Clerk. The clerk of the City of Wheat Ridge.
- (f) *Constitution.* The Constitution of the State of Colorado.
- (g) *Council.* The city council of the City of Wheat Ridge.
- (h) *Elector or registered elector.* A resident of the city qualified to vote under the Constitution and statutes of the State of Colorado.
- (i) *Employee.* A person employed by the City of Wheat Ridge.

- (j) *Franchise*. An irrevocable privilege granted by the city permitting a specified use of public property for a specified length of time.
- (k) *General municipal election*. A municipal election held every two (2) years at which candidates for elective offices of the city are voted upon in accordance with this Charter.
- (l) *Officer and/or official*. Any person elected to office or appointed by the council or mayor, including appointees to boards and commissions and the city manager.
- (m) *Public utility*. Any person, firm or corporation operating power or light systems, communicating systems, water, sewer or scheduled transportation systems, and serving or supplying the public whether or not under a franchise granted by the city.
- (n) *Statutes or laws*. The applicable laws of the State of Colorado as they now exist or as they may be amended, changed, repealed or otherwise modified by legislative procedure.
- (o) City Treasurer. The city treasurer of the City of Wheat Ridge.

(Ord. No. 865, § 3(A), 6-24-91; Ord. No. 1996-1038, § 1, 7-22-96)

Sec. 16.12. Chapter and section headings.

The chapter, section and subsection headings are inserted for convenience and reference only and shall not be construed to limit, describe or control the scope or intent of any provision therein.

CHAPTER XVII. TRANSITIONAL PROVISIONS

Sec. 17.1. Effective date of Charter.

This Charter shall become effective immediately upon voter approval, except as otherwise provided in this chapter.

Sec. 17.2. Status of transitional provisions.

The purpose of this chapter is to provide for an orderly transition from the present city government of Wheat Ridge to a home rule government under the provisions of this Charter. This chapter shall constitute a part of this Charter, during the transition period, only to the extent required to accomplish that purpose.

~~Sec. 17.3. Transition period.~~

~~The period from the voter approval of this Charter to November 6, 1979, shall be known as the "transition period." During this period, all officers and employees of the city shall proceed, with due diligence, to put into effect the provisions of this Charter. During the transition period the council shall, by resolution, designate the dates the various provisions become operative and the agency or agencies on which they shall become operative. Until superseded by this Charter or any provision thereof the state statutes shall continue in effect.~~

~~For the purpose of the November 6, 1979, general municipal election, the council shall complete the apportionment of the city into four (4) council districts prior to December 31, 1978.~~

Sec. 17.3. Prior city legislation.

All ordinances, resolutions, rules and regulations of the city which are not inconsistent with this Charter and which are in force and effect at the effective date of this Charter shall continue in full force and effect until repealed or amended. Those provisions of any effective ordinance, resolution, rule and regulation which are inconsistent with this Charter are hereby repealed.

~~Sec. 17.5. Continuation of elected officers.~~

~~The present elected officers or their appointed successors in office at the time of the adoption of this Charter shall continue to serve and carry out the functions, powers and duties of their offices until their successors assume the duties of their offices.~~

~~Sec. 17.6. Continuation of boards and commissions.~~

~~All boards and commissions in office at the time of adoption of this Charter shall continue to function with their present powers and structure as provided in the respective ordinances.~~

~~Sec. 17.7. Continuation of appointed officers and employees.~~

~~Except as otherwise provided herein, after the effective date of this Charter, all appointive officers and all employees of the city shall continue in that city office or employment, which corresponds to the city office or employment which they held at the time of the effective date of this Charter, as though they had been appointed or employed in the manner provided in this Charter, and they shall in all respects be subject to the provisions of this Charter, except that any officer or employee who holds a position which this Charter provides be held at the pleasure of the appointing officer or body, shall hold such position only at such pleasure regardless of the term for which originally appointed.~~

Sec. 17.4. Saving clause.

This Charter shall not affect any suit pending in any court or any document heretofore executed in connection therewith. Nothing in this Charter shall invalidate any existing agreements or contracts between the City of Wheat Ridge and individuals, corporations or public agencies.

EXHIBIT A (RE: BALLOT QUESTION 1)

PART 1 CHARTER¹

PREFATORY SYNOPSIS

On November 2, 1976, the residents of Wheat Ridge voted for the creation of a Home Rule Charter Commission and selected a diversified group of residents to draft a proposed Charter. The twenty-one (21) elected members of the Charter Commission submit to the voters of the City their proposed Home Rule Charter which has been framed in conformity with article XX of the Constitution of the State of Colorado and the Municipal Home Rule Act of 1971.

The commission members have drafted a Charter to achieve a simple and direct form of local government based upon sound principles. It is designed to meet the present and future needs of the residents of Wheat Ridge. The underlying concept of this document is the need for a flexible and responsive government with maximum financial control exercised by the residents. Such a philosophy emphasizes public involvement and encourages citizen participation in matters of local and municipal concern. The commission believes that this charter provides for effective government through local self-determination by separating legislative and administrative branches.

The charter provides for the Council-Manager form of government. The mayor presides over council meetings and possesses the power of veto. The mayor shall be the recognized head of the city government for all legal and ceremonial purposes and shall be the conservator of the peace.

The city council is established as the policy-making legislative body of the city. The council consists of eight (8) members with two (2) members elected from each of four (4) districts. The council shall appoint residents to all boards and commissions on an equal representation basis.

The charter provides that all elections are to be nonpartisan and conducted in accordance with Colorado Municipal Election Law. All city officials are elected for a four-year term of office thereby providing maximum accountability to the residents. The treasurer and city clerk remain elected officers of the city. The city council also appoints a city manager to run the daily affairs of the city.

The rights of the people have been retained through powers of recall, initiative and referendum. Significant tax limitations existing under present state law also are incorporated into this charter.

The proposed charter is a document of consensus and compromise. The significant consideration is the charter itself and there is no substitute for reading it in its entirety.

(Ord. No. 1996-1038, § 1, 7-22-96)

PREAMBLE

We, the people of the City of Wheat Ridge, Colorado, under the authority of the Constitution of the State of Colorado and in order to exercise the rights, privileges and responsibilities of self-government granted to use by the said Constitution, do ordain and establish this home rule charter for the City of Wheat Ridge, Colorado.

¹ Editor's note(s)—The City Charter is published as amended with no rewording. The printing style, however, has been made consistent with the Code. [The certificate of the charter commission has not been published.]

CHAPTER I. GENERAL PROVISIONS

Sec. 1.1. Name and boundaries.

The municipal corporation heretofore existing as the "City of Wheat Ridge" in Jefferson County of Colorado shall remain and continue as a body politic and corporate and under this Charter shall be known as the "City of Wheat Ridge" with the same boundaries until changed in a manner authorized by law.

Sec. 1.2. Rights and liabilities.

By the name of the City of Wheat Ridge, the municipal corporation shall have perpetual succession, shall own, possess and hold all property, real and personal, heretofore owned, possessed and held by the City of Wheat Ridge and does assume and manage and dispose of all trusts in any way connected therewith; shall succeed to all the rights and liabilities and shall acquire all benefits and does assume and shall pay all bonds, obligations and indebtedness of said City of Wheat Ridge; may, in the name of the City of Wheat Ridge, sue and defend, plead and be impleaded in all courts and places and in all matters and proceedings; may purchase, receive, hold and enjoy, or sell and dispose of real and personal property.

Sec. 1.3. Powers of self-government.

The city shall have all the power of local self-government and home rule and all powers possible for a city to have under the Constitution of the State of Colorado. The city shall also have all powers that now or hereafter may be granted to municipalities by the statutes of the State of Colorado. The enumeration of particular powers in this Charter shall not be deemed to be exclusive of others. All such powers shall be exercised in the manner prescribed in this Charter or, if not provided for herein, in such manner as shall be provided by ordinance of the council of the city.

Sec. 1.4. Form of government.

The municipal government established by this Charter shall be the Council-Manager form of government. In a Council-Manager government, an elected city council serves as the city's primary legislative body and appoints a chief administrative officer called a city manager to oversee day-to-day municipal operations, to draft a budget, and to implement and enforce the council's policy and legislative initiatives.

Sec. 1.5. Present ordinances.

All ordinances of the City of Wheat Ridge in force at the time this Charter goes into effect shall continue in force except insofar as they may conflict with the provisions of this Charter or shall be amended or repealed by ordinances enacted under the authority of this Charter.

CHAPTER II. ELECTIONS

Sec. 2.1. Colorado municipal elections laws adopted.

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

Sec. 2.2. General and special municipal elections.

A general municipal election shall be held on the first Tuesday in November of each odd numbered calendar year. Any special municipal election may be called by resolution or ordinance of the city council at least sixty (60) days in advance of such election. The resolution or ordinance calling a special municipal election shall set forth the purpose or purposes of such election. Polling places for all municipal elections shall be open from 7:00 a.m. to 7:00 p.m. on election day.

(Ord. No. 1328, § 1, 11-2-04)

Sec. 2.3. Disclosure.

The city council shall, within six (6) months of the adoption of this Charter, adopt and thereafter maintain, by resolution or ordinance, an election code of ethics covering the conduct of municipal elections and conduct of candidates for municipal office; and which shall include, but not necessarily be limited to, disclosure of all campaign contributions and expenditures of an amount in excess of that which the council may determine and the names of the contributions and the recipients thereof.

Sec. 2.4. Election commission.

- (a) An election commission is hereby created, consisting of the city clerk and two (2) registered electors of the city. These two (2) registered electors during their term of office shall not be elected city officers or employees or candidates or nominees for elective city office. These two (2) members shall be appointed by the city council in the first December meeting following a regular city election, for a term of two (2) years.
- (b) The city clerk shall be chairperson. The election commission shall have charge of all activities and duties required of it by statute, ordinance and this Charter relating to the conduct of elections in the city. In any case where election procedure is in doubt, the election commission shall prescribe the procedure to be followed.
- (c) Where residency is in question, proof of residency qualification shall be established and confirmed by the State of Colorado Department of State. Upon a showing for good cause, the election commission may require proof of residency by any person registered to vote or attempting to register to vote in the City of Wheat Ridge. Said person shall not be qualified to vote in any municipal election until the election commission is satisfied that said person has presented sufficient proof of residency as required by statute or ordinance adopted pursuant to this Charter.
- (d) The election commission shall provide for: ballots, sample ballots and any voting methods as approved by state statutes; the determination of the winner by lot in the event of a tie vote; the canvass of returns; and the issuance of appropriate certificates.
- (e) A member of the election commission shall not act as a judge of an election.

Sec. 2.5. Nonpartisan elections.

All special and general elections shall be nonpartisan. No candidate for any municipal office shall run under any party label.

Sec. 2.6. Recall from office.

Any incumbent of an elective office may be removed from office at any time after holding office for six (6) months, by the qualified electors of the city in the manner herein provided.

Sec. 2.7. Recall procedure.

The procedure hereunder to effect the recall of any elective officer shall be as follows: One (1) or more registered electors, in the case of a council member, residing in the councilmember's district, and in the case of any other elective officer residing in the city, shall file with the city clerk an affidavit of not more than two hundred (200) words stating the reasons for the recall of the elective officer sought to be removed. The city clerk shall, within two (2) business days after the filing of said affidavit, mail a copy by registered mail to the elective officer sought to be recalled, who may file with the city clerk a sworn statement in defense of the charges made against that elective officer. After the affidavit has been filed, the city clerk shall issue a petition for recall of the elective officer and said petition may be circulated and signed by registered electors who would be entitled to vote upon the proposed recall question.

A petition signed by registered electors entitled to vote for a successor of the incumbent sought to be recalled, equal in number to twenty-five (25) percent of the entire votes cast in the last preceding election for that position, demanding a recall of the officer named in the petition shall be filed in the office of the city clerk.

The registered electors shall be the sole and exclusive judges of the legality, reasonableness, and sufficiency of such grounds assigned for such recall, and said grounds shall not be open to review.

The recall petition shall be filed with the requisite information and signatures with the city clerk within sixty (60) days after issuance. If said petition is filed within the time specified, and is proper in all respects, the council shall set a date for a recall election to be held within ninety (90) days from the date of filing with the city clerk, unless a general or special municipal election will be held within one hundred eighty (180) days following the filing of the petition in which case the recall election shall be held in conjunction therewith. At such recall election, the question of the proposed recall of a councilmember elected from a district within the city shall be submitted only to the registered electors of the district from which the councilmember was elected, and the question of the proposed recall of any other elective officer shall be submitted to the registered electors of the city.

The ballot upon which such proposed recall is submitted shall set forth the following question:

Shall (name of person against whom the recall petition is filed) be recalled from the office of (title of office)?

Following such question shall be the words "yes" and "no."

On such ballots, under the question, there shall be printed the names of those persons who have been nominated as candidates to succeed the person sought to be recalled. The name of the person against whom the petition is filed shall not appear on the ballot as a candidate for the office.

Any registered elector desiring to become a candidate at a recall election shall file a petition with the city clerk not less than twenty (20) days after the date for the recall election has been set. All petitions and procedures shall be in conformance with the other provisions of elections in this Charter.

If a vacancy occurs in said office after a proper petition for a recall election has been filed with the city clerk, the election to fill the vacancy shall nevertheless proceed as provided in this article.

The council shall make such additional rules and regulations as necessary to implement the above procedures.

(Ord. No. 865, § 3(A), 6-24-91)

CHAPTER III. MAYOR AND ADMINISTRATION

Sec. 3.1. Election of mayor.

The mayor shall be elected by the greatest number of votes cast for that office by the electors of the City of Wheat Ridge at the relevant general municipal election, and shall have the same qualifications as members of the council. The mayor's term of office shall be for four (4) years and shall commence upon the taking of the oath of office at the ensuing organizational meeting of the city council held after the election in the year elected and shall continue during the term for which the mayor shall have been elected until a successor shall have been elected and duly qualified.

No person shall serve in the office of mayor for more than two (2) consecutive terms of office. Any person who succeeds to the office of mayor, and who serves at least one-half of a term in the office, shall be considered to have served a full term in that office. Terms are considered consecutive unless separated by at least four (4) full years.

(Ord. No. 864, § 3(a), 6-24-91; Ord. No. 1997-1081, § 1, 7-28-97; Ord. No. 1519, § 1, 8-27-12)

Editor's note(s)—The amendments to § 3.1 above were ratified at referendum held Nov. 4, 1997 and Nov. 6, 2012.

Sec. 3.2. Power and duties of the mayor.

The mayor shall be the recognized head of the city government for all legal and ceremonial purposes. All conveyances of interests in land by the city and any other documents requiring the mayor's signature shall be signed by the mayor (or person acting as mayor as herein provided).

The mayor shall be the chief elected officer of the city. The mayor shall be responsible for the efficient administration of all affairs of the city placed in the mayor's charge. The mayor shall serve as a liaison between the city council and the city administration, including, but not limited to, attendance at meetings and special events involving the city administration.

The mayor shall be a conservator of the peace, and in emergencies may exercise within the city the powers conferred by the Governor of the State of Colorado for the purposes of military law, and shall have the authority to command the assistance of all able-bodied residents to aid in the enforcement of the ordinances of the city and to suppress riot and disorder. Except as may be required by statute, the mayor shall exercise such other powers as shall be conferred by the council.

The mayor shall have the power to veto any ordinance passed by the council in accordance with the procedure set forth in section 5.14 of this Charter. The mayor shall also preside over city council meetings.

In the event of a tie vote by the city council, except upon adoption or amendment of the budget, the mayor shall cast a tie-breaking vote. In no other instance shall the mayor cast a vote on a matter presented to the council for decision. On any ordinance upon which the mayor has cast a tie-breaking vote, the mayor shall not exercise the power to veto said ordinance.

(Ord. No. 863, § 3, 6-24-91; Ord. No. 1996-1038, § 1, 7-22-96)

Sec. 3.3. Mayor pro tempore.

The council shall elect one (1) of its members to serve as the mayor pro tempore of the city. The mayor pro tempore shall serve in place of the mayor during the absence or disability of the mayor with all powers and duties of the mayor, except the mayor pro tempore shall not have the power to veto ordinances. In case of a vacancy in the office of mayor, the mayor pro tempore shall serve as mayor only until the vacancy is filled, as provided in section 3.11.

Sec. 3.4. City Manager.

The city manager shall be the chief administrative officer of the city. The council, by majority vote of all members, shall appoint a city manager who shall serve at the pleasure of the council, without definite term and at a salary fixed by the council. The council shall appoint a city manager within a reasonable time after a vacancy exists in the position. During the period of any vacancy or extended absence in the office of city manager, the council shall appoint an acting city manager. The city manager may appoint an employee of the city as acting city manager during the temporary absence (not to exceed thirty (30) days) of the city manager. Any acting city manager shall have all of the responsibilities, duties, and authority of the city manager.

The city manager shall be appointed with regard to fitness, competency, training, and experience in professional public administration. At the time of the appointment, the city manager need not be a resident of the city, but during the city manager's tenure in office, shall reside within the city. No mayor shall be appointed city manager during or within one (1) year after the termination of the mayor's elected term.

The city manager is responsible to the council for the operation of the city and may be dismissed by the council should it determine that such removal is in the best interest of the city. Dismissal of the city manager shall be by a majority vote of all members of the council. The council shall assure that the city manager performs all duties as provided by this Charter.

The duties of the city manager shall include, but not be limited to, the following:

- (a) Be responsible for the enforcement of the laws and ordinances of the city;
- (b) Hire, suspend, transfer and remove city department directors, who serve under the jurisdiction, and at the will of, the city manager;
- (c) Make appointments of subordinates on the basis of merit and fitness;
- (d) Cause a proposed budget to be prepared annually and submitted to the council and be responsible for the administration of the budget after its adoption;
- (e) During the month of July, and as often as the council may require, prepare and submit to the council a budget status and forecast report with any recommendations for remedial action;
- (f) Prepare and submit to the council, as of the end of the fiscal year, a complete report on finances and administrative activities of the city for the preceding year and, upon the request of the council, make written or verbal reports at any time concerning the affairs of the city under the city manager's supervision;
- (g) Keep the council advised of the financial condition and future needs of the city and make such recommendations to the council for adoption as may be deemed necessary or expedient;
- (h) Exercise supervision and control over all departments;
- (i) Be responsible for the enforcement of all terms and conditions imposed in favor of the city in any contract or public utility franchise, and upon knowledge of any violation thereof, report the same to the council for such action and proceedings as may be necessary to enforce the same;
- (j) Execute on behalf of the city all contracts binding the city;
- (k) Provide for engineering, architectural, maintenance, and construction service required by the city;

- (l) Attend council meetings and participate in discussions with the council in an advisory capacity;
- (m) Perform such other duties as may be prescribed by this Charter, by ordinance or required of the city manager by council and which are not inconsistent with this Charter.

(Ord. No. 865, § 3(B), 6-24-91; Ord. No. 1996-1038, § 1, 7-22-96)

Sec. 3.5. Administrative departments.

The administrative functions of the city shall be performed by the departments existing at the time this Charter is adopted and such other departments as may be hereafter established by ordinance. The council may, by ordinance, consolidate, merge or abolish any of said departments. Each department shall be under the immediate control and supervision of a department director appointed by the city manager and subject to dismissal by the city manager.

(Ord. No. 1996-1038, § 1, 7-22-96)

Sec. 3.6. Relationship of city manager to council.

The city manager shall be held accountable to the council for their actions and those of their subordinates.

(Ord. No. 1996-1038, § 1, 7-2-96)

Sec. 3.7. Election of city clerk.

The city clerk shall be elected by the greatest number of votes cast for that office by the electors of the City of Wheat Ridge at the relevant general municipal election, and shall have the same qualifications as members of the council. The city clerk's term of office shall be for four (4) years and shall commence upon the taking of the oath of office at the ensuing organizational meeting of the city council held after the election in the year elected and shall continue during the term for which the city clerk has been elected until a successor shall have been elected and duly qualified.

(Ord. No. 1999-1168, § 1, 8-26-99; Ord. No. 1519, § 1, 8-27-12)

Editor's note(s)—Amendments to § 3.7 above were ratified at referendum Nov. 2, 1999 and Nov. 6, 2012.

Sec. 3.8. Duties of the city clerk.

- (a) The city clerk shall be the clerk of the council and shall attend all meetings of the council and shall keep a permanent journal of its proceedings.
- (b) The city clerk shall be the custodian of the seal of the city and shall affix it to all documents and instruments requiring the seal and shall attest the same. The city clerk shall also be custodian of all papers, documents and records pertaining to the city, the custody of which is not otherwise provided for.
- (c) The city clerk shall certify by signature, all ordinances and resolutions enacted or passed by the council.
- (d) A supply of forms for all petitions required to be filed for any purpose by the provisions of this Charter or by ordinance enacted hereunder, shall be provided and maintained in the city clerk's office.
- (e) The city clerk shall have power to administer oaths of office.

- (f) The city clerk shall be the chairperson of the election commission.
- (g) The city clerk shall publish all notices, proceedings, and other matters required to be published.
- (h)
- (h) The city clerk shall perform such other duties as may be prescribed by this Charter or by ordinance.

Sec. 3.9. Election of city treasurer.

The city treasurer shall be elected by the greatest number of votes cast for that office by the electors of the City of Wheat Ridge at the relevant general municipal election, and shall have the same qualifications as members of the council. The city treasurer's term of office shall be for four (4) years and shall commence upon the taking of the oath of office at the ensuing organizational meeting of the city council held after the election in the year elected and shall continue during the term for which the city treasurer shall have been elected until a successor shall have been elected and duly qualified.

(Ord. No. 1999-1169, § 1, 8-26-99; Ord. No. 1519, § 1, 8-27-12)

Editor's note(s)—Amendments to § 3.9 above were ratified at referendum Nov. 2, 1999 and Nov. 6, 2012.

Sec. 3.10. Duties of the city treasurer.

- (a) It shall be the city treasurer's responsibility to establish a system of accounting and auditing for the city which shall reflect, in accordance with generally accepted accounting principles, the financial condition and operation of the city.
- (b) The city treasurer shall be custodian of all public monies belonging to or under the control of the city, or any office, department, or agency of the city, and shall deposit or invest all monies as directed by the council. All interest earnings shall be the property of the city and shall be accounted for and credited to the proper city fund.
- (c) The city treasurer shall collect, receive, and disburse on proper authorization, all monies receivable by the city and all other monies for which the city is responsible for holding in trust.
- (d)
- (d) The city treasurer shall perform all other duties as may be required by ordinance pursuant to this Charter.

Sec. 3.11. Vacancies in elective offices.

- (a) An elected official shall continue to hold office until a successor is duly qualified. An elective office shall become vacant whenever any officer is recalled, dies, becomes incapacitated, resigns, refuses to serve, ceases to be a resident of the city, or is convicted of embezzlement of public money, bribery, perjury, solicitation of bribery or subornation of perjury.
- (b) If a vacancy occurs in the office of mayor, the council shall act to call a special election within sixty (60) days to elect a new mayor, unless said vacancy occurs within one hundred eighty (180) days of the general municipal election.
- (c) If a vacancy occurs in the office of the city clerk or city treasurer, no special election shall be called but such vacancy shall be filled by appointment by the council for the remainder of the term.

Sec. 3.12. Compensation of elected officials.

Elected officials shall receive such compensation as the council shall prescribe by ordinance; provided the council shall neither increase nor decrease the compensation of any elected official during the elected official's term of office. Elected officials may, upon order of the council, be paid such necessary bona fide expenses incurred by the elected official in service in behalf of the city as are authorized and itemized.

Sec. 3.13. Oath of office.

Every elected officer under this Charter, before entering upon the duties of an elected office, shall take an oath or affirmation of office, that said officer will support the Constitution and the laws of the United States and of the State of Colorado, and this Charter and the ordinances of the city, and will strive to be responsive to all residents of the city and will faithfully perform the duties of the elected office upon which the officer is about to enter.

In case of failure to comply with the provisions of this section within ten (10) days from the date of an elected officer's appointment, or within ten (10) days from the date prescribed in this Charter to take office, such officer shall be deemed to have declined the office and such office shall thereupon become vacant unless the council shall by motion or resolution, extend the time in which such officer may qualify as set forth in this section.

Sec. 3.14. Conflict of interest.

No elected official during the term of office shall be a compensated employee of the city, nor shall an elected official have any material or significant financial interest, direct or indirect, with the city. In the event that any elected official or any member of an elected official's family have such interest, said elected official shall declare such interest. If any elected official fails to declare such interest, the council shall determine by a majority vote whether said interest does in fact constitute a conflict of interest. When such conflict of interest is established, the council shall take any action it deems to be in the best interest of the city.

Sec. 3.15. Bonding of employees.

All city officials and employees dealing directly with municipal funds or substantial inventories of material and supplies shall post bond in an amount and under such conditions as required by the council, and at the expense of the city.

CHAPTER IV. COUNCIL

Sec. 4.1. The city council.

The city council shall consist of eight (8) members. Two (2) councilmembers shall be elected from each of the four (4) districts.

Sec. 4.2. Council districts.

The city is hereby divided into four (4) districts. The districts shall be contiguous and compact, and shall be approximately equal in population.

The council shall complete the apportionment of the city into four (4) districts prior to December 31, 1978, for the purpose of the November 6, 1979, general municipal election. Thereafter the council shall cause such changes as are necessary to carry out the intent of this section to be made no less than six (6) months prior to the general municipal election every four (4) years.

Sec. 4.3. Terms of office.

- (a) The terms of office of the councilmembers hereafter to be elected in accordance with the provisions of this Charter shall commence upon the taking the oath of office at the ensuing organizational meeting of the city council held after the election in the year elected and shall continue during the term for which the councilmember shall have been elected until their successors shall have been elected and duly qualified.
- (b) At the general municipal election held on the first Tuesday in November of each odd-numbered calendar year, one councilmember from each of the four (4) council districts shall be elected to a four-year term of office by the greatest number of the votes cast for that office.
- (c) It is the intent of this section that councilmembers serve four-year staggered terms of office with four (4) councilmembers elected at each general municipal election.

(Ord. No. 1997-1082, § 1, 7-28-97; Ord. No. 1519, § 1, 8-27-12)

Editor's note(s)—The amendments to § 4.3 above were ratified at referendum held Nov. 4, 1997 and Nov. 6, 2012.

Sec. 4.4. Qualifications.

- (a) No person shall be eligible to hold the office of a councilmember unless, at the time of the election, such person is a registered elector, as defined by Colorado Revised Statutes, and is a resident of the district from which said person is elected for a period of at least twelve (12) consecutive months immediately preceding the date of the election.

In the event of annexation, any person who lives in the annexed area for a period of twelve (12) consecutive months immediately preceding the date of election will be deemed a resident of the city, and a resident of the district and may run as a councilmember from that district. In the event that council boundary lines are changed, a prospective councilmember shall be eligible to run from the newly defined district if that individual has been a resident of the city and the district from which such individual is elected for a period of at least twelve (12) consecutive months immediately preceding the date of election.

- (b) Each councilmember shall maintain residency in the city and district throughout the term of office. If an elected official shall move from the city or district during the term of office, the seat shall be declared vacant and such vacancy shall be filled by the city council as provided by this Charter.
- (c) The city council shall be the judge of the election and qualifications of its own members.
- (d) No person shall serve in the office of city councilmember for more than two (2) consecutive terms of office. Any person who succeeds to the office of councilmember, and who serves at least one-half of a term in that office, shall be considered to have served a full term in that office. Terms are considered consecutive unless separated by at least four (4) full years.
- (e)

(Ord. No. 864, § 2, 6-24-91; Ord. No. 865, § 3(A), 6-24-91; Ord. No. 866, § 1, 6-24-91; Ord. No. 1997-1082, § 1, 7-28-97)

Editor's note(s)—The amendments to § 4.4 above were ratified at referendum Nov. 4, 1997.

Sec. 4.5. Vacancies.

- (a) A councilmember shall continue to hold office until a successor is duly qualified. A council position shall become vacant whenever any councilmember is recalled, dies, becomes incapacitated, resigns, refuses to serve, or ceases to be a resident of the city or district from which elected, or is convicted of a felony.
- (b) Within thirty (30) days after a vacancy occurs on the council, the remaining councilmembers shall choose by majority vote a duly qualified person from the proper district to fill such vacancy. Said person shall serve until the following municipal election and a successor is duly qualified. If three (3) or more council vacancies exist simultaneously, the remaining councilmembers shall, at the next regular meeting of the council, act to call a special election within sixty (60) days to fill such vacancies, provided there will not be a general municipal election within one hundred eighty (180) days and provided that their successors have not previously been elected.

Sec. 4.6. Compensation.

The members of the council shall receive such compensation as the council shall prescribe by ordinance; provided, however, that the compensation of any member during the term of office shall not be increased or decreased. Councilmembers may, upon order of the council, be paid such necessary bona fide expenses as may be incurred by them in service in behalf of the city as are authorized and itemized.

Sec. 4.7. Powers of council.

The council shall constitute the legislative body of the city and shall have all legislative powers and functions of municipal government, except as otherwise provided in this Charter, and shall have the power and authority to adopt such ordinances, resolutions, motions and rules as it shall deem proper.

Sec. 4.8. Oath of office.

Every councilmember under this Charter, before entering upon the duties in the office, shall take an oath or affirmation of office, that the councilmember will support the Constitution and the laws of the United States and of the State of Colorado, and this Charter and the ordinances of the city, and will strive to be responsive to all residents of the city, and will faithfully perform the duties of the office upon which the councilmember is about to enter.

In case of failure to comply with the provisions of this section within ten (10) days from the date prescribed in this Charter to take office, such officer shall be deemed to have declined the office and such office shall become vacant unless council shall by motion or resolution extend the time in which such officer may qualify as above set forth.

Sec. 4.9. Relationship to administrative service.

No member of the council shall dictate the appointment or duties of any department director or employee of the city, except as expressly provided in this Charter. The council and its members shall deal with the administrative service of the city solely through the city manager, and neither council nor its members shall give orders or reprimands to any employee or subordinate of the city manager. The council retains the prerogative of requiring the city manager to make verbal or written reports of the city manager's activities, those of the city manager's subordinates and the administrative service under the city manager's charge, not in conflict with other provisions of this Charter.

(Ord. No. 1996-1038, § 1, 7-22-96)

Sec. 4.10. Conflict of interest.

No member of the council, during the councilmember's term of office, shall be a compensated employee of the city, nor shall the councilmember have any material or significant financial interest, direct or indirect, with the city. In the event that any councilmember or any family member have such interest, said councilmember shall declare such interest. If any councilmember fails to declare such interest, the remaining members of the council shall determine by a majority vote whether said interest does in fact constitute a conflict of interest. When such conflict of interest is established, the remaining councilmembers shall take any actions deemed to be in the best interest of the city.

CHAPTER V. COUNCIL PROCEDURE AND LEGISLATION

Sec. 5.1. Regular meetings.

The council shall meet regularly at least twice each month at a day and hour to be fixed by the rules of council. The council shall determine the rules of procedure governing meetings. At the first regular meeting following each general municipal election, the council shall organize as a matter of business and shall not be restricted from transacting other proper business.

Sec. 5.2. Special meetings.

- (a) A special meeting may be called by the city clerk on the written request of the mayor or any two (2) members of the council provided that each member of the council is given written notice at least twenty-four (24) hours before the time set for such meeting. Such notice may be either personally served, left at the usual place of abode of the members of the council, or sent via electronic mail to each councilmember. Notice of such special meeting shall also be posted in the office of city clerk and published in any manner permitted for publication of ordinances pursuant to section 5.12(h) of the Charter at least twenty-four (24) hours prior to such a special meeting.
- (b) An emergency special meeting may be called by the city clerk at any time on a written request from the mayor or five (5) members of the council. Such request shall state that the matter to be considered is an emergency of such gravity that irreparable harm would come to the city if there was any further delay in council action. The nature of the emergency shall be stated in detail in a written notice to each councilmember, a notice posted in the office of the city clerk, and in the minutes of the special meeting. A vote shall also be taken at the beginning of such special meeting as to whether there is in fact an emergency and the vote of each member of the council shall be individually recorded.

(Ord. No. 1351, § 1, 8-23-05)

Sec. 5.3. Business at special meetings.

No business shall be discussed or transacted at any special meeting of the council unless it has been stated in the official notice of such meeting issued by the city clerk.

Sec. 5.4. Quorum; adjournment of meeting.

A majority of the members of the council in office at the time shall be a quorum for the transaction of business at all council meetings, but in the absence of a quorum a lesser number may adjourn any meeting to a later time or date, and in the absence of all members the city clerk may adjourn any meeting for not longer than one (1) week.

Sec. 5.5. Council attendance at meetings.

A majority of the members of the council may, by vote, either request or compel the attendance of its members and other officers of the city at any meeting of the council. Any member of the council or other officer who then [when] notified of such request for attendance fails to attend such meeting for reasons other than confining illness or absence from the city, or because said councilmember or officer is attending a meeting as a representative of the city, shall be deemed guilty of misconduct in office unless excused by the council.

Sec. 5.6. Meetings to be public.

All regular and special meetings of the council shall be open to the public, except executive sessions held in accordance with section 5.7, and residents shall have a reasonable opportunity to be heard under such rules and regulations as the council may prescribe.

Sec. 5.7. Executive sessions.

- (a) An executive session of the city council may be convened only if the majority of the council vote publicly to hold such a session, the subject matter to be considered is one of those listed in subsection (b) of this section and a public announcement is made as to which category of subsection (b) the matter concerns. No formal votes may be taken in any executive session.
- (b) An executive session may be convened only on the following matters:
 - (1) *Legal Consultation.* The city council may convene an executive session under the following conditions:
 - (A) A suit has been filed against the city or the city has received formal written notice that a suit against the city is imminent.
 - (B) The city council is considering instituting legal action against another party.
 - (C) The city council has knowledge of violations of the law and is considering the possibility of criminal prosecution.
 - (D) Conferences with the city attorney for the purpose of receiving legal advice on specific legal questions.
 - (2) *Personnel Matters.* Personnel matters concerning individual city employees and council appointees may be considered in an executive session. Notwithstanding Charter section 3.4, the city manager shall not attend an executive session concerning the city manager's own performance unless the council so directs.
 - (3) *Real Estate Appraisals.* The city council may convene an executive session to consider real estate appraisals made for the purpose of the possible acquisition of real property or an interest therein for public use, or the sale of any real property owned by the city. However, no executive session shall be convened to discuss the merits of purchasing real property for public use or the sale of real property owned by the city, or any other matters pertaining to land acquisition or sale.
- (c) The city clerk shall make a recording of all executive sessions. Such recordings shall be closed to the public unless a majority of the council votes to make them available to the public. The mayor, any member of the council, or the city attorney may examine such recordings at any reasonable time under the direct supervision of the city clerk. The city clerk may also release such recordings pursuant to a valid court order in any action challenging the legitimacy of an executive session.

(Ord. No. 1996-1038, § 1, 7-22-96; Ord. No. 1999-1173, § 1, 8-23-99; Ord. No. 1225, § 1, 9-10-01)

Sec. 5.8. Council acts.

The council shall act only by ordinance, resolution or motion. All legislative enactments of a permanent nature shall be by ordinance; all other actions, except as provided in this Charter, may be in the form of resolutions or motions. All ordinances and resolutions shall be confined to one (1) subject, except in the case of repealing ordinances.

Sec. 5.9. Voting.

The vote by "yes" or "no" shall be taken upon the passage of all ordinances, resolutions, and motions and entered upon the minutes of the council proceedings. Every ordinance shall require the affirmative vote of the majority of the entire council for final passage, except as provided for zoning and rezoning ordinances in section 5.10, sale of real property in section 16.5 or elsewhere provided in this Charter. Resolutions and motions shall require the affirmative vote of a majority of the councilmembers present. No member of the council shall vote on any question in which the councilmember has a personal or financial interest, other than the common public interest, or on any question concerning the councilmember's own conduct, and in said instances the member shall disclose this interest to the council. On all other questions each member who is present shall vote unless excused by the unanimous consent of the remaining members present. Any member refusing to vote, except when not so required by this paragraph, shall be guilty of misconduct in office. At the request of any member of the council any vote shall be taken simultaneously in a manner prescribed by the council; provided, however, that the vote of each member shall be publicly announced immediately thereafter.

Sec. 5.10. Action by ordinance required.

In addition to such acts of the council as are required by other provisions of this Charter to be by ordinance, every act amending or repealing any ordinance or section of an ordinance, creating an indebtedness, authorizing borrowing of money, levying a tax, establishing any rule or regulation for the violation of which a penalty is imposed, or placing any burden upon or limiting the use of private property, shall be by ordinance; provided, however, that this section shall not apply to the budget adoption in section 10.9. Zoning and rezoning shall be governed by the statutes of the State of Colorado as now existing or hereafter amended or modified unless superseded by new procedures set forth in a duly adopted ordinance, except as follows:

The council shall have the power to amend, supplement, change, or repeal the regulations, restrictions and boundaries of zoning districts within the city. Such changes shall be adopted by ordinance after a public hearing at which parties in interest and residents shall have an opportunity to be heard.

In the event of a protest against such changes signed by the owners of twenty (20) percent or more of the area:

- (1) Of the property included within the proposed change; or,
- (2) Of those immediately adjacent to the rear or any side of the property, extending one hundred (100) feet from the property; or,
- (3) Of those directly opposite across the street from the property, extending one hundred (100) feet from the street frontage of such opposite property,

such changes shall not become effective except by the favorable vote of three-fourths of the entire city council. Where land within the area proposed for change, or adjacent or opposite land as defined above is owned by the City of Wheat Ridge, such property shall be excluded in computing the required twenty (20) percent, and owners of noncity land within the one-hundred-foot limit as defined above shall be considered adjacent or opposite despite such intervening city land.

The written protest to such changes shall be submitted to the city council no later than the hearing on the proposed amendment. At least fifteen (15) days' notice of the time and place of the hearing, and the address and legal description of the property, shall be published in an official paper or paper of general circulation within the city, and notice of the hearing shall also be posted on the property so that it is easily visible to neighboring property owners. Said notices shall contain the statement that specific plans for the proposed changes are available for inspection at the Wheat Ridge City Hall. The procedure for receiving and determining the validity of protests and conducting the required hearing shall be established by the council by ordinance.

(As amended 7-12-83. Effective upon adoption 7-12-83)

Sec. 5.10.1. Building height and density limitations.

(a) *Height limitations.* The city shall not, by ordinance, resolution, motion, permit, or other action, or variance except as provided in subsection (e), allow the construction of buildings or other structures which exceed the following maximum heights:

- (1) Thirty-five (35) feet for the following: All residential, planned residential and agricultural districts, including any created after passage of this amendment; residential buildings when built in nonresidential districts; the hospital-one district; and the restricted commercial-one district.
- (2) Fifty (50) feet for the following: Any other commercial, planned commercial, industrial or planned industrial districts; the public buildings and facilities district; commercial and office buildings constructed in the hospital-two district; and any nonresidential district created after passage of this amendment.
- (3) Sixty-five (65) feet, but in no event more than six (6) stories above grade, for new hospitals in the hospital-two district, on a minimum lot area of fifty (50) acres; however, additions attached to existing hospitals in this district may be built to a height not to exceed the height of the existing building.

The height limitations established shall not apply to the following: Steeples, silos, decorative domes and cupolas not used for human occupancy or any commercial, business or industrial use, nor to windmills, chimneys, ventilators, transmission towers, solar heating and cooling devices, water towers, antennas, or necessary mechanical appurtenances normally carried above the roofline, but the city council may, by ordinance, establish height limitations for these structures.

(b) *Density Limitations.* The city shall not, by ordinance, resolution, motion, variance, permit or other action, allow the construction of residential buildings in any zone district which exceed a maximum of twenty-one (21) units per acre, except that nursing homes shall not be required to meet this density maximum. In order that land required to support a previous building permit not be used again as a means of circumventing the above maximum, the following shall apply: No subdivision, variance, rezoning or permit shall be approved or granted on said land which subtracts the supporting land and thereby leaves the existing building nonconforming by these standards. The maximum of twenty-one (21) units per acre shall apply to the total parcel, including both existing and proposed construction.

(c) *Definitions.*

- (1) *Height:* The vertical distance measured from the average elevation of the finished grade of the building to the highest point of the roof surface if a flat roof, to the deck line of a mansard roof, and to the mean height level between eaves and ridge for a gable, hip, gambrel or other roof.
- (2) *Residential:* Intended for human occupancy, including homes for the aged and nursing homes, but excluding hospitals, and motels and hotels for transient occupancy.

- (3) *Residential unit*: One (1) or more persons living together as a single residential unit. This definition is intended to be utilized and applied only as a standard for computing maximum density in new, multiunit construction; it shall not, unless reenacted as a portion of the Wheat Ridge Code of Laws, be utilized for any purpose except density computations under this Charter section.
- (d) *Nonconforming structures*. This amendment applies only to new construction; buildings and other structures legally in existence at the time of passage of this amendment shall not become nonconforming because of the adoption of these new density and height limits.
- (e) *Variances*. The board of adjustment shall have the power to interpret terms and definitions in this amendment, and to allow a variance to maximum height, not to exceed ten (10) percent, upon a finding that not granting the variance would cause an extreme hardship. The city council and other boards may not grant variances from these standards, but nothing in this amendment shall be construed to limit the council from imposing more stringent height and density standards in any zoning district.
- (f) Notwithstanding any other provision of this section 5.10.1, the limitations upon building height and residential density contained herein shall not apply within the following areas of the city: (1) that area described in the Wheat Ridge Town Center Project Urban Renewal Plan, adopted December 14, 1981 and amended by Resolution 13-2001 on April 23, 2001, specifically as diagramed in Exhibits 1 and 2 and described in Exhibit 3 of said resolution, and (2) that area described in the Wadsworth Boulevard Corridor Redevelopment Plan, adopted October 22, 2001, without modifying any current zoning on any property and preserving existing height and density limitations in the Wheat Ridge Code of Laws unless and until modified through future ordinances approved by city council after public hearings.
- (g) Notwithstanding any other provision of this section 5.10.1, the limitations upon building height and residential density contained herein shall not apply within the following areas of the city: (1) that area described in the West 44th Avenue/Ward Road redevelopment plan, adopted October 22, 2001, and (2) that area described in the I-70/Kipling Corridors Urban Renewal Plan, adopted August 10, 2009, excluding therefrom all properties in the plan area along the Kipling Street Corridor South of 44th Avenue and all properties in the plan area east of Interstate 70, North of 32nd Avenue, west of Ward Road and south of the West 44th Avenue/Ward Road Redevelopment Plan Area, without modifying any current zoning on any property and preserving existing height and density limitations in the Wheat Ridge Code of Laws unless and until modified through future ordinances approved by city council after public hearings.
- (h) **Notwithstanding any other provision of this [section 5.10.1](#), the limitations upon building height contained herein shall be amended for the former Lutheran Hospital campus to restrict residential structures to a maximum height of 30 feet (2.5 stories) when in proximity to adjacent residential neighborhoods east, west, and south of the campus and to limit all structures to a maximum height of 70 feet (5 stories) in the interior portion of the campus south of 38th Avenue between Lutheran Parkway and Lutheran Parkway West including an area southeast of Lutheran Parkway (as shown as “Mixed-Use” on page 51 of the Lutheran Legacy Campus Master Plan, adopted October 25, 2021). This shall not modify any current zoning on any property and shall preserve existing height and density limitations in the Wheat Ridge Code of Laws unless and until modified through future ordinances approved by city council after public hearings.**

(Adopted 7-12-83; effective upon adoption; Ord. No. 1452, §§ 1, 2, 8-24-09)

Sec. 5.11. Form of ordinances.

Every ordinance shall be introduced in written or printed form. The enacting clause of all ordinances shall be: BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WHEAT RIDGE. The effective date of all ordinances shall be fifteen (15) days from the date of final publication of said ordinance unless another date is prescribed therein, or otherwise provided for elsewhere in this Charter.

Sec. 5.12. Procedure.

Except for emergency ordinances, ordinances making general codifications of existing ordinances, and ordinances adopting standard codes, the following procedure for the enactment of ordinances shall be followed:

- (a) The ordinance shall be introduced at any regular meeting of the council by any member thereof.
- (b) The ordinance shall be read in full or, in cases where copies of the ordinance are available to the council and to those persons in attendance at said council meeting, said ordinance may be read by title only.
- (c) After the first reading of the ordinance, the same shall be approved or rejected by a vote of the council.
- (d) If the ordinance is approved on first reading, it shall be published in full. The council shall set a day, hour, and place at which the council shall hold a public hearing on the ordinance and notice of said day, hour and place shall be included in the first publication.
- (e) The ordinance shall be introduced at council a second time, at a meeting not earlier than seven (7) days after first publication, for final approval, rejection, or other action as may be taken by vote of the council. This meeting may be the same meeting at which the public hearing on the ordinance is held, but the public hearing shall precede action on the ordinance. The ordinance may be amended before final approval by vote of the council.
- (f) After final approval, an ordinance shall be published by title or in full as the council may determine. If amended, an ordinance shall be published by title and full text of the amendment or in full as the council may determine.
- (g) Whenever an ordinance shall be published by reference or by title, the publication shall contain a summary of the subject matter of said ordinance and shall contain a notice to the public that copies of the proposed ordinance are available at the office of the city clerk. The publication of any ordinance, by reference or by title, as provided herein must set forth in full any penalty clause contained in said ordinance.
- (h) The requirements for publication of ordinances contained herein may be satisfied by publication in a newspaper of general circulation in the City of Wheat Ridge, by posting a copy thereof at the location or locations designated by resolution of the council, by posting on the city's website, by posting on the internet, or in any other manner determined by the council to adequately advise the public.

(Ord. No. 1351, § 1, 8-23-05)

Sec. 5.13. Emergency ordinances.

Emergency ordinances for the immediate preservation of public property, health, peace, or safety shall be approved only by the majority vote of councilmembers present at the meeting. The facts showing such urgency and need shall be specifically stated in the measure itself. No ordinance making a grant of any special privilege, levying taxes, or fixing rates charged by any city-owned utility shall ever be passed as an emergency measure. An emergency ordinance shall require passage at one (1) meeting of the council. However, neither a public hearing nor a first publication as provided in section 5.12 shall be required. An emergency ordinance shall take effect upon final passage. Publication shall be within ten (10) days after passage, or as soon thereafter as possible. An emergency ordinance shall not be in effect longer than ninety (90) days after passage, and shall not again be passed as an emergency ordinance.

Sec. 5.14. Veto by mayor.

The mayor shall have the power to veto any ordinance passed by the council subject to the following:

- (a) Every ordinance passed by the council shall be presented to the mayor within forty-eight (48) hours thereafter. If approved, such ordinance shall be signed by the mayor within three (3) days after receiving it.
- (b) The mayor must exercise the power of veto with a complete written explanation of the reasons therefor addressed and delivered to each councilmember within seven (7) days from the date of its final passage.
- (c) The mayor's veto may be overridden only by an affirmative vote of three-fourths of the entire council at the next regular meeting following the veto.
- (d) If the mayor does not return the ordinance with the veto to the council within the time specified, it shall take effect as if it had been approved.
- (e) The mayor shall not have veto power on any emergency ordinance.

Sec. 5.15. Codification of ordinances.

The council shall cause the ordinances to be codified and thereafter maintained in current form. Revisions to the codes may be accomplished by reference as provided in section 5.16.

Sec. 5.16. Standard codes adopted by reference.

Standard codes, promulgated by the federal government, the State of Colorado, or by any agency of either of them, or by any municipality within the State of Colorado, or by any recognized trade or professional organization, or amendments or revisions thereof, may be adopted by reference; provided the publication of the ordinances adopting any said code shall advise that copies are available for inspection at the office of the city clerk, and provided that any penalty clause in any code may be adopted only if set forth in full and published in the adopting ordinance.

Sec. 5.17. Severability of ordinances.

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

Sec. 5.18. Disposition of ordinances.

A true copy of every ordinance, as adopted by the council or electorate, shall be numbered and recorded in the official records of the city. Its adoption and publication shall be authenticated by the signatures of the mayor or mayor pro tempore, and the city clerk and by the certificate of publication. The failure to record, or authenticate any ordinance shall not, however, invalidate, suspend, or void such ordinance.

Sec. 5.19. Public records.

All public records of the City of Wheat Ridge shall be open for inspection by any person at reasonable times in accordance with state statutes existing at the present time or hereafter enacted or hereafter amended by ordinance adopted pursuant to this Charter.

Sec. 5.20. Street width designation.

The city council shall have the sole authority and responsibility to determine the width of all city streets within the boundaries of the City of Wheat Ridge. Such authority and responsibility cannot be delegated to any other body or individual(s), the only exception being the election procedure specifically set forth in this Charter section. Street width shall be determined by the flowline of the street. Flowline is defined as the measurement from the inside edge of one (1) curb to the inside edge of the opposite curb. Where no curb is planned to be constructed, flowline shall be defined as the measurement from the outside edge of one (1) side of the driving surface of the street, to the outside edge of the opposite side of the driving surface of the street.

Within one (1) year prior to construction or reconstruction of a street, the city council shall hold a public hearing to determine the flowline of such street. Following the public hearing, the council shall adopt such flowline as the street's official street width designation.

In the event of a protest against such proposed street width designation signed by the owners of:

- (1) Twenty (20) percent of the property immediately adjacent or contiguous to either side of such street;
or
- (2) Ten (10) percent of the property lying within three hundred (300) feet of either side of such street,

such proposed street width designation shall not become effective except by the favorable vote of three-fourths ($\frac{3}{4}$) of the entire city council. Property does not need to be entirely contained within the three hundred (300) foot area to be used in the computation of the ten (10) percent necessary to file a protest. Only the portion of the property that actually lies within the three hundred (300) foot area is used to compute the ten (10) percent required to file a protest. Where the City of Wheat Ridge owns property or has right-of-way within three hundred (300) feet of either side of the street, then such city-owned land or right-of-way shall be excluded from the computation of the required percentage of properties needed to file a protest to the proposed street width designation. Owners of noncity land shall be considered immediately adjacent or contiguous to the street, or within three hundred (300) feet of either side of such street, despite such intervening city-owned land or right-of-way.

The written protest to such proposed street width designation shall be submitted to the city council no later than the conclusion of the public hearing on the proposed street width designation. At least fifteen (15) days' notice of the time and place of the hearing shall be published in the newspaper used by the city to publish legal notices, and notice of such public hearing shall be mailed by certified letter to all property owners within three hundred (300) feet of both sides of such street.

Said notice shall contain:

- (1) A description of the proposed street width designation and a statement that the specific plans for the proposed street width designation are available for inspection at the Wheat Ridge Municipal Building;
and
- (2) An explanation of the right of the property owners to protest such proposed street width designation, and how to exercise such right; and
- (3) The full and complete text of this Charter section.

All publication and notification requirements set forth in this Charter section shall be performed by the city clerk.

If at any time within forty-five (45) days after a favorable vote by city council of such proposed street width designation, a petition signed by at least five (5) percent of the registered electors of the city council district(s) immediately adjacent or contiguous to such street be presented to the council against the going into effect of such proposed street width designation; the same shall thereupon be immediately suspended and the council shall publish notice of and call an election upon the proposed street width designation. Said election shall be held not less than thirty (30) days nor more than one hundred eighty (180) days after publication of the notice thereof.

Only registered electors in the city council district(s) immediately adjacent or contiguous to such street shall be eligible to vote on the proposed street width designation. If a majority of the registered electors in the city council district(s) immediately adjacent or contiguous to such street voting thereon vote for such proposed street width designation, the proposed street width designation shall be deemed approved. For purposes of ballot tabulation, the total votes of all electors who cast ballots from one or more city council district(s) shall be counted together.

If any provision of this Charter section or the application in any particular case, is held invalid, the remainder of this Charter section and its application in all other cases shall remain unimpaired. Anything in the Charter or ordinances of the City of Wheat Ridge in conflict or inconsistent with the provisions of this Charter section is hereby declared to be inapplicable to the matters and things covered and provided for by this Charter section. This Charter section shall take effect immediately upon passage.

(Amend. of 11-7-95)

CHAPTER VI. INITIATIVE AND REFERENDUM

Sec. 6.1. Initiative.

- (a) Any proposed ordinance may be submitted to the council by petition signed by registered electors of the city equal in number to the percentage hereinafter required.
- (b) An initiative petition accompanying the proposed ordinances signed by registered electors of the city equal in number to fifteen (15) percent of the total vote cast, in the City of Wheat Ridge, in the last gubernatorial election, shall be filed with the city clerk at least sixty (60) days prior to any general or special municipal election, and shall contain a request that said proposed ordinance be submitted to a vote of the people if not passed by the council. The council shall within thirty (30) days after the attachment of the city clerk's certificate of sufficiency to the accompanying petition either (1) pass said ordinance without alteration, or (2) call a special election, unless a general municipal election is fixed within one hundred eighty (180) days thereafter, and at such special or general municipal election, said proposed ordinance shall be submitted without alteration to the vote of the registered electors of the city.
- (c) An initiated ordinance shall be published in like manner as other proposed ordinances. The ballot upon which such proposed ordinance is submitted shall state briefly the nature for the proposal and it shall contain the words "FOR THE ORDINANCE" and "AGAINST THE ORDINANCE." If a majority of the registered electors voting thereon shall vote in favor thereof, the same shall thereupon without further publication become an ordinance of the city.
- (d) The provisions of this section shall in no way affect nor preclude the procedures for recall of any elected official or officer as provided in this Charter.

Sec. 6.2. Referendum.

- (a) The referendum shall apply to all ordinances passed by the council.
- (b) If at any time within forty-five (45) days after the final passage of an ordinance to which the referendum is applicable, a petition signed by registered electors equal in amount to at least ten (10) percent of the total vote cast, in the City of Wheat Ridge, in the last gubernatorial election be presented to the council against the going into effect of any ordinance, the same shall thereupon be suspended and the council shall reconsider such ordinance; and if the same be not entirely repealed shall submit the same to a vote of the registered electors of the city in a manner as provided in respect to the initiative at the next regular municipal election, or at a special election called therefor. If a majority of the registered electors vote in favor of such ordinance, it shall go into effect without further publication.

Sec. 6.3. Ordinances referred to the people.

- (a) The council, on its own motion, shall have the power to submit at a general or special election any proposed ordinance or question to a vote of the people in a manner as in this Charter is provided.
- (b) If provisions of two (2) or more proposed ordinances adopted or approved at the same election conflict, the ordinance or provision in conflict receiving the highest affirmative vote shall become effective.

Sec. 6.4. Certificate of city clerk; amendment of petition.

Within ten (10) days from the filing of any initiative or referendum petition, the city clerk shall ascertain whether the petition is signed by the requisite number of registered electors, and if sufficient shall attach thereto a certificate of sufficiency showing the result of such examination. If the petition is insufficient, the city clerk shall issue a certificate of insufficiency and on the same day send a copy of the same to one (1) or more of the persons designated as filing the same on the petition. Commencing on the day after the date of the certificate of insufficiency, the petition may thereafter be amended within ten (10) days by the petitioners obtaining additional signatures of registered electors only during said ten (10) day period. The city clerk, within five (5) working days after such amendment, shall make the examination of the amended petition and attach thereto a certificate of the result. If still insufficient, the city clerk shall return the petition to one (1) of the persons designated thereon as filing it, without prejudice to the filing of a new petition for the same purpose, but such petition shall not be refilled within one (1) year after return by the city clerk.

Sec. 6.5. Prohibition of amendment or reenactment.

An ordinance adopted by the electorate may not be amended or repealed for a period of six (6) months after the date of the election at which it was adopted, and an ordinance repealed by the electorate may not be reenacted for a period of six (6) months after the date of the election at which it was repealed; provided however, that ordinances may be adopted, amended or repealed at any time by appropriate referendum or initiative procedure in accordance with the foregoing provisions of this Charter, or if submitted to the electorate by the council on its own motion.

Sec. 6.6. Implementation.

The council may adopt such additional rules and regulations by ordinance as are deemed necessary to implement this chapter on initiative and referendum.

CHAPTER VII. PERSONNEL

Sec. 7.1. Personnel system.

The council may establish, modify, or eliminate a system or systems to handle personnel matters as it deems necessary.

CHAPTER VIII. LEGAL AND JUDICIARY

Sec. 8.1. City attorney.

The council shall appoint a city attorney to serve for an indefinite term at the pleasure of the council. The city attorney shall be an attorney-at-law admitted to practice in Colorado and have at least five (5) years' experience in the practice of law. The council may provide the city attorney such assistants, facilities and considerations as council may deem necessary, and may on its own motion or upon request of the city attorney, employ special counsel. The council shall establish compensation for the city attorney, the city attorney's assistants and special counsel.

The city attorney shall be the legal representative of the city and shall represent the city in all cases and in all courts. The city attorney shall act as legal adviser to the council and other city officials in matters relating to their official powers or duties when requested and shall provide a copy of any written opinion to the city clerk.

The city attorney shall also perform such other duties as the council may prescribe by ordinance or resolution.

Sec. 8.2. Municipal court.

There shall be a municipal court which shall have jurisdiction to hear and determine all cases arising under this Charter or the ordinances of the City of Wheat Ridge. The council shall appoint a presiding judge. The council may also appoint one (1) or more associate judges, who shall sit at such times and upon such cases as shall be determined by the presiding judge. Such associate judge shall have all the powers of a presiding judge and any orders and judgments shall be those of the municipal court.

All judges shall be members in good standing of the Bar of the State of Colorado, and shall have a minimum of five (5) years' experience on the bench or in the active practice of law in the State of Colorado immediately prior to appointment.

Sec. 8.3. Tenure and removal of judges.

The council shall appoint all judges for a term of two (2) years and they may be removed by the council during their term only for cause. A judge may be removed for cause if a judge:

- (a) Is found guilty of a felony or any other crime involving moral turpitude;
- (b) Has a disability which interferes with the performance of duties, and which is, or is likely to become, of permanent character;
- (c) Has willfully or persistently failed to perform the duties; or
- (d) Is habitually intemperate.

Sec. 8.4. Duties of the presiding judge.

The presiding judge shall have the following duties, in addition to presiding in court, the presiding judge:

- (a) Shall formulate and amend the local rules of the court with the approval of the Colorado Supreme Court.
- (b)
- (c)

Sec. 8.5. Compensation of judges.

All judges shall receive a fixed salary or compensation set by the council, by ordinance, and such salary or compensation shall not be dependent upon the outcome of the matters to be decided by the judges. A judge's compensation may not be reduced during the term of the judge's appointment.

CHAPTER IX. BOARDS AND COMMISSIONS

Sec. 9.1. Existing boards and commissions.

All boards and commissions in existence at the time of adoption of this Charter, shall continue in existence as provided in the respective ordinances, except as otherwise provided by ordinance or this Charter.

Sec. 9.2. Right to establish.

The council shall have the power and authority to create boards and commissions as deemed necessary including advisory and appeal boards. Advisory boards may be created by resolution. All other boards and commissions, including appeal boards, shall be created by ordinance, which shall set forth the powers and duties delegated to such board or commission.

Sec. 9.3. Appointments to boards or commissions.

The council shall make all appointments to all boards and commissions and shall specify the term of office of each individual in order to achieve overlapping tenure. All boards and commissions shall have approximately equal representation from each council district. All members shall be residents of the city, registered voters and shall be subject to removal for just cause by the council. The council shall also make appointments to fill vacancies for unexpired terms.

Sec. 9.4. Procedures of boards and commissions.

Each board and commission shall operate in accordance with its own rules of procedure except as otherwise directed by the council. All meetings of any board or commission shall be open to the public except that any board or commission may hold an executive session provided that the same provisions that apply to the city council in section 5.7 shall be applicable. Minutes of all board and commission meetings shall be kept in the office of the city clerk.

CHAPTER X. FINANCE AND BUDGET

Sec. 10.1. Fiscal year.

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

Sec. 10.2. Submission of budget.

Prior to the beginning of each fiscal year, the city administration shall prepare and submit to the council a recommended budget for the next fiscal year and an accompanying message.

Sec. 10.3. Budget message.

The city manager's message shall explain the budget both in fiscal terms and in terms of the work programs. It shall outline the proposed financial policies of the city for the next fiscal year, describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures and revenues, together with the reasons for such changes, summarize the city's debt position, and include such other material as the city manager deems desirable or which the city council may require.

Sec. 10.4. Budget content.

The budget shall provide a complete financial plan of all municipal funds and activities for the next fiscal year and, except as required by ordinance or this Charter, shall be in such form as the city manager deems desirable or the council may require. In organizing the budget, the city manager shall utilize the most feasible combination or expenditure classification by fund, organization unit, program, purpose or activity, and object. It shall begin with a clear general summary of its contents and shall be arranged so as to show comparative figures for actual and estimated income and expenditures of the preceding fiscal year. It shall include the following in separate sections unless otherwise provided by ordinance:

- (a) Anticipated revenues classified as cash surplus, miscellaneous revenues, and amounts to be received from ad valorem taxes; cash surplus being defined for purposes of this Charter as the amount by which cash is expected to exceed current liabilities and encumbrances at the beginning of the next fiscal year;
- (b) Proposed expenditures for current operations during the next fiscal year, detailed by offices, departments and agencies in terms of their respective work programs, and the method of financing such expenditures;
- (c) A reasonable provision for contingencies;
- (d) A capital depreciation account;
- (e) Required expenditures for debt service, judgments, cash deficient recovery and statutory expenditures;
- (f) Proposed capital expenditures during the next fiscal year, detailed by offices, departments and agencies when practicable, and the proposed method of financing each such capital expenditure;
- (g) Anticipated net surplus or deficit for the next fiscal year for each utility owned or operated by the city and the proposed method of its disposition; subsidiary budgets for each such utility giving detailed income and expenditure information shall be attached as appendices to the budget;
- (h) The bonded and other indebtedness of the city, showing the debt redemption and interest requirements, the debt authorized and unissued, and the condition of sinking funds, if any;
- (i) Such other information as the council may request.

Sec. 10.5. Balanced budget required.

The total of proposed expenditures shall not exceed the total of estimated revenue.

Sec. 10.6. Capital program.

- (a) The city manager, with such assistance as the council may direct, shall prepare and submit to the council a long-range capital program, simultaneously with the recommended budget.
- (b) The capital program shall include the following, unless otherwise provided by ordinance:
 - 1. A clear general summary of its contents;
 - 2. A list of all capital improvements which are proposed to be undertaken during the following fiscal years, with appropriate supporting information as to the necessity for the improvement;
 - 3. Cost estimates, method of financing and recommended schedules for each such improvement;
 - 4. The estimated annual cost of operating and maintaining the facilities to be constructed or acquired;
 - 5. Such other information as the council may request.

This information shall be revised or extended each year with regard to capital improvements still pending or in process of construction or acquisition.

Sec. 10.7. Public hearing.

A public hearing on the proposed budget and proposed capital program shall be held before its final adoption at such time and place as the council may direct. Notice of such public hearing and notice that the proposed budget is on file for public inspection in the office of the city clerk shall be published one (1) time at least seven (7) days prior to the hearing.

Sec. 10.8. Council amendments.

After the public hearing, the council may adopt the budget with or without amendment. In amending the budget, it may add or delete any programs or increase or decrease any amounts, except expenditures required by law or for debt service or for estimated cash deficit. However, the total of proposed expenditures shall not exceed the total of estimated revenue.

Sec. 10.9. Council budget adoption.

The council shall adopt the budget by resolution on or before the final day established by statute for the certification of the next year's tax levy to the county. If it fails to adopt the budget by this date, the amounts appropriated for the operation for the current fiscal year shall be deemed adopted for the next fiscal year on a month-to-month basis, with all items in it prorated accordingly, until such time as the council adopts the budget for the next fiscal year.

Sec. 10.10. Property tax levy and budget appropriations.

Adoption of the budget by council shall constitute appropriations of the amounts specified therein as expenditures from the funds indicated and shall constitute a levy of the property tax therein proposed. Council shall cause the same to be certified to the county as required by statute.

Sec. 10.11. Budget status report.

During the month of July, and as often as the council may require, the city manager shall present a budget status and forecast report to the city council with any recommendations for remedial action.

Sec. 10.12. Amendments after adoption.

- (a) *Supplemental Appropriations.* If during the fiscal year the city manager determines that there are available for appropriation revenues in excess of those estimated in the budget, the council by resolution may make supplemental appropriations for the year up to the amount of the excess.
- (b) *Emergency Appropriations.* To meet a public emergency affecting life, health, property, public safety or the public peace, the council may make emergency appropriations. Such appropriations may be made by emergency ordinance in accordance with section 5.13 of this Charter. To the extent that there are no available unappropriated revenues to meet such appropriations, the council may by emergency ordinance authorize the issuance of emergency notes, which may be renewed from time to time, but the emergency notes and renewals of any fiscal year shall be paid not later than the last day of the fiscal year next succeeding that in which the emergency appropriation was made.
- (c) *Reduction of Appropriations.* If at any time during the fiscal year it appears probable to the city manager that the revenues available will be insufficient to meet the amount appropriated, this shall be reported to the council without delay, indicating the estimated amount of deficit, any remedial action taken and recommendation as to any other steps to be taken. The council shall then take action to prevent or minimize any deficit and for that purpose it may by resolution reduce one (1) or more appropriations.
- (d) *Transfer of Appropriations.* Any time during the fiscal year, the city manager may transfer part or all of any unencumbered appropriation balance among programs within a fund, department, office or agency.
- (e) *Limitation—Effective Date.* No appropriation for debt service may be reduced below any amount required to be appropriated or by more than the amount of the unencumbered balance thereof. The supplemental and emergency appropriation and reduction or transfer of appropriations authorized by this section may be made immediately upon adoption.
- (f) *No Contract to Exceed Appropriation.* During each and any fiscal year, no contract entered into by or on behalf of the city shall expend or contract to expend any money, or to incur any liability, nor shall any contract be entered into nor any bid be awarded by or on behalf of the city which, by its terms, involves the expenditure of money for any of the purposes for which provision is made either in the adopted budget or adopting resolution, including any legally authorized amendments thereto, in excess of the amount appropriated in the budget or approved contract or bid award. Any contract or bid award, either verbal or written, made in violation of the provisions of this section shall be void as to the city and no city monies from any source whatsoever shall be paid thereon.

(Ord. No. 867, § 3(b), 6-24-91)

Sec. 10.13. Lapse of appropriation.

Every appropriation, except an appropriation for a capital expenditure fund or special fund, shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered. An appropriation for a capital expenditure fund or special fund shall continue in effect until the purpose for which it has been established is accomplished or abandoned.

Sec. 10.14. Public record.

Copies of the budget and capital program as adopted shall be public records and shall be made available to the public in the city clerk's office.

Sec. 10.15. Independent audit.

An independent certified audit shall be made of all city accounts annually, and more frequently if deemed necessary by the council. Such audit shall be made by certified public accountants experienced in municipal accounting selected by the council.

CHAPTER XI. TAXATION

Sec. 11.1. Tax authority and limitations.

The council shall have the authority to levy and impose taxes for municipal purposes and to provide for their collection, provided that there shall not be an increase of rate of sales tax unless and until such rate increase shall be approved by a majority of the electorate voting at a regular or special municipal election. The council shall also have authority to levy and provide for collection of special assessments for local improvements as provided in this Charter or by ordinance. Increases in ad valorem shall be subject to the same limitations and review procedures now or hereafter provided by state statute for statutory cities.

(Ord. No. 865, § 3(C), 6-24-91)

Sec. 11.2. Collection of taxes.

- (a) Unless otherwise provided by ordinance, the county treasurer shall collect city ad valorem taxes in the same manner and at the same time as general ad valorem taxes are collected. In like manner, the council may provide for collection of special improvement assessments by the county treasurer.
- (b) All statutes of this state for the assessment of property and the levy and collection of ad valorem taxes, sale of property for taxes, and the redemption of the same, shall apply and have the full force and effect in respect to taxes for the city as to such general ad valorem taxes, except as may be modified pursuant to this Charter.

Sec. 11.3. Authority to acquire property.

In addition to all other power which it has to acquire property, the city is hereby authorized to purchase or otherwise acquire property on which there are delinquent taxes or special assessments. The city may also dispose of any property acquired under this authority.

CHAPTER XII. MUNICIPAL FUNDING

Sec. 12.1. Forms of borrowing.

The city may borrow money for any municipal purpose as provided herein and issue the following securities to evidence such indebtedness:

- (a) Short-term notes.
- (b) General obligation bonds and other like securities.
- (c) Revenue bonds and other like securities.
- (d) Special or local improvement bonds and other like securities.
- (e) Any other legally recognized security which the council may provide.

Sec. 12.2. Short-term notes.

The city, upon the affirmative vote of the majority of the entire council in office at the time the vote is taken, is hereby authorized to borrow money without an election in anticipation of the collection of taxes or other revenues and to issue short-term notes to evidence the amount so borrowed. Any such short-term notes shall mature before the close of the fiscal year in which the money is so borrowed except as is permitted in the provision of this Charter pertaining to emergency appropriations.

Sec. 12.3. General obligation bonds.

No bonds or other evidence of indebtedness payable in whole or in part from the proceeds of ad valorem taxes or to which the full faith and credit of the city are pledged, shall be issued, except in pursuance of an ordinance, nor until the question of their issuance shall, at a special or regular election, be submitted to a vote of the qualified registered electors of the city, and approved by a majority of those voting on the question, except as provided in sections 12.2, 12.4, 12.5, 12.6, 13.3, and 13.4 and provided further that such securities issued for acquiring water and rights thereto, or acquiring, improving or extending a city water system or sewer system or any combination of such purposes, may be so issued without an election.

Sec. 12.4. Revenue bonds.

The city, pursuant to ordinance, and without an election, may borrow money, issue bonds, or otherwise extend its credit for purchasing, constructing, condemning, otherwise acquiring, extending, or improving a water, electric, gas, or sewer system, or other public utility or income-producing project or for any other capital improvement; provided that the bonds or other obligations shall be made payable from the net revenues derived from the operation of such system, utility or other such project or capital improvement, and provided further, that any two (2) or more of such systems, utilities, projects or capital improvements may be combined, operated, and maintained as joint municipal systems, utilities, projects or capital improvements, in which case such bonds or other obligations shall be made payable out of the net revenue derived from the operation of such joint systems, utilities, projects or capital improvements.

Sec. 12.5. Revenue bonds funded by sales and use tax.

In addition to the provisions of section 12.4 relating to revenue bonds, the city shall have the authority to issue revenue bonds payable from the revenue and income of the project, facility, or improvement to be constructed or installed with the proceeds of the bond issue, or payable in whole or in part from the available proceeds of a city sales and use tax which may be imposed pursuant to chapter XI.

Sec. 12.6. Refunding bonds.

- (a) The council may authorize, by ordinance, without an election, the issuance of refunding bonds or other like securities for the purpose of refunding and providing for the payment of the outstanding bonds or other like securities of the city as the same mature, or in advance of maturity by means of an escrow or otherwise.
- (b) Any refunding bonds or other like securities issued for the purpose of refunding revenue bonds or other revenue securities shall be payable from the revenues pledged to the original bond issue.

Sec. 12.7. Limitations on indebtedness.

The aggregate amount of bonds or other evidences of indebtedness of the city shall not exceed three (3) percent of the actual valuation of the taxable property within the city as shown by the last preceding assessment for city purposes; provided however, in determining the amount of indebtedness, there shall not be included within the computation:

- (a) Bonds or other evidences of indebtedness, outstanding or authorized to be issued for the acquisition, extension or improvement of a municipal waterworks system or municipal storm sewer, sanitary sewer, combined storm and sanitary sewers, or sewage disposal systems;
- (b) Short-term notes;
- (c) Special or local improvement securities;
- (d) Securities payable from the revenues of an income-producing system, utility, project, or other capital improvement or from city sales or use taxes;
- (e) Long-term installment contracts other than real property acquisitions, rentals and leaseholds pursuant to section 12.9.

Sec. 12.8. Bonds: Interest, sale, prepayment.

- (a) The terms and maximum interest rate of general obligation or revenue bonds or other like securities shall be fixed by the authorizing ordinance and such securities shall be sold to the best advantage of the city.
- (b) Any refunding bond may be exchanged dollar for dollar for a bond refunded.
- (c) All bonds may contain provisions for calling the same at designated periods prior to the final due date, with or without the payment of a prior redemption premium.

Sec. 12.9. Long-term installment contracts, rentals and leaseholds—City property.

- (a) In order to provide necessary land, buildings, equipment, and other property for governmental or proprietary purposes, the city is hereby authorized to enter into long-term installment purchase contracts and rental or leasehold agreements. Such agreements may include an option or options to purchase and acquire title to such property within a period not exceeding the useful life of such property. Each such agreement and the terms thereof shall be concluded by an ordinance duly enacted by the council.
- (b) The council is authorized and empowered to provide for the said payments at their discretion from any available municipal revenues.
- (c) The obligation created hereunder shall not constitute an indebtedness of the city within the meaning of the legal limitations on contracting of indebtedness contained in this chapter.

(Ord. No. 865, § 3(C), 6-24-91)

Sec. 12.10. Approval of tax increment financing, revenue sharing and cost sharing agreement.

Any action by an agency, agent, authority, commission, committee, city council, department, employee or official of the City of Wheat Ridge, approving or changing a sales or property tax increment financing (TIF), revenue sharing or cost sharing arrangement pursuant to Part 1 of the Colorado Urban Renewal Law, must be ratified by the Wheat Ridge City Council via a vote on a formal agenda item, at a regularly scheduled business meeting, that is advertised as a public hearing.

If the value of the said sales or property tax increment financing (TIF), revenue sharing or cost sharing exceeds two million five hundred thousand dollars (\$2,500,000.00), the city council action of approval must be ratified by the registered electors of the City of Wheat Ridge at a special or regular election.

The base amount for voter approval of any sales or property tax increment financing (TIF) will be any financing exceeding two million five hundred thousand dollars (\$2,500,000.00). To account for inflation and/or increased construction costs, every third year after March 1, 2015, the base amount will be increased by five (5) percent.

Effective date: This amendment will take effect and apply to all actions undertaken by an agency, agent, authority, commission, committee, city council, department, employee or official of the City of Wheat Ridge subsequent to March 1, 2015 and thereafter.

(Approved by electorate 11-3-15)

The Jefferson County Colorado District Court has held this section unconstitutional and therefore ineffective, with the sole exception of the method of city council approval (via a vote on a formal agenda item, at a regularly scheduled business meeting, that is advertised as a hearing) of "urban renewal plans" and "plan modifications" which already require approval by the council under CRS 31-25-107. See, Longs Peak Metropolitan District v. City of Wheat Ridge, Case No. 17CV 30542 (September 8, 2017).

CHAPTER XIII. IMPROVEMENT DISTRICTS

Sec. 13.1. Creation of special or local improvement districts.

Special or local improvement districts created pursuant to this Charter may, in the discretion of council, be so created only upon receipt by the council of a petition for an ordinance by the owners of more than fifty (50) percent of the landowners residing in the proposed district.

Sec. 13.2. Power to create special or local improvement districts.

- (a) Upon receipt of a petition, as described in section 13.1, the city shall have the power to create special or local improvement districts within designated districts in the city, to contract for, construct or install special or local improvements of every character within the said designated districts, to assess the cost thereof, wholly or in part, upon the property benefited in such district, and to issue special or local improvement bonds therefor.
- (b) The council shall, by ordinance, prescribe the method and manner of creating such improvements, of letting contracts therefor, issuing and paying bonds for construction or installation of such improvements, including the costs incidental thereto, for assessing the costs thereof and for all things in relation to the authority herein created.
- (c) Except as otherwise provided by Charter or by ordinance, the statutes of the State of Colorado shall govern the creation and organization of special or local improvement districts, the assessment of costs, the issuance of bonds therefor and all things in relation thereto.

Sec. 13.3. Improvement district bonds; levy for general benefit to special fund; pledge of credit.

- (a) In consideration of general benefits conferred on the city at large from the construction or installation of improvements in special or local improvement districts, created pursuant to section 13.1, the city council may contract by ordinance prior to the issuance of any bonds of any special or local improvement district, that the payment of such bonds, both as the principal, interest and costs appertaining thereto become due, is additionally secured by a special fund herein created, and pursuant thereto may, subject to the limitations of section 11.1, levy annual taxes on all taxable property within the city at a rate not exceeding two (2) mills in any one (1) year, to be disbursed as determined by the council, for the purpose of advancing money to

maintain current payments of interest and equal annual payments of the principal amount of said bonds or for any prior redemption premium appertaining to such bonds.

- (b) The proceeds of such taxes shall be placed in a special fund and shall be disbursed only for the purposes specified in this section, provided, however, that in lieu of such tax levied, the council may annually transfer to such special fund any available money of the city, but in no event shall the amount transferred in any one (1) year exceed the amount which would result from a tax levied in such year as herein limited.

As long as any bonds issued for special or local improvement districts hereafter organized, remain outstanding, the tax levy or equivalent transfer of money to the special fund created for the payment of said bonds shall not be diminished in any succeeding year until all of said bonds and the interest thereon shall be paid in full, unless other available funds are on hand therefor, or such bonds and interest are paid by the city as provided in section 13.5 of this Charter.

- (c) In addition to the above, the council may finance the city's share of the cost of any special improvement project, whether or not such cost is assessed against city-owned property, by the issuance of special improvement district bonds, and shall appropriate annually an amount sufficient for the payment of that portion of the share of such costs then due. Such bonds shall not be subject to any election requirement or debt limitation which might otherwise exist pursuant to this Charter or other applicable law.
- (d) After the bonds have been retired in full, any monies remaining in such special funds shall be transferred as provided in section 13.4.
- (e) Bonds of any special or local improvement district payable from special assessments, which payment may be additionally secured as provided in this section, shall not be subject to any debt limitation nor affect the city's debt-incurring power, nor shall such bonds be required to be authorized at any election; and such bonds shall not be held to constitute a prohibited lending of credit or donation, nor to contravene any constitutional, statutory, or Charter limitation or restriction.

Sec. 13.4. Transfers from unencumbered special or local improvement district funds.

Where all outstanding bonds of a special or local improvement district have been paid and money remains to the credit of the district or in a special fund created pursuant to section 13.3 for the said bond issue, it may be transferred, in whole or in part, by ordinance, to a surplus and deficiency fund, and whenever there is a deficiency in any special or local improvement district fund to meet the payment of outstanding bonds and interest due thereon, the deficiency shall be paid out of the said fund; or in the alternative, council, may by ordinance, transfer all or part of any unencumbered balance from a special or local improvement district fund or a special fund created pursuant to section 13.3 for the said bond issues to any other city fund.

Sec. 13.5. Payment of bonds by city.

Whenever a special or local improvement district has paid and cancelled three-fourths of its bonds issued and for any reason the remaining assessments are not paid in time to redeem the final bonds of the district, the city shall pay the bonds when due and reimburse itself by collecting the unpaid assessments due the district.

Sec. 13.6. Review of improvement district proceedings.

No action or proceeding, at law or in equity, to review any acts or proceedings, or to question the validity of, or enjoin the performance of the issue or collection of any bonds, or the levy or collection of any assessments authorized by this chapter, or for any other relief against any acts or proceedings of the city done or had under this chapter, shall be maintained against the city, unless commenced within thirty (30) days after the date of passage of the resolution or ordinance complained of, or else be thereafter perpetually barred.

CHAPTER XIV. INTERGOVERNMENTAL RELATIONS

Sec. 14.1. Regional service authorities.

In the interest of governmental services provided on a regional or area-wide basis and the benefits realized by the City of Wheat Ridge from said services, the council may approve grants of municipal funds and services on a regional or area-wide basis. The council shall also have the authority to allow city participation in said service authorities in any manner it deems in the best interest of the city.

Sec. 14.2. Cooperative intergovernmental contracts.

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

CHAPTER XV. UTILITIES AND FRANCHISES

Sec. 15.1. General powers.

The city shall have and exercise with regard to all utilities and franchises, all municipal powers, including without limitation, all powers now existing and which may be hereafter provided by the constitution and statutes. The right of the city to construct, lease, purchase, acquire, condemn or operate any public utility, work or way is expressly reserved. Except as otherwise provided by constitution, or this Charter, all powers concerning the granting, amending, revoking, or otherwise dealing in franchises, shall be exercised by the council. Any utility serving entirely within the corporate boundaries of the city may be acquired, purchased, or constructed without the requirement of an election.

Sec. 15.2. Water rights.

The city shall have the authority to buy, sell, exchange, lease, own, control and otherwise deal in water rights.

Sec. 15.3. Utility rates.

The council shall, by ordinance, establish rates, rules and regulations and extension policies for services provided by city-owned utilities, both within and outside the corporate limits of the city.

Sec. 15.4. Management of municipal utilities.

All municipally owned or operated utilities shall be administered as a regular department of the city.

Sec. 15.5. Use of public places by utilities.

Every public utility, whether it has a franchise or not, shall pay such part of the cost of improvement or maintenance of streets, alleys, bridges, and other public places as shall arise from its use thereof and shall protect and save the city harmless from all damages arising from said use. Every such public utility may be required by the city to permit joint use of its property and appurtenances located in the streets, alleys or other public places of the city by the city and by other utilities insofar as such joint use may be reasonably practicable.

Sec. 15.6. Granting of franchises.

- (a) With the exception of cable franchises, no franchise shall be granted except upon approval by a majority of the registered electors voting thereon.
- (b) The council shall establish by ordinance the terms, fees, compensation, conditions, and any other matters related to the granting of franchises.

(Ord. No. 865, § 3(A), 6-24-91; Ord. No. 1498, § 1, 8-22-11)

Sec. 15.7. Existing franchises.

All franchise ordinances and agreements of the city in effect at the time this Charter is effective shall remain in full force and effect in accordance with their respective terms and conditions unless modified by another franchise.

Sec. 15.8. Transit facilities.

Council may require by ordinance and by fair apportionment of the cost, any railroad or other transportation system to elevate or lower any of its right-of-way or tracks running over, under, along or across any public thoroughfare; and to construct and maintain all street crossings, bridges, viaducts and other conveniences in good condition with proper approaches and safety devices.

Sec. 15.9. Revocable permits.

The council may grant a permit at any time for the temporary use or occupation of any street, alley, or city-owned place, provided such permit shall be revocable by the council at its pleasure, regardless of whether or not such right to revoke be expressly reserved in such permit.

Sec. 15.10. Franchise records.

The city shall cause to be kept in the office of the city clerk an indexed franchise record in which shall be transcribed copies of all franchises heretofore and hereafter granted. The index shall give the name of the grantee and any assignees. The record, a complete history of all such franchises, shall include a comprehensive and convenient reference to all actions at law affecting the same, and copies of all annual reports and such other matters of information and public interest as the council may from time to time require.

CHAPTER XVI. MISCELLANEOUS LEGAL PROVISIONS

Sec. 16.1. Reservation of power.

The power to supersede any law of this state now or hereafter in force, insofar as it applies to local or municipal affairs shall be reserved to the city, acting by ordinance subject only to restrictions of article XX of the Constitution of the State of Colorado.

Sec. 16.2. Bequests, gifts and donations.

The council, on behalf of the city, may receive or refuse bequests, gifts and donations of all kinds of real and personal property in fee simple or trust for public, charitable or other purposes, and do all things and acts necessary to carry out the purpose of such gifts, bequests and donations with the power to manage, sell, lease or otherwise dispose of the same in accordance with the terms of the gift, bequest or trust, or the council may delegate such power to persons as it may deem advisable.

Sec. 16.3. Liability of the city.

No action for recovery of compensation for personal injury, death or property damage against the city on account of its negligence or other tort shall be maintained unless written notice of the alleged time, place and cause of injury, death or property damage is given to the city clerk by the person injured, the injured person's agent or attorney, within one hundred eighty (180) days of the occurrence causing the injury, death or property damage. The notice given under the provisions of this section shall not be deemed invalid or insufficient solely by reason of an inaccuracy in stating the time, place or cause of injury, if it is shown that there was no intent to mislead and that the city, in fact, was not misled thereby. This provision shall not be construed as a waiver of any governmental immunity the city may now, or in the future, have.

Sec. 16.4. Eminent domain.

The city shall have the right of eminent domain within or without its corporate limits as provided by the Constitution of the State of Colorado and statutes.

Sec. 16.5. Sale of real property.

The city shall not sell or dispose of municipally owned buildings or real property for a public purpose, without first obtaining the approval, by ordinance, of three-fourths of the entire council. Unanimous approval of the entire council, by ordinance, shall be necessary for sale or disposition of designated park land.

Sec. 16.6. Severability of Charter provisions.

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

Sec. 16.7. Charter amendments.

This Charter may be amended at any time in the manner provided in section 16.8 of this Charter. Nothing herein contained shall be construed as preventing the submission to the people of more than one (1) Charter amendment at any one (1) election. If provisions of two (2) or more proposed amendments conflict or are inconsistent and are adopted or approved at the same election, the amendment receiving the highest affirmative vote shall become effective.

Sec. 16.8. Procedure to amend the Charter.

Proceedings to amend this Charter may be initiated by:

- (a) A petition signed by at least five (5) percent of the registered electors of the City of Wheat Ridge; or
- (b) An ordinance adopted by the council submitting the proposed amendment to a vote of said registered electors.

Within thirty (30) days from the initiation of proceedings to amend this Charter, the council shall publish notice of and call an election upon the proposed amendment, which election shall be held not less than thirty (30) nor more than one hundred eighty (180) days after publication of the notice thereof. Notice of a proposed Charter amendment shall contain the full text thereof.

If a majority of the registered electors voting thereon vote for a proposed amendment, the amendment shall be deemed approved.

Sec. 16.9. Charter repeal.

This Charter may be repealed as provided by the Constitution and the statutes of the State of Colorado as now existing or hereafter amended or modified.

Sec. 16.10. Interpretations.

Except as otherwise specifically provided or indicated by the context thereof, all words used in this Charter indicating the present tense shall not be limited to the time of the adoption of this Charter but shall extend to and include the time of the happening of any event for which provision is made herein. The singular number shall include the plural, the plural shall include the singular, and the word "person" may extend and be applied to bodies politic and corporate and to partnerships as well as to individuals.

Sec. 16.11. Definitions.

As used in this Charter, the following words and phrases shall have the following meaning:

- (a) *Ad valorem or general property tax.* A tax levied on property in the form of a percentage of the value of the property.
- (b) *Appropriation.* The authorized amount of monies set aside for expenditure during a specific time for a specific purpose.
- (c) *City.* The City of Wheat Ridge, Colorado, a municipal corporation.
- (d) *City administration.* The city manager of the City of Wheat Ridge appointed pursuant to this Charter.
- (e) *City Clerk.* The clerk of the City of Wheat Ridge.
- (f) *Constitution.* The Constitution of the State of Colorado.
- (g) *Council.* The city council of the City of Wheat Ridge.
- (h) *Elector or registered elector.* A resident of the city qualified to vote under the Constitution and statutes of the State of Colorado.
- (i) *Employee.* A person employed by the City of Wheat Ridge.
- (j) *Franchise.* An irrevocable privilege granted by the city permitting a specified use of public property for a specified length of time.
- (k) *General municipal election.* A municipal election held every two (2) years at which candidates for elective offices of the city are voted upon in accordance with this Charter.
- (l) *Officer and/or official.* Any person elected to office or appointed by the council or mayor, including appointees to boards and commissions and the city manager.

- (m) *Public utility.* Any person, firm or corporation operating power or light systems, communicating systems, water, sewer or scheduled transportation systems, and serving or supplying the public whether or not under a franchise granted by the city.
- (n) *Statutes or laws.* The applicable laws of the State of Colorado as they now exist or as they may be amended, changed, repealed or otherwise modified by legislative procedure.
- (o) *City Treasurer.* The city treasurer of the City of Wheat Ridge.

(Ord. No. 865, § 3(A), 6-24-91; Ord. No. 1996-1038, § 1, 7-22-96)

Sec. 16.12. Chapter and section headings.

The chapter, section and subsection headings are inserted for convenience and reference only and shall not be construed to limit, describe or control the scope or intent of any provision therein.

CHAPTER XVII. TRANSITIONAL PROVISIONS

Sec. 17.1. Effective date of Charter.

This Charter shall become effective immediately upon voter approval, except as otherwise provided in this chapter.

Sec. 17.2. Status of transitional provisions.

The purpose of this chapter is to provide for an orderly transition from the present city government of Wheat Ridge to a home rule government under the provisions of this Charter. This chapter shall constitute a part of this Charter, during the transition period, only to the extent required to accomplish that purpose.

Sec. 17.3. Prior city legislation.

All ordinances, resolutions, rules and regulations of the city which are not inconsistent with this Charter and which are in force and effect at the effective date of this Charter shall continue in full force and effect until repealed or amended. Those provisions of any effective ordinance, resolution, rule and regulation which are inconsistent with this Charter are hereby repealed.

Sec. 17.4. Saving clause.

This Charter shall not affect any suit pending in any court or any document heretofore executed in connection therewith. Nothing in this Charter shall invalidate any existing agreements or contracts between the City of Wheat Ridge and individuals, corporations or public agencies.