

**HOME RULE CHARTER**

**OF THE CITY OF LAMAR**

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## **PREFATORY SYNOPSIS**

The Charter Convention elected on February 27, 1962, respectfully presents this Charter to the voters of the City of Lamar, Colorado, for their approval.

The Charter Convention has studied the Charters of several other Colorado cities, has had the advice of experts in the field of city government, and has employed competent legal counsel in evolving the final draft of the Charter here presented.

The Constitution of the State of Colorado authorizes a Home Rule City to have great latitude and freedom in exercising its governmental functions, implemented by the necessary grant of authority to serve its citizens. It is the intent of this Charter that the City of Lamar shall be able to exercise these Constitutional powers.

This Charter is itself a guide as to how these powers shall be used and a limitation on those powers, designating which may be exercised by the City Council, which are reserved to the people themselves, and what the basic organizational structure shall be to serve the citizens.

The Charter provides for a Mayor-Council form of city government. Seven Councilmembers will be elected, two from each of the three wards of the City, and one from the City at-large. A Mayor will be elected biennially by the Council from among its members. The Charter also provides for a Utilities Board composed of five appointed members, appointed by the City Council.

Provisions are made in the Charter for recall of elected officers, for control of legislation by the people through initiative and referendum and for amendment of the Charter by popular vote. Provision is also made that no elected officer of the City shall hold any other elective public office.

The City Council will have all policy making and legislative power in the City not otherwise delegated by this Charter. It will appoint the City Treasurer, City Clerk, City Auditor, City Attorney, Municipal Judge, and members of advisory boards and commissions.

The Convention sincerely feels that the City of Lamar will under this Charter continue its sound and progressive government and unanimously recommends the approval of this Charter by the voters at the election on June 26, 1962.

## **PREAMBLE**

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

### **Article I General Provisions**

#### **Sec. 1-1. Name; boundaries.**

The municipal corporation heretofore existing as a city of the second class in the County of Prowers, State of Colorado, and known as the City of Lamar, shall remain and continue as a body politic and corporate under this Charter with the same name and boundaries until changed in a manner authorized by law.

**Sec. 1-2. Form of government.**

The municipal government provided by this Charter shall be the "Mayor-Council" form of government.

**Sec. 1-3. General powers.**

The City shall have all powers which are necessary, requisite or proper for the government and administration of its local and municipal matters, and all powers which are granted to home rule cities by the Constitution of the State of Colorado. This Charter shall be construed as a limitation on those powers and not as a grant of power, and the enumeration herein of certain powers shall not be construed to deny to the City and the people thereof any right or power granted to them by the Constitution of the State of Colorado.

**Sec. 1-4. Present ordinances in force.**

All ordinances of the City of Lamar in force at the time this Charter becomes effective shall continue in force, except insofar as they conflict with provisions of this Charter, or until they shall be amended or repealed by ordinance enacted under authority of this Charter.

**Sec. 1-5. Construction of words.**

Words used in this Charter importing singular or plural number shall be construed so that one number includes both; words importing masculine gender shall be construed to apply to feminine gender as well; and the word "person" shall be extended to include persons, firms and corporations; provided, that these rules of construction shall not apply to any part of this Charter containing express provisions excluding such construction, or where subject matter or content is contrary thereto.

**Sec. 1-6. Amending the Charter.**

Amendments to the Charter shall be proposed and adopted in accordance with the Constitution of the State of Colorado. Nothing herein contained shall be construed as preventing the submission to the people of more than one Charter amendment at any one election. If there is any conflict or inconsistency between amendments voted upon at the same election, and more than one be adopted, then the amendment receiving the largest number of votes shall prevail.

**Sec. 1-7. Invalidity of part.**

If a court of competent jurisdiction shall adjudge to be invalid or unconstitutional any clause, sentence, paragraph, section, article or part of this Charter, such judgment or decree shall not affect, impair, invalidate or nullify the remainder of this Charter but the effect thereof shall be confined to the clause, sentence, paragraph, section, article or part of this Charter so adjudged to be invalid or unconstitutional.

**Sec. 1-8. Rights and liabilities continue.**

No valid and legally existing right or liability, either in favor of or against the City of Lamar, and no judicial proceedings, civil or criminal, shall be affected by the change in government occasioned by the adoption of this Charter.

## **Sec. 1-9. Definitions.**

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

(a) Appropriation.

The authorized amount of funds set aside or allocated for expenditure during a specified time and for a specified purpose.

(b) Member of the bar.

A member of the bar shall mean a person who is licensed to practice law in the State of Colorado.

(c) City.

The City of Lamar, Colorado, a municipal corporation.

(d) Codification or code.

A compilation of all ordinances which are of a general and permanent nature in published form, properly indexed, and organized according to subject matter.

(e) Council.

The City Council of the City of Lamar.

(f) Employee.

Any person in municipal service who is not an officer.

(g) Franchise.

A special privilege granted by the City permitting the continuing use of public property.

(h) General election.

The municipal election held every two (2) years at which candidates for elective officers of the City are voted upon.

(i) Officer.

Any person elected or appointed to office.

(j) Overlapping terms.

Terms of office which are such that only a portion of the members will be appointed or elected at any one (1) time, sometimes referred to as "staggered terms."

(k) Qualified elector.

A resident of the City who is qualified to vote under the Constitution and statutes of the State of Colorado, and who is registered to vote.

(1) Qualified tax-paying elector.

Any qualified elector who, in the calendar year last preceding the election at which the vote is offered, shall have paid a tax or become liable for the payment of a tax upon real property assessed to him and owned by him in the City.

(m) Statutes.

The applicable laws of the State of Colorado as they now exist or as they may be amended, changed, repealed or otherwise modified by legal procedure.

(n) Publication or legal publications.

Publication or legal publication as used in this Charter shall mean publication in a legal newspaper, as defined by the statutes of the State of Colorado in general circulation in the City of Lamar, Colorado.

## **Article II Elections**

### **Sec. 2-1. Colorado municipal election laws.**

City elections shall be governed by the Colorado Municipal Election Law as now existing or hereafter amended or modified, except as otherwise provided in this Charter, or by ordinance.

### **Sec. 2-2. Registration, judges, clerks.**

The Council may by ordinance establish the method for the registration of electors; the number, qualifications and compensation of election judges and clerks; and the boundaries of election precincts. The Council may by ordinance establish an election commission with such powers, duties, terms and qualifications as provided by ordinance.

### **Sec. 2-3. Municipal elections.**

A general municipal election shall be held on the Tuesday following the first Monday in November, 1963, biennially thereafter, provided that the first general election under this Charter shall be held on the Tuesday following the first Monday in September, 1962. Special elections shall be held in accordance with the provisions of this Charter. The polling places shall be open from 7:00 A. M. to 7:00 P. M. on election days.

### **Sec. 2-4. Special elections.**

Special elections shall be held forty-five (45) days after published notice of said special election.

## **Article III Legislative Body**

### **Sec. 3-1. City Council.**

All powers of the City of Lamar not otherwise limited or conferred upon others by this Charter shall be vested in a Council consisting of seven (7) members, with two (2) Councilmembers to be elected from each of the three wards of the City, and the Mayor of the City to be elected from the City at large. (Ord. No. 880 passed at June 5, 1990 election)

### **Sec. 3-2. Mayor and mayor pro-tem.**

The Mayor will be the presiding officer and required to vote. The Mayor shall be elected by the qualified electors of the City of Lamar on an at-large basis, and shall be elected directly by the said qualified electors every two years, commencing with the general municipal election to be held in 1991. The Mayor shall be recognized as head of the City government for all ceremonial and legal instruments requiring the Mayor's signature as such official. A mayor pro-tem shall be elected by the remaining Councilmembers, and said mayor pro-tem shall act as mayor during the absence of the Mayor with all powers herein granted to the Mayor. (Ord. No. 880 passed at June 5, 1990 election)

### **Sec. 3-3. Qualifications of elective officers.**

Each elective officer when elected shall be a qualified elector of the City, shall be a citizen of the United States of America, and shall have resided in the City of Lamar for at least the past one year. Councilmembers elected from wards shall also be residents and qualified electors of the respective wards from which they are elected. A person who has been convicted of a felony shall not become a candidate for nor hold elective office. No elected official shall hold any other elective public office or be a salaried employee of the City of Lamar. (Ord. No. 873-A passed at Nov. 7, 1989 election)

### **Sec. 3-4. Wards.**

The City of Lamar is hereby divided into three wards whose boundaries shall be the same as presently established. Changes in the boundaries of wards may be made by ordinance adopted by the Council, at least 180 days prior to any general election. Wards shall be contiguous and compact, and shall have approximately the same number of voters.

### **Sec. 3-5. Terms of office.**

Terms of the Councilmembers shall begin at 7:30 P. M. on the first Monday following the regular City election. The terms of the Councilmembers shall be for four years. At the first election for Councilmembers following the adoption of this Charter, seven Councilmembers shall be elected as follows: Two Councilmembers to be elected from each ward and one Councilmember to be elected at large; one from each ward will be elected to serve from the first general election in September, 1962 until the general election in November, 1965; and one from each ward will be elected to serve from the first general election in September, 1962 until the general election in November 1963; and one Councilmember at large will be elected to serve from the first general election in September, 1962 until the general election in November, 1965. At the first election the candidate receiving the highest number of votes in his ward, and the Councilmember at large shall be elected until the general election in November, 1965. The remaining candidate from each ward shall be elected until the general election in November, 1963. At each succeeding election the Councilmembers shall be elected for four year terms.

### **Sec. 3-6. Vacancies.**

An elective office under this article shall become vacant whenever any officer is recalled, dies, becomes incapacitated, removes from, resigns, or becomes a nonresident of the City or ward from which he was elected. In case of a vacancy, the remaining Councilmembers shall choose by majority vote, within thirty days after such a vacancy occurs, a duly qualified person to fill the unexpired term so vacant until the next general election, at which time the voters shall elect such officer to fill the remaining portion of the term so vacated. If more than four vacancies occur simultaneously, the remaining Councilmembers shall call for a special election to fill such vacancies provided there will not be a general election within 90 days.

### **Sec. 3-7. Council meetings.**

Council shall meet regularly at least twice each month at a time and place to be fixed by the rules of procedure of each Council. The first Council and each succeeding Council elected under this Charter shall prescribe, within sixty days after its first meeting, the rules of procedure to govern meetings. All meetings for the transaction of business shall be open to the public. Special meetings of the Council may be called for such place and in the manner and at the time provided for by the rules of procedure. Four members of the Council shall constitute a quorum.

### **Sec. 3-8. Powers of Council.**

The Council shall have all legislative powers of the City and all other powers of a home rule city not specifically limited by the Constitution of the State of Colorado and not specifically limited or conferred upon others by this Charter. It shall have the power to enact and provide for the enforcement of all ordinances necessary to protect life, health and property; to declare, prevent and summarily abate and remove nuisances; to preserve and enforce a good government, general welfare, order and security of the City and the inhabitants thereof; to enforce ordinances and regulations by ordaining fines not exceeding three hundred dollars or imprisonment not exceeding ninety days, or both fine and imprisonment, for each and every offense; to provide for the granting of probation and the conditional suspension of sentences by the municipal court; and to delegate to boards and commissions, within limitations of the Constitution and this Charter, such functions, powers, and authority of the City as it deems proper and advisable.

The Council, or a committee thereof duly authorized by it, shall have power to investigate the official acts and conduct of any officer of the City.

No enumeration of particular powers granted to the Council shall be construed to impair any general grant of power herein contained or granted by the State Constitution, nor to limit any such grant to powers of the same class or classes as those so enumerated.

### **Sec. 3-9. Appointments by Council.**

The Council shall appoint or remove at its pleasures the officers and all members of the boards and commissions except as otherwise provided in this Charter.

### **Sec. 3-10. Recreation program.**

The Council shall provide by ordinance for the planning and supervision of a community recreation program and or equipping and maintaining City-owned or controlled parks, recreational areas and facilities, both in and outside the corporate limits of the City. The City may cooperate with other public

authorities, special districts, organizations or individuals in or outside the City to implement the operation of this program.

**Sec. 3-11. Audit of accounts.**

An independent audit shall be made annually of all funds, including utility funds, of the City. More frequent audits may be made if deemed necessary by Council. Such audits shall be made by registered or certified public accountants, experienced in municipal accounting, selected by Council.

**Sec. 3-12. Council membership rules.**

The Mayor shall be a member of the Council and shall be subject to all the rules and regulations governing Councilmembers. The Council shall be the judge of the election and qualifications of its own members, subject to judicial review. In the event of the arising of a conflict of interest involving any member of Council, said conflict of interest shall be governed by the provisions of C.R.S. 31-4-404(2), as presently exists, in that any member of said City Council who has a personal or private interest in any matter proposed or pending before the City Council shall disclose such interest to the City Council and shall not vote thereon, and shall refrain from attempting to influence the decisions of the other members of the City Council in voting on the matter. (Ord. No. 880 passed at June 5, 1990 election)

**Sec. 3-13. Compensation of Councilmembers.**

The Council may provide for the payment of salaries to its members by ordinance.

**Article IV  
Recall**

**Sec. 4-1. Recall from office.**

Every elected officer of the City of Lamar may be recalled from office at any time after holding office for six months by the qualified electors of the City in the manner herein provided.

**Sec. 4-2. Procedure.**

The procedure hereunder to effect the recall of any elective officer shall be as follows:

A petition signed by qualified electors equal in number of twenty-five percent of the entire ballots cast at the last preceding election for all candidates for the office which the incumbent sought to be recalled occupies, demanding a recall of the officer named in said petition, shall be filed in the office of the City Clerk, provided, if more than one person is required by law to be elected to fill the office of which the person sought to be recalled is an incumbent, then the said petition shall be signed by electors equal in number to twenty-five percent of the entire ballots cast at the last preceding election for all candidates for the office, said entire vote being divided by the number of all officers elected to such office; and such petition shall contain a general statement in not more than two hundred words of the ground or grounds on which such recall is sought.

When such a petition is filed with the City Clerk, he shall notify the Council and the Council shall set a date for a recall election to be held within ninety days after the filing of the petition.

The ballot upon which such proposed recall is submitted shall state the reasons set forth in the petition for demanding such recall and there shall also be printed thereon the words: "Shall (name 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 separate lines with a blank space to the right of each in which the voter shall indicate, by marking a cross (X), his vote for or against such recall.

In the event that an officer is recalled by a majority vote of those voting on the question, the office or offices shall be deemed vacant, and shall be filled as provided in this Charter for the filling of vacancies.

#### **Sec. 4-3. Implementation.**

The Council shall make such additional rules and regulations as are necessary to implement the above procedure.

### **Article V Ordinances**

#### **Sec. 5-1. When required.**

All legislative enactments of the Council must be in the form of ordinances. Legislative enactments as used herein shall include, but not be limited to, every act making an appropriation, levying a tax, authorizing the borrowing of money, creating an indebtedness, 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.

Further, any act required elsewhere in this Charter to be done by ordinance shall so be done.

#### **Sec. 5-2. Form.**

All ordinances shall be introduced in written form. The enacting clause of all ordinances shall be, "BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LAMAR, COLORADO."

#### **Sec. 5-3. Effective date.**

Except as otherwise provided in this article, all ordinances shall take effect thirty (30) days after publication following final passage.

#### **Sec. 5-4. Procedure for passage.**

An ordinance may be introduced at any regular or special meeting and upon such introduction shall be read in full except for ordinances making a general codification of ordinances or ordinances adopting standard codes, which said ordinances need not be so read.

Said ordinance, before its final passage shall be presented at one additional meeting of the Council, which meeting shall be held no earlier than five days after publication of the ordinance in its final amended form, and shall again be read in full unless it is an ordinance of the type excepted in this section.

After final passage every ordinance shall again be published by reference, or in full, as the Council may determine; provided any publication by reference shall contain a summary of the subject matter of

said ordinance and a notice that copies of the ordinance are on file at the office of the City Clerk for inspection.

**Sec. 5-5. Voting.**

The ayes and noes shall be taken upon the passage of all ordinances and entered upon the minutes or records of the Council proceedings. Every ordinance except as otherwise provided in this Charter shall require the affirmative vote of a majority of the entire Council entitled to vote for final passage, and a majority vote of the Council present for passage on any reading prior to final passage.

Every member when present must vote upon ordinances except that a member who has a personal or private interest in any ordinance proposed or pending before the Council, shall disclose this fact to it and shall not be entitled to vote thereon, provided should any member, entitled to vote hereunder, fail to vote, his vote shall be recorded in the affirmative.

**Sec. 5-6. Emergency ordinances.**

Emergency ordinances for the preservation of public property, health, peace and safety shall be approved only by two-thirds vote of the entire Council. The fact showing such urgency and need shall be specifically stated in the measure itself. No ordinance making a grant of any special privilege, levying taxes, incurring indebtedness, authorizing borrowing money, or fixing rates charged by any City-owned utility under the administration of the City Council shall ever be passed as an emergency measure. An emergency ordinance shall take effect upon publication following final passage.

**Sec. 5-7. Disposition.**

A true copy of every ordinance, as adopted by Council, shall be numbered and recorded and adoption and publication shall be authenticated by the signature of the Mayor and the City Clerk and by the certificate of the publisher, respectively.

**Sec. 5-8. Codification.**

Within three (3) years after the effective date of this Charter, the Council shall direct and complete the codification of the permanent ordinances of the City and shall cause a recodification to be made at least every ten (10) years.

All additions or amendments to the Code shall be adopted by ordinance, and when passed in such form as to indicate the intention to make the same a part of the Municipal Code, shall be deemed to be incorporated in such Code.

**Sec. 5-9. Codes published by reference.**

Standard codes, promulgated by the Federal Government, the State of Colorado, or any agency of either, or by any municipality within the State of Colorado or by recognized trade or professional organizations, or amendments or revisions thereof may be adopted by reference, providing the publication of the adopting ordinance shall advise that copies of the code to be adopted by reference are available for inspection at the office of the City Clerk and providing that any penalty clause in said codes may be adopted only if set forth in full and published in the adopting ordinance.

**Sec. 5-10. Resolutions and motions.**

All actions of the Council not required by this Charter to be in the form of ordinance, may be in the form of resolutions and motions. Every member when present must vote upon resolutions and motions except that a member who has a personal or private interest in any resolution and motion proposed or pending before the Council shall disclose this fact to it and shall not be entitled to vote thereon; provided should any member, entitled to vote hereunder, fail to vote, his vote shall be recorded in the affirmative.

**Article VI  
Initiative and Referendum**

**Sec. 6-1. The initiative.**

Any proposed ordinance may be submitted to the Council by petition signed by qualified electors of the City equal in number to the percentage hereinafter required.

**Sec. 6-2. Submissions.**

If the petition accompanying the proposed ordinance is signed by qualified electors of the City equal in number to fifteen percent of the total ballots cast in the last general election and is filed with the City Clerk at least sixty days prior to any general or special election, and contains a request that said proposed ordinances be submitted to a vote of the people if not passed by the Council, the Council shall within thirty days after the attachment of the Clerk's certificate of sufficiency to the accompanying petition either (a) pass said ordinance without alteration or (b) call a special election unless a general election is fixed within ninety days thereafter; and at such special or general election, said proposed ordinance shall be submitted without alteration to the vote of the qualified electors of the City but not more than one special election under this article shall be held in any twelve month period.

**Sec. 6-3. Publication.**

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 its nature and it shall contain the words, "FOR THE ORDINANCE" and "AGAINST THE ORDINANCE." If a majority of the qualified electors voting thereon shall vote in favor thereof, the same shall thereupon without further publication become an ordinance of the City.

**Sec. 6-4. The referendum.**

The referendum shall apply to all ordinances passed by the Council, except ordinances fixing the rate of taxation on property each year for municipal purposes, making the annual appropriation, calling a special election or ordaining improvements initiated by petition and to be paid for by special assessments. If at any time within thirty days after the final passage of an ordinance to which the referendum is applicable, a petition signed by qualified electors equal in number to at least ten percent of the total ballots cast in the last general election be presented to the Council protesting 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 qualified electors of the City in a manner as provided in respect to the initiative at the next general election, or at a special election called therefor. Such ordinance shall then go into effect if a majority of the qualified electors voting thereon vote in favor thereof, without further publication. The Council, on its own motion, shall have the power to submit at a general or special election any proposed ordinance to a vote of the people in

manner as in this Charter provided. If provisions of two or more proposed ordinances adopted or approved at the same election conflict, the ordinance receiving the highest affirmative vote shall become effective.

**Sec. 6-5. Procedure.**

Within ten 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 qualified electors and if sufficient shall attach thereto his certificate of sufficiency showing the result of such examination. If the petition is insufficient, he shall forthwith in writing notify one or more of the persons designated on the petition as filing the same. The petition may then be amended within ten days from the filing of the certificate. The City Clerk, within five days after such amendment shall make like examination of the amended petition and attach thereto his certificate of the result. If still insufficient, he shall return the petition to one 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 year after return by the Clerk.

**Sec. 6-6. Amendments.**

A proposed ordinance adopted or rejected by electoral vote under either the initiative or referendum cannot be revived, repealed, amended, or passed except by electoral vote; provided, however, that the Council shall have the power to adopt ordinances making technical amendments thereto which do not change the intent of the people's ordinance. The Council shall have power to resubmit to electoral vote any proposed ordinance reviving, repealing or amending an ordinance which has been adopted or rejected by electoral vote upon its own initiative and without any petition therefor. Any question submitted at a special election shall not again be submitted at a special election within two years thereafter.

**Sec. 6-7. Further ordinances.**

The City Council shall have power by ordinance to make further regulations for carrying out the provisions of this article.

**Article VII  
Utilities Board**

**Sec. 7-1. Utilities Board.**

There is hereby created the Utilities Board of the City of Lamar, which shall be responsible for the development, productions, purchase, and distribution of all electricity.

**Sec. 7-2. Board of Utilities Commissioners.**

There is hereby created the Board of Utilities Commissioners of the City, which shall have exclusive jurisdiction, control and management of the department and all its operations and facilities. The Board shall have all the powers and duties possessed by the City to construct, acquire, expand and operate the utility system, and to do any and all acts or things that are necessary, convenient or desirable in order to operate, maintain, enlarge, extend, preserve and promote an orderly, economic and businesslike administration of the utility system. The Board shall operate as a separate unit of City government; and except as otherwise provided in this Charter both the Board and the department shall be free from the jurisdiction, direction and control of other City officers and of the City Council. The Board may sue or be sued in its own name. All damage claims arising from the operations of the Board and the department

shall be the responsibility of and be liquidated by the Board from the appropriate funds of the respective utility system of the department.

### **Sec. 7-3. Organization of Board.**

(a) Number of Commissioners. The Board shall consist of five Commissioners and a member of the City Council selected by the Council to act as an ex officio member without vote.

(b) Appointment and tenure. The Commissioners shall be appointed by Council. The first Commissioners shall be appointed to serve terms of one, two, three, four and five years, respectively, from the first Monday of the month following the taking effect of this Charter, the term of each to be designated by the Council. Their successors shall be appointed for terms of five years and until their successors are appointed and have qualified. Any Commissioner may be removed by Council at its pleasure.

(c) Vacancies. Vacancies shall be filled by the Council for the unexpired term. No vacancy in the Commission shall impair the right of the remaining Commissioners to exercise all the powers of the Commission.

(d) Qualifications. No person shall be a Commissioner unless he shall have been for at least one year next preceding his appointment a qualified elector of the City. No person who holds any other public office or who is an employee of the City government or who has business relationship with the department other than as a consumer shall be a Commissioner. A Commissioner ceasing to possess any of these qualifications shall be removed from his office by Council.

(e) Compensation. Each Commissioner, as full compensation for his services as a member of the Board, may be paid from the revenues of the department the sum of ten dollars for each meeting of the Board actually attended by him; but no commissioner shall receive in any one year more than two hundred and forty dollars for his attendance. Commissioners may be reimbursed for expenses incurred in carrying out their duties, other than those which may be incurred in attending meetings of the Board within the City.

(f) Conduct of meetings. The Board by majority vote shall elect from among its members a chairman who shall preside over the meetings of the Board and a vice-chairman who shall act for the chairman during his absence. The City Clerk shall act as secretary of the Board. An election of officers of the Board shall be held at the first regular meeting at which all members are present following the appointment of a new Commissioner for a full term, but not later than the fourth meeting following the appointment. The Board shall adopt rules for the conduct of its meetings, which shall be open to the public. No action shall be taken by the Board except by the affirmative vote of at least three Commissioners. Three Commissioners shall constitute a quorum. (Ord. No. 873-A passed at Nov. 7, 1989 election)

### **Sec. 7-4. Organization of department.**

(a) Superintendent. The Board shall appoint a superintendent of the department to be responsible to the Board and to serve at its pleasure.

(b) Other employees. There shall be such other officers and employees of the department as may be provided by the Board. The officers and employees shall be appointed and removed by the superintendent.

(c) Salaries. The Board shall fix the salary of the superintendent and shall have but may delegate to the superintendent the power to fix the salaries of all other officers and employees of the department.

(d) Bonds. All officers and employees of the department shall be bonded in compliance with Section 10-7 of this Charter.

(e) Employee benefits. The Board may contribute to the cost of pension retirement, life and accident and health insurance programs for the officers and employees of the department.

#### **Sec. 7-5. Powers and duties of the Board.**

(a) Real estate and contracts. The Board, in the efficient and economical operation of the department, both inside and outside the City limits may:

- (1) Sell its products and services to public and private corporations and to other consumers;
- (2) Construct plants, transmission lines, and other facilities;
- (3) Purchase real estate and franchises in the name of the City with the approval of the Council;  
and
- (4) Enter into all contracts, leases, and agreements in furtherance hereof.

(b) Extensions of services. The Board may adopt regulations governing extensions of services of the department both inside and outside the City limits. The regulations shall provide the conditions under which the extensions shall be made to render them compensatory and shall provide that each extension project shall, when completed, become the property of the City whether on public or private property. The Board may provide for the form of refunds where advances by the persons benefitted are necessary to make extensions compensatory.

(c) Joint operations with others. The Board may contract with any public corporation or any individual, both inside or outside the City limits.

- (1) For the joint use of poles and other property belonging either to the department or to the other contracting party or jointly to both parties; and
- (2) With the approval of the Council, for the joint acquisition of real property and franchises and the joint financing, construction, and operation of plants, transmission lines, and other facilities, whereby any property acquired may become the property of both the City and the other contracting party.

(d) Eminent domain. The Board may enter upon any land or water for the purpose of making surveys and may exercise the right of eminent domain on behalf of the City whenever public necessity or convenience requires. The Board shall have the right of eminent domain as provided by the Constitution and the statutes of the State of Colorado.

(e) Use of thoroughfares for utility installations. The Board may use the ground over, under, or along any road, railroad, highway, street, sidewalk, thoroughfare, alley or waterway in the operations of the department, but shall in all cases and subject to the applicable general regulations of the City, cause the surface of the public way to be restored to its usual condition.

(f) Rates. The Board shall fix rates to be charged for these utilities sold and services rendered by the department. Rates shall be fair, reasonable and compensatory and shall be uniform for all consumers, within the same class; but different rate schedules may be applied to different classes of consumers as determined by the Board. Rates within the City limits may be more or less than for the same class of consumers outside the City limits. Rates shall be sufficient to pay all operating and maintenance expenses of the utility operation and, except for the first two years of operation, all bond interest and redemption costs of the utility operation. No resolution fixing rates shall be finally adopted until published in full two times, at least ten days apart. The resolution shall not become effective until the fifth day after the last publication. A public hearing shall be called prior to final passage of a rate increase by the Board. The Board may require reasonable deposits as security for the payment of charges for utility services and may provide for the return of the deposits, and interest on deposits as determined by the Board, when satisfactory consumer credit has been established.

(g) Authority for expenditures. No money shall be drawn from the funds of the department nor shall any obligation for the expenditure of money be incurred except as authorized by the Board, and not to exceed the annual budget.

(h) Short term loans. The Board may borrow money for periods not to exceed two years and may issue negotiable notes, payable from the revenues of the department, as evidence of the loans. The action of the Board may be by resolutions which may be adopted at the same meetings at which introduced and shall take effect immediately upon adoption.

(i) Promotion expenditures. The Board may authorize reasonable expenditures to advertise and otherwise promote the use of the services of the department and to acquaint the public with the operations, programs, and planned expansion of the department.

(j) Investment and utilization of reserve funds. The Board may invest reserve funds of the department only in such a manner as is allowed by the Colorado Public Deposit Protection Act, being C.R.S. § 11-10.5-101 *et seq.* In addition, the Board may disburse as a one-time transfer to the City a portion of reserve funds available to the Board, with such funds to be used for the City's capital improvements consisting of contributions to construct a public pool and Senior Center complex so as to improve the City infrastructure. Such transfer shall be a one-time transfer not to exceed nine hundred fifty thousand dollars to be paid only as a supplement to City and grant funds and public donations. Such Board reserve funds as may be paid over unto the City pursuant to Article X, Section 20 of the Colorado Constitution and shall be in addition to the Charter appropriation established by Section 11-2 of the Home Rule Charter of the City of Lamar.

(k) Accounting and budget reports. The Board in addition to the reports and accounting it may otherwise be required by law to make, shall not later than the first day of February in each year, furnish the Council its annual report which shall include the following statements as of the end of the preceding fiscal year.

(1) A balance sheet and operating statement showing the financial condition of the department, prepared according to generally accepted public utility accounting principles;

(2) Any additional supporting statements or schedules deemed necessary and desirable by the Council to make a clear and informative presentation of the financial position of the department.

The reports shall be kept on file in the City Clerk's office and shall be open to public inspection. The Board shall annually prepare and submit to the Council, at a time designated by Council, a budget forecast for the ensuing year.

(l) Delegation of powers. The Board may delegate in writing any of its powers to officers or employees responsible to it.

(m) The Board shall advertise and call for bids on all items to be purchased by bid for the department as prescribed in this Charter. (Ord. No. 1009 passed at Nov. 2, 1999 election)

**Sec. 7-6. General provisions.**

(a) Disposition of public utilities. The City shall have no authority to cease to operate, sell, lease, abandon, or in any other way dispose of any public utility owned by it without the approval of a majority of the votes cast by the registered voters of the City, at a general election or a special election held for the purpose.

(b) Existing obligations. Contracts and obligations relating to the utility system of the City incurred prior to the taking effect of this Charter shall not be impaired and shall be binding upon the Board insofar as they apply to the department.

**Article VIII  
Administrative Department**

**Sec. 8-1. Departments created.**

The administrative functions of the City shall be performed by the following departments: Water, sanitation, streets, police, fire, parks, finance and such other departments as are or may be established by this Charter or ordinances of the City. The City Council may consolidate or merge any of the said departments in order to achieve more efficient operation and administration, except no merger shall be made involving the Utilities Board.

**Article IX  
Boards and Commissions**

**Sec. 9-1. General provisions.**

Unless otherwise provided by this Charter, all boards and commissions shall be appointed by the Council, shall be advisory in character, shall serve without compensation but shall be paid their necessary expenses actually incurred in the discharge of their official duties, and shall have such powers and perform such duties as are provided by this Charter or by resolution. Initial appointments by the Council shall specify the term of office of each individual in order to achieve overlapping tenure and thereafter all appointments shall be for the full term specified. All members shall be subject to removal by the Council at its pleasure and at any time without cause. The Council shall make appointments to fill vacancies for the unexpired terms. Each board and commission shall choose its own chairman and vice-chairman from its citizens-at-large members and shall adopt its own rules of procedure for the proper conduct of its business.

**Sec. 9-2. Board of Adjustment and Appeals.**

There is hereby created and established a Board of Adjustment and Appeals consisting of five (5) members to be appointed by Council for overlapping terms of five years. Members shall be qualified tax-

paying electors, residents of the City for at least one year immediately preceding date of their appointment, and the holder of no other office or position in the City administration.

The Board shall have power to hear and determine appeals from issuance or refusal of building permits; to make special exceptions to the terms of the zoning regulations in harmony with their general purpose and intent; and to authorize variances from the strict application of the zoning regulations in such situations and subject to such limitations as may be set by ordinance. The findings and decisions of the Board shall be final subject only to judicial review.

The Board shall keep minutes of its proceedings, show the vote taken, keep records of its examinations and other official actions. Every order, requirement, decision or determination of the Board shall be filed in the office of the City Clerk.

The Board shall exercise the functions and powers and perform the duties assigned to it by this Charter and the ordinances of the City; and where not otherwise provided by ordinance or charter, the Board shall have the power to perform the functions and follow the procedures set forth in the statutes of the State of Colorado. (Ord. No. 873-A passed at Nov. 7, 1989 election)

### **Sec. 9-3. Library Board.**

There is hereby created and established a Library Board consisting of five members to be appointed by the Council for overlapping terms of five years and until their successors are appointed and qualified.

The Library Board shall be advisory in character and it shall prepare and submit to Council a master plan for the development and maintenance of a modern library system.

The Library Board shall have the additional power to administer gifts and trusts.

The Library Board is authorized, subject to Council approval, to cooperate with any public or private agency in obtaining space, facilities, books or materials for library purposes.

The Board shall exercise the functions and powers and perform the duties assigned to it by this Charter and the ordinances of the City; and where not otherwise provided by ordinance or charter, the Board shall have the power to perform the functions, and follow the procedures set forth in the statutes of the State of Colorado.

### **Sec. 9-4. Planning and Zoning Commission.**

There is hereby created and established a Planning and Zoning Commission consisting of seven members to be appointed by Council, five (5) of whom shall be citizens-at-large with overlapping five-year terms, and two of whom shall be incumbent Councilmembers, the citizens-at-large members shall be qualified electors, residents of the City at least one year immediately preceding the date of their appointment, and they shall hold no paid office or position in the City administration.

The Planning and Zoning Commission shall exercise the functions and powers and perform the duties assigned to it by this Charter and the ordinances of the City. It shall prepare and submit to Council for its approval a master plan for the physical development of the City; all plats of proposed subdivisions shall be submitted to it for its recommendations thereon to Council; and it shall assist Council in considering and recommending a plan for capital improvements. Where not otherwise provided by Charter or ordinance, the Planning and Zoning Commission shall have the power to perform the functions and

follow the procedures set forth in the statutes of the State of Colorado. (Ord. No. 873-A passed at Nov. 7, 1989 election)

**Article X**  
**Legal Department**

*Part 1. City Attorney*

**Sec. 10-1. Appointment.**

The Council shall appoint a City Attorney, who shall be a resident of the City of Lamar, to serve at the pleasure of the Council, who shall be an attorney at law duly admitted to practice in the State of Colorado and who shall have a minimum of three years experience in active practice of law in this state. The Council may provide such assistants to the City Attorney as it may deem necessary and shall establish, by resolution, the compensation to be paid to the City Attorney and his assistants, as well as the compensation to be paid to any special counsel employed pursuant to any provision of this Charter.

**Sec. 10-2. Duties.**

The City Attorney shall advise the Council and City officials relating to their powers and duties and he or his assistants shall represent the City in all legal proceedings, except as provided in this Charter. The City Attorney or his assistants shall supervise the drafting of all ordinances and the preparation of all other legal documents. He or his assistants shall attend all Council meetings and shall perform all services incident to his position as may be required by this Charter or the ordinances of the City. Nothing herein shall prohibit the Utilities Board from employing separate counsel if it deems necessary.

**Sec. 10-3. Special counsel.**

Council may, on its own motion, or upon the request of the City Attorney, in special cases, employ counsel to serve under the direction of the City Attorney. Special counsel may be engaged in regard to irregularities found by audit, or any alleged dereliction in the duties of any officer or employee, or when the City Attorney has a conflict of interests, to serve independently of the City Attorney.

*Part 2. Municipal Court*

**Sec. 10-4. Establishment.**

There is hereby established a municipal court vested with exclusive original jurisdiction of all causes arising under the Charter and ordinances of the City of Lamar. The Council shall appoint one or more judges for said court to serve at the pleasure of the Council, and the judge or judges, shall receive such fixed compensation as may be established by resolution of the Council, but such compensation shall not be based upon the fees or fines assessed by the court nor the number of cases handled. In the absence of the judge, or judges, so appointed, the Council shall designate one or more substitute judges to serve.

Terms of the municipal court and procedure therein shall be enacted by the Council, and the Council shall, by ordinance, provide for trial by jury and the imposition of costs.

*Part 3. Miscellaneous Legal Provisions*

**Sec. 10-4.5. Contract requirements.**

All contracts in writing, binding the City, shall be signed by the Mayor, or in his absence by the mayor pro-tem, and attested by the City Clerk under the seal of the City.

**Sec. 10-5. Sale of real property.**

Conveyances of any interest in real property of whatever nature or use may be authorized by ordinance passed by the affirmative vote of five members of the Council. Conveyances shall be signed by the Mayor or in his absence by the mayor pro tem, and attested to by the Clerk under the seal of the City.

**Sec. 10-6. Recovery of compensation.**

No action for the recovery of compensation for any form of tort liability claimed against the City shall be maintained unless all statutory notices of said claim are strictly complied with by the claimant, it being the intention of the City to not waive any protection of sovereign immunity available to it. (Ord. No. 873-A passed at Nov. 7, 1989 election)

**Sec. 10-7. Bonds and oaths.**

All officers and employees of the City and Utilities Board shall be bonded under a blanket bond. The bond on the City Clerk and City Treasurer shall be for at least \$50,000 each. The amount of bond for all other officers and employees shall be set by the City Council. Costs of such bonds shall be borne by the City.

Before entering upon the duties of his office every officer shall take and subscribe before a judge of a court of record, and file with the City Clerk, an oath or affirmation that he will support the Constitution of the United States and the Constitution of the State of Colorado, this Charter, and the ordinances, and will faithfully perform the duties of the office.

**Sec. 10-8. Previous contracts.**

Nothing in this Charter shall abridge the rights, duties or obligations heretofore obtained or incurred by contract or ordinance and legally entered into or passed by the City.

**Sec. 10-9. Right of eminent domain.**

The City in any capacity governmental or otherwise, within or without its corporate limits, shall have the right of eminent domain as provided by the Constitution and the statutes of the State of Colorado.

**Sec. 10-10. Authority to levy taxes.**

The Council may levy and collect taxes for municipal purposes subject to the right of referendum as in this Charter provided; and it may levy and collect special assessments for local improvements as provided in this Charter or by ordinance.

**Sec. 10-11. Cooperative contracts.**

The Council may, by ordinance, enter into contracts or agreements for the joint use of buildings, equipment or facilities, and for furnishing or receiving commodities or services.

**Sec. 10-12. Bequests, gifts and donations.**

The Council, on behalf of the City, may receive bequests, gifts and donations of all kinds of property in fee simple or in trust for public, charitable or other purposes, and do all things and acts necessary to carry out the purposes 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.

**Article XI  
Finance Administration**

*Part 1. Budget*

**Sec. 11-1. Fiscal year.**

The fiscal year of the City shall begin on the first day of January and end on the last day of December of each year.

**Sec. 11-2. Proposed annual budget.**

Not later than the first regularly scheduled meeting of the City Council in October of each year, the City Council shall submit the proposed annual budget which shall present a complete financial plan for the City for the ensuing fiscal year.

There shall be a budget for the City of Lamar and a budget approved and adopted by the Utilities Board, which latter budget shall include therein an amount for the next fiscal year for transfer to the general fund of the City. The revenues of the Utilities Board shall be appropriated for the necessary requirements of the Board, including debt service, and from any remaining revenue there may be assessed and payable to the general fund of the City, and appropriated by the City Council, as an expense of the Board, in the annual budget and appropriations ordinance, a sum not to exceed twelve percent (12%) of the average of the gross annual operation revenues for the three calendar years preceding such annual appropriation ordinance, such a charge as made shall be included as a cost of service component in the design of rate structures, as a condition of service, and shall be in recognition of the operating privilege and for the use of general City facilities and benefits both within and without the corporate limits. (Ord. No. 873-A passed at Nov. 7, 1989 election)

**Sec. 11-3. The budget messages.**

The budget messages shall contain the recommendations of the City Council concerning the fiscal policy of the City, and the recommendations of the Utilities Board concerning the fiscal policy of the Utilities Board; description of the important features of the budget plans; explanations of all major increases or decreases in budget recommendations as compared with prior years, and summaries of the proposed budgets showing comparisons similar to those required in the budget proper, itemized by principal sources of revenue and the main items of expenditures; and estimate of the cash surplus in each fund at the end of the current fiscal year, or of the deficit in each fund to be made up by appropriation, and the balance between the total estimated expenditure and the total anticipated revenues from all sources, taking into account the estimated surpluses or deficits in the various funds.

**Sec. 11-4. Public hearings.**

A public hearing on the proposed budget shall be held at and by a joint meeting of the Council and Board on a date prior to October 15 and at a place to be fixed by the Council. Council shall cause notice of the time and place of such hearing to be published one time at least five days prior to the hearing. Copies of the proposed budget shall be made available for use of the public.

After conclusion of such public hearing, the Board as to the utilities budget, and Council as to the remainder of the budget, may insert new items of expenditure or may increase, decrease or strike out items of expenditure, except that no item budgeted for debt service or transfer to the general fund shall be reduced.

If the Board shall decrease the total proposed expenditures in the utilities budget, such decrease may be reflected in the full proposed revenue. If Board shall increase the total proposed expenditures in the utilities budget, such increase may be reflected in the utilities rates or by appropriate changes in other revenues.

If Council shall decrease the total proposed expenditures in the remainder of the budget, such decrease shall be reflected in the full proposed revenue. If Council shall increase the total proposed expenditures in the remainder of the budget, such increase shall be reflected in the tax levy or by appropriate changes in other revenues.

**Sec. 11-5. Scope of annual budget.**

The budget adopted by Council shall contain:

- (a) An estimate of anticipated revenue from all sources other than the tax levy for the ensuing year;
- (b) An estimate of the general fund cash surplus at the end of the current fiscal year, or of the deficit to be made up by appropriation;
- (c) The estimated expenditures necessary for the operation of the several departments, offices, and agencies under jurisdiction of the Council;
- (d) Debt service requirements for the ensuing fiscal year;
- (e) An estimate of the sum required to be raised by the tax levy for the ensuing fiscal year, and the rate of levy necessary to produce such sum based on the percentage of collection, not exceeding the lowest percentage of current levy collection experienced during the three preceding complete fiscal years;
- (f) A balance between the total estimated expenditures and total anticipated revenue from all sources taking into account the estimated general fund cash surplus or deficit at the end of the current fiscal year.

All estimates shall be in detail, showing revenues by sources and expenditures by organizational units, activities, character or object.

**Sec. 11-6. Adoption of budget and appropriation.**

Not less than thirty days prior to the first day of the next fiscal year Council shall adopt an ordinance for the budget and an ordinance for the annual appropriation.

**Sec. 11-7. Public record.**

The budget shall be a public record in the office of the City Clerk and shall be open to public inspection. Sufficient copies shall be made available for the use of the Council and the public.

**Sec. 11-8. Certification of tax levy.**

Not later than October 16, or such date as may be required by state law, the Council shall fix the amount of tax levy which shall be assessed upon each dollar of assessed valuation of all taxable property within the corporate limits of the City, and shall cause the same to be certified to the county as required by law. If Council should fail in any year to make such levy as above provided, the rate last fixed shall be the rate for the ensuing fiscal year, which rate shall be levied as by law

*Part 2. Finance Administration*

**Sec. 11-9. Administrative officers.**

The City Council shall appoint a City Treasurer and a City Clerk who shall have the right to hire the required personnel for their respective offices to operate in a businesslike manner.

The City Council shall also appoint a qualified independent auditor for the purpose of making a monthly audit of all purchases.

**Sec. 11-10. Powers and duties.**

(a) The City Treasurer:

(1) Shall establish a system of accounting and auditing for the City; show that established systems will reflect the financial condition of all operations of the City and that all legal provisions effecting finances have been complied with; establish cost accounting systems whenever practicable; and establish a system of accounting for the Utilities Board using systems as prescribed by the Colorado P.U.C. and the Federal Power Commission.

(2) Shall attend regular Council meetings and keep Council advised of the financial condition and future financial needs.

(3) Shall consolidate the recommendations for the annual budget made by the heads of all departments under the jurisdiction of the Council and present to the Council by September 1.

(4) Shall cause to be purchased, stored and distributed all supplies needed by the various departments of the City under Council control; and shall advertise and call for bids on all items to be purchased by bid for departments under Council control as prescribed in this Charter.

(5) Shall furnish the Utility Board of Commissioners and the utility superintendent with all information and reports needed by them to operate the utilities of the City.

(6) Shall be responsible for all billing.

(7) Shall perform such other duties as may be prescribed by this Charter or by resolution.

(b) The City Clerk:

(1) Shall be clerk of the Council and secretary of the Utilities Board and shall attend all regular meetings of the Council and the Utilities Board and shall keep a permanent journal of minutes of the proceedings of these meetings.

(2) Shall be custodian of the City seal, and shall affix it to all documents and instruments requiring the seal, and shall attest the same. He shall also be custodian of all papers, documents, bonds, and records pertaining to the City, the custody of which is not otherwise provided for.

(3) Shall certify by his signature all ordinances and resolutions enacted by the Council.

(4) Shall have the power to administer oaths of office.

(5) Shall have the custody of all monies of the City and all evidences of indebtedness belonging to the City or held in trust by the City.

(6) Shall receive and receipt for all monies of the City.

(7) Shall keep and deposit all monies or funds in such manner and only in such places as the Council may determine and shall report the same in detail to the Council.

(8) Shall disburse all City funds in accordance with the provisions of this Charter, and procedures to be established by Council and Utilities Board.

(9) Shall have such powers, duties and prerogatives in regard to the collection of all City charges as are conferred by action of Council or Utilities Board.

(10) Shall perform such other duties as may be prescribed for him by this Charter or by the City Council.

(c) The city auditor:

(1) Shall each month preaudit all bills, payrolls and other claims presented to Council or Utilities Board for payments.

(2) Shall approve bills, payrolls and other claims to see that services have been rendered or merchandise received before bills are approved.

(3) Shall see if there is an appropriation set up in the budget to cover the expenditure.

(4) Shall see if there are funds available to pay the bill.

(5) Shall check all bid processes.

(6) Shall check that all bills are authorized by law for payment.

(7) Shall perform any other internal audit requested by the Council.

**Sec. 11-11. General fund.**

There is hereby established a fund to be known as the "General Fund." The general fund shall comprise all revenues of the City not specifically belonging to any other fund. All general functions of the City shall be financed by expenditures from the general fund.

**Sec. 11-12. Water fund.**

There is hereby established a "Water Fund." The water fund shall comprise all revenues of the water department and all functions of the water department shall be financed by expenditures from the water fund.

**Sec. 11-13. Special funds.**

Additional funds which shall be known as "Special Funds" shall be created by ordinance to provide for monies held for depreciation and obsolescence of structures, machinery and equipment not within the jurisdiction of the Utilities Board, for debt service, for special services and for local improvements. The ordinance creating a special fund shall specify its source of income and the purpose for which expenditures from the special fund shall be made. Special funds created by ordinance may be abolished by ordinance, subject to existing trusts, and the remaining assets of any special fund shall be transferred to the general fund. The ordinances creating special funds may provide for annual, periodic or continuing appropriations for such funds.

**Sec. 11-14. Capital improvements fund.**

The Council may make appropriations for the benefit of a fund to be known as the "Capital Improvements Fund," established for the purpose of paying the cost of capital improvements for which the City is authorized to issue bonds, and for no other purpose. The Council shall also have power to transfer, from time to time, any portion of the general fund surplus not otherwise appropriated to the capital improvements fund.

**Sec. 11-15. Contingent account.**

The general fund may contain an item for contingencies. Except in those cases where there is no logical account to which an expenditure can be charged, expenditures shall not be charged directly to contingencies, but instead, the necessary part of the appropriation for contingencies shall be transferred to the logical account, and the expenditure charged to such account. No such transfer shall be made without the express approval of the Council, and then only for expenditures which could not be readily foreseen at the time the budget was adopted.

**Sec. 11-16. Fairmount Cemetery investment fund.**

The provisions of section 13 of ordinance 237 of the City of Lamar pertaining to Fairmount Cemetery fund shall not be amended or repeated.

**Sec. 11-17. Utility fund.**

There is hereby established a "Utility Fund." The utility fund shall comprise all revenues of the Utilities Board and all functions of the Utilities Board shall be financed by expenditures from the utilities fund.

**Sec. 11-18. Transfer of funds.**

The City Council may at any time transfer any unencumbered appropriation balance or portion thereof from one classification of expenditure to another within the same department, office or agency administered by them. The Council may, after October 31 of each year, by resolution transfer any unencumbered appropriation balance or portion thereof from one department, office or agency within its jurisdiction to another. The Utilities Board shall order the transfer in equal monthly installments on the 12th day of each month the amount provided by the budget for such year to be transferred from the utility fund to the general fund.

**Sec. 11-19. Departmental appropriations lapse.**

Any annual departmental appropriation or any portion thereof remaining unexpended and unencumbered at the close of the fiscal year shall lapse.

**Sec. 11-20. No liability without appropriation.**

Except as herein otherwise specifically provided, the City expenditures in any one year shall not be increased over and above the amount provided in the annual appropriation ordinance, and no contract involving the expenditure for any improvement to be paid out of the general or special funds of the City or defraying the expenses and liabilities of the City shall exceed, in any one year, the amount provided in the annual appropriation ordinance to be paid out of the said general and special funds so appropriated and set apart, but the said several funds shall be maintained for, used and devoted to the particular purposes specified in the annual appropriation ordinance.

**Sec. 11-21. Capital improvements appropriations.**

Appropriations for construction or other permanent improvements from the capital improvements fund shall not lapse until the purpose for which the appropriation was made shall have been accomplished or abandoned; provided, any project shall be deemed to have been abandoned if three fiscal years elapse without any expenditure from or encumbrance of the appropriation therefor. Any unappropriated balance in the capital improvements fund may be transferred by the Council and used for the payment of outstanding bonded indebtedness of the City.

*Part 3. Bonded Indebtedness*

**Sec. 11-22. General obligation bonds.**

Council shall have power to issue general obligation bonds of the City for any public purpose, upon majority vote of the electors of the City voting at any special or general election; provided, that water bonds may be issued without an election upon a determination to that effect by Council. The total outstanding general obligation indebtedness of the City, other than water bonds, shall not at any time exceed ten percent of the assessed valuation of the taxable property within the City, as shown by the last preceding assessment for tax purposes. General obligation bonds of the City, other than water and utility bonds, shall mature in not more than twenty years from date and shall be payable in annual installments commencing not later than five years after date of said bonds. Water and utility bonds shall mature and be payable as provided by ordinance authorizing the issue of said bonds. (Ord. No. 647, passed at Nov. 6, 1973 election)

**Sec. 11-23. Revenue bonds.**

The City may issue revenue bonds for any public purpose without first submitting the question of their issuance to the qualified electors, and may pledge the revenues from the income-producing project to pay the bonds and interest thereon; provided that if any such bonds pledge the revenue of any other City-owned utility, property or facility, or if the said bonds are in any way made a general obligation of the City, then such bonds shall require the affirmative vote of a majority of the qualified electors voting thereon before they may be issued; except issuance of revenue bonds on the electric utility must be approved by a majority of the whole Utilities Board at a regular meeting. (Ord. No. 647, passed at Nov. 6, 1973 election)

**Sec. 11-24. Refunding bonds.**

Council may authorize, by ordinance, without an election, issuance of refunding bonds for the purpose of paying or providing for the payment by escrow deposit or otherwise outstanding bonds of the City, including special improvement bonds.

**Sec. 11-25. Special and local improvement district bond issuance.**

The City shall have power to construct or install special or local improvements of every character within designated districts in the City by:

- (a) Order of the Council; or
- (b) On petition of the majority of the property owners, in the designated district, subject in either event to protest by twenty percent of the owners of the frontage or area to be assessed.

Right to protest and notice of public hearing shall be given as provided by ordinance. All protests shall be considered, but, if the public welfare warrants, Council shall have the final decision. Such improvements shall confer special benefits on the real property within said districts and general benefits to the City at large. Council shall by ordinance prescribe the method and manner of making such improvement, of assessing and cost thereof, and issuing and paying bonds for costs and expenses of constructing or installing such improvements.

**Sec 11-26. Special or local improvement district bonds--Special surplus and deficiency fund.**

Where all outstanding bonds of a special or local improvement district have been paid and any monies remain to the credit of the district, they shall be transferred to a special 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 said surplus and deficiency fund. Whenever a special or local improvement district has paid and cancelled three-fourths of its bond issue, and for any reason the remaining assessments are not paid in time to take up the remaining bonds of the district and interest due thereon, and there is not sufficient money in the special surplus and deficiency fund, then the City shall pay the bonds when due and interest due thereon and reimburse itself by collecting the unpaid assessments due the districts.

**Sec. 11-27. Same—General benefits.**

In consideration of general benefits conferred on the City at large from the construction or installation of improvements in special or local improvement districts, the City Council may levy annual taxes on the taxable property within the City, not exceeding two mills in any one year, to be disbursed, as determined

by the City Council, for the purpose of paying for such benefits, for the payment of any assessments levied against the City itself in connection with bonds issued for special or local improvement districts, and for the purpose of advancing money to maintain current payments of interest and equal annual payments of the principal amount of bonds issued for any special or local improvement district hereafter created. The proceeds of such taxes shall be placed in a special fund and shall be disbursed only for the purposes specified herein, provided however, that in lieu of such tax levies, the City Council may annually transfer to such special fund any available money of the City, but in no event shall the amount transferred to any one 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 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 required in section 11-24 of this Charter.

**Sec. 11-28. Bond sales; limitations.**

Refunding bonds shall be sold, at public or private sale, or exchanged as may be determined by the City Council. All other bonds shall be sold to the highest and best bidder for cash at public sale after advertisement for public sale, and if all bids are rejected they may be sold at private sale and to the best advantage of the City. Each bond issue may contain provisions for the redemption of bonds prior to their respective maturity dates on such terms as may be provided by the City Council, including, without limitation, the payment of a premium. (Ord. No. 647, passed at Nov. 6, 1973 election)

*Part 4. Receipts and Expenditures*

**Sec. 11-29. Receipts and expenditures.**

The City Treasurer will cause the total receipts and itemized expenditures, except individual employee's salaries, to be published monthly in a newspaper of general circulation. Gross salaries of individual municipal employees shall be published semi-annually, in a newspaper of general circulation, with said individual employee's gross salary for July being thus published in August of each year, with the individual employee's gross salary for January being published in February of each year. (Ord. No. 880 passed at June 5, 1990 election)

**Sec. 11-30. Publication cost.**

Price is to be governed by current state statute governing legal publications.

**Article XII  
Utilities and Franchises**

*Part 1. City-Owned Utilities*

**Sec. 12-1. Authority and powers.**

The City shall have and exercise with regard to City-owned utilities, including water and water rights and acquisition thereof and bonded indebtedness in connection therewith, all the authority and powers now provided by the Constitution and statutes of the State of Colorado, including those statutes hereinafter established by act of the general assembly. In addition, the City shall have the power to exchange water rights owned by it for water rights owned by other persons, municipalities or quasi-

municipal corporations. The City shall also have the right to contract with such aforementioned persons or entities for the purpose of forming consolidated water or sewer districts or for furnishing any municipal services, provided any agreements or contracts arising therefrom would clearly benefit the inhabitants of the City.

**Sec. 12-2. Water rights in annexation.**

The City shall have power to purchase or obtain such existing water rights as may be used upon any land which is annexed to the City from time to time.

*Part 2. Franchises and Public Utilities*

**Sec. 12-3. Definition.**

The term "public utility" or "public utility corporation" when used in this Charter shall mean any person, firm or corporation operating heat, power or light systems, communication systems, water, sewer or scheduled transportation systems, and serving or supplying the public. It shall not include any person, firm or corporation owning or operating sidetracks or switches for the accommodation of manufacturing plants and business houses, or private telephone lines, and shall not include municipally-owned utilities.

**Sec. 12-4. Present franchises.**

All franchise ordinances of the City in effect at the time that this Charter is adopted shall remain in full force and effect according to their provisions and terms until the expiration date provided in such ordinances.

**Sec. 12-5. Franchises granted upon vote.**

No franchise shall be granted except upon the majority vote of the qualified tax-paying electors voting thereon at a general or special election called for that purpose. Such election shall be held within ninety days after deposit with the City Clerk of the expense (to be determined by the City Clerk) of such submission by the applicant for such franchise.

**Sec. 12-6. Term, compensation, restriction.**

No franchise shall be granted for a period longer than twenty years, or without reserving to the City such fair fee arising from the use thereof as shall be fixed in the grant of such franchise. This compensation shall not exempt the grantee or his assignees from any lawful assessment upon his property or from other tax not related to the franchise privilege, or pertaining to the physical operation thereof, but shall exempt the grantee or his assignees from any occupancy tax, license, tax, permit charge, or similar tax on the privilege of doing business or in connection with the physical operation thereof, as shall be fixed in the grant of any franchise. The franchise fee established by ordinance shall be paid as provided and be subject to mutual periodic renegotiation and failure to pay such fee shall result in forfeiture of franchise at the option of the Council.

**Sec. 12-7. Railroad tracks and crossings.**

Council may require by ordinance and by fair apportionment of the cost, subject to arbitration, 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 or other conveniences in good condition with proper approaches and safety devices.

**Sec. 12-8. Extension of territory.**

With respect to any franchise, after negotiation or mutual agreement, the Council may by ordinance extend the area to include streets, alleys or public places and property not embraced in such franchise when public convenience and necessity requires, subject to all the terms and conditions of such original franchise, and co-extensive with the terms thereof without a vote of the qualified taxpaying electors.

**Sec. 12-9. Revocable licenses.**

After public hearing, Council by ordinance may grant a license, revocable for cause, to lay sidetracks and switches along or across any public thoroughfare, in accordance with standards and procedures to be adopted by Council.

**Sec. 12-10. Revocable permits.**

Council may grant permits for the temporary use or occupation of any street, alley or public place. Such permits shall be revocable by Council at any time whether or not the right is expressly reserved in the permit.

**Sec. 12-11. Condemnation or purchase.**

The right of the City to construct, purchase or condemn any public utility, work or way, as provided by the Colorado Constitution and statutes, is expressly reserved.

**Sec. 12-12. Assignment.**

Assignment or leasing of a franchise shall be considered a forfeiture unless application therefor be made to the City, and consent given by the Council by ordinance, with such change of conditions or terms as they may deem necessary. Council reserves the right to deny any assignment of franchise.

**Sec. 12-13. Books and records.**

The Council shall cause to be kept in the office of the City Clerk, an indexed franchise record in which shall be transcribed copies of all public utility franchises heretofore and hereafter granted. The index shall give the name of the grantee and any assignees. The record shall be a complete history of all such franchises and 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.

**Article XIII  
Transitional Period**

**Sec. 13-1. Status of transitional provision.**

The purpose of this article is to provide for an orderly transition from the present City government to a home rule government under the provisions of this Charter. This article shall constitute a part of this Charter during the transition period.

**Sec. 13-2. Transition period.**

The period from the effective date of the Charter to January 1, 1963, shall be known as the "transition period." During this period all officers and employees shall proceed with due diligence to put into effect the provisions of this Charter. During the transition period the Council shall designate by resolution provisions of the Charter to become operative. Resolutions shall fix the dates on which and the agency or agencies to which each provision becomes operative. Until superseded by this Charter, or any provision thereof, the state statutes shall be in effect.

**Sec. 13-3. Present Council and Mayor to continue in office.**

The Council and Mayor, or their appointed successors, in office at the time of the adoption of this Charter shall continue at their present salaries to serve and carry out the functions, powers and duties of their offices until the 10th day of September, 1962.

**Sec. 13-4. Retirement plans.**

This Charter shall not affect any contractual relationships existing on the effective date of this Charter between the municipal government and any officer or employee by reason of any retirement plans in effect.

**Sec. 13-5. Local improvements.**

Local improvements not completed on the effective date of this Charter shall be governed until completed by the ordinance under which they were commenced.

Adopted in Convention this 24th day of May, 1962, and signed in triplicate:

Roland Green,  
President  
H. E. McClure,  
Vice President  
Francis Hiigel,  
Secretary

Jack O. Bowman  
Wilbur J. Deisher  
Donald C. Eddleman  
Cecil G. Finney  
Ernest L. Goshen  
Raymond G. Hill  
Arthur F. Hutchins  
Joe E. Kerr  
Edward C. Leigh

Robert Mills  
Walter Moyer  
Cedric Pultz  
Warren E. Reese  
William M. Sunday  
Ruby Thompson  
Robert R. Wolford  
Marjorie D. Wyatt