

## CHAPTER 2

### Administration and Personnel

- Article I Elections**  
Sec. 2-1-10 General  
Sec. 2-1-20 Write-in candidate affidavit required
- Article II City Council**  
Sec. 2-2-10 Regular and special meetings; posting of notice  
Sec. 2-2-20 Aldermen; compensation  
Sec. 2-2-30 Mayor; compensation
- Article III Municipal Court**  
Sec. 2-3-10 Municipal Court created  
Sec. 2-3-20 Jurisdiction and powers  
Sec. 2-3-30 Procedures  
Sec. 2-3-40 Court of record  
Sec. 2-3-50 Nonappearance judicial review of parking tickets  
Sec. 2-3-60 Sessions of court  
Sec. 2-3-70 Municipal Court Clerk  
Sec. 2-3-80 Appeals  
Sec. 2-3-90 Failure of person to respond to process  
Sec. 2-3-100 Work program  
Sec. 2-3-110 Fines; methods of payment  
Sec. 2-3-120 Imposition of court costs
- Article IV Code of Ethics**  
Sec. 2-4-10 Authority, purposes and general policies  
Sec. 2-4-20 Effect of common law and state law  
Sec. 2-4-30 Definitions  
Sec. 2-4-40 Prohibited conduct; City employee  
Sec. 2-4-50 Exemptions; City employee  
Sec. 2-4-60 Prohibited conduct; City officer  
Sec. 2-4-70 Exemptions; City officer  
Sec. 2-4-80 Disclosure of conflict  
Sec. 2-4-90 Rules of procedure  
Sec. 2-4-100 Public contracts  
Sec. 2-4-110 Enforcement  
Sec. 2-4-120 Penalties and remedies
- Article V Planning and Zoning Commission**  
Sec. 2-5-10 Membership  
Sec. 2-5-20 Appointments  
Sec. 2-5-30 Term  
Sec. 2-5-40 Vacancy  
Sec. 2-5-50 Meeting and rules  
Sec. 2-5-60 Reimbursement  
Sec. 2-5-70 Legal counsel  
Sec. 2-5-80 Consultants  
Sec. 2-5-90 Duties of Planning and Zoning Commission  
Sec. 2-5-100 Monthly stipend

<b>Article VI</b>	<b>Historic Preservation Commission</b>
	Sec. 2-6-10 Creation
	Sec. 2-6-20 Appointments
	Sec. 2-6-30 Term
	Sec. 2-6-40 Vacancy
	Sec. 2-6-50 Meeting and rules
	Sec. 2-6-60 Reimbursement
	Sec. 2-6-70 Legal counsel
	Sec. 2-6-80 Consultants
	Sec. 2-6-90 Duties and powers of Commission
	Sec. 2-6-100 Monthly stipend
<b>Article VII</b>	<b>Advisory Boards</b>
	Sec. 2-7-10 Establishment of advisory boards
	Sec. 2-7-20 Appointment and removal of board members
	Sec. 2-7-30 Eligibility and qualifications of board members
<b>Article VIII</b>	<b>Personnel Policies and Procedures</b>
	Sec. 2-8-10 Adoption of manual
	Sec. 2-8-20 Finding of local concern
<b>Article IX</b>	<b>City Officials</b>
	Sec. 2-9-10 City Attorney; duties; compensation
	Sec. 2-9-20 Appointment of City Manager to serve as Zoning Administrator

## ARTICLE I

### Elections

#### **Sec. 2-1-10. General.**

Municipal elections shall be conducted in accordance with the Home Rule Charter and the Colorado Municipal Election Code of 1965, except that coordinated elections, as defined in the Uniform Election Code of 1992, shall be conducted in accordance with said Uniform Election Code of 1992. (Prior code 2-1)

#### **Sec. 2-1-20. Write-in candidate affidavit required.**

No write-in vote for any City office shall be counted unless an affidavit of intent has been filed with the City Clerk, by the person whose name is written in, prior to twenty (20) days before the date of election indicating that such person desires the office and is qualified to assume the duties of that office if elected. (Prior code 2-2)

## ARTICLE II

### City Council

#### **Sec. 2-2-10. Regular and special meetings; posting of notice.**

(a) Regular City Council meetings shall be held on the first and third Tuesdays of each month, to begin at 7:00 p.m. However, the City Council may make exceptions to this schedule or vary the time and date of any meeting, as needs and circumstances require.

(b) Regular meetings may be recessed from time to time and later called to order to allow the City Council to efficiently conduct City business.

(c) Special meetings will be called in accordance with Section 5.2 of the Home Rule Charter.

(d) Notice of all regular and special meetings of the City Council shall be posted at least twenty-four (24) hours in advance at one (1) or more locations designated by City Council resolution.

(e) Notice of all regular and special meetings of the City Council will be held at 141 Nevada Street or such other locations as City Council may from time to time designate. (Prior code 2-21; Ord. 13-01 §2, 2013)

#### **Sec. 2-2-20. Aldermen; compensation.**

The compensation for the Aldermen of the City shall be set forth annually in the ordinance adopting the budget. Aldermen may miss three (3) regularly scheduled meetings per year without any reduction in compensation. However, not more than two (2) consecutive meetings may be missed without a reduction in compensation. Such compensation shall be reduced monthly for an individual Alderman by the amount of two hundred dollars (\$200.00) for each additional regularly scheduled meeting from which such Alderman is absent. (Prior code 2-22; Ord. 11-09 §1, 2011)

**Sec. 2-2-30. Mayor; compensation.**

The compensation for the Mayor of the City shall be set forth annually in the ordinance adopting the budget. The Mayor may miss three (3) regularly scheduled meetings per year without any reduction in compensation. However, not more than two (2) consecutive meetings may be missed without a reduction in compensation. Such compensation shall be reduced for the Mayor by the amount of three hundred dollars (\$300.00) for each additional regularly scheduled meeting from which the Mayor is absent. (Prior code 2-23; Ord. 11-09 §1, 2011)

**ARTICLE III**

**Municipal Court**

**Sec. 2-3-10. Municipal Court created.**

A Municipal Court in and for the City is hereby established pursuant to the provisions of Article VIII of the Home Rule Charter. (Prior code 2-41)

**Sec. 2-3-20. Jurisdiction and powers.**

The Municipal Court shall have original jurisdiction of all cases arising under the Home Rule Charter and ordinances of the City with full power to punish violators thereof by the imposition of such fines and penalties as are prescribed by law, Home Rule Charter, ordinance or court rule. It shall have power to compel attendance at sessions of court and to punish for contempt of court by fine, by jail sentence or by both such fine and jail sentence. The Municipal Court shall have the power to order injunctive relief or any other relief available at law or in equity to carry out the purposes and intent of this Code. (Prior code 2-42)

**Sec. 2-3-30. Procedures.**

The procedures of the court shall be in accordance with the Colorado Municipal Court Rules of Procedure as promulgated by the Colorado Supreme Court. The presiding Municipal Judge shall have authority to issue local rules of procedure not inconsistent with any rules of procedure adopted by the Colorado Supreme Court. (Prior code 2-43)

**Sec. 2-3-40. Court of record.**

For purposes of hearing cases involving persons accused of violating any provision of the Home Rule Charter or other ordinances of the City other than those restricting or controlling the parking of motor vehicles, the Municipal Court shall be a qualified Municipal Court of record and shall comply with requirements of state law and regulations for courts of record. The presiding Municipal Judge shall provide for the keeping of evidence at trials and a verbatim record of the proceedings by either electronic device or stenographic means. The Municipal Court shall furnish the record to any party wishing to appeal from a judgment of the Municipal Court acting as a court of record for transcription at such party's expense. (Prior code 2-44)

**Sec. 2-3-50. Nonappearance judicial review of parking tickets.**

(a) General. The hearing of all parking violation cases in Central City Municipal Court shall be conducted informally, the object being to dispense justice promptly and economically. Hearings may be conducted on written statements of the parties or by personal appearances before the Court, or by a combination of written statements and appearances.

(b) Responses to Notice of Violation.

(1) A person charged with a parking violation must respond to the notice within 30 days of service or receipt.

(2) Alternatives. A person may respond by:

a. Paying the amount of the fine as stated on the violation notice, in which case the Court shall enter judgment that the defendant committed the violation;

b. Contesting the allegation that an infraction has occurred by requesting a hearing;

c. Requesting a hearing to explain mitigating circumstances;

d. Submitting a sworn written statement contesting the violation or an unsworn statement explaining mitigating circumstances. The statement shall contain the person's promise to pay the monetary penalty authorized by law if the violation is found to be proved.

(c) Hearings.

(1) Contested Hearings. The judge shall insure that evidence is offered and questioning is conducted in an orderly and expeditious manner, and according to basic notions of fairness. Consistent with the judge's obligation to be an impartial fact-finder favoring neither the City nor the defendant, the judge may call and question witnesses. The person named in the notice of violation may subpoena witnesses, including the officer, and has the right to appear and present evidence.

(2) Decision on Written Statements. The Court may consider the notice of violation and any other written statement or report made under oath by the officer, the defendant or others with relevant information about the event, in lieu of their personal appearance at a contested hearing. When the matter is determined solely on written statements, the Court shall examine the statements submitted in chambers. The Court shall notify the parties in writing within ninety (90) days of the defendant's response whether the infraction was found to have been committed, and what penalty, if any, was imposed. The Court is not required to notify the parties of the date for the examination of the statements. The Court may waive court costs after deciding a case on written statements.

(3) Hearing on Mitigating Circumstances. A person charged with a parking violation who admits the violation and acknowledges the obligation to pay any fine and costs assessed by the Court may explain mitigating circumstances to the Court either in person or by unsworn written statement. The Court shall determine whether the explanation of the events justifies reduction of

the monetary penalty. The Court shall enter an order finding that the defendant committed the infraction and may assess a monetary penalty. The Court may not impose a penalty greater than that provided by law. However, an unpaid fine beyond its due date may entail additional court costs. The Court may waive or suspend a portion of the penalty, or provide for time payments, or in lieu of monetary payment may provide for performance of useful community service. (Prior code 2-45)

**Sec. 2-3-60. Sessions of court.**

(a) There shall be regular sessions of court for the arraignment of defendants, the trial of cases and such other matters and proceedings as the business of the court may require. Such sessions shall be conducted no less frequently than once per month and shall be open to the public.

(b) The court shall be open during such hours as are set by the presiding Municipal Judge with the advice and consent of the City Council; provided, however, that the court shall be closed on weekends and local, state and national holidays except for extraordinary sessions. (Prior code 2-46)

**Sec. 2-3-70. Municipal Court Clerk.**

(a) The presiding Municipal Judge shall appoint a person to serve as Court Clerk whose duties shall be those delegated by law, by court rule or by the presiding Municipal Judge. The compensation of the Court Clerk shall be in an amount fixed by the City's annual budget.

(b) The Court Clerk shall file monthly reports with the City Clerk and with the presiding judge of all monies collected, either by fines or otherwise, and shall on the last day of each month pay to the City Treasurer all such monies.

(c) The Court Clerk shall post bond as required by state statute. (Prior code 2-47; Ord. 11-09 §1, 2011)

**Sec. 2-3-80. Appeals.**

Appeals from the Municipal Court shall be in accordance with the practice and procedure provided by Section 13-10-116, et seq., C.R.S. (Prior code 2-48)

**Sec. 2-3-90. Failure of person to respond to process.**

(a) In all cases where a person is summoned as a juror or as a witness to the Municipal Court and fails to attend at the time and place appointed, the court may issue a citation for the appearance of such juror or witness so failing to attend and direct such person to show cause why he or she should not be punished for contempt of court. Upon a satisfactory excuse being made, the court may discharge such person and release any bond posted pursuant thereto.

(b) In all cases where a person is summoned to appear at the Municipal Court or ordered to appear by the Municipal Judge, it is unlawful for such person to fail to appear at the time and place so ordered. (Prior code 2-49)

**Sec. 2-3-100. Work program.**

Nothing contained herein shall deprive the Municipal Judge of the authority to permit defendants to perform labor and service for the City in lieu of paying all or a part of the fine or fines and costs imposed, under such terms and conditions as the Municipal Judge shall require; provided, however, that no defendant shall be ordered or required to participate in any work program; instead, such work program alternative may be granted by the Municipal Judge only upon a defendant's voluntarily requesting participation therein. (Prior code 2-50)

**Sec. 2-3-110. Fines; methods of payment.**

(a) When the court imposes a fine upon an individual, the court may direct as follows:

- (1) That the defendant pay the entire amount of the fine at the time sentence is pronounced;
- (2) That the defendant pay the entire amount of the fine at some later date;
- (3) That the defendant pay a specified portion of the fine at designated periodic intervals, and in such case the court may also direct that the fine be remitted to a designated official who shall report to the court on any failure to comply with the order.

(b) Where the court imposes a fine, the sentence shall provide that if the defendant fails to pay the fine in accordance with the direction of the court, the defendant may be imprisoned until the fine is satisfied or the defendant is released as provided in Subsection (c) below or in Section 16-11-502(6), C.R.S.

(c) When the court directs that the defendant be imprisoned until the fine is satisfied, the court shall specify a maximum period of imprisonment not to exceed ten (10) days. (Prior code 2-51)

**Sec. 2-3-120. Imposition of court costs.**

(a) In any matter as to which the Municipal Court has jurisdiction, the Municipal Court shall assess court costs against:

- (1) Any defendant who is found guilty of violating any provisions of this Code or any of the ordinances of the City;
- (2) Any defendant who is granted a deferred prosecution or deferred sentence;
- (3) Any defendant, properly subpoenaed witness or attorney who fails to appear for a scheduled hearing or trial; and
- (4) In other circumstances determined by the Municipal Court to necessitate the imposition of court costs, as reflected on the Municipal Court's schedule of court costs and fines.

(b) The Municipal Judge shall prepare and maintain a schedule of court costs and fines as adopted by resolution of the City Council. The defendant's obligation to pay such costs is separate from and in addition to the obligations to pay any fines or penalties imposed. The Municipal Court shall not waive, suspend or decrease court costs for any person, as such court costs are intended to

defray the costs incurred to maintain and manage the Municipal Court. (Prior code 2-52; Ord. 11-09 §1, 2011)

## **ARTICLE IV**

### **Code of Ethics**

#### **Sec. 2-4-10. Authority, purposes and general policies.**

(a) Authority. This Article is adopted pursuant to Section 3.2 of the Home Rule Charter in order to implement Section 5.12 of the Home Rule Charter.

(b) Purposes. The purposes of this Article are to:

- (1) State principles of conduct and ethics which are to be applied in public service;
- (2) Help motivate City officers and employees to pursue productive conduct and ethical ideals which exceed minimum standards;
- (3) Provide a process by which City officers and employees may identify and resolve conduct and ethical issues;
- (4) Identify minimum standard of ethical conduct for City officers and employees;
- (5) Inform the public of the minimum standards to which their City officers are expected to adhere;
- (6) Promote public confidence in the integrity of City Officers;
- (7) Establish penalties, when appropriate, for City officers who violate the public trust; and
- (8) Protect to the fullest extent possible the rights of all individuals who are subject in any way to the provisions of this Article.

(c) General policies.

(1) Duty. All City officers have a duty to use their public positions to contribute to the public good. This Article shall not preclude City officers from acting in any manner consistent with their official duties or from providing assistance or public services to anyone who is entitled to them. All City officers, however, also have a fiduciary duty to refrain from using their positions in any manner for personal or private gain or which is detrimental to the public good. City officers must be mindful that the appearance of impropriety can be as corrosive of public confidence as an actual impropriety, and therefore must strive to avoid situations which may create an appearance of impropriety.

(2) Nonpartisan. City officers hold nonpartisan offices. There shall be no partisan references or campaigning for political office at meetings of City Council, boards or commissions. Partisanship shall not be a factor in any official action of a City officer.

(3) Endorsement of candidates. City officers have the right to personally endorse candidates for any Council seat or other elected office. It is inappropriate to mention endorsements during Council meetings or other official City meetings. (Prior code 2-71)

**Sec. 2-4-20. Effect of common law and state law.**

This Article shall supersede and override the common law as to the subject matter of this Article. Notwithstanding the foregoing, all City officers and employees, as applicable, shall comply with all applicable provisions of the Colorado Revised Statutes regarding ethical conduct, including Section 24-18-101, et. seq., C.R.S., and Section 31-4-404, C.R.S. (Prior code 2-72)

**Sec. 2-4-30. Definitions.**

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

*Board of Ethics* means the Mayor and all members of City Council, except the Board of Ethics shall not include any person being investigated by the Board of Ethics.

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

*City contractor* means a person or business who has submitted a bid to do work for the City, which bid is still pending; and any such person or business who has performed work for the City within the preceding twelve (12) months.

*Competing business* or *undertaking* means a business or undertaking endeavoring to do substantially the same thing and offering to perform the same act, furnish the same merchandise at the same time, and render the service better or cheaper than its rival.

*Confidential information* means all information, whether transmitted orally or in writing, which is of such a nature that it is not, at that time, a matter of public record or public knowledge.

*Conflict of interest* means a circumstance where the taking of any official action by a City officer or employee would:

a. Substantially affect to its economic benefit a business or other undertaking in which such officer or employee has a substantial financial interest;

b. Substantially affect a business or other undertaking by whom the officer or employee is engaged as counsel, consultant, representative or agent;

c. Substantially affect to its economic detriment any business or other undertaking when such officer or employee has a substantial financial interest in a competing business or undertaking where *competing* is determined as a factual matter of process described in Sections 2-4-80 and 2-4-90 of this Article;

d. Substantially affect to its economic detriment any business or other undertaking when such officer or employee is employed by a competing business or undertaking or when such

officer or employee is engaged as counsel, consultant, representative or agent of a competing business or undertaking where *competing* is determined as a factual matter in the process described in Sections 2-4-80 and 2-4-90 of this Article;

- e. Give rise to the appearance of impropriety on the part of such officer or employee; or
- f. Result in a conflict of interest as defined in Paragraph 2-4-70(3) of this Article.

An officer or employee shall not be deemed to have a conflict of interest with respect to matters determined by the City Council to involve the common public interest, such as matters concerned with the adoption of general land use regulations, the formation of special or local improvement districts within which the officer owns real property, the imposition of taxes, the authorization of bonds and similar actions involving the common public interest.

*Council member* means a member of the City Council.

*Employee* or *City employee* means any person employed in the service of the City, including, without limitation, the City Manager and Assistant City Manager. The term *City employee* shall also include those independent contractors who provide contract services to the City and those independent contractors whose contract with the City subject them to the provisions of this Article, specifically including the City Attorney and the Municipal Court Judge. The term *City employee* does not include an officer as herein defined.

*Ex parte* means an application, contract, correspondence or communication made by a party to a proceeding in the absence of the other party or out of the presence of the other members of the City Council or a commission and out of the public hearing process.

*Historic Preservation Commissioner* refers to a member of the Historic Preservation Commission.

*Legislative* means action taken by City Council or a commission of a general, community wide, nonsite specific nature resulting in or designed to result in the development of laws, ordinances, rules and regulations.

*Officer* or *City officer* means any member of the City Council, Planning Commission, Historic Preservation Commission, Board of Adjustment or any other board or commission established by the City.

*Official act* or *official action* means any vote, decision, recommendation, approval, disapproval or other action, including inaction which involves the use of discretionary authority.

*Personal interest* means an interest arising from blood or marriage relationship or close business or political association.

*Planning Commission* means the Planning Commission of the City.

*Planning Commissioner* means a member of the Planning Commission.

*Quasi-Judicial* means action taken by the City Council or a commission or board in response to an individual, site-specific, request for a determination impacting an individual applicant such as a permit, license or other specific authorization.

*Substantial financial interest* means an interest owned or held by a City officer or City employee which is:

- a. An ownership interest in a business;
- b. A creditor interest in a business;
- c. An ownership interest in real or personal property of a business;
- d. A loan from or any other debtor interest in a business;
- e. A directorship or officership in a business;
- f. An employment or a prospective employment with a business for which negotiations have begun; or
- g. A contractual relationship, either current or existing, within the previous twelve (12) months.

An officer or City employee shall be presumed to have a substantial financial interest in any of the above-mentioned interests owned, held or controlled by such officer's or employee's spouse, parents or siblings.

*Undertaking* means any activity, whether or not conducted primarily for the purpose of making a profit, including, without limitation, any activity which substantially advances a person's private financial interest or position. (Prior code 2-73)

**Sec. 2-4-40. Prohibited conduct; City employee.**

A City employee shall not:

- (1) Disclose confidential information acquired in the course of such employee's duties unless such disclosure is required to carry out the employee's duties on behalf of the City.
- (2) Disclose or use confidential information acquired in the course of such employee's duties in order to further a business or other undertaking in which such employee has a substantial financial interest.
- (3) Disclose any confidential information acquired in the course of such employee's duties to any person under circumstances where the employee knows, or reasonably should know, that the person to whom such confidential information is disclosed may use the confidential information in order to further a private business or undertaking.

(4) Engage in a substantial financial transaction for the employee's private business purposes with a person whom such employee inspects or supervises in the course of his or her employment with the City.

(5) Perform an official act which directly and substantially affects to its economic benefit a business or other undertaking in which such employee has a substantial financial interest or is engaged as counsel, consultant, representative or agent.

(6) Acquire or hold an interest in any business or undertaking which such employee has reason to believe may be directly or substantially affected to its economic benefit by official action to be taken by the agency or department within which he or she is employed.

(7) Solicit or accept a present or future gift, favor, loan, service or thing of value from a person under circumstances which would lead a reasonably prudent person to believe that such gift, favor, loan, service or thing of value was made or given primarily for the purpose of influencing or attempting to influence such employee in connection with an official act or as a reward for official action he or she has previously taken.

(8) Solicit or accept for personal benefit a present or future gift, favor, loan, service, discount or other thing of value based upon employment status with the City and not otherwise available to members of the general public.

(9) Appear, except as authorized in Section 2-4-50 below, with respect to any matter before the City Council, Planning Commission, Historic Preservation Commission or any other City board or commission.

(10) Use his or her official authority or capacity to influence or coerce the political action of any person or body.

(11) Use time while on assigned duty as a City employee or use City property to further any political cause, or distribute or display campaign posters, buttons or other materials of a political nature

(12) Disclose or use confidential information acquired in the course of official duties, including any information obtained in a City Council executive session, unless approved by a majority vote of City Council; or waive any confidence or privilege of the City Council, board or commission without the prior approval by majority vote of the Council, board or commission.

(13) Represent or appear on behalf of any private individuals or entities before any Council, commission, agency or board of the City, nor represent any private individual or entity in any action or proceeding against the interests of the City in any litigation to which the City is a party.

(14) Grant any special consideration, treatment or advantage to any citizen, resident or business of the City beyond that which is available to every other citizen or resident of the City.

(15) Request or permit the use of City-owned vehicles, equipment, materials or property for personal convenience or profit except when such services are available to the public generally or

are provided in an express City policy for the use of such employee in the conduct of official business.

(16) Assist any person for a fee (other than that charged for that service by the City) or other compensation in obtaining any contract, claim, license, permit, permission, approval or other economic benefit from the City (except as permitted pursuant to the Home Rule Charter or ordinance).

(17) Accept a fee, or any other compensation, except his or her official compensation as provided by Home Rule Charter, ordinance or contract of the City, for promoting or opposing passage of any City legislation.

(18) Knowingly misrepresent or willfully fail to disclose any conflict of interest, or any personal or financial interest, when such disclosure is required by this Article or as a condition of employment. (Prior code 2-74)

**Sec. 2-4-50. Exemptions; City employee.**

The provisions of Section 2-4-40 above shall not prohibit a City employee from:

(1) Accepting or receiving a benefit as an indirect consequence of the performance of an official act.

(2) Appearing before the City Council, Planning Commission or any City board or commission in the course of the performance of such employee's duties for the City.

(3) Appearing before the City Council, Planning Commission or any City board or commission in connection with planning/development matters pertaining to such employee's residence.

(4) Appearing in Municipal Court on such employee's own behalf or on behalf of such employee's spouse or minor child.

(5) Appearing with respect to any matter of general public legislative concern before the City Council, Planning Commission or any City board or commission in such employee's capacity as a citizen, and neither in such person's capacity as an employee, nor as counsel, consultant, representative or agency for any person, business or undertaking, after full disclosure that such appearance is in the employee's capacity as a citizen.

(6) Accepting the following:

a. An occasional nonpecuniary gift, insignificant in value;

b. A nonpecuniary award publicly presented by a nonprofit organization in recognition of public service;

c. Payment of or reimbursement for actual and necessary expenditures for travel and subsistence for attendance at a convention or other meeting at which such employee is scheduled to participate as a speaker or other contributor in his or her capacity as a City

employee if the paying or reimbursing party has no current or anticipated business with the City. If the employee is paid by the City while attending such convention or meeting, any honorarium or other monetary compensation received by the employee in connection with such convention or meeting shall be turned over to the City;

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

e. A discount based upon affiliation with a professional association where employment status with the City is incidental to and not a condition for receipt of the discount.

f. A loan at a rate of interest which is not substantially lower than the commercial rate then currently prevalent for similar loans within the City.

(7) Receiving such compensation for his or her services to the City as may be fixed by ordinance, pay plan or budget of the City.

(8) Personally contracting with a City contractor for the performance of work so long as such contract will not interfere with or delay the contractor's performance of any contract with the City, and the contractor is paid by the employee at substantially the generally prevailing market rate for such services within the City. Before entering into such contract, the employee shall notify the City Manager in writing. (Prior code 2-75)

**Sec. 2-4-60. Prohibited conduct; City officer.**

A City officer shall not:

(1) Disclose confidential information acquired in the course of such officer's duties unless such disclosure is required to carry out the officer's duties on behalf of the City.

(2) Disclose or use confidential information acquired in the course of such officer's duties in order to further a business or other undertaking in which such officer has a substantial financial interest.

(3) Disclose any confidential information acquired in the course of such officer's duties to any person under circumstances where the officer knows, or reasonably should know, that the person to whom such confidential information is disclosed may use the confidential information in order to further a private business or undertaking.

(4) Solicit or accept a present or future gift, favor, loan, service or thing of value from a person under circumstances which would lead a reasonably prudent person to believe that such gift, favor, loan, service or thing of value was made or given primarily for the purpose of influencing or attempting to influence such officer in connection with an official act or as a reward for official action he or she has previously taken.

(5) Engage in any conduct which would constitute a conflict of interest as defined by this Article or under the laws of the State of Colorado.

(6) Make or accept any *ex parte* communication or contact concerning a quasi-judicial matter which is to be determined after a public hearing without making the contents of such communication or contact a part of the record of such public hearing. The provisions of this Paragraph shall not apply to legislative matters to be considered by an officer.

(7) Appear, except as authorized by Section 2-4-70 below, with respect to any matter before the City Council, Planning Commission, Historic Preservation Commission or any other City board or commission.

(8) Represent or appear on behalf of any private individuals or entities before any Council, commission, agency or board of the City, nor represent any private individual or entity in any action or proceeding against the interests of the City in any litigation to which the City is a party.

(9) Grant any special consideration, treatment, or advantage to any citizen or resident of the City beyond that which is available to every other citizen, resident or business of the City.

(10) Request or permit the use of City-owned vehicles, equipment, materials, or property for personal convenience or profit except when such services are available to the public generally or are provided in an express City policy for the use of such City officer in the conduct of official business.

(11) Assist any person for a fee (other than that charged for that service by the City) or other compensation in obtaining any contract, claim, license, permit, permission, approval or other economic benefit from the City (except as permitted pursuant to the Home Rule Charter or ordinance).

(12) Accept a fee, or any other compensation, except his or her official compensation as provided by Home Rule Charter, ordinance or contract of the City, for promoting or opposing passage of any City legislation.

(13) Knowingly misrepresent or willfully fail to disclose any conflict of interest, or any personal or financial interest, when such disclosure is required by this Article or as a condition of appointment.

(14) Be convicted of any misdemeanor or felony criminal offense, whether or not such offense relates to the City officer's position in public service.

(15) Be found guilty of violating any federal, state or City laws or regulations prohibiting discrimination.

(16) Be found guilty of violating any federal, state or City laws prohibiting sexual harassment.

(17) Be found guilty of violating any federal, state or City laws prohibiting retaliation, including retaliation against whistleblowers or those filing claims against the City.

(18) Use his or her own time or efforts or request or direct the use of another officer's or employee's time or efforts for personal or private purposes while such time is being compensated by the City or intended for general public benefit.

(19) Offer or promise to give his or her vote or influence in favor of or against any proposed official action in consideration of or upon condition that any other City officer or employee will promise or assent to give his or her vote or influence in favor of or against any other proposed official action.

(20) At any time within one (1) year after expiration of a term of office or termination from the City, appear on behalf of the interest of any person or entity, before the City Council or any board or commission, in relation to any matter concerning which the former City officer performed an official act or had supervisory responsibility. During such period before a former City officer represents any person or entity in a matter not involving an interest or in relation to a matter over which the former City officer did not perform an official act or have supervisory responsibility, the former City officer shall disclose his or her prior relationship to the City.

(21) Fail to interact with all persons and entities in a respectful and fair manner at all times. Individual members of the public should at no time be criticized for their requests or views.

(22) Be directly responsible for the hiring, appointment, retention or supervision of, or influence or attempt to influence the hiring, appointment, supervision or retention by the City of, any relative (by blood, marriage or adoption) of the City officer.

(23) Influence or attempt to influence the compensation, benefits or other terms and conditions of engagement by or service to the City applicable to any relative (by blood, marriage or adoption) of the City officer.

(24) Engage, hire or appoint a relative (by blood, marriage or adoption) of a City officer as a City employee unless the City's personnel procedures applicable to such employment or appointment have been followed.

(25) Exhibit other similar conduct which threatens the public confidence in the integrity of government including but not limited to illegal conduct, conduct which puts self-interest before public interest or conduct involving dereliction of duties. (Prior code 2-76)

**Sec. 2-4-70. Exemptions; City officer.**

The provisions of Section 2-4-60 above shall not prohibit a City officer from:

(1) Accepting or receiving a benefit as an indirect consequence of the performance of an official act.

(2) Taking official action or speaking at a public meeting when such officer is similarly situated with other City residents, such as in connection with the adoption of general land use regulations, the formation of special or local improvement districts within which the officer owns real property, the imposition of taxes, the authorization of bonds or generally acting when the matter involves the common public interest, after full disclosure that such action is in the officer's capacity as a citizen.

(3) Appearing before the City Council or any City board or commission, other than the Council, board or commission on which the City officer sits, in connection with a matter

pertaining to such officer's primary residence or other property, provided that the officer shall be deemed to have a conflict of interest with respect to such matter and shall not otherwise participate or vote with respect to such matter.

(4) Appearing in Municipal Court on such officer's own behalf or on behalf of such officer's spouse or minor child.

(5) Appearing before the City Council, Planning Commission or any City board or commission in the course of the performance of such officer's duties for the City.

(6) Accepting gifts or loans which are:

a. Campaign contributions re-reported as required by law;

b. An occasional nonpecuniary gift, insignificant in value;

c. A nonpecuniary award publicly presented by a nonprofit organization in recognition of public service;

d. Payment of or reimbursement for actual and necessary expenditures for travel and subsistence for attendance at a convention or other meeting at which such officer is scheduled to participate as a speaker or other contributor in his or her capacity as a City officer if the paying or reimbursing party has no current or anticipated business with the City. Any honorarium or other monetary compensation received by the officer in connection with such convention or meeting shall be turned over to the City;

e. Reimbursement for or acceptance of an opportunity to participate in a social function or meeting which is offered to such City officer which is not extraordinary when viewed in light of the position held by such officer;

f. A discount based upon affiliation with a professional association where employment status with the City is incidental to and not a condition for receipt of the discount.

g. A loan at a rate of interest which is not substantially lower than the commercial rate then currently prevalent for similar loans within the City.

(7) Receiving such compensation for his or her services to the City as may be fixed by ordinance, pay plan or budget of the City.

(8) Personally contracting with a City contractor for the performance of work so long as such contract will not interfere with or delay the contractor's performance of any contract with the City, and the contractor is paid by the officer at substantially the generally prevailing market rate for such services within the City. Before entering into such contract the officer shall notify the City Manager in writing. (Prior code 2-77)

#### **Sec. 2-4-80. Disclosure of conflict.**

(a) Declaration. In the event that a City officer has an actual or potential conflict of interest in any matter proposed or pending before the Council, board or commission of which he or she is a

member, he or she shall declare such interest in a public meeting to the Council, board or commission of which he or she is a member. In the event that any City officer is aware that he or she could be reasonably perceived as having such a conflict of interest but is unsure of, or does not believe in the existence of such a conflict, he or she shall nevertheless disclose the possibility of such conflict of interest to the Council, board or commission of which he or she is a member. In deciding whether or not a City officer has a conflict of interest, consideration should be given to the following:

- (1) Whether the potential conflict of interest would impede independence of judgment;
- (2) The effect of the City officer's participation on public confidence in the integrity of the governing body and City government;
- (3) Whether the City officer's participation is likely to have any significant effect on the ultimate disposition of the matter;
- (4) The City officer's fiduciary obligations to the City; and
- (5) The purposes of this Article.

(b) Disqualification from voting and influencing.

(1) Upon declaration by a City officer of a conflict of interest with respect to any matter, or upon determination by the Council, board or commission of the existence of such a conflict of interest on a matter pending before such Council, board or commission, the City officer shall be disqualified from acting or voting on the matter or any related business. In addition, the disqualified officer shall refrain from attempting to influence the decisions of other members of the Council, board or commission in voting on the matter, except as may be authorized pursuant to the Home Rule Charter. A City officer shall also be prohibited from voting on any motions directly arising out of the discussions on the matter.

(2) After declaration or determination of a conflict of interest, the officer shall leave the room while the matter is being considered, and shall refrain from participation in any manner in the deliberations of the Council, board or commission on the matter. The Council, board or commission shall have the right to ask the disqualified City officer to return solely to provide information which may be deemed valuable and which is not reasonably available from another source. The disqualification of a City officer from voting shall not preclude the existence of a quorum of any board or commission other than the City Council.

(3) In the event of disqualification of a City officer or officers from voting on a matter, approval of which requires the affirmative vote of a specific number of votes by members of the board or commission other than the City Council, the required number of votes shall automatically be reduced by the number of officers disqualified provided that a quorum is maintained by such reduction. In the event any disqualification results in a lack of quorum for purposes of taking action, the meeting shall be continued to a date certain in order to maintain the required quorum. (Prior code 2-78)

**Sec. 2-4-90. Rules of procedure.**

The City Council is authorized to adopt rules of procedure under which City Council will operate; such rules are attached as Exhibit A to the ordinance codified herein, a copy of which is on file in the City Clerk's office. (Prior code 2-79)

**Sec. 2-4-100. Public contracts.**

(a) Except as provided in Subsection (b) below, no City officer or City employee shall have an interest in any contract made by the City.

(b) The provisions of Subsection (a) above shall not apply to:

(1) Contracts awarded to the lowest responsible bidder based on competitive bidding procedures;

(2) Merchandise sold to the highest bidder at public auctions;

(3) Investments or deposits in financial institutions which are in the business of loaning or receiving monies;

(4) A contract between the City and an officer or employee, if because of geographic restrictions, the City could not otherwise reasonably avail itself of the subject of contract. It shall be presumed that the City could not otherwise reasonably avail itself of the subject of a contract if the additional cost to the City is greater than ten percent (10%) of a contract with an officer or employee or if the contract is for services within that time period. If the contract involves a Council member, such Council member shall disclose his or her interest to the City Council and such Council member shall not vote upon the issue of the award of such contract. (Prior code 2-81)

**Sec. 2-4-110. Enforcement.**

(a) The City Manager shall have the responsibility for the enforcement of this Article as to all City employees, including City Clerk and City Treasurer, other than those appointed or hired by the City Council. The City Manager shall have the power to investigate any complaint, to initiate any suit and to prosecute any criminal or civil action on behalf of the City where the City Manager believes such action is appropriate.

(b) The City Council (sitting as the Board of Ethics) shall have the responsibility for the enforcement of this Article as to City officers and those contract employees appointed or hired directly by the City Council. It shall have the power to investigate any complaint, to initiate any suit and to prosecute any criminal or civil action on behalf of the City where it believes such action is appropriate.

(c) The City Council may direct the City Attorney or retain an independent investigator to investigate any violation of this Article.

(d) Any person who believes that a violation of any portion of this Article has occurred may file a signed, written complaint with the City Manager or Board of Ethics, as the case may be, which

complaint shall be promptly investigated and such action taken thereon as deemed appropriate. Regarding complaints against a City officer, the following procedures shall be followed:

(1) Ethics complaints. The Board of Ethics shall accept from any person, board or commission a verified complaint in writing, signed by someone with personal knowledge of the facts giving rise to the complaint, which states the name of any person alleged to have committed a violation of this Article and which sets forth the particulars thereof. The Board of Ethics shall forward to the accused within ten (10) days a copy of the complaint and a general statement of the applicable provisions with respect to such verified complaint. If the Board of Ethics determines that the verified complaint does not allege facts sufficient to constitute a violation of the Article, it shall dismiss the complaint and notify the complainant and the accused.

(2) Ethics investigation. Following the receipt of a verified complaint or upon the receipt of other information, whether or not under oath, that provides a reasonable basis to believe that a violation of the Article has been committed or that an investigation of a possible violation is warranted, the Board of Ethics may cause an investigation to be made of the circumstances concerning the possible violation. The Board may also initiate an ethics investigation upon its own initiative or the request of any City officer who has been alleged to have committed unethical conduct by sources unwilling to file a verified complaint. An ethics investigation shall be conducted by an impartial investigator engaged by the Board. Before invoking its investigatory powers, the Board of Ethics shall approve a motion, which shall state the nature and purpose of the investigation, the actions or activities to be investigated, and the persons who are the subject of the investigation. The Board of Ethics shall, within five (5) days, serve a copy of the motion on the accused, together with a notice informing the person that he or she is the subject of the investigation and a general statement of the applicable provisions whose violation are being investigated. If the Board of Ethics, during the course of an investigation, finds probable cause to believe that a violation of this Article has occurred, it may:

a. Board of Ethics complaint. If no verified complaint has been filed, make upon its own motion a verified complaint, which shall be in writing, shall state the name of the person who is alleged to have committed a violation of the Article and shall set forth the particulars thereof. The Board of Ethics shall forward to the accused within ten (10) days a copy of the complaint, a general statement of the applicable provisions with respect to such verified complaint and a specific statement enumerating the source or sources of information upon which the complaint is based.

b. Amendment of complaint. If a verified complaint has been filed and the Board of Ethics finds probable cause to believe that a violation, other than the one contained in the complaint, has occurred, amend the complaint, upon its own motion, to include such violations. If the complaint is so amended by the Board of Ethics, a copy of the amendment shall be sent to the accused within forty-eight (48) hours.

(3) Service. Service of any notice or other document pursuant to the Article is complete upon mailing certified mail to the person's last known address, or upon personal service.

(4) Dismissal or hearing. Upon completion of the investigation, the Board of Ethics shall dismiss the complaint if it determines there was no violation of the Article. If the Board of Ethics determines, based on the investigative report, that a violation may have occurred, it shall, by

motion, set a date, time and place at which a hearing shall be held to hear and determine the complaint. The investigative report and notice of the hearing shall be served on the accused not less than thirty (30) days prior to the hearing.

(5) Hearing. The Mayor or Council designee shall preside over the hearing on the ethics complaint and shall determine all procedural issues. The person appointed by the Board of Ethics to conduct the investigation shall present the case against the accused. The accused may be represented pro se, or by any person of the accused's choice. The hearing shall be conducted so as to provide fundamental fairness, although strict rules of procedure and evidence need not be followed. All witnesses shall be subject to cross-examination. Documentary evidence that can be reasonably authenticated shall be admitted for consideration. The ethics violation shall be proven by a preponderance of the evidence as determined by two-thirds ( $\frac{2}{3}$ ) of the Board of Ethics. Upon finding the accused violated the Article, the Board of Ethics may continue the hearing to discuss, and in its discretion to receive additional evidence, regarding the appropriate penalty.

(6) Findings. At the conclusion of the hearing regarding the alleged violation, the Board of Ethics shall dismiss the charges or find that the accused violated this Article. The Board of Ethics shall serve on the accused written findings and order within thirty (30) days of conclusion of the hearing.

(7) Penalties. Upon finding that a City officer has violated this Article, the Board of Ethics, upon unanimous vote, may order oral or written reprimand, or public censure. (Prior code 2-82)

#### **Sec. 2-4-120. Penalties and remedies.**

(a) Any person convicted of willfully and knowingly violating any provision of this Article shall be guilty of a Class II misdemeanor as defined by Section 18-1-106(1), C.R.S. Additionally, upon conviction, such person shall be fined an amount not to exceed nine hundred dollars (\$900.00) and shall be liable to the City for such damages as may have been suffered or incurred as a result of such violation, together with any costs (including attorney's fees) incurred by the City in the investigation and prosecution of such violation.

(b) The City Manager or City Council may seek all appropriate civil remedies to enforce this Article in any court of competent jurisdiction. Any court of competent jurisdiction called upon to enforce the provisions of this Article may, with the consent of the City Council, exempt from the provisions of this Article any conduct of a City officer or City employee upon the finding that the enforcement of this Article with respect to such officer or employee's conduct would not be in the public interest.

(c) In the alternative or in addition to the remedies stated above, the City Manager may at his or her discretion initiate appropriate personnel action with respect to any employee for any violation of this Article pursuant to the City's Manual for Employee Policies and Procedures.

(d) Notwithstanding anything contained in this Article to the contrary, no City employee or City officer shall be convicted of violating any of the provisions of this Article if, prior to engaging in the conduct which would otherwise have resulted in a violation of this Article, the City employee or City officer has obtained a written opinion from the City Attorney that the particular conduct in question would not violate the provisions of this Article and the City employee or City official acts in

accordance with the opinion of the City Attorney. The City Attorney shall promptly render an opinion as to legality of proposed conduct or action under this Article upon the request of a City employee or City officer.

(e) The City Council may reprimand or censure any City officer for violation of any of the provisions of this Article.

(f) The various provisions of this Article are cumulative and not exclusive, and shall not be construed to condition or limit any administrative, civil or criminal action or proceeding which may be instituted by the City pursuant to this Article. (Prior code 2-83)

## **ARTICLE V**

### **Planning and Zoning Commission**

#### **Sec. 2-5-10. Membership.**

Commencing on March 1, 2014, the Planning and Zoning Commission shall consist of five (5) regular members and one (1) alternate member, each of whom shall maintain his or her primary place of residence within the City. A person serving in a position as an alternate shall have the right to participate in all meetings of the Commission to the same extent as a regular member, except that a person serving in the position of alternate shall not be entitled to vote on any matter unless such alternate member is temporarily assigned by the Chairperson of the Commission in the event of an absence or conflict of interest of a regular member during all or any portion of a meeting of the Commission. No person shall be a member of the Planning and Zoning Commission who is also an active member of the City Council, the Mayor, an employee of the City or holds any other municipal office, except that up to and including two (2) members of the Planning and Zoning Commission may also be appointed to be members of the Historic Preservation Commission. (Ord. 14-01 §1, 2014)

#### **Sec. 2-5-20. Appointments.**

The five (5) regular members and one (1) alternate member of the Planning and Zoning Commission shall be appointed by the Mayor, the appointment of whom shall be confirmed by a majority of the City Council. (Ord. 14-01 §1, 2014)

#### **Sec. 2-5-30. Term.**

Each Planning and Zoning Commission member shall be appointed to a four-year term. The terms of office of three (3) Commission members (specifically including any members who are joint members of the Planning and Zoning Commission and the Historic Preservation Commission) shall coincide with the four-year term of the Mayor. The four-year terms of office of the remaining two (2) Commission members and the alternate member shall start and terminate on the odd-numbered years between the odd-numbered years in which the Mayor's term of office terminates. (Ord. 14-01 §1, 2014)

**Sec. 2-5-40. Vacancy.**

If a vacancy occurs during the term of a Planning and Zoning Commission member, the Mayor, with the consent of the City Council, shall appoint an alternate member to fill the unexpired term. (Ord. 14-01 §1, 2014)

**Sec. 2-5-50. Meeting and rules.**

(a) Rules. The Planning and Zoning Commission shall adopt procedural rules for the conduct of its business in accordance with the provisions of this Article and Section 9.1 of the Home Rule Charter. The Commission shall, at its first regular meeting of each calendar year, choose one (1) of its members to act as Chairperson and one (1) member to serve as Vice-Chairperson. The Chairperson shall preside at all meetings of the Commission, except that, in his or her absence, the Vice-Chairperson shall preside. A representative of the Community Development Department shall serve as secretary to the Planning and Zoning Commission.

(b) Meetings.

(1) Meetings shall be held at the call of the Chairperson and at such other times that the majority of the members of the Commission shall determine.

(2) All meetings shall be open to the public, except that the Commission may go into executive session in accordance with the Open Meetings Law.

(3) Open meetings shall be recorded by electronic means.

(4) A quorum of the Commission shall consist of a majority of the voting members thereof, and a majority vote of the members present shall constitute action by the Commission.

(5) The Chairperson shall decide all points of order or procedure unless otherwise directed by a motion approved by a simple majority of the Commission members present at the time.

(6) The Commission shall keep minutes of its proceedings, showing the vote of each member on every matter or, if absent or failing to vote, indicating such fact, and it shall also keep records of such proceedings, and such records shall be filed with the City Clerk. (Ord. 14-01 §1, 2014)

**Sec. 2-5-60. Reimbursement.**

Members may be reimbursed for expenses incurred upon approval of the City Council. (Ord. 14-01 §1, 2014)

**Sec. 2-5-70. Legal counsel.**

When requested by the Chairperson or a majority of the Planning and Zoning Commission members, the City Attorney shall attend Commission meetings or provide legal counsel to the Commission. (Ord. 14-01 §1, 2014)

**Sec. 2-5-80. Consultants.**

The Planning and Zoning Commission, with approval of the City Council, may retain consultants to advise the Commission. (Ord. 14-01 §1, 2014)

**Sec. 2-5-90. Duties of Planning and Zoning Commission.**

Under the specific direction of the City Council, through the office of the City Manager, the Planning and Zoning Commission shall serve in an advisory capacity to the City Council in reviewing planned unit developments, rezonings, special review uses, subdivision plats and other development applications as specified in this Code. As assigned by the City Council, the Commission shall also adopt, amend and update the Comprehensive Plan, recommend changes or updates to Chapter 16 of this Code and perform other duties assigned by the City Council through the City Manager's office. When such duties are so assigned, the Commission shall have the authority to conduct open, public hearings; conduct investigations, studies and surveys; prepare maps, charts, exhibits and reports as shall be necessary; and do and perform all other acts and duties consistent with its powers as set forth in this Code. (Ord. 14-01 §1, 2014)

**Sec. 2-5-100. Monthly stipend.**

Planning and Zoning Commission members may be paid a stipend in an amount approved by the City Council for each month in which they attend a regular meeting of the Commission, provided that Commission members may miss one (1) regularly scheduled meeting per year without a reduction in monthly stipend. If no regular meeting of the Commission occurs in any given month, there shall be no monthly stipend paid to Commission members. (Ord. 14-01 §1, 2014)

**ARTICLE VI**

**Historic Preservation Commission**

**Sec. 2-6-10. Creation.**

There is hereby created an Historic Preservation Commission, hereinafter called the "Commission." Commencing on January 1, 2013, the Commission shall consist of five (5) regular members and one (1) alternate member. A person serving in a position as an alternate shall have the right to participate in all meetings of the Commission to the same extent as a regular member, except that a person serving in the position of alternate shall not be entitled to vote on any matter, unless such alternate member is temporarily assigned by the Chairperson of the Commission in the event of an absence or conflict of interest of a regular member during all or any portion of a meeting of the Commission. When assigned to fill a regular position during a meeting, the alternate member shall assume all rights, duties and obligations of the regular member during the period of assignment. Assignment shall terminate upon the earlier of the return of the regular member to the meeting or the adjournment of the meeting. No person shall be a member of the Historic Preservation Commission who is also a member of the City Council, the Mayor, an employee of the City or who holds any other City municipal office, whether elected or appointed. (Prior code 2-121; Ord. 11-09 §1, 2011; Ord. 12-20 §1, 2012)

**Sec. 2-6-20. Appointments.**

All appointments shall be made by the Mayor, with the consent of the majority of the City Council, as follows:

(1) Members shall have knowledge of or an interest in historic preservation, building or design.

(2) The Mayor shall consider maintaining the balance of interests and skills of the composition of the Commission, and the individual qualifications of the candidates, including their training, experience, knowledge or interest in any one (1) of the following fields: architecture, landscape architecture, real estate, law, city planning, fine arts, general contracting, education, commerce or industry. (Prior code 2-122)

**Sec. 2-6-30. Term.**

Each Commission member shall be appointed to a four-year term. The terms of office of four (4) Commission members (specifically including any members who are joint members of the Historic Preservation Commission and the Planning Commission) shall coincide with the four-year term of the Mayor. The four-year terms of office of the remaining three (3) Commission members shall start and terminate on the odd-numbered years between the odd-numbered years in which the Mayor's term of office terminates. (Prior code 2-123)

**Sec. 2-6-40. Vacancy.**

If a vacancy occurs during the term of a Commission member, the Mayor, with the consent of the City Council, shall appoint an alternate member to fill the unexpired term. (Prior code 2-124; Ord. 11-09 §1, 2011)

**Sec. 2-6-50. Meeting and rules.**

(a) Rules. The Commission shall adopt procedural rules for the conduct of its business in accordance with the provisions of this Article and Chapter 16, Article XI of this Code. The Commission shall elect a Chairperson and a Vice-Chairperson, each who shall serve for one (1) year and be eligible for reelection. The Commission shall appoint a secretary who may be a Commission member or City employee, who shall keep minutes and record and maintain files. All duties of the secretary, other than attesting to the minutes and other records of the Commission, may be delegated to a non-Commission member.

(b) Meetings.

(1) Meetings shall be held at the call of the Chairperson and at such other times that the majority of the members of the Commission shall determine.

(2) All meetings shall be open to the public, except that the Commission may go into executive session in accordance with the Open Meetings Law.

(3) Open meetings shall be recorded by electronic means.

(4) A quorum of the Commission shall consist of a majority of the voting members thereof, and a majority vote of the members present shall constitute action by the Commission.

(5) The Chairperson shall decide all points of order or procedure unless otherwise directed by a motion approved by a simple majority of the Commission members present at the time.

(6) The Commission may accept positions from proponents of positions on issues before the Commission. Any such position shall be presented in summary with such reasonable documentation as the Chairperson believes is appropriate to assist the board in understanding such presentation. The board may also accept public input at the sole discretion of the board.

(7) The Commission shall keep minutes of its proceedings, showing the vote of each member on every matter, or if absent or failing to vote, indicating such fact, and it shall also keep records of such proceedings, and such records shall be filed with the City Clerk. (Prior code 2-125; Ord. 11-09 §1, 2011)

**Sec. 2-6-60. Reimbursement.**

Members may be reimbursed for expenses incurred upon approval of City Council. (Prior code 2-126)

**Sec. 2-6-70. Legal counsel.**

When requested by the Chairperson or a majority of the Commission members, the City Attorney shall attend Commission meetings or provide legal counsel to the Commission. (Prior code 2-127)

**Sec. 2-6-80. Consultants.**

The Commission, with approval of the City Council, may retain consultants to advise the Commission. (Prior code 2-128)

**Sec. 2-6-90. Duties and powers of Commission.**

The Commission shall have the duties and powers outlined in this Section:

(1) Under the specific direction of the City Council, through the office of the City Manager, the Historic Preservation Commission shall serve in an advisory capacity to the City Council and shall have the ability to conduct surveys of structures, interior and exterior, and areas for the purpose of determining those of historical and/or architectural significance; to maintain and periodically revise detailed listings of such historically and/or architecturally significant structures and areas; and to classify the information with respect to national, state, regional or local significance, as to period or field of interest.

(2) To recommend to the City Council the alteration of the boundaries of the Historic District for the purposes of preserving and enhancing the Historic District.

(3) To establish an appropriate system of markers for historic structures and areas.

(4) To recommend to the City Council amendments to the standards and design guidelines of the City.

(5) To issue certificates of appropriateness prior to the issuance of a building permit for erection, exterior demolition, moving, reconstruction, restoration or alteration within the Historic District.

(6) To issue certificates of appropriateness for interior construction, demolition, reconstruction, restoration or any other alteration affecting a protected feature of a designated historic mining or Victorian landmark.

(7) Through City staff, to report annually to the City Council. The report shall include a review of the Commission's decisions rendered during the year, a general survey addressing the appearance and condition of buildings in the City and comments on community trends.

(8) To perform other duties as expressly set out in this Code or as may be assigned by the City Council through the office of the City Manager. (Prior code 2-129; Ord. 11-09 §1, 2011)

**Sec. 2-6-100. Monthly stipend.**

Historic Preservation Commission members may be paid a stipend in an amount approved by the City Council for each month in which they attend a regular meeting of the Commission. If no regular meeting of the Commission occurs in any given month, there shall be no monthly stipend paid to Commission members. (Prior code 2-130; Ord. 11-09 §1, 2011)

**ARTICLE VII**

**Advisory Boards**

**Sec. 2-7-10. Establishment of advisory boards.**

(a) All advisory boards established by the City Council shall be established by separate resolution of the City Council. Any such board shall be advisory only and shall have no powers delegated from the City Council thereto.

(b) The City Council specifically reserves the right, without cause and without reference to any other provisions of this Article or of any resolution adopted pursuant to this Article or otherwise, to terminate the existence of any advisory board at any time. (Prior code 2-151; Ord. 11-09 §1, 2011)

**Sec. 2-7-20. Appointment and removal of board members.**

(a) Advisory board members shall be appointed by the City Council pursuant to the provisions of the City Council resolution establishing the specific advisory board.

(b) The term of advisory board members shall be set by the resolution establishing the advisory board.

(c) The City Manager shall be an ex officio, nonvoting member of an advisory board. (Prior code 2-152; Ord. 11-09 §1, 2011)

**Sec. 2-7-30. Eligibility and qualifications of board members.**

(a) A resolution establishing an advisory board shall set forth the qualifications, if any, for board members, as well as eligibility requirements, if any, for such board members.

(b) The City Council specifically reserves the right to terminate the services of any board member without cause and without reference to the remaining term of such board member's appointment. (Prior code 2-153; Ord. 11-09 §1, 2011)

**ARTICLE VIII**

**Personnel Policies and Procedures**

**Sec. 2-8-10. Adoption of manual.**

The City Council may adopt personnel policies and procedures by resolution, which shall constitute the employment policies and procedures of the City. (Prior code 2-171; Ord. 11-09 §1, 2011)

**Sec. 2-8-20. Finding of local concern.**

The City Council hereby finds and determines that the matter of employment policies and procedures is a matter of local concern upon which home rule municipalities in the State are fully empowered to legislate in accordance with federal and state statutes and employment law. (Prior code 2-173; Ord. 11-09 §1, 2011)

**ARTICLE IX**

**City Officials**

**Sec. 2-9-10. City Attorney; duties; compensation.**

(a) In addition to the overview of duties outlined in Section 8.1 of Article VIII of the Home Rule Charter, the City Attorney shall be responsible for the day to day legal concerns of the City, including but not limited to the: drafting and review of all City-initiated ordinances, resolutions, other legal documents and review of all others; attendance of City Council meetings and public hearings held before all City boards or commission, as requested by the City Council; filing of all written opinions given by the City Attorney with the City Clerk; calling to the attention of the City Council, the City Manager and commissions all matters of law, and changes or developments therein, affecting the City; giving of priority to requests made by the City Manager; handling of general litigation; and such other duties as may be prescribed by the Home Rule Charter or by the City Council.

(b) The compensation for the City Attorney shall be set by the City Council.

(c) In all cases where the employment of special counsel is considered necessary, as those terms are understood in Section 8.1 of the Home Rule Charter, the City Council shall engage such special counsel as it deems appropriate. (Prior code 2-191; Ord. 11-09 §1, 2011)

**Sec. 2-9-20. Appointment of City Manager to serve as Zoning Administrator.**

(a) The City Council may, from time to time, acting by ordinance, resolution or motion, appoint the City Manager or his or her designee to perform the duties and assume the responsibilities of the Zoning Administrator. Such appointment may be made with regard to specific projects, for specified periods of time, or in such a manner as the City Council deems appropriate, or as set forth in this Code.

(b) During such times that the City Manager is performing the duties and assuming the responsibilities of the Zoning Administrator, as provided herein, the City Manager shall observe and be governed by all provisions of the City Code and Home Rule Charter relevant to the functions of the Zoning Administrator.

(c) In cases where the City Manager is serving as the Zoning Administrator, appeals from the decisions of the City Manager may be made by any persons aggrieved or affected by such actions or by any member of the City Council on behalf of the City. (Prior code 2-192; Ord. 11-09 §1, 2011)