

ORDINANCE NO. 16-_____

AN ORDINANCE AMENDING ARTICLE 1 (GENERAL MUNICIPAL ELECTIONS) OF CHAPTER 5 (ELECTIONS) OF THE CODE OF THE CITY OF COLORADO SPRINGS 2001, AS AMENDED, PERTAINING TO ELECTIONS

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

Section 1. Part 1 (Conduct of Elections) of Article 1 (General Municipal Elections) of Chapter 5 (Elections) of the Code of the City of Colorado Springs 2001, as amended, is amended to read as follows:

PART 1 CONDUCT OF ELECTIONS

5.1.101: STATE LAW APPLICABLE:

5.1.102: REGISTRATION REQUIRED:

5.1.103: WRITE-IN CANDIDATES:

5.1.104: TIME AND DATE FOR SUBMITTING COUNCIL CHARTER AMENDMENTS, COUNCIL ELECTORAL ORDINANCES AND COUNCIL REFERRED MEASURES BEFORE GENERAL MUNICIPAL ELECTIONS:

5.1.105: ELECTORS ELIGIBLE TO HOLD MUNICIPAL OFFICE:

5.1.106: SIGNATURE REQUIREMENTS FOR NOMINATION PETITION:

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5.1.103: WRITE-IN CANDIDATES:

No write-in vote for any candidate in any election shall be counted unless an affidavit of intent has been filed indicating that the person desires the office and is qualified to assume the duties of that office if elected, and that the write-in candidate has filed an affidavit disclosing private interests and campaign financing and expenditures, as required by this chapter. An affidavit of intent shall be filed ~~prior to fifty (50)~~ **no later than sixty-seven (67)** days before the day of the special or general election at which candidates are to be elected.

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5.1.106: SIGNATURE REQUIREMENTS FOR NOMINATION PETITION:

Nomination petitions for Mayor and Council candidates shall be obtained from the City Clerk, be circulated and signed beginning on the ~~ninety~~ **ninety first** day and ending on the ~~fifty fifth~~ **seventy first** day prior to the day of election. No petition is valid that does not contain the requisite number of signatures of registered electors. The City Clerk shall inspect timely filed petitions of nomination to ensure compliance. Such inspection may consist of an examination of the information on the signature lines for patent defects, a comparison of the information on the signature lines with a list of registered electors provided by the County, or any other method of inspection reasonably expected to ensure compliance with this Code. Any petition may be amended to correct or replace those signatures which the City Clerk finds are not in apparent conformity with the requirements of this section, but such amendment must be completed no later than ~~fifty five (55)~~ **sixty-seven (67)** days before the day of election. All other nomination provisions of the Municipal Election Code shall apply. Each petition shall be signed by registered electors in the following numbers:

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5.1.107: WITHDRAWAL FROM NOMINATION:

Any person or candidate who is not an elected City officer and who has been nominated and has accepted a nomination for the Office of Mayor or a City Council seat may withdraw his or her name from the nomination at any time by filing with the City Clerk a withdrawal affidavit, signed by the candidate, stating the person's desire and intent to remove his or her name from the list of candidates eligible to be elected at the next election. To remove the candidate's name from the election ballot, the nominee must submit the withdrawal affidavit to the City Clerk, withdrawing the candidate's name from the nomination, no later than ~~fifty (50)~~ **sixty seven (67)** days prior to the date of the election for which the person was nominated. An elected City officer wishing to withdraw his or her name from nomination must comply with the provisions of City Charter subsection 2-10(e) and this section.

5.1.108: VOTING AND ELECTION PRECINCTS ESTABLISHED:

The municipal election precinct shall be those precincts established by the El Paso County Clerk and Recorder. In cases where a County precinct extends beyond the corporate limits of the City, the applicable City precinct shall include only those portions of the County precinct which are included within the corporate limits of the City.

5.1.109: LEGISLATIVE DECLARATION:

The City Council hereby finds, determines and declares that self-government by election is more legitimate and better accepted as voter participation increases. The City Council further finds, determines and declares that mail ballot elections are cost efficient and have not resulted in increased fraud. By enacting this new part, the City Council hereby concludes that it is appropriate to provide for mail ballot elections under specified circumstances.

5.1.110: DEFINITIONS:

ABSENTEE BALLOT: A ballot transmitted to an eligible elector at an address or location other than the residential or permanent mail-in address of the elector as shown in the registration records provided by the El Paso County Clerk and Recorder.

ACTIVE REGISTERED VOTER: A person residing in the City limits of Colorado Springs who is registered to vote in City elections and who is designated in the voter registration records prepared by the El Paso County Clerk and Recorder as an "active" voter.

ELECTOR OR VOTER: These terms are synonymous and used interchangeably in this part.

ELIGIBLE ELECTOR: A person who meets specific requirements for voting at a specific election for a specific candidate or ballot measure.

INACTIVE VOTER: A person residing in the City limits of Colorado Springs who is designated in the voter registration records prepared by the El Paso County Clerk and Recorder as an "inactive" voter.

MAIL BALLOT ELECTION: An election in which eligible electors cast ballots by mail.

MAIL BALLOT PACKET: The packet of information provided by the City Clerk to eligible electors in a mail ballot election. The packet includes the ballot, instructions for completing the ballot, a secrecy envelope, and a return envelope.

POLL BOOK: A list of registered electors permitted to vote in the mail ballot election.

REACTIVATED ELECTOR: A registered elector who is designated as "inactive" in the El Paso County Clerk and Recorder's voter registration records, but who completes the required form furnished by the City Clerk requesting his or her voting status be reactivated.

REGISTRATION LIST: A list of registered electors of each municipal election precinct prepared by the county clerk and recorder from the county registration books.

RETURN ENVELOPE: An envelope that is printed with spaces for the name and address of, and a self-affirmation to be signed by the eligible elector voting in a mail ballot election, that contains a secrecy envelope and ballot for the elector, and that is designed to allow election officials, upon examining the signature, name and address on the outside of the envelope, to determine whether the enclosed ballot is being submitted by an eligible elector who has not previously voted in that particular election.

SECRECY ENVELOPE: An envelope or sleeve used for a mail ballot election that contains the eligible elector's ballot for the election, and that is designed to conceal and maintain the confidentiality of the elector's vote until the counting of votes for that particular election.

5.1.111: MAIL BALLOT ELECTIONS AUTHORIZED:

The City Clerk is hereby authorized to conduct regular or special municipal elections by mail ballot in accord with the provisions of this part.

5.1.112: DUTIES OF THE CITY CLERK:

The City Clerk shall:

- A. Prescribe the form of materials to be used in the conduct of mail ballot elections consistent with the provisions contained in this part;
- B. Establish procedures for conducting mail ballot elections consistent with the provisions contained in this part;
- C. Supervise the conduct of mail ballot elections;
- D. Employ temporary election judges as needed;
- E. Take all necessary steps to ensure ballot security at each stage of the mail ballot process, protect the confidentiality of the ballots cast and the integrity of the election; and
- F. In addition to other powers prescribed by law, the City Clerk may adopt rules governing procedures and forms necessary to implement this part.

5.1.113: PREELECTION PROCESS:

The City Clerk shall present to City Council for approval no later than one hundred (100) days before the election a proposed plan for conducting the mail ballot election based upon the mail ballot plan criteria set forth in this part. The mail ballot plan proposed by the City Clerk shall:

A. Describe the type of records or assistance the El Paso County Clerk and Recorder or the El Paso County Assessor will provide to the City Clerk in the conduct of the election:

- 1. List of registered electors;**
- 2. List of property owners, if applicable; or**
- 3. Other necessary information.**

B. Estimated number of eligible electors.

C. Number of places to deposit ballots, name of location, address, days and hours of operation and election day hours.

D. Identify the location of an accessible voting mechanism, including address, days and hours of availability and election day hours.

E. Indicate how postage will be handled for mail ballot packets returned as "undeliverable".

F. Indicate the procedures to be followed to ensure compliance with this part, including the names of the people responsible for each stage of the process.

G. Describe procedures to ensure ballot security at all stages of the process.

H. Describe procedures to ensure privacy or secrecy of the ballot.

I. Describe procedures to reconcile ballots issued, ballots received, defective ballots and replacement ballots.

J. Provide a sample of the secrecy envelope to be used in the mail ballot election.

K. Provide a written timetable for conducting the mail ballot election that includes the following dates or range of dates when each stage of the process is to be completed:

- 1. Date of approval of election;**
- 2. Date of publication of notice of election;**
- 3. Date of notice of election to the El Paso County Clerk and Recorder;**
- 4. Date of notice of election to the El Paso County Assessor, if property owners are eligible;**
- 5. Date of close of voter registration;**
- 6. Date by which the El Paso County Clerk and Recorder must submit the preliminary and supplemental list of eligible electors;**

7. Date ballots will be mailed;
8. Date verification, processing and counting of ballots will begin;
9. Date of election.

5.1.114: NOTICE OF ELECTION:

No later than twenty five (25) days before an election, the City Clerk shall provide by publication and posting at all designated drop off locations a notice of a mail ballot election conducted pursuant to the provisions of this part, which shall state the following:

- A. The date of the election;
- B. The hours during which the designated drop off locations will be open on election day;
- C. The address of the walk-in location for the delivery of mail ballots and the receipt of replacement ballots and the hours during which the walk-in location will be open;
- D. The address of the location for the application for, and the return of, absentee ballots and the hours during which the office will be open; and
- E. The complete ballot content.

5.1.115: REGISTRATION LISTS:

- A. No later than thirty (30) days before an election, the City Clerk shall obtain from the El Paso County Clerk and Recorder a full and complete preliminary list of registered electors, and from the El Paso County Assessor a list of property owners residing within the affected district for special district elections.
- B. No later than twenty (20) days before an election, the City Clerk shall obtain from the El Paso County Clerk and Recorder a supplemental list of registered electors whose names were not included on the preliminary list.
- C. All lists of registered electors and lists of property owners provided to the City Clerk under this section shall include the last mailing address of each elector.

5.1.116: PREPARING AND MAILING BALLOT PACKETS:

- A. The City Clerk shall prepare, or cause to be prepared, mail ballot packets that include the ballot, instructions for completing the ballot, a return envelope, and a secrecy envelope. The City Clerk shall supervise the distribution, handling, and counting of ballots, and the survey of returns and shall take all necessary steps to protect the confidentiality of the ballots cast and the integrity of the election.

B. The top portion of each ballot shall be divided by a perforated line. The portion above the perforated line shall be known as the ballot stub and shall have printed on it a sequential ballot number. The ballot stub may also have printed on it other information, including, but not limited to, the precinct number, Council district number, job sequencing information used by the printer or instructions.

C. The ballot shall contain the following warning:

WARNING:

Any person who, by use of force or other means, unduly influences an eligible elector to vote in any particular manner or to refrain from voting, or who falsely makes, alters, forges, or counterfeits any mail ballot before or after it has been cast, or who destroys, defaces, mutilates, or tampers with a ballot is subject, upon conviction, to imprisonment, or to a fine, or both.

D. The return envelope shall have printed on it a self-affirmation substantially in the following form:

I state under penalty of perjury that I am an eligible elector; that my signature, name, and address are as shown on this envelope; that I have not and will not cast any vote in this election except by the enclosed ballot; and that my ballot is enclosed in accord with applicable law.

Date Signature of Voter

Witness

E. The signing of the self-affirmation on the return envelope shall constitute an affirmation by the voter, under penalty of perjury, that the facts stated in the self-affirmation are true. If the eligible elector is unable to sign, the eligible elector may affirm by making a mark on the self-affirmation, with or without assistance, witnessed by another person.

F. An elector who registers to vote by mail shall receive a ballot packet which contains written instructions advising the elector that a copy of valid identification, as required by part 1 of article 1 of title 1, Colorado Revised Statutes, must be submitted with the mail ballot. The outside of the return envelope shall be marked to identify that the elector is required to provide required identification.

G. No sooner than twenty five (25) days before the election, nor later than seven o'clock (7:00) P.M. on the day of the election, mail ballots shall be made available at the City Clerk's Office for eligible electors who request a ballot. The City Clerk shall keep a record of each such ballot issued.

H. No sooner than twenty five (25) days before an election and no later than fifteen (15) days before an election, the City Clerk shall mail to each active registered elector,

at the last mailing address appearing in the registration record and in accord with United States Postal Service regulations, a mail ballot packet, which shall be marked "DO NOT FORWARD. ADDRESS CORRECTION REQUESTED", or any other similar statement that is in accord with United States Postal Service regulations. If the ballot is returned as undeliverable, the City Clerk shall not be required to re-mail the ballot packet. A record shall be kept of the number of ballot packets returned as undeliverable.

I. In the event that unusual circumstances exist that may delay the mailing of ballots in accord with subsection H of this section, the City Clerk, with the written consent of the City Attorney, is authorized to mail the ballots no later than ten (10) days before an election. For the purposes of this provision, unusual circumstances shall include, but not be limited to, extreme weather conditions such as blizzard or flood, equipment failure, labor work stoppage or slowdown, or other events outside the City's control. The City Attorney's consent and supporting documents shall be included in the official election records.

5.1.117: VOTING AND RETURNING BALLOTS:

A. Upon receipt of a ballot, the eligible elector shall mark the ballot, sign and complete the self-affirmation on the return envelope, enclose identification if required by subsection 5.1.116F of this part, and comply with the instructions provided with the ballot.

B. The eligible elector may return the marked ballot to the City Clerk by United States mail or by depositing the ballot at the Office of the City Clerk or at any place designated by the City Clerk. The ballot must be returned in the return envelope. If an eligible elector returns the ballot by mail, the elector must provide the necessary postage. In order to be counted, the ballot must be received at the Office of the City Clerk or a designated depository no later than seven o'clock (7:00) P.M. on the day of election. Returned ballots shall be located and stored in a secured place under the supervision of the City Clerk.

C. No one person may deliver in person to the Office of the City Clerk or designated depository more than ten (10) voted ballots in return envelopes from other voters.

D. Except as provided for in Colorado Revised Statute § 31-10-102.8, ballots received by the City Clerk after seven o'clock (7:00) P.M. on the day of election shall not be counted, but shall be preserved in accord with section 5.1.125 of this part.

5.1.118: RECEIPT AND QUALIFICATION OF BALLOTS:

A. All ballots, including undeliverable ballots, shall be marked to indicate the date the ballot was received by the City Clerk.

B. Qualification and preprocessing of the ballots may begin twenty five (25) days before an election and continue until all returned ballots have been processed.

C. Once the ballot is returned, an election judge shall first qualify the submitted ballot by comparing the information on the return envelope with the voter registration records to determine whether the ballot was submitted by an eligible elector who has

not previously voted in the election and whether the self-affirmation on the envelope is signed and completed by the eligible elector to whom the ballot was issued. If the ballot so qualifies and is otherwise valid, the election judge shall indicate in the poll book that the eligible elector cast a ballot and shall prepare the ballot for counting in accord with section 5.1.123 of this part.

D. If an election judge is unable to qualify the ballot as set forth above, the ballot shall be rejected and the reason for rejection shall be indicated in the poll book.

E. If the return envelope contains a replacement ballot, the ballot shall be set aside until seven o'clock (7:00) P.M. on the day of the election. The information on the return verification envelope shall be compared with the registration records. If the eligible elector to whom a replacement ballot has been issued has returned more than one return envelope, the first ballot returned by the elector shall be considered the elector's official ballot, the latter ballot shall be rejected and not counted.

5.1.119: ABSENTEE BALLOTS:

A. Any eligible elector may request that an absentee ballot be transmitted to a place other than the elector's address as shown in the voter registration records. Requests for absentee ballots must be made in writing and shall include the elector's name, residence address and the address to which the absentee ballot should be mailed.

B. Applications for an absentee ballot may be filed after January 1 of the year of the election but no later than the close of business seven (7) days before the day of the election.

C. Upon receipt of an application request for an absentee ballot, and as soon as ballots are printed and available, the City Clerk shall transmit an absentee ballot to the elector at the address provided in the application for an absentee ballot. If the elector to whom an absentee ballot has been issued has returned more than one return envelope, the first ballot returned by the elector shall be considered the elector's official ballot, the latter ballot shall be rejected and not counted.

D. The City Clerk may provide an absentee ballot by electronic means to any registered elector who is an absent uniformed services elector, a resident overseas elector, or a nonresident overseas elector, as such terms are defined in title 1, Colorado Revised Statutes, who timely filed an absentee ballot application or as identified by registration records obtained from the El Paso County Clerk and Recorder. Such registered elector may return the voted ballot to the City Clerk by electronic means. The returned ballot shall be counted if it arrives in the Office of the City Clerk by seven o'clock (7:00) P.M. on the day of the election. When the ballot is received by the City Clerk, election judges shall duplicate the ballot in accord with rules promulgated by the City Clerk, and the ballot shall be counted as all other absentee ballots. The person duplicating the ballot shall not reveal to any person how the elector has cast his or her ballot. The instructions for completing an absentee ballot pursuant to this subsection shall inform the elector that an absentee ballot returned by electronic means is not a confidential ballot. For purposes of this subsection, "electronic means" shall mean facsimile transmission or electronic mail.

E. The City Clerk shall send a ballot and ballot materials to any person designated as an active military or overseas voter no later than forty-five (45) days before an election; except that, if the clerk receives a certificate of new registration, notification of change of address, or notification of other change in status from an active military or overseas voter after the forty-fifth (45) day before the election, the clerk shall mail a ballot and ballot materials to the voter as soon as practicable. The City Clerk shall count a valid ballot received if the ballot is received by the close of business on the eighth (8) day after the election.

F If an eligible elector requests delivery of an absentee ballot to an address outside of the United States and it appears unlikely in the judgment of the City Clerk that the absentee ballot will be delivered to the elector in sufficient time to allow the elector to vote the ballot and return it to the City Clerk before seven o'clock (7:00) P.M. on the day of the election, the City Clerk is authorized to use any reasonable method to provide the elector an opportunity to vote, provided the method is acceptable to the elector and the elector acknowledges in writing that he or she agreed to vote in the method offered and has further agreed that the City Clerk may transfer the elector's vote to an official ballot for counting purposes.

5.1.120: REPLACEMENT BALLOTS:

A. An eligible elector may obtain a replacement ballot if:

- 1. The ballot was destroyed, spoiled, lost or for some other reason not received by the eligible elector;**
- 2. A mail ballot packet was not sent to the elector because the eligibility of the elector could not be determined at the time the mail ballot packets were mailed; or**
- 3. The eligible elector presents any other credible evidence from the Office of County Clerk and Recorder that he or she is entitled to receive a replacement ballot.**

B. A request for a replacement ballot shall be made in writing, by mail, by fax, by telephone or in person.

C. An eligible elector requesting a replacement ballot must sign an affirmation specifying the reason for requesting the ballot. If an eligible elector requests a replacement ballot in person, the affirmation shall be completed before a replacement ballot is issued to the elector. If a request for a replacement ballot is not made in person, the City Clerk may transmit the affirmation with the ballot packet. The affirmation must be returned with the ballot to the City Clerk no later than seven o'clock (7:00) P.M. on the day of the election in order for the ballot to be counted. If the affirmation is not returned with the ballot, the elector may either submit by electronic means, fax or bring a copy of the affirmation to the Office of the City Clerk no later than the close of business on the eighth (8th) day after the election. If the ballot is otherwise valid, the ballot shall be counted. If the elector does not submit a copy of the required affirmation, the ballot shall be invalid and not counted.

5.1.121: VERIFICATION OF SIGNATURES:

A. Election judges shall compare signatures on the self-affirmation return envelope with signatures of the eligible electors obtained from the El Paso County Clerk and Recorder registration records.

B. If, upon comparing the signature of an eligible elector election judges determine that the signatures do not match, the return envelope shall be separated. The City Clerk shall send to the eligible elector written correspondence explaining the discrepancy in signatures and a form for the elector to confirm that a ballot was returned. The elector may either submit by electronic means, fax or bring the form, accompanied by a copy of the elector's identification to the Office of the City Clerk no later than the close of business on the eighth (8th) day after the election. If the ballot is otherwise valid, the ballot shall be counted. If the elector returns the form indicating that the elector did not return a ballot to the City Clerk or if the elector fails to return the form, the self-affirmation on the return envelope shall be categorized as incorrect, the ballot shall not be counted, and if in the opinion of the City Clerk fraud is suspected, the City Clerk may forward copies of the eligible elector's signature on the return envelope and the elector's signature obtained from the El Paso County Clerk and Recorder to the City Attorney and Colorado Springs Police Department for criminal investigation.

C. If the return envelope received from an eligible elector described in subsection 5.1.116F of this part does not contain identification, the return envelope shall be separated and the City Clerk shall send to the eligible elector written correspondence explaining the discrepancy. The elector may either submit by electronic means, fax or bring a copy of the elector's identification to the Office of the City Clerk no later than the close of business on the eighth (8) day after the election. If the ballot is otherwise valid, the ballot shall be counted. If the elector does not submit a copy of the required identification, the ballot shall be invalid and not counted.

D. If election judges determine that the signature of an eligible elector on the return envelope matches the elector's signature obtained from the El Paso County Clerk and Recorder the mail ballot contained in the return envelope shall follow the procedures specified in sections 5.1.118 and 5.1.123 of this part concerning the qualification and counting of mail ballots.

E. If the self-affirmation on the return envelope has not been signed by the elector, the City Clerk shall attempt to contact the elector by sending a letter, by electronic means or by telephone to provide the elector the opportunity to appear in the Office of the City Clerk to sign the affirmation. The City Clerk may also send to the eligible elector written correspondence explaining the unsigned ballot affirmation and a form for the elector to provide the required ballot affirmation signature. The elector may either submit by electronic means, fax or bring the form, accompanied by a copy of the elector's identification to the Office of the City Clerk no later than the close of business on the eighth (8) day after the election. After the elector signs the affirmation, or returns a signed affirmation with identification, the mail ballot shall be qualified and counted. If the elector does not sign the affirmation, and does not return a signed affirmation with identification, the ballot shall be invalid and not counted. Failure of the City Clerk to

reach the elector shall not be grounds for a challenge of the rejection of the unsigned ballot.

F. An election judge shall not determine that the signature of an eligible elector on the self-affirmation does not match the signature of that eligible elector on file with the El Paso County Clerk and Recorder solely on the basis of substitution of initials or use of a common nickname.

G. After the canvass, recount, counting period has expired, an original return envelope with a voted ballot that is not counted shall be stored for archiving in the Office of the City Clerk in a secure location separate from valid return envelopes in the same manner as described in subsection 5.1.125, and may be removed only under the authority of the City Attorney or by order of the District Court.

H. The City Clerk shall provide training in the technique and standards of signature comparison to election judges who compare signatures pursuant to this section.

5.1.122: REJECTED BALLOTS:

A. The City Clerk is authorized to make a reasonable effort to allow an eligible elector whose ballot has been rejected to correct the deficiency causing rejection. No elector shall be allowed to correct a deficiency without first producing valid proof of identification.

B. All ballots rejected in accord with this part shall remain in the sealed return envelopes until the election records pertaining to the election are destroyed.

5.1.123: COUNTING BALLOTS:

Counting of ballots may begin fifteen (15) days prior to the election and will continue until counting is completed. The City Clerk shall take all precautions necessary to ensure the secrecy of the counting procedures, and no information concerning the count shall be released by any election worker or watcher until after seven o'clock (7:00) P.M. on the day of the election.

5.1.124: CHALLENGES; VALIDITY OF ELECTION:

No mail ballot election held pursuant to this part shall be invalidated on the ground that an eligible elector did not receive a ballot so long as the City Clerk acted in good faith in complying with the provisions of this part.

5.1.125: PRESERVATION OF ELECTION RECORDS:

The City Clerk shall be responsible for the preservation of any election records including voted ballots for a period of at least twenty five (25) months after the election or until time has expired for which the record would be needed in any contest proceedings, whichever is later. Unvoted ballots may be destroyed after the time for a challenge to the election has passed.

~~5.1.108: ABSENTEE, EARLY VOTING AND PROVISIONAL VOTING:~~

~~A. Absentee Ballots: Any eligible elector may vote by absentee ballot at any election involving City issues or candidates.~~

~~B. Early Voting: Early voting shall be made available to any eligible elector during regular business hours for fifteen (15) days before election. The City Council may by resolution increase the hours that the early voters' polling place may be open. Eligible electors who appear in person at the early voters' polling place during this time may cast their ballots in the same manner as any ballot would be cast in a precinct polling place on election day.~~

~~C. Absentee And Early Voting Procedure:~~

~~1. An eligible elector who receives an early voters' ballot may cast the ballot in the early voters' polling place. Ballot boxes for early voting shall be locked and sealed each night with a numbered seal under the supervision of the City Clerk and the keys shall remain in the possession of the City Clerk. To the extent direct record electronic voting machines are used for casting of early ballots at early voting polling places, the designated election official, or appointee, shall store or record all early votes tabulated and recorded from such direct record electronic voting machines on an external device such as a cartridge, diskette, tape or compact disk.~~

~~2. Early voting shall not be permitted after the close of the business day on the Friday immediately preceding the election.~~

~~D. Provisional Ballots: The provisional ballot requirements of title 1 (elections) of the Colorado Revised Statutes, shall govern provisional ballot procedures in City elections, except that the verification and counting of all provisional ballots shall be completed within twelve (12) days after the election.~~

~~5.1.109~~**126: OFFICIAL ABSTRACT OF VOTES CAST; CERTIFICATION:**

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~~5.1.110~~**127: CERTIFICATION OF BALLOT; PUBLICATION:**

A. The City Clerk shall certify the list of candidates for Mayor, City Council and ballot questions at least ~~forty five (45)~~**sixty one (61)** days before the election to the City Council.

B. When applicable, the City Clerk shall certify the list of candidates for Mayor, City Council and ballot questions to the County Clerk at least ~~forty five (45)~~**sixty one (61)** days before the election.

C. The City Clerk shall cause a notice of election to be published in a newspaper of general circulation at least ~~ten (10)~~**twenty five (25)** days before the election. The election notice shall include the certified list of candidates for Mayor and City Council, ballot questions, ~~all polling place information~~ and the time and date of election.

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5.1.111**128**: ELECTION OFFENSES; PENALTY:

A. Any person may file an affidavit **or complaint** stating the name of any person who has violated any of the provisions of this chapter or of the Colorado Municipal Election Code and stating the facts which constitute the alleged offense with the City Attorney. Upon the filing of an affidavit, the City Attorney shall investigate, and if reasonable grounds are found, the City Attorney shall prosecute the violation in the Municipal Court in the same manner as other ordinance violations.

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5.1.112**129**: MAYORAL RUNOFF ELECTIONS:

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F. At seven o'clock (7:00) P.M. on the Mayoral runoff election day, results shall be tabulated **however the ballot procedures identified in § 5.1.120C, § 5.1.121C and § 5.1.121E shall apply to the Mayoral runoff election. Upon completion of the ballot procedures identified in § 5.1.120C, § 5.1.121C and § 5.1.121E, results shall be tabulated. The Canvass Board shall complete the official abstract of votes cast and certification within twelve (12) days after the runoff election. The** ~~and the~~ runoff candidate receiving a majority of votes cast for the office of Mayor shall be declared elected and entitled to a certificate of election. A "majority" shall be more than fifty percent (50%) of the votes cast for Mayor at a Mayoral runoff election.

* * *

Section 2. Part 2 (Election Precincts) of Article 1 (General Municipal Elections) of Chapter 5 (Elections) of the Code of the City of Colorado Springs 2001, as amended, is repealed.

Section 3. Part 3 (Judges and Officers of Election) and all its subsequent sections of Article 1 (General Municipal Elections) is moved under Part 2 of Article 1 all of Chapter 5 (Elections) of the Code of the City of Colorado Springs 2001, as amended.

Section 4. New Part 2 (Judges and Officers of Election) of Article 1 (General Municipal Elections) of Chapter 5 (Elections) of the Code of the City of Colorado Springs 2001, as amended, is amended as follows:

PART ~~3~~**2** JUDGES AND OFFICERS OF ELECTION

5.1.~~3~~**201**: APPOINTMENT, QUALIFICATIONS OF JUDGES:

5.1.~~3~~**202**: COMPENSATION OF JUDGES:

5.1.3203: WATCHERS:

5.1.3201: APPOINTMENT, QUALIFICATIONS OF JUDGES:

The City Council hereby delegates to the City Clerk the authority and responsibility to appoint election ~~j~~Judges, student election ~~j~~Judges and alternates at least fifteen (15) days before each election. **The City Clerk may appoint additional election judges during the election when the City Clerk determines such appointment is necessary.** The **election** judges and their alternates shall be electors registered to vote in Colorado and shall be at least eighteen (18) years of age, except for student election ~~j~~Judges authorized by the City Clerk and qualified as set forth in Colorado Revised Statutes section 1-6-101 et seq. **An election judge shall not be a candidate, a family member of the candidate by blood, marriage or civil union in the second degree.**

5.1.3202: COMPENSATION OF JUDGES:

A.——The City Council hereby delegates to the City Clerk the authority and responsibility to compensate election ~~j~~Judges. Compensation shall be equivalent to the compensation provided by the County Clerk for ~~j~~Judges in County and State elections.

~~B.——Any student election Judge so appointed will receive compensation up to but no more than seventy five percent (75%) of the compensation received by an adult election Judge.~~

5.1.3203: WATCHERS:

Watchers, **as defined in Colorado Revised Statute section 31-10-102(11)**, shall be governed by Colorado Revised Statutes section 31-10-602. **A watcher shall not be a candidate, a family member of the candidate by blood, marriage or civil union in the second degree. A watcher shall not attempt to determine how any person voted, disclose or record any confidential voter information or disclose any results before the polls are closed. A watcher shall be permitted reasonable access to observe each step in the conduct of the election, but may not interrupt, disrupt, touch documents or otherwise interfere in the election.** ~~Each~~ watcher shall behave in an orderly manner and shall not electioneer for any candidate or measure while acting as a watcher. In case a particular watcher or the number of watchers interferes with the proper rights of voters, or with the proper conduct of the election by the election ~~j~~judges, a majority of the election ~~j~~Judges at any precinct may cause all watchers, except two (2) chosen by the **election ~~j~~Judges of election** by lot from the number present, to remain outside the **designated observation area.** ~~polling place.~~

Section 5. Part 4 (Election Districts) of Article 1 (General Municipal Elections) and all its subsequent sections is moved under Part 3 of Article 1 all of Chapter 5 (Elections) of the Code of the City of Colorado Springs 2001, as amended.

Section 6. Part 5 (Title Setting and Petition Procedures) of Article 1 (General Municipal Elections) and all its subsequent sections is moved under Part 4 of Article 1 all of Chapter 5 (Elections) of the Code of the City of Colorado Springs 2001, as amended.

Section 7. New Part 4 (Title Setting and Petition Procedures) of Article 1 (General Municipal Elections) of Chapter 5 (Elections) of the Code of the City of Colorado Springs 2001, as amended, is amended as follows:

PART ~~54~~ TITLE SETTING AND PETITION PROCEDURES

5.1.~~54~~01: DEFINITIONS:

5.1.~~54~~02: CHARTER:

5.1.~~54~~03: INITIATIVE REQUIREMENTS:

5.1.~~54~~04: COUNCIL REQUIREMENTS FOR REFERRED MATTERS:

5.1.~~54~~05: INITIATIVE REVIEW COMMITTEE:

5.1.~~54~~06: FILING PROCEDURES; APPEAL; REVIEW AND COMMENT; REVISIONS; FILING WITH CITY CLERK:

5.1.~~54~~07: TITLE BOARD; MEETINGS; PETITION TITLE:

5.1.~~54~~08: REQUIREMENTS OF PETITIONS; INITIATIVE, REFERENDUM AND RECALL:

5.1.~~54~~09: RECEIVING MONEY TO CIRCULATE PETITIONS; FILING:

5.1.~~54~~10: SUFFICIENCY OF PETITIONS:

5.1.~~54~~11: PROTEST AND CLERK INVESTIGATION PROCEDURES:

5.1.~~54~~01: DEFINITIONS:

* * *

PETITION COMMITTEE: **A group consisting of** ~~three~~ (3) electors of the City of Colorado Springs ~~submitting~~ **who have submitted** an affidavit for the purpose of circulating ~~a~~ petitions to be signed by registered electors of the City.

* * *

5.1.~~54~~02: CHARTER:

The City Charter controls the procedure of recall, initiative and referendum. It is the purpose of this part to clarify those procedures **and to establish a pre-petition process** without modification of the Charter. The Municipal Home Rule Act of 1971, as amended, controls amendments to the Charter. It is the purpose of this part to clarify the procedures ~~of~~ **and establish a pre-petition process for** Charter amendments, without modification of the Municipal Home Rule Act of 1971.

5.1.~~54~~03: INITIATIVE REQUIREMENTS:

* * *

B. Single Subject Initiatives Required: The Initiative Review Committee, **shall make every effort to make a Petition Committee aware of initiatives which contain multiple subjects, and** ~~as well as~~ the Title Board, shall ensure that initiatives contain only single subjects, to enable voters to understand the subject matter of the initiative. Matters proposed for submission to the electorate must be necessarily or properly connected and not disconnected or incongruous.

C. Legislative Versus Administrative Matters: The Initiative Review Committee, **shall make every effort to make a Petition Committee aware of initiatives which contain administrative matters and** ~~as well as~~ the Title Board, shall ensure that initiatives contain only legislative matters as authorized by the Colorado Constitution and City Charter. If a proposed initiative contains administrative matters, then the Initiative Review Committee, **shall make a Petition Committee aware of those and recommend the Petition Committee sever those matters from the proposed initiative,** and the Title Board, shall sever those matters from the proposed initiative.

5.1. ~~5404~~: COUNCIL REQUIREMENTS FOR REFERRED MATTERS:

* * *

5.1. ~~5405~~: INITIATIVE REVIEW COMMITTEE:

* * *

B. Initial Appointment Of Members: City Council shall appoint three (3) members to the Initiative Review Committee, who shall **be residents of the City and** have expertise in election matters acquired through education and experience. An alternate may be appointed pursuant to City Code.

* * *

~~H. Rules Of Procedure: The Initiative Review Committee shall promulgate its own rules of procedure to be approved by City Council.~~

5.1. ~~5406~~: FILING PROCEDURES; APPEAL; REVIEW AND COMMENT; REVISIONS; FILING WITH CITY CLERK:

A. The original draft of a proposed initiative shall be submitted by a ~~P~~**petition C**ommittee to the City Clerk without title.

B. The ~~P~~**petition C**ommittee shall write the original draft of every initiative in plain, nontechnical language and in a clear and coherent manner.

* * *

5.1. ~~5407~~: TITLE BOARD; MEETINGS; PETITION TITLE:

* * *

5.1. ~~5408~~: REQUIREMENTS OF PETITIONS; INITIATIVE, REFERENDUM AND RECALL²:

* * *

B. Registered Electors And Petitions: Any petition circulated within the City shall be signed only by registered electors of Colorado Springs. The signer shall print his or her name, **residential** ~~place of residence, including house and/or apartment number, street~~ address and zip code and the date of signing. Each petition shall have attached an affidavit of the circulator stating the circulator's address and stating that he or she circulated the petition, that each signature was affixed in the affiant's presence, that each signature is the signature of the person whose name it purports to be, that to the affiant's best knowledge and belief, each of the persons signing the petition was at the time of signing a registered elector of Colorado Springs and that the affiant believes that no person has paid or will pay, directly or indirectly, any money or other thing of value to any signer for the purpose of inducing or causing the signer to affix a signature to the petition. The City Clerk shall not accept for filing any petition which does not have an attached affidavit meeting the requirements of this part.

* * *

5.1. ~~5409~~: RECEIVING MONEY TO CIRCULATE PETITIONS; FILING:

* * *

5.1. ~~5410~~: SUFFICIENCY OF PETITIONS³:

A. Any petition submitted to the City Clerk must initially contain the minimum number of signatures required and the affidavit of the circulator of the petition stating that each signature on the petition is the signature of the person whose name it purports to be and to the best of the affiant's knowledge and belief each of the persons signing the petition was a registered elector at the time of signing. Within thirty (30) days after the filing of a petition for initiative, referendum, recall or charter amendment, the City Clerk shall complete a review of the petition. During the period a petition is being examined by the City Clerk for sufficiency, the petition shall not be available to the public. Such period of unavailability shall not exceed thirty (30) days. The City Clerk may **use the following factors to determine sufficiency** ~~initially find insufficient signatures of individuals in the following categories:~~

1. **Signature lines containing an address** ~~Address shown by signer~~ not located within the City limits of the City of Colorado Springs **shall not be counted.**
2. **Signature lines containing an address that cannot be associated with a valid voter registration record shall not be counted. The City Clerk shall use best efforts to match the voter registration records with a residential address provided.**
3. **In the case of duplicate valid signature lines only one instance of the valid signature line shall be counted.** ~~Any signature appearing on the petition more than once, in which event all signatures of that individual shall be deleted except one.~~

~~43.~~ More than one individual's signature on a signature line, in which event the **signature** line shall count as one.

~~54.~~ **Signature lines containing incomplete residential addresses which are insufficient to allow the City Clerk to validate the signature line shall not be counted. The City Clerk shall use best efforts to match the voter registration records with a residential address provided.** ~~An incomplete address being given by an individual (i.e., omitted designation of street, avenue, drive, court, place, way, east-west, etc.) and in the event that specific residence number can be applied to more than one residence, that signature shall not be counted.~~

~~65.~~ Signature lines containing an incomplete date, ~~a inappropriate date~~ **that is not within the petition circulation period**, or no date shall not be counted.

~~76.~~ Signature **lines** of individuals who are not registered electors in the City **shall not be counted.**

B. If, after the City Clerk's review, the petitions do not contain the requisite number of signatures, the City Clerk shall ~~return the petitions to~~ **notify** the Petition Committee with a certificate specifying the particular insufficiency **and if requested provide copies of the petition.** The Petition Committee shall then have thirty (30) days to amend the insufficiency or may withdraw the petition without prejudice to filing a new petition for the same purpose. During the period of time of the City Clerk's **initial or subsequent** review, ~~and until the petitions may be returned to the Petition Committee,~~ additional petitions may not be circulated.

C. **During the period a petition is being examined by the City Clerk for sufficiency, the petition shall not be available to the public. Such period of unavailability shall not exceed thirty (30) days.**

~~D. If the petitions contain the requisite number of signatures,~~ †The City Clerk shall have the power to investigate as necessary for compliance with the provisions of the City Charter **and City Code.**

5.1.5411: PROTEST **PETITION** AND ~~CLERK~~ INVESTIGATION PROCEDURES:

A. A **written protest petition of the City Clerk's final determination of sufficiency** ~~protest in writing, under oath, to a petition~~ may be filed in the Office of the City Clerk by any registered elector of the City, within ~~fifteen~~ **forty (1540)** days **of any final determination of sufficiency** ~~after the petition is filed with the City Clerk.~~ The protest **petition** shall set forth with particularity the grounds **upon which** ~~of the~~ **signature lines** ~~protest and the names, if any,~~ **are** protested. The City Clerk shall mail a copy of the protest **petition** to the Petition Committee. The City Clerk shall also mail to the protestors and to the Petition Committee a notice fixing a time for hearing the protest not less than ~~two~~ **five (25)** days nor more than ~~five~~ **fifteen (515)** days after the protest **petition** is filed.

~~B. During the period a petition is being examined by the City Clerk for sufficiency, the petition shall not be available to the public. Such period of unavailability shall not exceed thirty (30) days.~~

~~C.~~—All hearings under this section shall be **conducted by the Presiding Judge of the Municipal Court or a hearing officer appointed by that Office. All hearings shall be public and all testimony shall be under oath., and ~~†The~~ **Presiding Judge or hearing officer appointed pursuant to this subsection B**~~City Clerk~~ shall have the power to issue subpoenas to compel the attendance of witnesses and the production of documents. Upon failure of any witness to obey the subpoena, the **Presiding Judge or hearing officer appointed pursuant to this subsection B**~~City Clerk~~ may petition the District Court for an order compelling the witness to appear and testify or produce documentary evidence. The result of the hearing shall be certified to the Petition Committee and the protesters.**

~~C.D.~~ The party protesting the City Clerk's **final determination** ~~finding~~ concerning the sufficiency of signatures shall have the burden of proof.

~~D.E.~~ The **finding of the Presiding Judge of the Municipal Court or a hearing officer appointed by that Office** ~~City Clerk's finding~~ as to the sufficiency or insufficiency of any petition shall be final agency action **and subject to the provisions of C.R.C.P. 106(A)(4).**

Section 8. Part 6 (Mail Ballot Elections) of Article 1 (General Municipal Elections) of Chapter 5 (Elections) is hereby repealed and omitted.

Section 9. This ordinance shall be in full force and effect from and after its final adoption and publication as provided by Charter.

Section 10. Council deems it appropriate that this ordinance be published by title and summary prepared by the City Clerk and that this ordinance be available for inspection and acquisition in the office of the City Clerk.

Introduced, read, passed on first reading and ordered published this ____ day of _____, 2016.

Finally passed: _____

Council President

Mayor's Action:

- Approved on _____.
- Disapproved on _____, based on the following objections:

Mayor

Council Action After Disapproval:

- Council did not act to override the Mayor's veto.
- Finally adopted on a vote of _____, on _____.
- Council action on _____ failed to override the Mayor's veto.

Council President

ATTEST:

Sarah B. Johnson, City Clerk