

ORDINANCE NO. 20-_____

AN ORDINANCE SUBMITTING A CHARTER AMENDMENT TO THE REGISTERED QUALIFIED ELECTORS OF THE CITY OF COLORADO SPRINGS, COLORADO AT THE SPECIAL MUNICIPAL ELECTION TO BE HELD AT THE COORDINATED ELECTION CONDUCTED BY MAIL BALLOT TO BE HELD ON NOVEMBER 3, 2020, AMENDING SECTION 3-70 OF THE CITY CHARTER RELATING TO CONVEYANCES OF CITY-OWNED PARKLAND, PROVIDING FOR THE FORM OF THE BALLOT TITLE, PROVIDING FOR CERTAIN MATTERS WITH RESPECT TO THE ELECTION, AND PROVIDING THE EFFECTIVE DATE OF THIS ORDINANCE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COLORADO SPRINGS:

Section 1. Council hereby submits and refers to the vote of the registered qualified electors of the City at a Special Municipal Election to be held at the Coordinated Election conducted by mail ballot on November 3, 2020 (the "Election"), a proposed amendment to Section 3-70 of the Charter of the City of Colorado Springs to read as follows:

3-70. Ordinances and Resolutions.

* *

(b) The ayes and noes shall be taken upon the passage of all ordinances and resolutions and entered upon the journal of the Council's proceedings. Upon the request of any member, the ayes and noes shall be taken and recorded upon any motion. Every member when present must vote.

(1) Every ordinance and every resolution providing for the expenditure of money shall require on final passage the affirmative vote of five (5) members.

(2) A resolution approving a voluntary Conveyance of Parkland which is included on the Parkland Designation List shall only be permitted with a super-majority approval of not less than seven (7) members of the Council, except for the types of Conveyances in subsection (ii) of this section. If any other Charter provision

or voter-approved ordinance independently requires an election of the qualified electors of the City for approval of a voluntary Conveyance of Parkland included on the Parkland Designation List, the purposes of this Charter section shall be satisfied by the referral of the question to the qualified electors of the City.

(i) **Term Definitions.** For purposes of this section:

(A) **“Conveyance”** means a voluntary transfer of a property interest in Parkland which is included on the City’s Parkland Designation List from the City to an individual or entity that is not controlled by the City.

(B) **“De Minimis Conveyance”** means a Conveyance of less than two (2) acres of Parkland or five percent (5%) of the total acreage of an entire park which is included on the Parkland Designation List, whichever is less, and which does not materially diminish the public’s use of the Parkland.

(C) **“Developed Parkland”** means Parkland upon which construction has commenced in accord with the applicable City approved plan and a portion of which is open for public use.

(D) **“Parkland”** means any land owned by the City that is administratively controlled by the Parks, Recreation and Cultural Services Department, but excludes trails and land administratively controlled by other departments or enterprises that have a secondary parks use.

(E) **“Parkland Designation List”** means a list of Parklands the Conveyance of which is subject to the restrictions contained in this Charter provision.

(ii) **Conveyances Not Requiring a Super-Majority Approval of Seven (7) Members of the Council.** The following types of Conveyances do not require a super-majority approval of seven (7) members of the Council and may occur pursuant to less restrictive City procedures effective at the time of the Conveyance:

(A) A Conveyance that is required by court order, judicial proceeding, or regulatory action;

(B) A Conveyance effectuated through the exercise of eminent domain or following a written notice of intent to condemn through the exercise of eminent domain by a governmental entity with authority to condemn City property;

(C) A lease, temporary permit, license, or easement granted by the City pursuant to this Charter;

(D) The Conveyance of a conservation easement to and held by a qualified land trust;

(E) A Conveyance of Parkland that is not included in the Parkland Designation List;

(F) A *De Minimis* Conveyance;

(G) A Conveyance approved by City Council in order to resolve a bona fide title dispute identified by the City Attorney;

(H) A Conveyance of Parkland which is not Developed Parkland and was acquired by the City through the Park Land Dedication Ordinance, through other land use exaction, or as a requirement of annexation to the City;

(I) A termination of a secondary use by the Parks, Recreation and Cultural Services Department of a property administratively assigned to another department or enterprise of the City.

(iii) Parkland Designation List. The Parkland Designation List as approved by the qualified electors of the City is located in the Appendix at the end of the Charter. For Parkland acquired after the implementation of this Charter provision, City Council shall add by ordinance any Developed Parkland to the Parkland Designation List. The Parkland Designation List shall be available for inspection in the City Clerk's Office. Parkland shall not be removed from the Parkland Designation List, except following a Conveyance as provided for in this Charter provision. For Conveyances made pursuant to this Charter provision, City Council shall by ordinance cause the Parkland subject to the Conveyance to be removed from the Parkland Designation List.

Section 2. The Parkland Designation List is attached and incorporated herein as "Exhibit A."

Section 3. The Election shall be a Special Municipal Election which is held as part of a Coordinated Election, conducted by mail ballot on November 3, 2020, pursuant to the Charter of the City of Colorado Springs and applicable Colorado statutes, except as otherwise provided in the Charter or ordinances of

the City, all as impliedly modified by relevant judicial decisions. The City Clerk shall be the designated election official for all matters.

Section 4. The question of amending the City Charter for this stated purpose shall be submitted to the registered qualified electors of the City in substantially the following form:

"SHALL ARTICLE III, SECTION 3-70 OF THE CHARTER OF THE CITY OF COLORADO SPRINGS BE AMENDED TO REQUIRE THAT SPECIFIED CONVEYANCES OF CITY-OWNED PARKLAND ONLY BE PERMITTED UPON THE APPROVAL OF NOT LESS THAN A SUPER-MAJORITY OF SEVEN (7) MEMBERS OF CITY COUNCIL, AND PROVIDING EXCEPTIONS TO THE SUPER-MAJORITY APPROVAL REQUIREMENT ONLY FOR CONVEYANCES WHICH ARE AUTHORIZED BY THE VOTERS, JUDICIALLY ORDERED, RESULT FROM EMINENT DOMAIN, TITLE DISPUTES OR REGULATORY ACTIONS, CONSIST OF LEASES, TEMPORARY PERMITS, EASEMENTS OR CONSERVATION EASEMENTS, AND *DE MINIMIS* CONVEYANCES; PROVIDED THAT, IF THIS CHARTER AMENDMENT AND ANOTHER CHARTER AMENDMENT WHICH SUBSTANTIALLY PERTAINS TO CONVEYANCES OF CITY-OWNED PARKLAND ARE BOTH APPROVED BY VOTERS AT THIS ELECTION, ONLY THE MEASURE RECEIVING THE MOST AFFIRMATIVE VOTES SHALL BECOME EFFECTIVE?"

_____ Yes

_____ No

Section 5. The City Clerk and officers of the City are hereby authorized and directed to take all action necessary or appropriate to effectuate the provisions of this ordinance. The City Clerk shall assist and cooperate with the County Clerk and Recorder in conducting the Special Municipal Election held as part of a Coordinated Election.

Section 6. All actions heretofore taken by the Council and officers of the City, not inconsistent with the provisions of this ordinance and toward the

general election, are hereby ratified, approved and confirmed.

Section 7. If any section, paragraph, clause or provision of this ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of that section, paragraph, clause or provision shall not affect any of the remaining provisions of this ordinance.

Section 8. All ordinances resolutions, bylaws and regulations of the City in conflict with this ordinance, are hereby repealed to the extent of any conflict. This repealer shall not be construed to revive any ordinance, resolution, bylaw or regulation, in whole or in part, previously repealed.

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

Section 10. If another Charter amendment is approved by the electorate at this Election which substantially pertains to conveyances of City-owned Parkland, only the measure receiving the most affirmative votes shall become effective. If this Charter amendment is passed with the most affirmative votes by the electorate at this Election, it shall be effective as provided by law.

Section 11. Within thirty (30) days of the effective date of this ordinance, the City Clerk shall publish notice of the Election upon the amendment, which notice shall contain the full text of the amendment as set forth in this ordinance.

Introduced, read, passed on first reading and ordered published this ____ day of _____, 2020.

Finally passed: _____

Council President

ATTEST:

Sarah B. Johnson, City Clerk