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CHARTER

of the

CITY OF CORTEZ

STATE OF COLORADO

OFFICIAL COPY

As Framed By The
CHARTER CONVENTION

Between June 25 and August 23, 1957

By Authority of Article XX of the Constitution
of the State of Colorado

Adopted by the Voters, October 22, 1957

Montezuma Valley Journal Print, Cortez, Colorado

BUREAU OF STATE AND COMMUNITY SERVICE
UNIVERSITY OF COLORADO - EXTENSION DIVISION
1165 BROADWAY
BOULDER, COLORADO

ORGANIZATION OF CHARTER

ARTICLE

TITLE

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PREFATORY STATEMENT

The Charter Convention, elected on 25th day of June, 1957 respectfully presents to the voters of the City of Cortez a charter for their approval.

Uppermost in the minds of the members of the Charter Convention have been two main purposes:

First—That the charter must reserve to the people of the city absolute right and power of self government under the home rule provision of the Constitution of the State of Colorado; that it must provide for the well being of all inhabitants and look forward to the future growth and development of the community.

Second—That the charter must ensure the orderly and economical management of the city government by a single responsible administrative officer chosen, guided and controlled by the people through their elected representatives.

To accomplish these objectives the charter provides for the council-manager form of city government.

The policy making, legislative and budget making powers are vested in a council composed of seven tax paying electors, elected by popular vote from the city at large. Provisions are made for the recall of elected officers, for control of legislation by the people through initiative and referendum and for amendment of the charter by popular vote. The strict financial controls required by the charter will prevent wasteful and extravagant use of public funds and ensure the continued conduct of city business on a cash basis. Indebtedness in the form of general obligation bonds cannot be incurred except upon the favorable vote of a majority of voters who are taxpayers.

Control of city owned utilities and the regulation of rates to be charged consumers is vested in the council, the intent being that such utilities shall be self supporting and operated for the benefit of the city. The rights of the people with respect to franchises are carefully safeguarded.

Provision is made for the necessary departments of the city government. Recreation, the public library, parks and cemetery are given due consideration. The charter provides for a citizens planning commission whose duties shall be to recommend to the council plans for the orderly improvement, growth and beautification of the city.

The administrative officer of the city will be a city manager, appointed by the council on the basis of his executive and administrative abilities, and subject to removal by a majority vote of the council. The manager will attend the meetings of the council but will not have the right to vote; he will prepare the budget, but final approval and adoption of such budget and of all appropriations and expenditures of city funds will remain in the hands of the council. His acts as city manager will be subject at all times to review, criticism and supervision of the city council.

It is the belief of the Charter Convention that this charter will provide the basic law upon which the citizens of Cortez may build a sound and progressive city government.

PREAMBLE

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

ARTICLE I

NAME, BOUNDARIES, POWERS, RIGHTS AND LIABILITIES, FORM OF GOVERNMENT

Section 1—Name — Boundaries.

The municipal corporation heretofore and now existing and known as the City of Cortez, shall remain and continue a body politic and corporate under this Charter, with the same name and boundaries, until changed in the manner authorized by law.

Section 2—Rights - Liabilities - Powers.

By the name of Cortez, the City shall have perpetual succession; shall own, possess and hold all property, real and personal, heretofore owned, possessed and held by said city, and shall assume and manage and dispose of all trusts in any way connected therewith; shall succeed to all the rights and liabilities and shall acquire all benefits, and shall assume and pay all bonds, obligations and indebtedness of said City of Cortez; by that name may sue and defend, plead and be impleaded, in all courts and places, and in all matters and proceedings; may have and use a common seal and alter the same at pleasure.

Section 3—Form of Government.

The municipal government provided by this Charter shall be known as the "Council-Manager Government." Pursuant to its provisions and subject only to the limitations imposed by the State Constitution and by this Charter, all powers of the City shall be vested in an elective Council, hereafter referred to as the "Council." All powers of the Council shall be exercised in the manner prescribed by this Charter, or, if the manner be not prescribed, then in such manner as may be prescribed by ordinance.

ARTICLE II

MUNICIPAL OFFICERS

Section 1—Designation of Officers.

The legally qualified incumbents of the following positions in the municipal service are hereby declared to be officers:

Mayor

Members of the City Council

Members of Boards and Commissions.

Section 2—Municipal Employees.

The incumbents of all other positions in the municipal service are hereby declared to be employees.

Section 3—Qualifications of Elective Officers.

No person shall be eligible to office as councilman unless at the time of his election he be a citizen of the United States, at least twenty-one years of age, and shall have been for one year immediately preceeding such election a resident of the City, and who the year immediately preceeding his election, shall have paid city taxes on real property owned by him or being purchased under contract by him.

No member of the Council shall hold any other public office or employment for which compensation is paid from municipal funds. No person shall be elected or appointed to any city office, position, or employment for which the compensation was increased or fixed by the Council while he was a member thereof until after the expiration of one year from the date when he ceased to be a member of the Council.

Section 4—Qualifications of Appointive Officers.

No person shall be eligible for appointment to office as a member of a board or commission unless at the time of his appointment he is a qualified elector of the city.

Section 5—Oath of Office.

Before entering upon the duties of his office, each Councilman, the Mayor, the City Manager, the City Attorney, the City Clerk, the Judge of the Municipal Court and each Director of a Department shall take, subscribe and file with the City Clerk an oath or affirmation that he will faithfully perform the duties of the office or position. The City Clerk shall take and subscribe his oath before some person qualified to administer oath.

Section 6—Bonding of Employees.

The Council shall require a bond of the City Manager and the City Clerk, and may require a bond of any other employee in its discretion. These bonds shall be placed with such surety and in such amounts as the Council may determine. Premiums on these bonds shall be paid by the City.

ARTICLE III

THE COUNCIL:

Section 1—Composition.

The electors of the city shall elect a City Council of seven members, one of whom shall be chosen by the Council to serve as Mayor. The Council shall constitute the legislative and governing body of the city and shall have power and authority, except as otherwise provided in this charter or by statute, to exercise all powers conferred upon or possessed by the city, and shall have the power and authority to adopt such laws, ordinances and resolutions as it shall deem proper in the exercise thereof.

The mayor shall preside over the meetings of the Council. He shall be recognized as the head of the city government for ceremonial purposes, and by the Governor of the State of Colorado for purposes of military law, and for service of civil processes. He shall execute and authenticate legal instruments requiring his signature as such official.

The Council shall choose one of its members as Mayor pro-tempore who shall preside over the Council in the absence or disability of the Mayor and serve as acting Mayor with the same duties as the Mayor.

Section 2—Compensation of Mayor and Councilmen.

The Mayor shall receive as compensation two hundred dollars per year; each other Councilman shall receive as compensation one hundred dollars per year.

Such compensation shall be paid quarterly and except as otherwise provided in this charter shall constitute the only compensation which may be paid the Mayor or Councilmen for the discharge of any official duty for or on behalf of the city during their tenure of office. However, the Mayor and Councilmen may, upon order of the Council, be paid necessary bona fide expenses incurred in service in behalf of the city as are authorized and itemized.

Section 3—Powers of Council.

All powers of the city and the determination of all matters of policy shall be vested in the Council except as otherwise provided by this Charter. Without limitation of the foregoing, the Council shall have power to:

(a) Appoint and remove the city manager.

(b) By ordinance create, change, and abolish offices, departments, or agencies, and assign additional functions to officers, departments, or agencies established by this Charter, but not to discontinue any office, department, or agency established by this Charter.

(c) Adopt the budget of the City.

(d) Authorize the issuance of bonds by ordinance as provided by this Charter.

(e) Inquire into and investigate any office, department, or agency of the City and the official acts of any officer or employee thereof, and to compel by subpoena attendance and testimony of witnesses and production of books and documents.

(f) Adopt plats.

(g) Adopt and modify the official map of the City.

(h) Provide for independent audits of all funds and accounts of the City.

Section 4—Meetings - Quorum.

The Council shall meet regularly on the second and fourth Tuesday of each month at the City Hall at an hour to be fixed from time to time by the rules and procedure of each Council; and the Council shall have power by ordinance to prescribe the manner of calling meetings thereof. Special meetings may be held at any time the Council may direct. A majority of the membership of the entire Council shall constitute a quorum to do business. The Council shall sit with open door at all legislative sessions and shall keep a journal of its proceedings which shall be a public record.

Section 5—Ordinances, Resolutions, Motions.

In all legislative matters coming before it, the Council shall act only by ordinance, resolution or motion. The ayes and nays shall be taken upon the passage of all ordinances, resolutions and motions and entered upon the journal of the Council proceedings. Should any Councilman being present refuse to vote on any measure, his vote shall be recorded in the affirmative. A Councilman shall be excused from voting on matters involving the consideration of his own official conduct, or where his financial interests are involved.

Section 6—Ordinances - When Required.

In addition to such acts of the Council as are required by this charter to be by ordinance, every act fixing compensation, making an appropriation, authorizing the borrowing of money, levying a tax, establishing any rule or regulation for the violation of which a penalty is imposed, or placing any burden upon or limiting the use of private property, shall be by ordinance.

Section 7—Form of Ordinances.

All ordinances shall be introduced in written form and no ordinance or section thereof shall be amended or repealed except by an ordinance regularly adopted. The enacting clause of all ordinances shall be: "Be it ordained by the City Council of the City of Cortez."

Section 8—Procedure of Ordinances.

An ordinance may be introduced at any regular or special meeting and be read a first time, and a day and an hour set at which time the Council or a committee shall hold a public hearing thereon. Such hearing may be at a regular meeting of the Council, or at such time and place as the Council may order and may be adjourned from time to time. An ordinance may be read and finally passed at any regular or special meeting of the Council following the meeting at which it is introduced. Such final reading and passage of an ordinance may be made at the same meeting at which such public hearing thereon is held. The reading upon introduction or upon final passage or both shall be in full unless the proposed ordinance shall be in writing or printed and a copy furnished to each Councilman at least five days prior to such reading.

Section 9—Emergency Ordinances.

No ordinance shall be passed finally on the date it is introduced, except in cases of emergency, for the preservation of the public peace, health or property, and then only by two-thirds vote of the Councilmen present. The facts showing such urgency and need shall be specifically stated in the measure itself. No ordinance making a grant of any franchise or special privilege shall ever be passed as an emergency measure.

Section 10—Publication and Effective Date of Ordinances.

Except as otherwise provided herein, every proposed ordinance shall be published once in full in a newspaper of the City, at least ten days before its final passage. After such final passage, it shall be again published once in a newspaper, and shall not take effect until ten days after publication following final passage, unless another date is specified therein; except that an emergency ordinance and any ordinance not subject to the referendum shall take effect upon publication following passage.

Section 11—Publication by Reference.

When the Council deems it appropriate, publication of the title of the ordinance, or the title of an amendment thereto, together with a brief summary of such ordinance or amendment as determined to be sufficient by the Council, together with a statement that the text thereof is available for public inspection and acquisition in the office of the City Clerk, shall be sufficient publication.

Section 12—Codification of Ordinances.

The City Council shall within five years after the date of the adoption of this Charter and within each ten year period thereafter complete a codification of all existing ordinances.

Section 13—Disposition of Ordinances.

A true copy of every ordinance, when adopted, shall be numbered and recorded in a book marked "Ordinance Record," and adoption and publication shall be authenticated by the signatures of the Mayor and the City Clerk, and by the certificate of the publisher, respectively. The ordinances as adopted by the vote of the qualified electors of the City shall be separately numbered and recorded.

ARTICLE IV

ELECTIONS:

Section 1—When held:

A general municipal election shall be held on the first Tuesday after the first Monday in December in the year 1957, and on the first Tuesday after the first Monday in November in each odd numbered year thereafter. Elections held at other times shall be special elections.

Section 2—Primary Election:

There shall be no primary election for any municipal office.

Section 3—Precincts:

The City shall constitute one voting precinct, provided that the Council may for the convenience of voters, establish two or more precincts 30 days or more, prior to any election, by ordinance. The precincts so established by ordinance shall remain for all subsequent elections until otherwise provided by ordinance.

Notice of any change in voting precincts or of the polling place or places shall be given not more than 30 nor less than 20 days prior to election. Any such notice may be combined with a notice of election and with any other notice pertaining to matters of election and with any other notice pertaining to matters to be considered at the next succeeding election.

Section 4—Qualification of Electors:

No person shall be qualified to vote at a municipal election unless he be over the age of 21 years, a citizen of the United States, shall have resided in the State one year, in the county 90 days, in the city 30 days, and in the precinct 10 days, immediately preceding the election at which he offers to vote, and unless he shall be a registered elector as provided in this charter. If there be only one election precinct in the city such precinct residence requirement shall be disregarded. In addition to such qualifications an elector shall have such further qualifications as may be required by the Constitution and Laws of the State of Colorado consistent with the provisions hereof.

Section 5—Registration:

All electors shall be registered in the manner now or hereafter provided by the laws of the State of Colorado for registration of electors for municipal elections in cities of the second class, except as follows:

- (a) The City Clerk shall be the registration officer.
- (b) All registration lists shall be purged within 45 days after the first general municipal election under this charter, by striking from the registration lists all persons not voting thereat; Thereafter the lists shall be purged within 45 days after each successive general municipal election.
- (c) While there shall be only one precinct, change of residence of an otherwise qualified and registered voter from one place to another in the City, shall not require re-registration in order to vote, but the voter shall cause the judges of election to record such change on the registration lists at the time of voting. If there be more than one precinct, any elector who is not registered at some address in the precinct in which he lives, must re-register to vote; provided that an elector changing his residence from one precinct to another within 10 days prior to election may vote in the precinct in which he is registered, but he must re-register before the next general municipal election. The elector who changes his residence from one place to another in the same precinct may vote in the precinct embracing the address at which he is registered, but the voter shall cause the judges of election to record such change of address on the registration lists at the time of voting.
- (d) Registration may be made with the City Clerk at any time between the 46th day after a general municipal election and the 5th day preceding a general municipal election, provided that the lists shall be closed 5 days before any special election and shall remain closed until the day following a special election.

Section 6—Absentee Voting:

No absentee voting shall be permitted.

Section 7—Notice of Elections:

The City Clerk shall give notice of each general or special municipal election by causing notice to be published not less than 20 days nor more than thirty days prior to such election in a local newspaper of general circulation in the City, in which shall be stated the officers to be elected, the measure or measures to be submitted to the voters and who shall vote thereon, the date of the election, and any other information required to be given to the electorate by the Constitution and Laws of the State of Colorado, the ordinances of the City, or resolution of the City Council, in the calling of a special election or submission of matters to

the electorate at a general election. There may also be included in such notice of election, notice of any change in election precincts and the location of the polling places.

Section 8—Notice of Registration:

The City Clerk shall publish a notice in a newspaper of general circulation in the City, twice, the first time 30 days and the second time 20 days, before each general municipal election, stating the last date upon which registration may be made for such election, and briefly stating the registration requirements for voting at such election.

Section 9—Notice of Nominations and Measures Submitted:

The City Clerk shall publish a notice in a newspaper of general circulation in the City, of the names of the nominees for office and of measures to be submitted to the electorate, as the same will appear on the official ballot for the election, such publication to be made not less than 6 days before the election.

Section 10—Calling of Special Elections:

Special election shall be called by the City Council whenever a measure is required to be submitted to the voters pursuant to the Constitution and laws of the State of Colorado, this charter, or the ordinances of the City.

The City Council may by ordinance also call a special election for a vote of the electorate upon any measure upon petition of the electorate or by referendum, or upon its own initiative, consistent with this charter; but no special election shall be called to fill a vacancy in an elective office.

No special election shall be called or held with 3 months prior to a general municipal election, except where otherwise required by the Constitution of the State.

Where a petition for a special election is filed pursuant to the provisions of any ordinance, making the calling of a special election mandatory, the repeal of such ordinance or any part thereof, shall not affect the mandate of the petition.

Section 11—Measures submitted to Electorate:

Every petition to have a vote of the electorate on a measure and every ordinance requiring a vote of the electorate on any measure, shall contain a short and concise ballot title for the measure to be voted upon, and the ballot title shall appear on the ballot, as follows:

	YES	FOR
BALLOT TITLE	or	
	NO	AGAINST

Every petition to have a vote of the electorate upon a measure shall name a conference committee of three, who are signers of the petition, and shall contain authority in such committee to make any necessary changes in such ballot title. The Council may refuse to submit the measure when any ballot title is unreasonably long, misleading, or ambiguous, unless such committee shall revise the same to conform to such requirements.

If there be more than one measure on a ballot by petition, they shall be numbered in the order of filing, and they shall follow the measures placed on the ballot by initiation of the Council.

The list of candidates shall precede the ballot titles on the ballot.

Section 12—Informalities:

Informalities in conducting an election shall not invalidate an election if it has been conducted fairly and is in substantial conformity with the requirements of this charter, and with the Constitution of the State of Colorado when applicable thereto.

Section 13—Election Judges:

At least five days prior to each general or special municipal election the City Council shall appoint a sufficient number of receiving judges, counting judges, and clerks of election to receive and count the ballots and make a record thereof. Counting judges need not be appointed if in the opinion of the Council none are needed for any election, in which case the duties of counting judges shall be performed by the receiving judges.

Section 14—What Constitutes Election:

The candidates for Councilmen equal in number to the positions on the Council to be filled by any election, receiving the highest number of votes cast, shall be declared elected Councilmen; and any measure submitted to a vote of the electorate shall be declared adopted or approved, as the case may be, when a majority of those voting upon any such measure shall vote "yes" or "for" on any such measure. In case of a tie, the election shall be decided by casting lots.

Section 15—Canvass of Election Returns:

The judges and clerks of elections shall count, tally, and turn over all ballots, ballot boxes and their tally sheets of the votes to the City Clerk, who, with the Municipal Judge and a third person selected by the City Council shall canvass the returns and certify the results of the election to the Council composed of the hold-over members and the Councilmen and Mayor whose terms expire at the election. The Council shall qualify and enter upon the duties of their respective offices; provided, however, that the new Council thus constituted, shall have final judgement of the election and qualifications of its members.

Section 16—Nominations:

Nomination of candidates for office shall be by petition only. No nomination shall be permitted by caucus, convention, or committee, except that nominations may be made by a vacancy committee as herein provided.

Nominations shall be made in the manner following:

Any party, other than a political party, shall prepare a certificate of nomination listing the names of its candidates for office or positions to be filled at a general municipal election, stating in appropriate columns opposite each name the residence of the candidate. Each such certificate shall contain no more names for any office or positions than there shall be offices or positions to be filled at the election. Each such certificate shall be signed by not less than five percent of the total vote cast at the last preceding general municipal election but not less than 25 signatures of qualified electors of the City, each of whom shall write the street address of his or her residence in an appropriate column opposite his or her name and certify to the person circulating the certificate that he is qualified to vote at the election for which the nomination is made, and resides at the address stated. No person shall be disqualified from signing any such certificate by reason of not being registered at the time of signing, if he or she is otherwise a qualified elector. Such certificate may be made in duplicates, and the duplicates may be circulated separately, but all of the duplicates shall be fastened together before filing and shall constitute one certificate. Signatures may be made on separate sheets provided they shall be securely fastened to the original, or duplicates of such certificate, at the time of signing.

Each such certificate shall designate in not more than 5 words the name of the party sponsoring the candidates for office, the names of three members of the party to serve as a vacancy committee in case of the death, disqualification or refusal to run for office of a candidate after the petition is filed, and apt language indi-

cating that the signers to such certificates are thereby nominating the persons for the offices stated therein, and authorizes the vacancy committee to fill any vacancies in the nominations, occurring as aforesaid.

Before filing such certificate each candidate named shall make and execute in writing an acceptance of the nomination, which acceptances shall be filed with the certificate. The nomination of a candidate shall be deemed incomplete unless his acceptance be so filed.

No such certificate shall be filed unless each of the persons who circulated the same shall make, and subscribe and swear to a statement, under oath, before an officer authorized to administer oaths, that he witnessed the signing of the certificate by each of the signers thereof whose signatures were procured by him; that each of such signers resides at the address stated; that each of such signers is known to him to be a qualified elector of the City; and that each of such signers understood the purpose and import of the certificate. Such sworn statement must be attached to the certificate. If more than one person circulates the certificate each such statement shall state therein the names of the electors whose signatures he procured and no signature shall be considered as part of the certificate unless included in one of such statements.

Nominating certificates shall be filed not more than 60 nor less than 20 days prior to the election for which the nominations are made.

Upon presentation of the certificate to the City Clerk for filing within said period of time before election, he shall examine the same and note any irregularities or deficiencies appearing therein and advise the chairman of the party thereof; and if it shall contain the requisite number of signers whose addresses are stated in the certificate, and shall have attached thereto the sworn statements, all as herein required, he shall file the same in his office and permit any amendments to be made by the chairman of the party at any time within 6 days prior to election; otherwise he shall reject the certificate. No such certificate shall be rejected for irregularities or omissions if it shall be in substantial compliance with this section.

No elector shall nominate by his signature to a certificate or certificates more candidates for any office than there shall be vacancies in each office. Before any certificate shall be filed the City Clerk shall purge the certificate of all names appearing on a certificate previously filed and only the names not so purged shall be considered in determining the sufficiency of a certificate.

Vacancies in nominations may be filled by an authorized vacancy committee at any time after a certificate shall be filed and within 6 days prior to the election.

Section 17—Form of Ballot, Certificate, Notices, Etc.

The ballots, notices, certificates, affidavits, and all other instruments and documents necessary in the conduct of a municipal election shall be the same as is provided by the Statutes of the State of Colorado for municipal elections in cities of the second class except as in this article otherwise provided. Where a form is prescribed by statute, it shall be used in municipal elections in the City, except as modified by the provisions of this article.

Section 18—State Law Applicable.

All provisions of law of the State of Colorado insofar as the same shall be applicable to municipal elections, both general and special, in cities of the second class in the State of Colorado, shall apply to all elections in the City except as otherwise provided in

this article. When there shall be a conflict between the provisions of law and the provisions of this charter with respect to any matter pertaining to elections, the provisions of this charter shall be deemed to supersede any and all statutory provisions.

Section 19—Definition of Taxpaying Elector.

The term "Taxpaying Elector" is hereby defined to be any elector otherwise qualified to vote at an election who shall have paid taxes on real or personal property, within the City of Cortez, exclusive of the specific ownership tax on an automobile, during the calendar year preceding the year in which the election shall be held, or during the year which such election shall be held, and previous to election.

Section 20—Definition of "Party."

The term "party" as used herein, shall mean and include any group of citizens of the City who shall associate themselves together for the purpose of nominating candidates for office at municipal elections, but shall not be any political party which nominates candidates for election of County, State and National Offices.

Section 21—Vacancies.

All elected officers shall hold office until their successors are elected and qualified. Any vacancy in an elective office shall be filled within thirty days by appointment of the Council until the next regular election, when the vacancy shall be filled by the electors for the remainder of the term, if any. Any person appointed to fill a vacancy for an unexpired term in an elective office shall have the qualifications required of persons to be regularly elected. A vacancy shall exist when a member of the Council fails to qualify within thirty days after the commencement of his term, or if he dies, resigns, removes from the City, or absents himself from meetings of the Council for sixty days unless excused by resolution thereof, or if he is convicted of a felony or is judicially declared a mental incompetent.

Section 22—Election Terms of Council.

At the first Municipal election following the adoption of this Charter there shall be elected seven councilmen. The three Candidates receiving the highest number of votes shall be declared to be elected for a term of four years. The four candidates receiving the next highest number of votes shall be declared to be elected for a term of two years. At all subsequent general Municipal elections there shall be elected four Councilmen. The three candidates receiving the highest number of votes shall be declared to be elected for a term of four years and the candidate receiving the next highest number of votes shall be declared to be elected for a term of two years.

ARTICLE V

APPOINTIVE OFFICERS AND EMPLOYEES.

Section 1—Appointive Officers.

The appointed officers of the City shall be as follows:

One City Manager, One City Attorney, and One Judge of the Municipal Court.

Section 2 —Terms of Office.

All such appointive officers, shall be appointed by the Council, and each shall hold office at the pleasure of the Council or until the next general municipal election succeeding the appointment.

Section 3 —The City Manager.

Appointment and Qualifications: The Council shall appoint and fix the salary of the City Manager, who shall be the chief executive officer and head of the administrative branch of the municipal government. He shall be chosen on the basis of his

executive and administrative qualifications, with special reference to his actual experience in and his knowledge of accepted practice in respect to the duties of the position.

At the time of his appointment the City Manager need not be a resident of the City but he shall reside in the city during his tenure of office.

No councilman shall be appointed City Manager during the term for which he shall have been elected nor within one year after the expiration of his term.

Power and Duties:

The City Manager shall be responsible to the Council for the proper administration of all the affairs of the city and to that end he shall have power and be required to:

- (a) Except as such power may be specifically otherwise designated herein, appoint and, when necessary for the good of the service, remove all heads of departments and employees of the city.
- (b) See that the laws and ordinances of the city are enforced.
- (c) Prepare the annual budget proposal and submit it to the Council and be responsible for the administration of the budget after adoption by the Council.
- (d) Participate in discussions of the Council in an advisory capacity.
- (e) Prepare and submit to the Council at the end of the fiscal year a complete report on the finances and the administrative activities of the city for the preceding year, and shall make written or oral reports to the Council, when required by it, as to any particular matters relative to the affairs of the city under his supervision.
- (f) Keep the Council advised of the financial condition of the City, and make such recommendations to the Council for adoption as he may deem necessary or expedient.
- (g) Except as herein otherwise provided, exercise supervision and control over all executive and administrative departments created herein or that may be created hereafter by the Council.
- (h) Prepare for the Council and make available for public inspection a monthly report of activities in each department under his jurisdiction.

Section 4—Acting City Manager.

The Council may appoint or designate an acting City Manager to serve during the period of a vacancy in the office or during the absence of the City Manager from the city.

Section 5—Removal of the City Manager.

The City Manager shall be appointed for an indefinite term but shall be removable at the pleasure of the Council for cause. Before the manager may be removed he shall, if he so demands, be given a written statement of the reasons alleged for his removal and the right to be heard publicly thereon at a meeting of the Council prior to the final vote on the question of his removal, but pending and during such hearing the Council may suspend him from office. The action of the Council in suspending or removing the Manager shall be final, it being the intention of this section to vest all authority and fix all responsibility for such suspension or removal in the Council. Upon removal of the City Manager, the Council shall cause to be paid him any unpaid balance of his salary for the current month and his salary for the succeeding calendar month.

Section 6—Departmental Divisions.

The work of each department of the administrative branch may be distributed among such divisions within the department as may be established by the Charter, or by ordinance, after recommendation of the City Manager, or by regulations issued by the City Manager pending passage of such an ordinance.

ARTICLE VI

MUNICIPAL COURT.

Section 1. There shall be a municipal court which shall have jurisdiction to hear and determine all cases arising under this Charter or the ordinances of the City, subject to appeal to the County Court in the manner provided by law for appeals from municipal court to county court. The court may punish contempts of court by fine not exceeding \$50.00 or by imprisonment not exceeding five days, or both; may enforce its orders and judgements in like manner as a court of record may do, and as provided by general law; and may render final judgement on any forfeited bond or recognizance returnable to such court subject to appeal as in other cases. Cash bonds may be provided for or taken in lieu of property, individual or corporate surety bonds.

Section 2. The municipal court shall be presided over, and its functions exercised by a judge, who shall be a licensed member of the bar of this State in good standing, appointed by the City Council, for a term to be at the pleasure of the Council. If no qualified member of the bar satisfactory to the Council is available and willing to serve, any other person may be appointed until a qualified member of the bar is willing to accept. He shall receive a fixed salary or compensation not dependent upon the outcome of the matters to be decided by him, and to be fixed by ordinance from time to time. If absent, disqualified or unable to act in any matter or case, the municipal judge may call any eligible person to act and serve temporarily; and, if he fails to or cannot call in a substitute, the Council shall appoint a substitute. There shall be no trial by jury and there shall be no change of venue from said court.

The Council shall provide a suitable place and all supplies and things necessary for the proper functioning of the court.

The forms of complaints and all other rules, procedure, proceedings, costs and fees in the municipal court, shall be prescribed by ordinance, upon the recommendation of the municipal judge.

Section 3. The Council shall provide for the enforcement of its ordinances by fine or imprisonment or both; but no fine exceeding \$300.00 and no imprisonment exceeding 90 days shall be provided for, levied, or imposed by ordinance or by the municipal court.

Section 4. City Attorney.

Appointment and Qualifications.

The Council shall appoint a City Attorney who shall be a resident of the City and who shall serve at the pleasure of the Council. He shall have been a duly licensed attorney in the State of Colorado for at least three years immediately prior to his appointment and shall have been actively engaged in the practice of law in the City during such three years. The Council shall fix the compensation of the City Attorney.

Section 5—Functions.

The City Attorney shall be the legal advisor of the Council and all employees of the City in matters relating to their official powers and duties. He shall represent the City in all legal proceedings, draw all ordinances, and prepare all other legal documents. He shall attend all Council meetings and perform all ser-

vices incident to his position as may be required by this Charter, ordinances, or the Council. In all legal proceedings concerning the City, he nor any member of his firm shall represent the opposition.

Section 6. Special Counsel.

The Council may, in special cases, employ special counsel to assist the City Attorney if deemed necessary and advisable under the circumstances.

ARTICLE VII

FINANCE ADMINISTRATION.

Section 1—Department Created - Qualifications of Director.

A Department of Finance is hereby created, the executive officer of which shall be the Director of Finance who shall have special knowledge of municipal accounting, taxation, budget making, and finance. The City Clerk shall be Director of Finance unless otherwise provided by ordinance.

Section 2—Powers and Duties.

The Director of Finance shall have charge of the financial records and general and special funds of the city, and shall collect, receive, and disburse all money belonging to the city, and shall have all other duties required to administer properly the financial affairs of the city; to that end he shall have authority and shall be required to:

- (a) Maintain a general accounting system for the city government of each of its offices, departments, and agencies, exercise budgetary control over the same in accordance with the budget and annual appropriation ordinance; prescribe the form of receipts, requisitions, warrants, and other evidence of income and disbursements; audit before payment all bills, invoices, payrolls, and other claims and charges against the city government; determine the regularity, legality, and correctness of such claims, demands or charges.
- (b) Advise the City Manager of the budget requirements of the Department of Finance and furnish estimates and information concerning other departments, agencies and boards as requested by the City Manager.
- (c) Advise departments of remaining allotments.
- (d) Disburse funds in a manner which will assure that budget appropriations are not exceeded and that payments are not illegally made.
- (e) Collect and hold all city funds; invest funds as directed by the Council by resolution; be responsible for all trust funds.
- (f) Serve as custodian of all bonds, documents, and other evidences of indebtedness owned by the City or under its control.
- (g) Issue all licenses and collect the fees therefore; collect or receive funds of every description belonging to, due to or accruing to the city, including fines, forfeitures, penalties, taxes, water rentals and sewer fees.
- (h) Submit to the Council through the City Manager a monthly statement of all accounts and funds, including trust and custodial funds, such report to show receipts and disbursements and remaining budget allotments sufficiently itemized in detail to show the exact financial condition of the city.
- (i) Examine and approve all purchase contracts, orders, and other documents by which the City incurs financial obligations, having previously ascertained that moneys have been appropriated and allotted and will be available when

the obligations become due and payable.

- (j) Advise the City Manager of any financial irregularity in any department.

Section 3—Separate Utilities Accounts.

The accounts of each utility owned and operated by the City shall be kept separate and distinct from all other accounts of the City. Such accounts shall show also reasonable allowance for depreciation and obsolescence and estimate of the amount of taxes that would be chargeable, against such utility property if owned privately.

Section 4—Responsibility for Funds.

All money belonging to the City and in the custody of City employees shall be paid daily to the Department of Finance.

Section 5—General Fund, Expenditures.

A general fund is hereby created which shall consist of all revenues of the City not specifically belonging to any special fund. The governmental functions of the City shall be paid for out of appropriations from the general fund.

Section 6—Special Funds, Expenditures.

Special funds may be created for any purpose by ordinance, any ordinance creating a special fund shall also specify the source of revenue and the purpose and manner of expenditure.

Section 7—Fiscal, Budget, and Accounting Year.

The budget, fiscal, and accounting year shall be the same as the calendar year. The term "budget year" means the fiscal year for which any budget is adopted and in which it is to be administered.

Section 8—Annual Budget Estimates.

On or before the first Monday in October of each year, the City Manager shall submit to the Council a proposed budget for the next ensuing budget year with an explanatory message. The proposed budget shall provide a complete financial plan for the City and shall include the following:

- (a) Proposed expenditures for each office, department and agency for the ensuing fiscal year.
- (b) Debt service requirements for the ensuing fiscal year.
- (c) An estimate of the amount of anticipated income from all sources other than taxes on property during the ensuing fiscal year, including estimated cash surplus at the end of the current year.
- (d) The probable amount required to be levied and raised by property taxes during the ensuing fiscal year.
- (e) A general budget summary.

The budget shall be in detail and show for each fund estimated revenues by source and estimated expenditures by organization units, activities, character, and object. The budget shall be so arranged as to show comparative figures for receipts and expenditures for the last completed fiscal year, for the current year, and the City Manager's recommendations for the ensuing year.

Section 9—Capital Budget.

As a part of the budget message or as a separate report attached thereto, the City Manager shall also present a program of proposed capital projects for the ensuing year and the five fiscal years thereafter. Estimates of the cost of such projects shall be submitted together with suggested methods of financing the same.

In such proposed program, the City Manager shall include those projects previously considered by the Planning Commission, but he may recommend the omission or deferment of projects proposed by the Planning Commission, giving his reasons therefor.

The Council shall consider the program of projects submitted by the City Manager and adopt a Capital Budget Plan for such period of years, including estimated costs and methods of financing; provided, however, that projects shall be budgeted and appropriations made therefor only by including them in the budget for the ensuing year as provided in this Article.

In order to facilitate the carrying out of the Capital Budget Plan, the Council may create a Capital Budget Fund. Monies may be appropriated to this fund directly or by transfer from the General Fund, and may be accumulated and invested; and may be expended only for capital projects, including the purchase of lands, buildings, or equipment and the construction or improvement of public works.

Section 10—Public Record, Hearing.

The budget estimates aforesaid shall thereupon be a public record and open to the public for inspection and copy. The council shall, within ten days after the filing of said budget estimates, set a time certain for public hearing thereon and cause notice of such public hearing to be given by publication. At the hearing all persons may appear and object to any or all items and estimates in the proposed budget. Upon completion of the public hearing the Council may revise the budget estimates.

Section 11—Adoption of Budget.

After said public hearing and before the last day of October in each year, the Council shall pass the "Annual Appropriation Ordinance" in which shall be appropriated such sums of money as the Council deems necessary to defray all expenses and liabilities of the city during the ensuing budget year. The annual appropriation ordinance shall be based upon the budget as adopted but need not be itemized further than by departments and the major divisions thereof, and by each independent office and agency.

Section 12—Levy.

The "Annual Appropriation Ordinance" shall include the proper levy in mills upon each dollar of the assessed valuation of all taxable property within the city, such levy representing the amount of taxes for city purposes necessary to provide for payment during the ensuing budget year of all properly authorized demands against the city; including interest and principal of general obligation bonds. The Council shall thereupon cause the total levy to be certified by the Director of Finance to the County Assessor, who shall extend the same upon the tax list of the current year in a separate column entitled "City of Cortez Taxes," and shall include said city taxes in his general warrant to the County Treasurer for collection. If the Council fails in any year to make said tax levy as above provided, then the rate last fixed shall be the levy fixed for the ensuing budget year and the Director of Finance shall so certify.

Section 13—Tax Levy Limitation.

All tax levies of the city when applied to the total assessed valuation of the city shall be so fixed as to prohibit the levying of a greater mill levy than was levied in the preceding year plus 5 percent on the previous years mill levy except to provide for the payment of bonds and interest thereon, provided however, that if all members of the council shall be of the unanimous opinion that the amount of tax so limited will be insufficient for the City's needs for such year, they may by resolution unanimously adopted, authorize an increased levy above such limit, provided that such increased levy shall not exceed an additional 5 percent unless authorized by a special election.

Section 14—No Unbudgeted Liability.

The city expenditures in any one year shall not be increased above the amount provided in the annual budget. No contract involving expenditures, and no expenditures, for any improvement to be paid out of the general or special funds of the city or for defraying the expenses and liabilities of the city shall exceed, in any one year, the amount provided in the annual budget to be paid out of the said general and special funds so budgeted, but the said several funds shall be maintained and used for the particular purposes specified in the budget. It shall be unlawful for any department, officer, or agent of the city to incur or contract any expense or liability for or on behalf of the city unless an appropriation therefore shall have been made in the budget. Such contracts shall be null and void ab initio as to the city for any liabilities; provided however, that nothing herein contained shall prevent the Council from providing by ordinances for payment of any expense, the actual necessity of which is caused by any casualty, accident, or unforeseen contingency arising after the passage of the annual appropriation ordinance; and that the provisions of this section shall not apply to or limit the authority conferred in relation to bonded indebtedness, nor to monies to be collected by special assessments for local improvements. The provisions herein shall be subject to Sec. 22 of this Article.

Section 15—Effect of Appropriation and Levy.

After the commencement of the budget and fiscal year the annual appropriation ordinance and levy shall be irrevocable and the several amounts stated in the adopted budget and annual appropriation ordinance as proposed expenditures shall be deemed appropriated for the items, objects, and purposes therein specified.

Section 16—Lapsed Appropriations.

All appropriations unexpended or unencumbered at the end of the budget year shall lapse to the applicable general or special funds.

Section 17—Deposit of Public Funds.

The cash balances of the city shall be deposited in such banks in the city as the Council by resolution shall determine and with such security as the Council shall by resolution require; but nothing herein contained shall make the Council, or any member thereof, or the Director of Finance, personally liable to the city for loss of any funds so deposited.

Section 18—Investments.

Monies remaining in any fund which the Council may by resolution at any time determine will not be required to be disbursed for a period of 90 days or more thereafter, may in the discretion of the Council be invested in one or more of the securities permitted by the statutes of Colorado governing investment of public funds, or in bonds payable out of the revenues of any service or facility furnished by the city; or in general obligation bonds of the city. Interest on such investments shall be credited to the fund to which the invested money belongs, if such can be determined otherwise to the general fund of the city. The Council, or any member thereof, or the Director of Finance shall not be personally liable to the city for any loss incurred through the investment of any funds as herein provided.

Section 19—Collection of Taxes.

Until the Council shall otherwise provide by ordinance, the County Treasurer shall collect city taxes in the same manner and at the same time as state taxes are collected. In like manner the Council may provide for collection of special improvement assessments by said Treasurer. All laws of this State for the assessment

of property and the levy and collection of general taxes, sale of property for taxes, and the redemption of the same, shall apply and have as full effect in respect to taxes, except as modified by this Charter. On or before the tenth day of each month, the County Treasurer shall report and pay to the Director of Finance the amount of tax collections of the city for the preceding month. The estimated costs of tax collections and losses shall be included in the budget.

Section 20—Audit and Payments.

No demand for money against the City shall be approved, allowed, audited, or paid unless it is in writing, dated and sufficiently itemized to identify the expenditure, and payment thereof approved in writing by the Director of Finance and the person or department creating the obligation.

Section 21—Apportionment of Expense.

The salaries of the City Manager, Directors, and others rendering services to two or more departments, and expenses of departments rendering services to other departments or to improvement districts, shall be equitably apportioned and charged against the proper department or other agency.

Section 22—Appropriation of Excess Revenue and Transfers of Appropriations.

After the expiration of eight months of the audit year, if the actual revenue realized exceeds the budget estimates, the Council may by ordinance appropriate the excess of any purpose recommended by the City Manager for expenditure during the budget year. After the expiration of eight months of the budget year, the Council may by resolution, upon the recommendation of the City Manager, transfer and appropriate any unused balance of any general fund appropriation or portion thereof from one department or agency to another. All such transfers and appropriations shall constitute budget amendments.

Section 23—City not to Pledge Credit.

The city shall not lend or pledge its credit or faith, directly or indirectly, in any manner to or in aid of any person, corporation, or other organization, public or private, for any amount or any purpose whatever, or become responsible for any debt, contract, or liability thereof.

Section 24—Reports and Publication.

The Council shall provide for an independent audit at least annually by an independent certified public accountant or a registered accountant of all books and accounts of the city and shall publish a summary thereof once in the manner provided for publication of legal notices within three months after the end of each fiscal year. Copies of such audit shall be available at the office of the City Clerk for public inspection.

Section 25—Publication of Receipts and Disbursements.

The Finance Officer shall publish monthly in a newspaper of general circulation in the City, a list of the warrants issued for the previous month, stating the name of the person, firm or corporation to whom issued, amount thereof, and showing separately the warrants payable out of each fund. Also a summary of receipts by funds together with a beginning and ending balance.

ARTICLE VIII

BONDED INDEBTEDNESS

Section 1—Indebtedness and Limitations.

Indebtedness and obligations against the city shall be incurred and limited as provided in Article XI of the Constitution of the State of Colorado; provided that in determining the limitation of the City's power to incur indebtedness there shall not be included bonds issued for the acquisition or extension of a water

supply, public utilities, enterprises, works, or ways from which the City will derive revenue; and provided further, that no general obligation bonds shall be issued without the vote of the tax-paying electors and no revenue bonds shall be issued without the vote of the qualified electors, except as follows:

- (a) The Council shall have the power and it shall be its duty to refund all bonds and bond issues whenever the same is advantageous to the City, but such refunding bonds shall not be less favorable to the City than original issue.
- (b) The Council shall have the power to issue special improvement district bonds.
- (c) The Council shall have the power to issue bonds to finance the improvement or extension of a municipally owned and operated utility, if said bonds shall be payable solely out of revenue to be derived from the operation of such utility.

Section 2—Bonds, Interest, Sale.

The terms and interest rate of bonds shall be fixed by the bond ordinance and the bonds shall be sold to the highest and best bidders for cash and in all cases to the best advantage of the City. All bonds may contain provisions for calling the same at designated interest period prior to the final due date.

ARTICLE IX

DIVISION OF PURCHASE

Section 1—Division Created.

A Division of Purchases may be created by the Council and the head thereof shall be the purchasing agent for all departments and other agencies of the City. The powers and duties of the Purchasing Agent shall be as provided by the Council.

Section 2—Competitive Bidding.

All purchases of or contracts for supplies, material or equipment shall be made by the Purchasing Agent under such rules and regulations with respect to competitive bidding as the Council may prescribe.

Section 3—Emergency Purchases.

In case of emergency affecting the public peace, health, or safety, the Council may waive all provisions for competitive bidding and direct the Purchasing Agent to purchase necessary supplies in the open market at not more than commercial prices.

Section 4—Participation of Officers and Employees interested in contracts.

No elected official, appointed officer, or employee of the City shall be financially interested, directly or indirectly, in the sale of any land, material, supplies, or services to the City in excess of \$500.00 except it be by competitive bidding. In cases of emergency necessary to protect public health, safety, and welfare, competitive bidding may be waived.

Section 5—Contracts for Improvement Exceeding \$5,000.00.

Any city improvement in excess of \$5,000.00, shall be executed by contract, except such improvements as the Council authorizes a department to make, and shall be submitted to competitive bidding and awarded on the basis of what in the judgement of the Council is the lowest and best bid. The successful bidder shall be required to provide a performance bond. If all bids are rejected, then the Council may authorize the Department of Public Works to proceed with the construction as in other cases in accordance with the plans and specifications, and the services of the department shall be charged as a part of the costs of the improvements.

Section 6—Contracts for Service.

No contract for service shall be made by the City for a longer period than two years, unless authorized by ordinance which or-

finance shall not be passed as an emergency ordinance.

Section 7—Contracts Effective Only When Bond Funds Available.

No contract for the acquisition of property or the construction of improvements or other expenditures which is to be financed by bonds or other obligations shall be effective until the proceeds of the bonds or obligations are actually in the hands of the Director of Finance.

Improvements to be paid for by special assessments shall be excepted from the provisions of this section.

ARTICLE X

FRANCHISES AND PUBLIC UTILITIES.

Section 1—Franchise Elections.

No franchise shall be granted except upon the vote of the taxpaying electors. No franchise election shall be held until the applicant deposits the cost thereof with the Director of Finance in an amount determined by said Director. No exclusive franchise shall ever be granted.

Section 2—Franchise to Specify Streets.

All franchises or privileges hereafter granted shall plainly specify the particular streets, alleys, avenues, and other public property, or parts thereof, to which they shall apply. All other franchises may be in general terms and may apply to the City generally.

Section 3—Regulation of Public Utilities.

The right to regulate the rates, fares, and rentals of public utilities and carriers serving the residents of the City shall always be reserved to the City to be exercised by ordinance. Every person or corporation operating under a franchise or grant from the City shall annually submit to the Council a report verified by the oath of the President, the Treasurer, or the General Manager thereof. Such reports shall be in the form, contain such detailed information, and cover the period prescribed by the Council. The Council shall have the power, either through its members or by authorized experts or employees, to examine the books and affairs of any such person, persons, or corporations, and to compel the production of books and other records pertaining to such reports or other matters.

Section 4—Books of Record.

The Council shall provide and cause to be kept in the office of the City Clerk an indexed franchise record in which shall be transcribed copies of all franchises granted by the City. Said record shall be a complete history of all franchises granted by the City and shall include a comprehensive and convenient reference to actions, contests, or proceedings at law affecting the same, and copies of all annual and inspection reports and such other information as the Council may require.

Section 5—Terms, Compensation.

No franchise, lease, or right to use the streets or the public places or property of the City shall be granted for longer than twenty years. Every grant of a franchise shall fix the amount and manner of payment of the compensation to be paid by the grantee for the use of the same, and no other compensation of any kind shall be exacted for such use during the life of the franchise. This provision shall not exempt the grantee from any lawful taxation upon his or its property, nor from any license charges, or other impositions levied by the Council, not levied on account of the use granted by the franchise.

Section 6—City May Acquire Utilities.

The Council upon vote of the taxpaying electors shall have the power within or without the territorial limits of the City to construct, condemn, and purchase, acquire, and lease water works,

gas works, light plants, power plants, transportation systems, telephone systems, heating plants, and other public utilities local in use and extent, in whole or in part, and everything required therefor, for the use of the City and its inhabitants, and any such systems, plants, works, or ways, or any contracts in relation or in connection therewith which may exist and which the City may desire to acquire or purchase, in whole or in part, the same or any part thereof may be purchased by the City. Such public utilities acquired by the City, except water works, and transportation systems, shall not be paid for out of general taxes or general obligation bonds, but shall be paid for from revenue derived from the public utility. Equipment necessary for transportation system may be acquired from the funds of the equipment fund of the City.

Section 7—Right of Regulation.

The grant of every franchise or privilege shall be subject to the right of the City, whether in terms reserved or not, to make any regulations for the safety, welfare, and accomodation of the public, including among other things the right to require proper and adequate extensions of the service of such grant, the right to require any or all wires, cables, conduits, and other like appliances to be placed under ground, and the right to protect the public from danger or inconvenience in the operation of any work or business authorized by the franchise.

Section 8—Revocable Permits.

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

Section 9—Franchise Renewal.

No franchise shall be renewed before one year prior to its expiration which renewal shall be subject to all provisions relating to the original grant of a franchise.

Section 10—Leasing of Franchises.

No franchise granted by the City shall ever be leased, assigned, or otherwise alienated without the express consent of the City and no dealing with the lessee or assignee on the part of the City to require the performance of any act or the payment of any compensation by the lessee or assignee shall be deemed to operate as such consent. Any assignment or sale of such franchise without the consent of the City shall, at the option of the Council operate as a forfeiture to the City of such franchise.

Section 11—Issuance of Stock.

Every ordinance granting any franchise shall prohibit the issuing of any stock on account thereof by any corporation holding or doing business thereunder.

Section 12—Amendment, Renewal, Extension, or Enlargement of Franchise.

No amendment, renewal, extension, or enlargement of any franchise, or grant of rights or powers heretofore granted to any corporation, person or association of persons shall be made except in the manner and subject to all the conditions provided in this article for the making of original grants and franchises.

Section 13—Common Use of Facilities.

The City may by ordinance require any person or corporation holding a franchise from the City for any public utility to allow the use of any of its poles, tracks, wires, conduits and other related facilities by any other person or corporation to which the City shall grant a franchise upon the payment of a reasonable rental to the owner therefor. If the person or corporation desiring to use the same cannot agree with the own-

regarding said rental and the terms and conditions for such use, within sixty days from offering in writing to do so, the Council, after a fair hearing, shall by resolution fix the terms and conditions of such use and compensation to be paid therefor, which award of the Council shall be final and binding on the parties concerned.

Section 14—Franchise Public Utility Commission to Regulate Until City Acts.

Unless and until the Council shall make provision, by ordinance for regulating the rates, fares, rentals and charges, charged by any Public Utility, or by a carrier serving the residents of the City, the Public Utility Commission of Colorado shall continue to exercise supervision thereof under applicable Statutes of the State of Colorado but the right to so regulate public utilities and carriers serving the residents of the City shall always be reserved to the City.

ARTICLE XI

Department of Municipal Public Utilities:

Section 1—Department Created.

A Department of Municipal Public Utilities is hereby created, which shall include a Division of Water, including the sanitary sewer system, and other divisions for any public utility acquired by the City.

Section 2—Functions of Department.

The functions, powers and duties of the Department of Municipal Utilities shall be as provided by Ordinance or Resolution of the Council.

Section 3—Restriction on Sale of Water and Other Utility Property.

The City shall not sell, lease, or in any manner dispose of the water or other utility plants or systems, nor any part thereof, unless and except the proposition for such purpose shall first have been approved by a majority vote of the qualified electors of the city who shall have paid a property tax therein during the preceding calendar year. The provisions of this section shall not apply to the sale or exchange of any equipment which may be worn out or useless, or which could with advantage to the service be replaced by new or improved machinery or equipment.

Section 4—Control of Water.

If at any time the water supply is greater than the immediate needs of the city and its inhabitants, the Council may authorize the city manager to permit the use of such surplus water by consumers outside the city at such rates as the Council may prescribe; provided that no vested right shall accrue under such permits.

Section 5—Municipal Utility Rates and Finances.

The Council shall by ordinance from time to time fix, establish, maintain, and provide for the collection of rates, fees or charges for water, sewer, and other utility services furnished by the city for the operation of such utilities. The Council may provide and maintain an adequate fund for replacement of depreciated or obsolescent property, and a fund for the extension, improvement, enlargement, and betterment of said utilities. The provisions hereof shall be subject at all times to the performance by the city of all covenants and agreements made by it in connection with the issuance, sale or delivery of any bonds of the city payable out of the revenues derived from the operation of its water, and other utilities, whether such revenue bonds be heretofore or hereafter issued.

Payments from the revenues derived from such utilities shall be made into a depreciation and obsolescence fund and a fund for making extensions, improvements, enlargements and better-

ments of such works in such manner as the Council may provide. Such funds shall be expended only for purposes for which they were created and shall be invested as directed by the Council. Any surplus revenue produced from the operation of any utilities after meeting all of the requirements set forth above shall be paid into the general fund of the city.

ARTICLE XII

INITIATIVE AND REFERENDUM AND RECALL

Section 1

Any proposed ordinance may be submitted to the Council by petition therefore of qualified electors equal in number to at least ten percent of the total number of legal ballots cast within the City of Cortez at the last General Municipal Election by filing the same with the City Clerk or other election officer, and such proposed ordinance shall be adopted, without alteration by the Council, within twenty days after such petition is filed; or the Council shall refer such proposed ordinance in the form petitioned for, to the qualified electors at the next municipal election held not less than sixty days after such petition is filed. If such petition contain a request for a special election and is signed by qualified electors equal in number to at least twenty-five percent of the total number of legal ballots cast at the last preceding General Municipal election, the ordinance thereby proposed shall be passed by the Council, without amendment or change, within twenty days after such petition shall be filed or the Council shall refer each proposed ordinance in the form petitioned for, to the qualified electors at a special election, which shall be called within said thirty days and held not less than sixty nor more than ninety days after petition is filed, unless a special election for some other purpose or a general election is held within said period of time, in which case such proposed ordinance may be submitted to a vote at such election. Alternative ordinances may be submitted at the same election, and if two or more conflicting measures be approved by the People, then that one which received the greatest number of affirmative votes shall be adopted in all particulars as to which there is a conflict.

The Law known as "Initiative and Referendum," Chapter 70 Revised Statutes of Colorado 1953, and all laws amendatory thereto, as far as applicable shall govern the procedure and form of Direct Legislation by the People of the City of Cortez, with power in the City Council to make and publish such ordinances as may be needful to carry out the object and intent of this Article, but not inconsistent herewith.

Section 2—Recall From Office.

Every elective City Officer of the City of Cortez may be recalled from office at any time after he has held office for six months, by the electors of the City of Cortez, by recall petition filed with the City Clerk, with signatures of qualified electors equal in number to twenty-five (25) percentum of the entire vote cast at the last preceding general municipal election for all candidates for the position which the incumbent sought to be recalled occupies.

The procedure hereunder to effect the recall of an elective officer, shall be as far as applicable by the method pointed out in Article XXI of the Constitution of the State of Colorado, known as "Recall from Office", with power in the City Council to provide by ordinance such other and further procedure as it may deem expedient, not inconsistent herewith.

ARTICLE XIII

PUBLIC WORKS AND PUBLIC IMPROVEMENTS.

Section 1—Department Created.

A department of public works is hereby created, the head of

which shall be the director of Public Works:

Section 2—Functions.

The department shall provide all engineering, architectural, maintenance, construction, and work equipment services required by the City except those performed by private persons, firms, or corporations under contract, or those assigned to other departments by this Charter.

Section 3—Improvement Districts.

A public work or improvement, the costs of which in whole or in part are to be assessed by the City, may be initiated by the Council on recommendation of the director of public works; or on petition of property owners in such number and in such form as may be prescribed by ordinance. The Council shall by ordinance prescribe the method of making such improvements and the assessments for their cost.

Section 4—Surplus and Deficiency Fund.

Where all outstanding bonds have been paid in a public improvement district, and any money remains to the credit of said district, it shall be transferred to a special surplus and deficiency fund and whenever there is a deficiency in any improvement district to meet payment of outstanding bonds, it shall be paid out of said fund. Whenever a public improvement district, has paid and cancelled four-fifths of its bonds outstanding, and for any reason the remaining assessments are not paid in time to take up the final bonds of the district, and there is not sufficient money in said special surplus and deficiency fund, then the City shall pay said bonds when due and reimburse itself by collecting the unpaid assessments due said district.

Section 5—Authority to Acquire Property.

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

ARTICLE XIV

DÉPARTMENT OF PARKS AND RECREATION

Section 1—Department Created.

A Department of Parks and Recreation may be created by ordinance functions. The Department of Parks and Recreation shall exercise administrative functions as to:

- (a) Operation of Municipal parks, park areas, museums, playgrounds, playfields, lake facilities, swimming pools, fountains, recreation and community buildings, sports arenas, stadiums, golf courses, city cemeteries, and related facilities, both within and without the corporate limits;
- (b) Planning, conducting, and supervising organized physical and cultural recreation programs for the public;
- (c) Cooperation with public and private agencies in public recreational programs, concerts, and other entertainment, and specifically with any privately sponsored recreation commissions, or other private bodies.
- (d) Maintenance and preservation of public monuments and collections.
- (e) Maintenance of restrooms, facilities for entertainment, and other related facilities on properties under the supervision of the department.

Section 2—Construction of Facilities.

The construction and reconstruction of all parks, playgrounds, recreation facilities, and cemeteries and the plotting of city cemeteries shall be vested in the Department of Public Works.

Section 3—Rules and Regulations.

The Council shall have power by ordinance to adopt all needful rules and regulations relating to properties and related facilities under supervision of the Department of Parks and Recreation, whether within or without the City, and for the preservation of order, safety, and decency therein. For the purpose of enforcing such rules and regulations, all such properties shall be under the police jurisdiction of the City. Any member of the police force of the City, or park employee appointed as a special policeman, shall have power to arrest without warrant on all such properties any person who has violated any such rule or regulation or committed an offense therein.

ARTICLE XV

POLICE DEPARTMENT:

Section 1—Department Created, Qualification of Chief.

A Police Department is hereby created, the director of which shall be the Chief of Police, who shall have special knowledge and experience in law enforcement. Under the direction and supervision of the City Manager, the Chief of Police shall appoint such subordinate officers and other employees of such rank and grade as the City Manager shall deem necessary.

Section 2—Functions:

The department shall be responsible for the preservation of public peace, prevention of crime, apprehension of criminals, protection of the rights of persons and property, and the enforcement of this Charter and the ordinances of the City, and such other duties as the city manager may prescribe for the public peace and safety and the protection of property, including the property of the City within and without the corporate limits.

Section 3—Duties of Chief.

The Chief of Police shall command the department and shall assign its members to their respective posts, shifts, details and duties. He shall make rules and regulations with the approval of the City Manager in conformity with the ordinances and resolutions of the Council concerning the operation of the department and the conduct of its employees. The Chief of Police shall be responsible for the efficiency, discipline, and good conduct of the employees and for the care and custody of all property used by the department and its employees

ARTICLE XVI

DEPARTMENT OF FIRE.

Section 1—Department Created.

There is hereby created the Department of Fire, the head of which shall be the Fire Chief, appointed by the City Manager, with the approval of the Council; provided, however, that for so long as the City has a Volunteer Fire Department, the Fire Chief and all other officers of such department shall be elected by the members of said Volunteer Department and any Volunteer Fire Department funds shall not be accountable to the Council or Manager. The department shall consist of a Fire Chief, and such other employees of such ranks and grades that may be prescribed by ordinance.

Section 2—Functions.

The Department of Fire shall be responsible for protection of life and property within the City, from fire and for the enforcement of all laws, ordinances, and regulations relating to fire prevention and safety. The department shall be responsible for the installation, operation, maintenance, and supervision of fire department equipment.

Section 3—Fire Chief.

The Fire Chief shall be in direct command of the Department of Fire, and if a paid department, he shall appoint and remove all other officers and employees of the department. He shall assign all members of the department to their respective posts, shifts, details, and duties. He shall make rules and regulations in conformity with the ordinances of the City, concerning the operation of the department and conduct of all employees thereof. He shall be responsible for the efficiency, discipline, and good conduct of the department and for the care and custody of all property used by the department. Disobedience to the lawful orders of the Chief or to the rules and regulations aforesaid shall be ground for dismissal or for other appropriate disciplinary action. The Chief shall, subject to approval by the Manager, have further power to make regulations implementing and giving effect to the general laws and ordinances relating to fire prevention and fire safety.

ARTICLE XVII

DEPARTMENT OF HEALTH.

Section 1

A Department of Health is hereby created.

Section 2

The Council shall constitute the Board of Health for the city, unless it shall otherwise provide by ordinance, and such board shall have all such powers and duties as may be provided by statute or ordinance.

Section 3

The ordinances or resolutions adopted by the Council under this article may provide, among other things for sanitary inspections, quarantines and condemnations of land, buildings and personal property for health purposes and other matters as may be deemed necessary to promote the public health and safety of persons and property.

ARTICLE XVIII

AVIATION

Section 1

The city shall have and may exercise all powers relating to airports and aviation granted by this Charter and general law, including all powers to act jointly with other governmental authorities in relation thereto. The Council may by ordinance provide for a Department of Aviation with such duties, functions and powers as may be provided thereby.

ARTICLE XIX

GENERAL PROVISIONS

Section 1—Amending the Charter.

This Charter may be amended at any time in the manner provided by Article XX of the Constitution of the State of Colorado.

Section 2—Continuance of Duties.

All persons holding administrative office by appointment and members of administrative boards at the time this Charter takes effect shall continue in office and in the performance of their duties until provision shall have been made in accordance with this charter for the performance of such duties or the discontinuance of such office.

Section 3—Outgoing Officers.

All officers of the city whose terms of office terminate shall deliver to their successors all papers, records, property and equipment whatsoever in their possession or custody by virtue of their office, and shall account to them or to any authority designated by the Council for all funds, credits or property of any kind with which they are properly chargeable as such officials.

Section 4—Eminent Domain.

All proceedings for the condemnation of property or in the exercise of the right of eminent domain shall be in accordance with the laws of the State of Colorado now or hereafter applicable.

Section 5—Construction of Charter.

If any provision, section, article or clause of this Charter or the application thereof to any person or circumstances shall be found to be invalid by a court, such invalidity shall not affect any remaining portion or applications of the Charter provided such remaining portions or applications are not determined by the court to be inoperable, and to this end this Charter is declared to be severable.

Section 6—Construction of Words.

Whenever such construction is applicable, words used in this Charter importing singular or plural number may be construed so that one number includes both: words importing masculine gender may be construed to apply to the feminine gender as well: and the word person may extend to and include firm and corporation: provided, that these rules of construction shall not apply to any part of this Charter containing express provisions excluding such construction or where the subject matter or context is repugnant thereto.

ARTICLE XX

TRANSITIONAL PROVISIONS

Section 1—Status of Transitional Provisions.

The purpose of the Article is to provide for an orderly transition from the old government of Cortez to the Council-Manager government provided in this Charter. Such Article shall constitute a part of this Charter only to the extent and for the time required to accomplish that end.

Section 2—Municipal Election.

No person shall be eligible to the office as Councilman in the First Municipal Election following the adoption of this Charter unless at the time of his election, he be a Citizen of the United States, at least 21 years of age, and shall have been a resident of the City of Cortez or any lawful annexations thereto, for a period of one year immediately preceeding such election, and shall have paid taxes on real property owned by him therein or being purchased by him under contract.

Section 3—Present Council and Mayor to Continue in Office.

The Council and Mayor in office at the time of the adoption of this Charter shall continue at the same rate of pay to serve and carry out the functions, powers and duties of their offices until January 1, 1958 unless removed as provided in Article XII of this Charter.

Section 4—Authorized and Outstanding Bonds.

The provisions of this Charter shall not affect municipal bonds outstanding on the effective date of this Charter.

Section 5—Ordinances to Remain in Force.

All ordinances, resolutions, rules or regulations in force at the time this Charter takes effect, not inconsistent with its provisions, shall continue in full force and effect until modified, amended, or repealed—except that those resolutions, ordinances, rules, regulations, or parts thereof inconsistent with this Charter are hereby repealed.

Section 6—Saving Clause.

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

CERTIFICATE OF FINAL ADOPTION

We, the undersigned, present members of the Cortez Charter Convention, duly elected by the people of Cortez, Colorado, at a special election held on June 25, 1957, under authorization of Article XX, Constitution of the State of Colorado, to frame a Home Rule Charter for the City of Cortez, do hereby certify that the foregoing is the Proposed Charter as finally approved and adopted by the members of the Convention on the 23rd day of August 1957, for submission to the people of Cortez at a special election to be held on October 22, 1957.

Done in triplicate at Cortez, Colorado, this 24th day of August, 1957.

IRWIN E. MATLOCK

Chairman

CLAUDE MARTIN

Vice Chairman

L. T. ALLEN

Secretary

IVAN W. PATTERSON

FLOYD C. BRADFIELD

C. R. HICKMAN

ROBERT PTOLEMY

C. DEWEY BROWN

JAMES E. BARRETT

THOMAS J. ROSEBERRY

W. V. DUNLAP

PAUL H. MARSELL

RAY PATTEN, JR.

THOMAS M. WALKER

H. C. FLAUGH

RICHARD T. SPECK

CLARKE J. McNEILL

THOMAS J. WARK

J. E. BERTWELL

FLOYD M. RAY

VINCIL S. LESTER

STATE OF COLORADO)

COUNTY OF MONTEZUMA) SS

CITY OF CORTEZ)

I, Louida M. Henry, the City Clerk of the City of Cortez, Colorado, do hereby certify that the above and foregoing is the true, full and correct text of a Charter framed by the Cortez Charter Convention elected June 25, 1957, and filed in my office on August 23, 1957, which Charter will be submitted at a special election to be held October 22, 1957, at which the qualified electors of said City will by vote express their approval or rejection of such Charter.

IN WITNESS WHEREOF, I have affixed my hand and official seal this 24th day of August 1957.

LOUIDA M HENRY

City Clerk

(SEAL)

CERTIFICATE

I, Louida M. Henry, City Clerk of the City of Cortez, Colorado, do hereby certify that the above and foregoing is a true copy of the Charter on file in my office as the same was approved and adopted by the electors of said City at a special election held on the 22nd day of October, A. D. 1957, by a vote of for its approval and against its approval.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said City this 23rd day of October, A. D. 1957.

(SEAL)

LOUIDA M. HENRY,
City Clerk

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