

TITLE V

Elections

Chapter 1

Elections

Article I

Definitions and General Provision

Sec. 5-1-1	Short title
Sec. 5-1-2	Definitions
Sec. 5-1-3	Male includes female
Sec. 5-1-4	Computation of time
Sec. 5-1-5	Powers of Clerk and deputy
Sec. 5-1-6	Board of Elections
Sec. 5-1-7	Copies of election laws provided
Sec. 5-1-8	Forms prescribed
Sec. 5-1-9	Special elections
Sec. 5-1-10	Ballot titles

Article II

Qualifications and Registration of Electors

Sec. 5-1-13	Qualifications of municipal electors
Sec. 5-1-14	Submission of question to taxpaying electors; oath
Sec. 5-1-15	Registration required
Sec. 5-1-16	City Clerk as deputy county clerk
Sec. 5-1-17	Registration list

Article III

Nominations

Sec. 5-1-20	Nomination of municipal officers
Sec. 5-1-21	Certification on nominating petition
Sec. 5-1-24	Objections to nominations

Article IV

Judges

Sec. 5-1-30	Judges of election
Sec. 5-1-31	Number of judges
Sec. 5-1-33	Acceptance
Sec. 5-1-34	Vacancies
Sec. 5-1-35	Removal of judges
Sec. 5-1-36	Oath of judges and clerks
Sec. 5-1-37	Compensation of judges and Board of Elections members
Sec. 5-1-38	Selection, compensation and duties of supply judges

Article V

Notice and Preparation for Elections

Sec. 5-1-44	Clerk to give notice
Sec. 5-1-45	Establishing precincts and polling places
Sec. 5-1-46	Judges may change polling place
Sec. 5-1-47	Number of voting machines
Sec. 5-1-48	Arrangement of voting machines
Sec. 5-1-49	Delivery and custody of registration book or list
Sec. 5-1-51	Position on ballot; drawing
Sec. 5-1-52	Ballots changed if candidate dies or withdraws
Sec. 5-1-55	Cards of instruction

<i>Article VI</i>	<i>Conduct of Elections</i>
Sec. 5-1-60	Hours of voting
Sec. 5-1-61	Watchers
Sec. 5-1-64	Judge to keep poll book
Sec. 5-1-65	Preparing to vote
Sec. 5-1-67	Disabled voter; assistance
Sec. 5-1-72	Judge's certificate
Sec. 5-1-73	Delivery of election returns and other election papers
Sec. 5-1-74	Judges to post returns
Sec. 5-1-75	Preservation of election records
<i>Article VII</i>	<i>Voting Machines</i>
Sec. 5-1-80	City Clerk authorized to hire voting machines
Sec. 5-1-81	Judges to inspect machines
Sec. 5-1-82	Sample ballots, ballot labels and cards of instruction
Sec. 5-1-83	Instructions to vote
Sec. 5-1-84	Length of time to vote
Sec. 5-1-85	Judge to watch voting machines
Sec. 5-1-86	Clerk to supply seals for voting machines
Sec. 5-1-87	Close of polls and count of votes
Sec. 5-1-88	Paper ballots
Sec. 5-1-89	Electronic system
Sec. 5-1-90	Write-in candidate affidavit
<i>Article VIII</i>	<i>Absentee Voting</i>
Sec. 5-1-92	When absent or physically handicapped electors may vote
Sec. 5-1-93	Application for absentee ballot; delivery; list
Sec. 5-1-94	Affidavit on return envelope
Sec. 5-1-95	Manner of absentee voting
Sec. 5-1-96	Absent Voters' and Handicapped Persons' Precinct established; electronic voting systems
Sec. 5-1-98	Casting and counting absentee ballots
Sec. 5-1-99	Challenge of absentee ballots; rejection; record
Sec. 5-1-100	Oaths of absentee ballots
<i>Article IX</i>	<i>Challenge</i>
Sec. 5-1-105	No voting unless registered
Sec. 5-1-106	Right to vote may be challenged
Sec. 5-1-107	Challenge to be made by written oath
Sec. 5-1-108	Challenge questions asked voter
Sec. 5-1-109	Oath of challenged voter
Sec. 5-1-110	Refusal to answer questions or take oath
<i>Article X</i>	<i>Canvass of Votes</i>
Sec. 5-1-115	Returns; canvass
Sec. 5-1-116	Imperfect returns
Sec. 5-1-117	Corrections
Sec. 5-1-118	Tie; lots; notice to candidates
Sec. 5-1-119	Statement; certificates of election
<i>Article XI</i>	<i>Contest</i>
Sec. 5-1-125	Who may contest; causes

Sec. 5-1-126	District judge to preside; bond
Sec. 5-1-127	Filing statement; contents
Sec. 5-1-128	Summons; answer
Sec. 5-1-129	File and appeals
Sec. 5-1-130	Recount
Sec. 5-1-131	Judgment
<i>Article XII</i>	<i>Other Judicial Proceedings</i>
Sec. 5-1-135	Controversies
Sec. 5-1-136	Correction of errors
<i>Article XIII</i>	<i>Election Offenses</i>
Sec. 5-1-140	City Attorney to prosecute
Sec. 5-1-141	Sufficiency of complaint; judicial notice
Sec. 5-1-142	Immunity of witness from prosecution
Sec. 5-1-143	Penalties for election offenses
Sec. 5-1-145	Perjury
Sec. 5-1-146	Forgery
Sec. 5-1-147	Election violations
Sec. 5-1-148	False statements relating to candidates or questions submitted to voters
Sec. 5-1-149	Anonymous and unauthorized statements concerning candidates
Sec. 5-1-180	Chapter to be liberally construed
Sec. 5-1-181	Applicability

Chapter 2

Campaign Expenditures and Disclosures

Sec. 5-2-1	Compliance with fair campaign practices act required
------------	--

Chapter 3

Mail Ballot Elections

Sec. 5-3-1	Option to hold mail ballot elections
Sec. 5-3-2	Mail ballot election procedures

CHAPTER 1

Elections

Article I

Definitions and General Provision

Editor's Note: The section numbering of this Chapter conforms to the section numbering of State Law provisions '63 C.R.S. 49-25-1, et seq., and has been strictly maintained in codification with the exception of the Title and Chapter prefix preceding each section.

Sec. 5-1-1. Short title.

This Chapter shall be known and cited as the Pueblo Election Code. (1957 Code, §11-1)

Sec. 5-1-2. Definitions.

As used in this Chapter:

- (1) *Clerk* means City Clerk.
- (2) *Election official* means any City Clerk, any member of the Board of Elections, Judge of Election, or City Council member engaged in the performance of election duties as required by this Chapter.
- (3) *Elector or qualified elector* means any person who is legally qualified to register to vote under the requirements of this Chapter.
- (4) *Electronic voting system* means any ballot card electronic voting system meeting the requirements set forth in Section 1-5-601, et seq., C.R.S.
- (5) *Governing body* means the City Council.
- (6) *Municipality* means the City of Pueblo.
- (7) *Poll book* means the list of voters who are permitted to enter a voting machine booth for the purpose of casting their votes at a municipal election. Names shall be entered in the poll book in the order in which voters are permitted to enter a voting machine booth.
- (8) *Qualified taxpaying elector* means any elector as shall in the twelve (12) months immediately preceding the date of election have paid a City property tax on property listed on the county assessment rolls.
- (9) *Registered elector* means an elector who has complied with the registration provisions of this Chapter.
- (10) *Registration book* means all of the registration sheets for each general election precinct arranged alphabetically according to surname and bound or kept in such form as the County Clerk shall keep such records.

(11) *Registration list* means the list of registered electors of each municipal election precinct prepared by the County Clerk from the county registration books in accordance with Section 5-1-17 of this Chapter.

(12) *Registration sheet; registration card* means the record on which is entered the official registration and identification of an individual elector and a list of the elections at which he or she has voted since the date of registration.

(13) *Regular election* means the municipal election held on the first Tuesday of November in each odd numbered year.

(14) *Special election* means any municipal election held at a time other than the regular municipal election for the submission of public questions, questions concerning contracting or refunding bonded indebtedness or the granting or refusal of public franchises.

(15) *Voting machine* means any device fulfilling the requirements set forth in Section 1-5-601, et seq., C.R.S., regarding its use, construction, procurement and trial.

(16) *Watcher* means a registered elector of the City whose name has been submitted to the Clerk and then certified by the Clerk to the appropriate election judges to serve at the polling place with the right to remain inside the polling place from at least fifteen (15) minutes prior to the opening of the polls until after the completion of the count of votes cast at the election and the certification of the count by the judges. Each watcher shall have the right to maintain a list of voters as the names are announced by the judges and to witness each step in the conduct of the election.

(17) *Mail ballot election* means an election for which eligible registered electors may cast ballots by mail and, in accordance with this Title, in a regular or special municipal election.

(18) *Mail ballot packet* means the packet of information provided by the City Clerk to eligible registered electors in a mail ballot election. The packet includes the ballot, instructions for completing the ballot, a secrecy envelope and a return envelope.

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

(20) *Secrecy envelope* means the envelope used for a mail ballot election that contains the eligible elector's ballot for the election and that is designed to conceal and maintain the confidentiality of the elector's vote until the counting of votes for that particular election. (1957 Code, §11-2; Ord. No. 3498, §1, 10-11-71; Ord. No. 4086, 10-13-75; Ord. No. 7290 §1, 4-25-05; Ord. No. 8079 §1, 9-28-09)

Sec. 5-1-3. Male includes female.

All reference to the male elector shall include the female elector and the masculine pronoun shall also include the feminine. (1957 Code, §11-3)

Sec. 5-1-4. Computation of time.

Calendar days shall be used in all computations of time made under the provisions of this Code. In computing time for any act to be done before any municipal election, the first day shall be included and the last, or election day, shall be excluded. Sundays and legal holidays shall be included, but if the time for any act to be done shall fall on Sunday or a legal holiday, such act shall be done upon the day following such Sunday or legal holiday. (1957 Code, §11-4)

Sec. 5-1-5. Powers of Clerk and deputy.

(a) Except where otherwise provided in this election code, the Clerk shall render all interpretations and shall make all initial decisions as to controversies or other matters arising in the operation of this election code.

(b) All powers and authorities granted to the Clerk by this election code may be exercised by a deputy clerk in the absence of the Clerk or in the event the Clerk for any reason is unable to perform his or her duties. (1957 Code, §11-5)

Sec. 5-1-6. Board of Elections.

The Board of Elections shall have the powers and jurisdiction to perform all the duties provided by Charter. (1957 Code, §11-6)

Sec. 5-1-7. Copies of election laws provided.

The Clerk shall prepare copies of the Pueblo Election Code to be distributed to the judges of election in each municipal election precinct. Each set of judges shall receive at least one (1) copy of the Pueblo Election Code. (1957 Code, §11-7)

Sec. 5-1-8. Forms prescribed.

Except as otherwise provided by this election code, the Clerk shall prescribe the forms required by this election code, which shall be substantially followed by judges of elections and other election officials. (1957 Code, §11-8)

Sec. 5-1-9. Special elections.

Special elections may be held on any Tuesday designated by the City Council, except within ninety (90) days next preceding a regular election; provided that where voting machines are used, no special election shall be held within the period of time beginning on the sixtieth day preceding a primary election and ending on the sixtieth day after a general election unless such special election shall be held in conjunction with and on the day of a primary or general election. No special election shall be called within thirty (30) days before the date of a primary or general election. Special

elections shall be conducted as nearly as practicable in the same manner as regular elections. (1957 Code, §11-9)

Sec. 5-1-10. Ballot titles.

(a) The City Council by resolution or ordinance shall fix the ballot title for each initiative, referendum or referred measure which shall fairly express the true meaning and intent thereof.

(b) Any person presenting an initiative or referendum petition or any registered elector who is not satisfied with the ballot title fixed by the City Council and who claims that the ballot title is unfair or that it does not fairly express the true meaning and intent of the proposed measure may file a written request for review setting forth the reasons and grounds therefor with the City Clerk within five (5) calendar days after the ballot title is fixed by the City Council. The request for review shall be heard at the next regular or special meeting of the City Council. The decision of the City Council on the request for review shall be final and binding on the person filing the request for review, the persons presenting the petition and the City. (Ord. No. 6003, 8-14-95; Ord. No. 6217, 7-28-97)

Secs. 5-1-11—5-1-12. Reserved.

Article II
Qualifications and Registration of Electors

Sec. 5-1-13. Qualifications of municipal electors.

(a) Qualifications.

(1) Every person who, on the day of the next ensuing election, will have attained the age of eighteen (18) years, possessing the following qualifications, shall be entitled to register to vote at all municipal elections;

(2) He or she shall be a citizen of the United States; and

(3) He or she shall have resided in the City and in the municipal election precinct for not less than twenty-nine (29) days immediately preceding the election at which he or she offers to vote. An otherwise qualified and registered elector who moves from the municipal election precinct where registered to another precinct within the City within the twenty-nine (29) days prior to any regular or special municipal election shall be permitted to cast his or her ballot for such election at the polling place in the precinct where registered.

(b) Exceptions.

(1) No person confined in any public prison shall be entitled to register or to vote at any regular or special municipal election. Every person who was a qualified elector prior to such imprisonment, and who was released by pardon or by having served his or her full term of imprisonment, shall be vested with all the rights of citizenship except as otherwise provided in the Constitution.

(2) No person who is under guardianship, non compos mentis, or insane shall be entitled to register or to vote at any regular or special municipal election.

(c) Determination.

(1) The judges of election in determining the residence of a person offering to vote shall be governed by the following rules, so far as they may be applicable.

(2) That place in which a person's habitation is fixed, and to which, whenever he or she is absent, he or she has the intention of returning, shall be considered to be his or her residence.

(3) A person shall not be considered to have lost his or her residence who shall leave his or her home and go into another state or territory or to another county or municipality of this State, merely for temporary purposes with an intention of returning.

(4) A person shall not be considered to have gained a residence in the City when retaining his or her home or domicile elsewhere.

(5) If a person moved from this City to another municipality, with the intention of making it his or her permanent residence, he or she shall be considered and held to have lost his or her residence in this City.

(d) Residency.

(1) For the purposes of registration, voting and eligibility to hold office, no person shall be deemed to have gained a residence by reason of his or her presence, or lost it by reason of his or her absence, while in the civil or military service of the State or of the United States; nor while a student at any institution of higher education; nor while kept at public expense in any public prison or state institution unless the person is an employee or a member of the household of an employee of such prison or institution.

(2) The provisions of paragraph (1) of this Subsection notwithstanding, no person otherwise qualified under the provisions of this election code shall be denied the right to register or to vote at any municipal election solely because he or she is a student at an institution of higher education.

(3) Every qualified elector eighteen (18) years of age or older on the date of the municipal election may be a candidate and hold office in the City, provided that he or she has resided in the City for a period of at least twelve (12) consecutive months immediately preceding the date of the election. In case of an annexation, any person who has resided within the territory annexed for the prescribed time shall be deemed to have met the residence requirements for the City and precinct to which the territory was annexed. (1957 Code, §11-13; Ord. No. 3498, §1, 10-11-71; Ord. No. 3733, 8-13-73; Ord. No. 5608, 6-25-90; Ord. No. 7290 §2, 4-25-05)

Sec. 5-1-14. Submission of question to taxpaying electors; oath.

(a) On any question which is required by law to be submitted to taxpaying electors only, provision shall be made to assure that only registered taxpaying electors are permitted to vote on such question.

(b) The City Council, in its discretion, may require each registered taxpaying elector desiring to vote on a question which is submitted to taxpaying electors only, to sign a written oath that he or she has, during the twelve (12) months next preceding the election, paid City property tax upon property listed on the County assessment rolls. If the elector is unable to write, he or she may request assistance from one (1) of the judges of election, and such judge shall sign and witness the elector's mark. (1957 Code, §11-14)

Sec. 5-1-15. Registration required.

(a) No person shall be permitted to vote at any municipal election without first having been registered within the time and in the manner required by Sections 5-1-15 through 5-1-17 in this election code.

(b) Registration with the County Clerk shall constitute registration for municipal elections. (1957 Code, §11-15)

Sec. 5-1-16. City Clerk as deputy county clerk.

The City Clerk, or any deputy or assistant clerk employed in the office of the City Clerk, may serve as a deputy county clerk for purposes of registration only. The City Clerk shall register any qualified elector residing in any precinct in the County who shall appear in person at his or her office at any time during which registration is permitted in the office of the County Clerk, up to and including twenty-nine (29) days preceding any municipal election. The City Clerk shall deliver the new registration sheets to the office of the County Clerk either in person or by certified mail on or before the fifteenth day of each month, and in person on the day following the last day for registration preceding any election for which registration is required. (1957 Code, §11-16; Ord. No. 3498, 10-11-71; Ord. No. 5608, 6-25-90; Ord. No. 7290 §3, 4-25-05)

Sec. 5-1-17. Registration list.

Not later than the day preceding any municipal election, the City Clerk shall obtain from the County Clerk a complete copy of the list of the registered electors of each municipal election precinct which is involved in such municipal election. The registration list for each municipal election precinct shall contain, in alphabetical order, the names and addresses of all electors residing within the municipal election precinct whose names appeared on the county registration books at the close of business on the twenty-ninth day preceding the municipal election. (1957 Code, §11-17; Ord. No. 3498, 10-11-71; Ord. No. 5608, 6-25-90; Ord. No. 7290 §4, 4-25-05)

Secs. 5-1-18—5-1-19. Reserved.

*Article III
Nominations*

Sec. 5-1-20. Nomination of municipal officers.

Nomination petitions for municipal officers shall be filed with the City Clerk not earlier than ninety-one (91) days prior to the day of election nor later than seventy-one (71) days prior to the day

of election. Any such petition shall contain the name of the candidate in the form he or she wishes it to appear on the ballot, except that a candidate's name shall not contain or include any title or degree relating to the profession or level of educational achievement of the candidate. (Ord. No. 4900, 9-14-81; Ord. No. 7290 §5, 4-25-05)

Sec. 5-1-21. Certification on nominating petition.

Any person circulating a nominating petition of a candidate for a City office shall subscribe to the following certification thereto:

"I hereby certify that all persons who have signed this nominating petition are residents and qualified electors within the City of Pueblo, Colorado."

(1957 Code, §11-21)

Sec. 5-1-24. Objections to nominations.

All petitions of nomination which are in apparent conformity with the provisions of the City Charter relating to nominations, as determined by the Clerk, shall be deemed to be valid unless objection thereto shall be duly made in writing within three (3) days after the filing of the same. In case objection is made, notice thereof shall be forthwith mailed to any candidate who may be affected thereby. The Board of Elections shall pass upon the validity of all objections, whether of form or substance, and their decision upon matters of form shall be final. Their decision upon matters of substance shall be open to review if prompt application is made therefor. However, the remedy in all cases shall be summary. The Board of Elections shall decide objections within not more than forty-eight (48) hours after the same are filed, and any objections sustained may be remedied or defect cured as provided by Charter. (1957 Code, §11-24)

Secs. 5-1-25—5-1-29. Reserved.

Article IV
Judges

Sec. 5-1-30. Judges of election.

Judges of election shall be appointed by the Board of Elections and shall serve for such terms as is deemed expedient within the discretion of the board, which may terminate any such term at its pleasure. Each judge shall be a registered elector of the precinct in which he or she is appointed to serve unless it is deemed a hardship within the discretion of the Board of Elections for this requirement to be met. A judge shall be at least eighteen (18) years of age, and for purposes of this Chapter, any judge who is eighteen (18) years of age or older shall have the power to administer oaths. The Clerk shall make and file in his or her office a list of all persons so appointed, giving their names, addresses and precincts. Such list shall be a public record and shall be subject to inspection and examination by any qualified elector with the right to make copies thereof. (1957 Code, §11-30; Ord. No. 3733, 8-13-73; Ord. No. 4076, 9-8-75)

Sec. 5-1-31. Number of judges.

In each precinct the Board of Elections shall appoint not less than three (3) judges of election, provided that in each precinct where more than (1) voting machine is used, the Board of Elections may appoint one (1) additional judge for each additional voting machine used in the precinct. (1957 Code, §11-31)

Sec. 5-1-33. Acceptance.

With each notification of appointment transmitted by the Clerk to the judges of election, there shall be enclosed a form for acceptance of the appointment. Each person appointed as an election judge shall file his or her acceptance in the office of the Clerk within seven (7) days after the mailing by the Clerk of the notice of appointment and the acceptance form. Failure of any person appointed as judge to file an acceptance within said seven (7) days shall result in a vacancy. (1957 Code, §11-33)

Sec. 5-1-34. Vacancies.

If for any reason any person appointed judge refuses, fails or is unable to serve, it shall be the duty of such person or any other judge to immediately notify the Clerk. The Clerk shall forthwith appoint any registered elector from the precinct in which the vacancy occurs to serve in the place of such person. (1957 Code, §11-34)

Sec. 5-1-35. Removal of judges.

Any election judge who has neglected his or her duty, has committed, encouraged or connived at any frauds in connection therewith, has violated any of the election laws or has knowingly permitted others to do so, has been convicted of any crime, has violated his or her oath, or has committed any act which interferes or tends to interfere with a fair and honest election, shall be summarily removed by the Clerk. (1957 Code, §11-35)

Sec. 5-1-36. Oath of judges and clerks.

(a) Before any votes are taken at any municipal election, the judges of the election shall severally take an oath or affirmation in the following form:

"I, _____, do solemnly swear (or affirm) that I am a citizen of the United States and the State of Colorado; that I am a registered elector in Municipal Precinct No. _____ in the City of Pueblo, Colorado, that I will perform the duties of judge according to law and the best of my ability; that I will studiously endeavor to prevent fraud, deceit and abuse in conducting the same; that I will not try to ascertain how any elector voted if, in the discharge of my duties as judge such knowledge shall come to me, unless called upon to disclose the same before some court; and that I will not disclose the result of the votes until the polls have closed."

(b) The judges of the election may administer the oaths or affirmations to each other. Each judge shall record and sign any such oaths or affirmations administered by him or her and shall attach the record to the poll book. (1957 Code, §11-36)

Sec. 5-1-37. Compensation of judges and Board of Elections members.

(a) The judges of election shall each receive sixty dollars (\$60.00) in full compensation for their services as judges at such election, except that election judges at the Absent Voters' Precinct shall receive fifty dollars (\$50.00) per day in full compensation for their services prior to the day of election and sixty dollars (\$60.00) in full compensation for their services on election day.

(b) The members of the Board of Elections, except for the City Clerk, shall each receive fifteen dollars (\$15.00) in compensation for attending each meeting of the Board of Elections; provided, however, that on any municipal election day, members of the Board of Elections, except for the City Clerk, shall receive sixty dollars (\$60.00) each in full compensation for their services at such election. The City Clerk shall not receive any additional compensation beyond that provided for in Title VI of this Code for service as a member of the Board of Elections. (1957 Code, §11-37; Ord. No. 4075, 9-8-75; Ord. No. 4659, 9-24-79; Ord. No. 5035, 3-28-83; Ord. No. 5310, 4-28-86; Ord. No. 5608, 6-25-90; Ord. No. 6115, 9-9-96; Ord. No. 6314, 5-11-98)

Sec. 5-1-38. Selection, compensation and duties of supply judges.

The City Clerk shall select one (1) or more of the judges of election in each precinct to serve as supply judges. The supply judge shall be generally responsible for the conduct of the election at the precinct polling place and receiving and delivering election supplies and equipment in accordance with the directions of the Board of Elections and City Clerk. Supply judges shall receive compensation in the amount of five dollars (\$5.00) in addition to the compensation for election judges provided for in Section 5-1-37 of this Chapter. (1957 Code, §11-38; Ord. No. 5426, 10-13-87)

Secs. 5-1-39--5-1-43. Reserved.

Article V
Notice and Preparation For Elections

Sec. 5-1-44. Clerk to give notice.

(a) The City Clerk, at least ten (10) days before each municipal election, shall give written or printed notice of the election, stating the date of the election and the hours during which the polls will be opened; designating the polling place of each precinct; stating the qualifications of persons to vote in the election; naming the officers to be elected and the questions to be voted upon; and listing the names of those candidates whose nominations had been certified to him or her, which listing shall be as nearly as possible in the form in which such nomination shall appear upon the official ballot. A copy of such notice shall be posted until after the election in a conspicuous place in the office of the City Clerk.

(b) In addition, the notice shall be published in a daily newspaper having general circulation in the City at least ten (10) days before such election.

(c) All polling places shall be designated by a sign conspicuously posted at least ten (10) days before each municipal election. Such sign shall be substantially in the following form: "Polling

Place for Precinct No. _____." In addition, such sign shall state the date of the election and the hours the polling place will be open. (1957 Code, §11-44; Ord. No. 4900, 9-14-81)

Sec. 5-1-45. Establishing precincts and polling places.

(a) Precincts established.

(1) The Board of Elections shall divide the City into as many election precincts for all municipal elections as shall be deemed expedient for the convenience of electors of the City, and shall designate the location and address for each precinct at which elections are to be held. Municipal election precincts shall consist of one (1) or more general election precincts wherever practicable, and the City Clerk and the Board of Elections shall cooperate with the County Clerk and Board of County Commissioners to accomplish this purpose. Such precincts shall be as nearly equal in population as possible, and the territory of each precinct shall be contiguous and compact. Such division may be by map whereon shall be drawn each such precinct, and it shall not be required that each such precinct shall be described by metes and bounds so long as its boundaries can be definitely ascertained by reference to such map. If division is by map, the number of each precinct shall be drawn on such map within the boundaries of each such precinct as the same appears thereon.

(2) As far as may be practicable, the territory of each precinct shall not include more than one thousand (1,000) registered electors.

(3) Not less than ten (10) days prior to the date of any City election, the City Clerk shall designate the house or place in each precinct at which elections are to be held.

(4) Precincts and places of holding elections established in conformity with the preceding paragraphs shall so remain until changed as herein provided.

(b) Boundary adjustments.

(1) Changes in the boundaries of election precincts and the creation of new election precincts shall be completed not less than ninety (90) days prior to any municipal election, except in case of precinct changes resulting from annexations.

(2) All changes in precinct boundaries and in municipal boundaries shall be reported by the City Clerk to the County Clerk, and a corrected map shall be transmitted to the County Clerk as soon as possible after such changes have been effected.

(c) It shall be the duty of the Board of Elections to change any polling place upon a petition of a majority of the electors residing within the precinct; provided that no change may be made upon petition within ten (10) days of any election date. (1957 Code, §11-45)

Sec. 5-1-46. Judges may change polling place.

(a) Whenever it shall become impossible or inconvenient to hold an election at the place designated therefor, the judges of election, after having assembled at or as near as practicable to such

place, and before receiving any vote, may move to the nearest convenient place for holding the election, and at such newly designated place forthwith proceed with the election.

(b) Upon moving to a new polling place, the judges shall display a proclamation of the change and shall station a police officer or some other proper person at the original polling place to notify all electors of the new location for holding the election. (1957 Code, §11-46)

Sec. 5-1-47. Number of voting machines.

The Board of Elections shall supply each precinct with a sufficient number of voting machines. (1957 Code, §11-47)

Sec. 5-1-48. Arrangement of voting machines.

The voting machine shall be situated in the polling place so as to be in plain view of the election officials and watchers. No person other than the election officials and those admitted for the purpose of voting shall be permitted within the immediate voting area, which shall be considered as within six (6) feet of the voting machines, except by authority of the judges of election and then only when necessary to keep order and enforce the law. (1957 Code, §11-48)

Sec. 5-1-49. Delivery and custody of registration book or list.

(a) Prior to the delivery of the registration list to the judges of election for use on election day, the City Clerk shall attach to each list his or her certificate stating that such list contains the registration sheets or names of all registered electors residing in the municipal election precinct and stating the total number of registration sheets or names contained therein.

(b) One (1) day prior to any municipal election, the supply judge for each precinct shall as directed by the City Clerk call in person at the office of the City Clerk for the purpose of receiving the registration list and election supplies, or the City Clerk, at the City Clerk's option, may deliver the same to any or all of the supply judges. The registration list shall be delivered to said judge in a sealed envelope or container. Said judge shall have custody of the registration list and shall give his or her receipt therefor. After the closing of the polls on the day of election, the supply judge shall seal the registration list and deliver the election returns, registration list and other election papers and supplies to the office of the City Clerk. (1957 Code, §11-49; Ord. No. 5426, 10-13-87)

Sec. 5-1-51. Position on ballot; drawing.

Candidates for any position to be filled at a City election shall draw for position on the ballot. Such drawing shall be held on twenty-four (24) hours' notice by mail from the City Clerk, and in the absence of any candidate at such drawing, the City Clerk shall have some disinterested person draw for such candidate. (1957 Code, §11-51; Ord. No. 5608, 6-25-90)

Sec. 5-1-52. Ballots changed if candidate dies or withdraws.

If any person duly nominated dies, or in writing signed by the candidate and filed with the Clerk withdraws, before the day fixed for the election, and the fact of such death or withdrawal becomes known to the Clerk, the name of the deceased or withdrawn candidate shall not be printed upon the

ballots as the same shall appear in the voting machines; provided, however, that such death or withdrawal shall not affect the position of the other candidates on the ballot as determined by drawing. If the ballots are already printed, the name of the deceased or withdrawn candidate shall be erased or cancelled, if possible, and the counter or key for the ballot position of such candidate shall be locked, if possible, before the voting machines are opened for use by the electors. (1957 Code, §11-52)

Sec. 5-1-55. Cards of instruction.

The Clerk shall furnish to the judges of election of each precinct a sufficient number of instruction cards for the guidance of voters in preparing their ballots. The election judges shall post at least one (1) card in each polling place upon the day of election. Such card shall be printed in large, clear type, and shall contain full instructions to the voter as to what should be done:

- (1) To obtain admission to the voting machine for voting;
- (2) To operate the voting machine; and
- (3) To obtain assistance in operating the voting machine. (1957 Code, §11-55)

Secs. 5-1-56—5-1-59. Reserved.

Article VI
Conduct of Elections

Sec. 5-1-60. Hours of voting.

At all municipal elections, the polls shall be opened at 7:00 a.m. and remain open until 7:00 p.m. of the same day. If a full set of judges of election shall not attend at the hour of 7:00 a.m., the City Clerk shall appoint any registered elector from the precinct in which the vacancy occurs, as provided in Section 5-1-34 of this election code. The polls shall be opened if a majority of judges are present, even though the alternate or appointed judge has not arrived. Every person otherwise qualified to vote who is standing in line waiting to vote at 7:00 p.m. shall be permitted to vote. (1957 Code, §11-60)

Sec. 5-1-61. Watchers.

Each candidate for office, or interested party in case of an issue, at a municipal election shall be entitled to appoint some person to act in his or her behalf in every precinct in which he or she is a candidate or in which the issue is on the ballot. Such candidate or interested party shall certify the names of the person so appointed to the Clerk on forms provided by the Clerk. In case a watcher must leave the polling place, he or she may designate an alternate to act in his or her behalf while he or she is absent; provided that such alternate is made known to the election judges by an affidavit of the person first named as a watcher. (1957 Code, §11-61)

Sec. 5-1-64. Judge to keep poll book.

A judge of the election shall keep a poll book which shall contain one (1) column headed "Names of Voters" and one (1) column headed "Number." The name and number of each elector voting shall

be entered in regular succession under the headings in the poll book. The number column may be prenumbered. (1957 Code, §11-64)

Sec. 5-1-65. Preparing to vote.

(a) Any registered elector desiring to vote shall write his or her name and address on a form available at the polling place and shall give the form to one (1) of the judges of election, who shall thereupon announce the same clearly and audibly. If the elector is unable to write, he or she may request assistance from one (1) of the judges of election and such judge must sign the form and witness the elector's mark. The form to be available shall be in substance:

"I, _____, who reside at _____, am a registered elector of this precinct and desire to vote at this (regular - special) municipal election of the City of Pueblo, Colorado. Date _____."

If the name is found on the registration book or the registration list by the election judge having charge thereof, he or she shall likewise repeat the name, and the elector shall be allowed to enter the immediate voting area.

(b) Besides the election officials, not more than four (4) voters in excess of the number of voting machines shall be allowed within the immediate voting area at one (1) time.

(c) The completed signature form shall be returned with other election materials to the Clerk. If no challenges have been made, the forms may be destroyed after forty-five (45) days.

Sec. 5-1-67. Disabled voter; assistance.

(a) If at any municipal election, any voter shall declare under oath to the judges of election of the precinct where he or she is entitled to vote that by reason of blindness or other physical disability, or inability to read or write, he or she is unable to operate the voting machine without assistance, then he or she shall be entitled, upon his or her request, to receive the assistance of any one (1) of the election judges or at his or her option of any elector of the precinct selected by the disabled voter. No person other than a judge of election in the precinct shall be permitted to enter the polling booth as an assistant to more than one (1) voter.

(b) A notation shall be made in the poll book opposite the name of each voter thus assisted, stating that the voter has been assisted. (1957 Code, §11-67)

Sec. 5-1-72. Judge's certificate.

(a) As soon as all the votes have been read and counted, the judges of election shall make a certificate, stating the name of each candidate, designating the office for which such person received votes, and stating the number of votes he or she received, the number being expressed in numerical figures only, such entry to be made in substantially the following form:

"At an election held at _____ (address) _____ in No. _____ precinct in the City of Pueblo and State of Colorado, on the _____ day of _____ in the year _____, the following

named persons received the number of votes annexed to their respective names for the following described offices:

Total number of votes cast were: _____
A.B. had _____ votes for Councilman;
C.D. had _____ votes for Councilman;
N.O. had _____ votes for Civil Service
Commissioner;

And in the same manner for any other persons and issues voted for.

Certified by us.

A _____
B _____
C _____
Judges of Election"

(b) In addition, the judges of election shall indicate in such certificate the number on the counters and on the curtain level seals of the voting machine at the beginning before the opening and after the closing of the polls. (1957 Code, §11-72)

Sec. 5-1-73. Delivery of election returns and other election papers.

When all the voting machines have been counted, the election official selected in accordance with Section 5-1-38 of this election code shall deliver to the Clerk the certificate required by Section 5-1-72 of this election code, all keys to the voting machines, the registration list, poll books, oaths, affidavits and all other election papers and supplies. Such delivery shall be made at once and with all convenient speed, and informality in such delivery shall not invalidate the vote of any precinct when delivery shall have been made previous to the completion of the official abstract of the votes by the canvassers. The Clerk shall give his or her receipt for all such papers so delivered. (1957 Code, §11-73)

Sec. 5-1-74. Judges to post returns.

In addition to all certificates otherwise required to be made of the count of votes polled at any election, the judges of election are hereby required to make out an abstract of the count of votes, which abstract shall contain the names of the offices, names of the candidates, ballot titles and submission clauses of all initiated, referred or other measures voted upon, and the number of votes counted for or against each candidate or measure. Such abstract shall be posted in a conspicuous place upon the outside of the polling place immediately upon completion of the count. The abstract may be removed at any time after forty-eight (48) hours following the election. Suitable blanks for the abstract required above shall be prepared, printed and furnished to all judges of election at the same time and in the same manner as other election supplies are furnished. (1957 Code, §11-74)

Sec. 5-1-75. Preservation of election records.

The Clerk shall preserve all official election records and forms for at least six (6) months following a regular or special election. (1957 Code, §11-75)

Secs. 5-1-76—5-1-79. Reserved.

Article VII
Voting Machines

Sec. 5-1-80. City Clerk authorized to hire voting machines.

The City Clerk is authorized to hire the use of voting machines from the County and to contract with any authorized and qualified person or company to prepare said machines for municipal elections upon such terms and conditions as shall be available. If at any time such machines or preparation services may be obtained from more than one (1) source, the City Clerk shall notify the purchasing agent who shall thereupon cause bids to be submitted for such machines and services, in accordance with the Charter. (1957 Code, §11-80)

Sec. 5-1-81. Judges to inspect machines.

The judges of election of each precinct shall meet at the polling place therein, at least three-quarters ($\frac{3}{4}$) of an hour before the time set for the opening of the polls at each election. Before the polls are open for election, each judge shall carefully examine each machine used in the precinct and see that no vote has been cast and that every counter, except the protective counter, registers zero, and shall compare the ballot labels on each machine with the sample ballots furnished to ascertain that the names, number and letters thereon agree. (1957 Code, §11-81)

Sec. 5-1-82. Sample ballots, ballot labels and cards of instruction.

(a) Sample ballots shall be printed in sufficient quantity to meet the demands of the registered elector and shall be in the possession of the Clerk ten (10) days before the election and shall be subject to public inspection. The sample ballot shall be arranged in the form of a diagram showing the front of the voting machine as it will appear after the official ballot labels are arranged thereon for voting on election day. Such sample ballots may be either in full or reduced size. The Clerk shall provide at least two (2) sample ballots for each election precinct, to be delivered to the judges of election and posted in the polling place on election day.

(b) The Clerk shall also prepare and place on each voting machine to be used in election precincts under his or her supervision a set of official ballot labels arranged in the manner prescribed for the official election ballots to be used on voting machines. When there is more than one (1) person to be elected to an office, there shall be provided two (2), and only two (2) spaces for write-in purposes for each different office. No cross mark (X) shall be required opposite the name of the write-in candidate. The Clerk shall deliver the required number of voting machines, equipped with the official ballot labels, to each election precinct no later than the day prior to the day of election.

(c) Cards of instruction for the guidance of voters in casting their ballots on voting machines shall also be supplied by the Clerk as provided in Section 5-1-55 of this Chapter. (1957 Code, §11-82)

Sec. 5-1-83. Instructions to vote.

In case any elector, after entering the voting machine, shall ask for further instruction concerning the matter of voting, a judge shall give such instruction to him or her; but no judge or other election officer or person assisting an elector shall enter the voting machine, except as provided in Section 5-1-67 of this Chapter, or in any manner request, suggest or seek to persuade or induce any such elector to vote for any particular candidate, or for or against any particular amendment, question or proposition. After receiving such instruction, such elector shall vote as in the case of an unassisted voter. (1957 Code, §11-83)

Sec. 5-1-84. Length of time to vote.

No voter shall remain within the voting machine booth longer than five (5) minutes. If he or she shall refuse to leave after a lapse of five (5) minutes, he or she shall be removed by the judges, provided that the judges in their discretion may permit a voter to remain longer than five (5) minutes. (1957 Code, §11-84; Ord. No. 5035, 3-28-83)

Sec. 5-1-85. Judge to watch voting machines.

The judges shall designate at least one (1) of their number to be stationed beside the entrance to the voting machine during the entire period of the election to see that it is properly closed after a voter has entered to vote. At such intervals as he or she may deem proper or necessary, the judge shall examine the face of the machine to ascertain whether it has been defaced or injured, to detect the wrongdoer and to repair any injury. (1957 Code, §11-85)

Sec. 5-1-86. Clerk to supply seals for voting machines.

The Clerk shall supply each election precinct with a seal for each voting machine to be used in the precinct, for the purpose of sealing the machine after the polls are closed; and an envelope for the return of the keys to the machine, along with the election returns. (1957 Code, §11-86)

Sec. 5-1-87. Close of polls and count of votes.

As soon as the polls are closed, the judges of election shall immediately lock and seal each voting machine against further voting, and it shall so remain for the period of thirty (30) days unless otherwise ordered by the court. Immediately after each machine is locked and sealed, the judges of election shall then open the counting compartments thereof and proceed to count the votes thereon. After the total vote for each candidate and upon each question or proposition has been ascertained, the judges of election shall make out a certificate of votes cast in numerical figures only and return the same to the Clerk as provided in Section 5-1-72 of this election code. (1957 Code, §11-87)

Sec. 5-1-88. Paper ballots.

Nothing in Sections 5-1-80 through 5-1-87 of this election code shall be construed as prohibiting the use of a separate paper ballot by absentee voters or in emergency conditions where voting machines are not available. The use of paper ballots in emergency conditions shall be in substantial compliance with the provisions of the Colorado Municipal Election Code of 1965 relating to paper ballots. (1957 Code, §11-88)

Sec. 5-1-89. Electronic system.

(a) Use of electronic system. An electronic voting system may be used in any municipal election if the governing body authorizes its use. The adoption and use of an electronic voting system for municipal elections shall be in accordance with the provisions for the adoption and use of such system for general and primary elections insofar as such provisions are applicable to municipal elections.

(b) Sample ballots. Sample ballots shall be printed and in the possession of the Clerk ten (10) days before the election and shall be subject to public inspection. Such ballots shall be in the form of the official ballot but shall be printed on paper of a different color from the official ballot. The Clerk shall provide that at least two (2) sample ballots for each election precinct are delivered to the judges of election and posted in the polling place on election day.

(c) Ballots - electronic voting.

(1) Ballot pages or ballot cards placed upon voting devices shall be, so far as practicable, in the same order of arrangement as provided by Section 31-10-902, C.R.S., for paper ballots except that they shall be of the size and design required by the vote recorder or the electronic vote counting equipment, or both the vote recorder and electronic vote counting equipment, and may be printed on a number of separate pages which are placed on the voting device or on one (1) or more ballot cards.

(2) If votes are recorded on a ballot card, a separate write-in ballot may be provided, which may be in the form of a paper ballot or envelope on which the voter may write in the titles of the office and the names of persons not on the printed ballot for whom he or she wishes to vote.

(d) Preparation for use - electronic voting.

(1) Prior to an election in which an electronic voting system is to be used, the Clerk shall have the vote recorders or punching devices, or both the vote recorders and punching devices, prepared for voting and shall inspect and determine that each such recorder or device is in proper working order and shall cause a sufficient number of such recorders or devices to be delivered to each election precinct in which the electronic voting system is to be used.

(2) The Clerk shall supply each election precinct in which vote recorders or voting devices are to be used with a sufficient number of ballot cards, sample ballots, ballot boxes, write-in ballots, if required, and other supplies and forms as may be required. Each ballot card shall have a serially numbered stub attached, which shall be removed by a judge of election before the card is deposited in the ballot box.

(e) Instructions to vote. In case any voter, after commencing to vote, asks for further instructions concerning the manner of voting, a judge shall give such instructions to him or her; but no judge or other election officer or person assisting such voter shall request, suggest or seek to persuade or induce any such voter to vote for any particular ticket, or for any particular candidate, or for or against any particular amendment, question or proposition. After receiving such instructions, such voter shall vote as in the case of an unassisted voter.

(f) Ballots. The clerk of each municipality using an electronic voting system shall provide sufficient ballots for every municipal election.

(g) Distribution of ballots. In municipalities using an electronic voting system, the Clerk shall distribute to the election judges in the respective precincts a sufficient number of ballots. The ballots shall be sent in one (1) or more sealed packages for each precinct with marks on the outside of each stating clearly the precinct and polling place for which it is intended, together with the number of ballots enclosed. Such package shall be delivered to one (1) of the judges of election of such precinct between the close of business on Friday preceding election day and 8:00 p.m. on the Monday before election day. A receipt for the ballots thus delivered shall be given by the election judge who received them. The receipt shall be filed with the Clerk who shall also keep a record of the time when and the manner in which each of said packages was sent and delivered.

(h) Cards of instruction. The Clerk shall furnish to the judges of election of each precinct a sufficient number of instruction cards for the guidance of voters in preparing their ballots. The election judges shall post at least one (1) card in each polling place on the day of election. Such cards shall be printed in large, clear type and shall contain full instructions to the voter as to what should be done:

- (1) To obtain a ballot for voting;
- (2) To prepare the ballot for deposit in the ballot box;
- (3) To obtain a new ballot in the place of one spoiled by accident or mistake; and
- (4) To obtain assistance in marking ballots.

(i) Close of polls - count and seals in electronic voting. After the polls have been closed, the election judges shall secure the vote recorders and the voting devices against further use and prepare a ballot return in duplicate showing the number of voters as indicated by the pollbook who have voted in the precinct, the number of official ballot cards received and the number of spoiled and unused ballot cards returned. The original copy of said ballot return shall be deposited in a metal or durable plastic transfer box, along with all voted and spoiled ballots. The transfer box shall then be sealed in such a way as to prevent tampering with the box or its contents. The Clerk shall provide such a numbered seal. The duplicate copy of said ballot return shall be mailed at the nearest post office or post box to the Clerk by a judge other than the one (1) who delivers the transfer box to the counting center. One (1) judge shall deliver the sealed transfer box to the counting center or other place designated by the Clerk.

(j) Electronic vote counting - test.

(1) The Clerk shall have the electronic ballot counting equipment tested in the manner prescribed in this Section to ascertain that it will accurately count the votes cast for all offices and all measures. The electronic equipment shall be tested at least three (3) times, once on the day before the election, again just prior to the start of the count on election day and finally at the conclusion of the counting. The Clerk may make any additional tests he or she deems necessary.

(2) The Clerk shall vote and retain at least one hundred (100) test ballots, shall observe the tabulation of all test ballots by means of the electronic counting equipment and shall compare such tabulation with the previously retained records of the test vote count. The cause of any discrepancies shall be corrected prior to the actual vote tabulation.

(3) All test materials, when not in use, shall be kept in a metal box, and the Clerk shall be the custodian of the box.

(4) After the final conclusion of the counting, all programs, test material and ballots shall be sealed and retained as provided for paper ballots.

(k) Electronic vote counting - procedure.

(1) All proceedings at the counting center shall be under the direction of the Clerk and shall be conducted under the observation of watchers, so far as practicable, in accordance with the provisions of Chapter 1, Title V, but no persons except those authorized for the purpose shall touch any ballot, ballot card or return. All persons who are engaged in the processing and counting of the ballots shall be deputized in writing and take an oath that they will faithfully perform their assigned duties. If any ballot is damaged or defective so that it cannot properly be counted by the electronic vote counting equipment, a true duplicate copy shall be made of the damaged ballot in the presence of two (2) witnesses. The duplicate ballot shall be substituted for the damaged ballot. All duplicate ballots shall be clearly labeled as such and shall bear a serial number which shall be recorded on the damaged ballot.

(2) The return printed by the electronic vote tabulating equipment, to which have been added write-in votes, shall constitute, when certified by the Clerk, the official return of each precinct. The Clerk may from time to time release unofficial returns. Upon completion of the count, the official returns shall be open to the public.

(3) Absentee ballots shall be counted at the counting center in the same manner as precinct ballots. Write-in ballots may be counted in their precincts by the precinct judges of election or at the counting center, but, before any write-in vote is counted, it shall be compared with votes cast for the same office on the ballot card to ascertain whether the write-in vote is valid. If the voter has cast more votes for the office than he or she is lawfully entitled to vote, the word "void" shall be written across the write-in vote, and it shall not be counted. Votes cast for a nominated candidate whose name appears on the ballot shall not be voided because of an invalid write-in vote for the same office.

(4) If for any reason it becomes impracticable to count all or a part of the ballots with electronic vote tabulating equipment, the Clerk may direct that they be counted manually, following as far as practicable the provisions governing the counting of paper ballots.

(5) The receiving, opening and preservation of the transfer boxes and their contents shall be the responsibility of the Clerk, who shall provide adequate personnel and facilities to assure accurate and complete election results. Any indication of tampering with the ballots or ballot cards or other fraudulent action shall be immediately reported to the municipal attorney who shall immediately investigate such action and report in writing within ten (10) days his or her findings to the Clerk and shall prosecute to the full extent of the law any person responsible for such

fraudulent action. The conduct of municipal elections when electronic voting systems are used shall follow, as nearly as practicable, the conduct of general and primary elections when such systems are used.

(l) Election laws apply - separate absentee ballots permitted. All of the provisions of this Section not inconsistent with the provisions of Chapter 1, Title V, shall apply to all elections held in precincts where an electronic voting system is used. Nothing in this Section shall prohibit the use of a separate paper ballot by absentee voters or for Charter amendments where such is required. (Ord. No. 4086, 10-13-75)

Sec. 5-1-90. Write-in candidate affidavit.

No write-in vote for any municipal office shall be counted unless an affidavit of intent has been filed with the City Clerk by the person whose name is written in not less than thirty (30) days prior to the day of the election. The affidavit of intent shall indicate that such person desires the office and is qualified to assume the duties of that office if elected. (Ord. No. 5622, 8-13-90)

Article VIII
Absentee Voting

Sec. 5-1-92. When absent or physically handicapped electors may vote.

When any registered elector of this City, on the day of any regular or special election held pursuant to law, will be absent from the City or, by reason of his or her work or the nature of his or her employment, is likely to be absent and fears that he or she will be absent from the City on said day, or because of serious illness or physical disability or for reasons based upon the doctrines of established religions shall be unable to attend the polls, or is a physically handicapped person, he or she may cast his or her ballot at such election in the manner provided in Sections 5-1-92 through 5-1-98 of this election code. (1957 Code, §11-92; Ord. No. 4659, 9-24-79)

Sec. 5-1-93. Application for absentee ballot; delivery; list.

(a) Application for absent voters' ballots shall be filed with the City Clerk not earlier than twenty (20) days before and not later than the close of business on the Friday immediately preceding such election. The application may be in the form of a letter, stating the applicant's residence address and that he or she will be absent from the City on the day of said regular or special election, that his or her work or employment (stating nature thereof) is such that he or she is likely to be absent and fears that he or she will be absent from the City on said day, that on account of serious illness or physical disability he or she shall be unable to attend the polls, or that for reasons based upon the doctrines of the established religion of which he or she is a member, he or she shall be unable to attend the polls.

(b) Upon receipt of an application for an absent voter's ballot within the proper time, the City Clerk shall examine the records of the County Clerk to ascertain whether or not such applicant is registered and lawfully entitled to vote as requested, and if found to be so, he or she shall deliver to the applicant personally in the Clerk's office or by mail to the mailing address given in the application an official absent voter's ballot and identification return envelope with the affidavit thereon properly

filled in as to precinct and resident's address as shown by records of the County Clerk, and instruction card.

(c) Before any absent voter's ballot is delivered or mailed, the Clerk shall record the elector's name, precinct number and the number appearing on the stub of the ballot, together with the date the ballot is delivered or mailed. This information shall be recorded on the registration sheet or registration list before the registration list is delivered to the judges of election. (1957 Code, §11-93)

Sec. 5-1-94. Affidavit on return envelope.

(a) The return envelope shall have printed on its face an affidavit substantially in the following form:

"From _____
State of _____
City of _____
County of _____

I, _____, being first duly sworn according to law, depose and say that I am a qualified and registered elector in Precinct No. _____ of Pueblo, Colorado, and that my residence and post office address is _____ and that I enclose my ballot in accordance with the Election Code of Pueblo.

Voter
Subscribed and sworn to before me this ____ day of _____, 19__.

Official Signature

Voter
(SEAL)

Title of Officer _____ "

(b) As provided in Section 5-1-95(c), a handicapped registered elector who applies for his or her absent voter's ballot on such a basis shall not be required to comply with the affirmation provisions on the affidavit in order to have his or her ballot deemed complete. The Clerk shall stamp such registered elector's return envelope with the statement "Notarization is not required" before the envelope is delivered or mailed to the registered elector. (1957 Code, §11-94; Ord. No. 5608, 6-25-90)

Sec. 5-1-95. Manner of absentee voting.

(a) Any registered elector applying for and receiving an absent voter's ballot, in casting such ballot, shall make and subscribe to the affidavit on the return identification envelope before an officer authorized by law to administer oaths, who shall administer said oath without charge therefor. The

voter shall thereupon mark the ballot, in the presence of such officer and no other persons, but in such manner that such officer cannot know how the ballot is marked. The voter shall, in the presence of such officer, fold the ballot so as to conceal the marking, deposit it in the return envelope and seal the envelope securely. The envelope may be delivered personally or mailed by the voter to the Absent Voter's Precinct in care of the City Clerk. It shall be permissible for a voter to deliver the ballot to any person of his or her own choice or to any duly authorized agent of the Clerk for mailing or personal delivery to the Clerk. All such envelopes containing absent voters' ballots shall be in the hands of the Clerk not later than the hour of 5:00 p.m. on the day of the election. The Clerk shall then deliver such ballots to the election judges of the Absent Voters' Precinct.

(b) Upon receipt of an absent voter's ballot, the Clerk shall write or stamp upon the envelope containing the office, and if the ballot was delivered in person, the name and address of the person delivering the same. He or she shall safely keep and preserve all absent voters' ballots unopened until the time prescribed for delivery to the judges of the Absent Voters' Precinct. The election judges shall count the votes in the same manner as votes are counted in all other polling places on election day.

(c) Any registered elector requesting an absent voter's ballot because he or she is handicapped shall not be required to complete the affidavit on the return envelope before an officer authorized by law to administer oaths. (1957 Code, §11-95; Ord. No. 4659, 9-24-79; Ord. No. 5608, 6-25-90)

Sec. 5-1-96. Absent Voters' and Handicapped Persons' Precinct established; electronic voting systems.

(a) There is hereby established an Absent Voters' Precinct which shall also serve as the Handicapped Persons' Voter Precinct. The polling place for such precinct shall be located in City Hall. Deputies in the Clerk's office may process absentee voter applications as part of their regular duties until the polling place for the Absent Voter's Precinct opens.

(b) The polling place for the Absent Voters' Precinct shall be staffed by not less than two (2) election judges, appointed by the Board of Elections. The judges shall be qualified election electors registered to vote in any other precinct in the City.

(c) The polling place for the Absent Voters' Precinct shall be open eight (8) days before the election on Monday through Friday, excluding holidays, between the hours of 8:00 a.m. and 5:00 p.m. Except as provided in Subsection (e) of this Section with respect to emergency absentee voting, qualified applicants for absent voters' ballots appearing in person at the polling place for the Absent Voters' Precinct during the days and hours such polling place is open and until 5:00 p.m. on the Friday immediately preceding the election may cast their absentee vote in the same manner votes are cast in a precinct polling place on the day of the election. The election judges shall supervise the casting and the counting of absentee votes that are received by mail as well as those votes that are cast in persons at such polling place.

(d) The polling place for the Absent Voters' Precinct shall also serve as the polling place for persons with a physical handicap and as the polling place for emergency absentee voting. Any registered qualified elector with a physical handicap may cast his or her vote from eight (8) days prior to the election during the hours and days the polling place for the Absent Voters' Precinct is open and until 7:00 p.m. on the day of the election. Assistance in voting to any handicapped person shall be

voter's ballot is insufficient, or that the voter is not a qualified registered elector, the envelope containing the ballot of such voter shall not be opened and the judges shall endorse on the back of the envelope the reason therefor. Whenever it shall be made to appear to the judges of election by sufficient proof that any elector who has marked and forwarded his or her ballot has died, then the envelope containing the ballot of such deceased voter shall not be opened and the judges shall make proper notation on the back of such envelope. If an absent voter's envelope contains more than one (1) marked ballot of any one (1) kind, none of such ballots shall be counted and the judges shall make notation on the back of the ballots the reason therefor. Judges of election shall certify in their returns the number of absent voters' ballots cast and counted and the number of such ballots rejected.

(b) All absent voters' identification envelopes, ballot stubs and the absent voters' ballots rejected by the judges of election in accordance with the provisions of this Section shall be returned to the City Clerk. All absent voters' ballots received by the Clerk after 5:00 p.m. the day of election, together with those rejected and returned by the judges of election as provided in this Section, shall remain in the sealed identification envelopes and be destroyed later, as provided in Section 5-1-75 of this election code.

(c) If an absent voter's ballot is not returned, or if it be rejected and not counted, such fact shall be noted on the record kept by the Clerk. Such record shall be open to public inspection under proper regulations. (1957 Code, §11-99)

Sec. 5-1-100. Oaths of absentee ballots.

The oath required by Section 5-1-95 of this election code may be subscribed and sworn to before any United States Postmaster or before an official authorized by law to administer oaths, including the City Clerk. Any such official may do and perform such other acts as are necessary to enable a qualified elector to avail himself or herself of the provisions of Sections 5-1-92 through 5-1-99 of this election code. If such absent voter is in the military or naval service of the United States or of the State, then such oath may be administered and such acts done by any commissioned officer of such military or naval forces. (1957 Code, §11-100)

Secs. 5-1-101--5-1-104. Reserved.

*Article IX
Challenge*

Sec. 5-1-105. No voting unless registered.

No person shall be permitted to vote at any regular or special municipal election unless his or her name shall be found on the registration list or official registration book. (1957 Code, §11-105)

Sec. 5-1-106. Right to vote may be challenged.

(a) When any person whose name appears on the registration list or in the registration book shall make application to vote, his or her right to vote at that poll and election may be challenged. If the person so applying is not entitled to vote, he or she shall not be permitted to enter the voting machine. Any person may be challenged at any time before he or she shall enter the voting machine.

(b) It shall be the duty of any judge of election to challenge any person offering to vote whom he or she shall believe not to be a qualified elector. In addition, challenges may be made by watchers or any elector of the precinct who is present. (1957 Code, §11-106)

Sec. 5-1-107. Challenge to be made by written oath.

Each challenge shall be made by written oath, signed by the challenger under penalty of perjury, setting forth the name of the person challenged and the basis for the challenge. The judges of election shall deliver all challenges and oaths to the Clerk at the time the other election papers are returned. The Clerk shall forthwith deliver all challenges and oaths to the City Attorney for investigation and appropriate action. (1957 Code, §11-107)

Sec. 5-1-108. Challenge questions asked voter.

(a) If a person offering to vote is challenged as unqualified, one (1) of the judges shall tender to him or her the following written oath or affirmation:

"You do solemnly swear or affirm that you will fully and truly answer all such questions as shall be put to you touching your place of residence and qualifications as a registered elector at this election."

(b) If the person is challenged as unqualified on the ground that he or she is not a citizen, and will not exhibit his or her papers pertaining to his or her naturalization, the judges, or one (1) of them, shall put the following questions:

- (1) "Are you a citizen of the United States?"
- (2) "Are you a native or naturalized citizen?"
- (3) "Have you become a citizen of the United States by reason of the naturalization of your parents, or of one of them?"
- (4) "Where were your parents, or one of them, naturalized?"

If the person offering to vote claims to be a naturalized citizen of the United States, he or she shall state, under oath, where and in what courts he or she was naturalized.

(c) If the person is challenged as unqualified on the ground that he or she has not resided in the City and State for thirty-two (32) days immediately preceding the election, the judges, or one (1) of them, shall put the following questions:

- (1) "Have you resided in this City and State for thirty-two (32) days immediately preceding this election?"
- (2) "Have you been absent from this City and State within the thirty-two (32) days immediately preceding the election, and during that time have you retained a home or domicile elsewhere?"

(3) "If so, when you left, was it for a temporary purpose, with the design of returning, or did you intend to remain away?"

(4) "Did you, while absent, look upon and regard this State as your home?"

(5) "Did you, while absent, vote in any state or territory?"

(d) If the person is challenged on the ground that he or she has not resided in the precinct for twenty-five (25) days, one (1) of the judges shall question him or her as to his or her residence in the precinct in a manner similar to the method of questioning a person as to his or her residence in this State.

(e) If the person is challenged as unqualified on the ground that he or she is not eighteen (18) years of age, the judges, or one (1) of them, shall ask the following question: "Are you eighteen (18) years of age, to the best of your knowledge and belief?"

(f) If the person challenged shall answer satisfactorily all of the questions put to him or her, he or she shall sign his or her name on the form of the challenge after the printed questions. The judges of election shall indicate in the proper place on the form of challenge whether the challenge was withdrawn and whether the challenged voter refused to answer the questions and left the polling place without voting. (1957 Code, §11-108; Ord. No. 3498, 10-11-71; Ord. No. 5608, 6-25-90)

Sec. 5-1-109. Oath of challenged voter.

If the challenge is not withdrawn after the person offering to vote shall have answered the questions put to him or her, one (1) of the judges shall tender the following oath:

"You do solemnly swear or affirm that you are a citizen of the United States, of the age of eighteen (18) years or over; that you have been a resident of this City and State for thirty-two (32) days next preceding this election, and have not retained a home or domicile elsewhere; and that you have been for the last twenty-five (25) days, and now are, a resident of this precinct or have removed therefrom not more than twenty-five (25) days as provided in Section 5-1-13 of the Election Code of Pueblo, Colorado; that you are a registered elector of this precinct; and that you have not voted at this election."

After the person has taken the oath or affirmation, his or her ballot shall be received and the word "sworn" shall be written on the poll book after the person's name. (1957 Code, §11-109; Ord. No. 3498, 10-11-71; Ord. No. 5608, 6-25-90)

Sec. 5-1-110. Refusal to answer questions or take oath.

If the challenged person shall refuse to answer fully any question which shall be put to him or her as provided in Section 5-1-108 of this election code, or shall refuse to take the oath or affirmation tendered as provided in Section 5-1-100 of this election code, the judges shall reject his or her vote. (1957 Code, §11-110)

Secs. 5-1-111—5-1-114. Reserved.

Article X
Canvass of Votes

Sec. 5-1-115. Returns; canvass.

(a) The returns of all municipal elections shall be addressed to the Board of Elections.

(b) The Board of Elections shall meet as a canvassing board, no later than the seventh day after each City election, and canvass the result thereof. (1957 Code, §11-115; Ord. No. 3733, 8-13-73; Ord. No. 7290 §6, 4-25-05)

Sec. 5-1-116. Imperfect returns.

Whenever the Board of Elections shall find that the returns from any precinct do not strictly conform to the requirements of law in the making, certifying and returning the same, the votes cast in such precinct nevertheless shall be canvassed and counted, if such returns shall be sufficiently explicit to enable such persons authorized to canvass votes and returns to determine therefrom how many votes were cast for the several candidates. (1957 Code, §11-116; Ord. No. 3733, 8-13-73)

Sec. 5-1-117. Corrections.

If, upon proceeding to canvass the votes, it shall clearly appear to the Board of Elections that in any statement produced to them certain matters are omitted which should have been inserted, or that any mistakes which are merely clerical exist, they shall cause the statement to be sent to the precinct judges from whom they were received to have the same corrected. The judges of election, when so demanded, shall make such correction as the facts of the case require, but shall not change or alter any decision before made by them. The Board of Elections may adjourn from day-to-day for the purpose of obtaining and receiving such statement. (1957 Code, §11-117; Ord. No. 3733, 8-13-73)

Sec. 5-1-118. Tie; lots; notice to candidates.

If any of the two (2) or more candidates receive an equal and the highest number of votes for the same office, and if there are not enough offices remaining for all such candidates, then the Board of Elections shall determine by lot the person or persons who shall be elected. Reasonable notice shall be given to such candidates of the time when such election will be so determined. (1957 Code, §11-118; Ord. No. 3733, 8-13-73)

Sec. 5-1-119. Statement; certificates of election.

(a) The City Clerk shall immediately make out statements from the abstract of votes which shall show the names of the candidates and the whole number of votes given to each, distinguishing the several precincts in which they were given. The Board of Elections shall certify such statement to be correct, subscribing their names thereto. The Board of Elections shall thereupon determine which persons have been by the greatest number of votes duly elected, and shall endorse and subscribe on such statements a certificate of their determination.

(b) The City Clerk shall record in his or her office in a book to be kept by him or her for that purpose each certified statement and determination, as above made, and shall without delay make out

and transmit to each of the persons thereby declared to be elected, a certificate of his or her election, certified by him or her under his or her seal of office. (1957 Code, §11-119; Ord. No. 3733, 8-13-73)

Secs. 5-1-120—5-1-124. Reserved.

Article XI
Contest

Sec. 5-1-125. Who may contest; causes.

The election of any person declared duly elected to any municipal office may be contested by any elector of the City:

- (1) When the contestee is not eligible to the office for which he or she has been declared elected.
- (2) When illegal votes have been received or legal votes rejected, at the polls in sufficient number to change the results.
- (3) For any error or mistake on the part of any of the judges of election or the Board of Elections in counting or declaring the result of the election, if the error or mistake would be sufficient to change the result.
- (4) For misconduct, fraud or corruption on the part of the judges of election in any precinct, or the City Council acting as a canvassing board, if the malconduct, fraud or corruption would be sufficient to change the result.
- (5) For any other cause which shows that another was the legally elected person. (1957 Code, §11-125; Ord. No. 3733, 8-13-73)

Sec. 5-1-126. District judge to preside; bond.

(a) All contested election cases of municipal officers shall be tried and determined, in the District Court of the County. The style and form of process, the manner of service of process and papers, the fees of officers, and judgment for cost and execution thereon shall be according to the rules and practices of the District Court.

(b) Before the District Court shall be required to take jurisdiction of the contest, the contestor must file with the Clerk of said Court a bond, with sureties to be approved by the District Judge, running to the contestee and conditioned to pay all costs in case of failure to maintain his or her contest. (1957 Code, §11-126)

Sec. 5-1-127. Filing statement; contents.

The contestor shall file in the office of the Clerk of the District Court, within ten (10) days after the date when the votes are canvassed, a written statement of his or her intention to contest the election, setting forth the name of the contestor; that he or she is an elector of the City; the name of the contestee; the office contested; the time of election and the particular causes of the contest. The

statement shall be verified by the affidavit of the contestor, or some elector of the City, that the causes set forth in such statement are true, to the best of his or her knowledge and belief. (1957 Code, §11-127)

Sec. 5-1-128. Summons; answer.

(a) The Clerk of the District Court shall thereupon issue a summons in the ordinary form in which the contestor shall be named as plaintiff and the contestee as defendant, stating the court in which the action is brought, and a brief statement of the causes of contest, as set forth in the contestor's statement. The summons shall be served upon the contestee, in the same manner as other summons are served out of the District Court of the State.

(b) The contestee, within ten (10) days after the service of such summons, shall make and file his or her answer to the same with the Clerk of said Court, in which he or she shall either admit or specifically deny each allegation intended to be controverted by the contestee on the trial of such contest, and shall set up in such answer any counter-statement which he or she relies upon as entitling him or her to the office to which he or she has been declared elected.

(c) When the reception of illegal or the rejection of legal votes is alleged as the cause of the contest, a list of the number of persons who so voted, or offered to vote, shall be set forth in the statement of the contestor, and shall be likewise set forth in the answer of the contestee, if any such cause is alleged in his or her answer by way of counter-statement.

(d) When the answer of the contestee contains new matter constituting a counter-statement, the contestor, within ten (10) days after the filing of such answer, shall reply to the same, admitting or specifically denying, under oath, each allegation contained in such counter-statement intended by him or her to be controverted on the trial, and file the same in the office of the Clerk of the District Court. (1957 Code, §11-128)

Sec. 5-1-129. File and appeals.

Immediately after the joining of issue, the District Court shall fix a day for the trial to commence, not more than twenty (20) nor less than ten (10) days after the joining of issue. The testimony may be oral, or by depositions taken before any officer authorized to take depositions. Any deposition taken to be used for the trial of such contest may be taken upon four (4) days' notice thereof. The District Judge shall cause the testimony to be taken in full and filed in such cause. The trial of such causes shall be conducted according to the rules and practice of the District Court in other cases. Such proceedings may be reviewed and finally adjudicated by the Supreme Court of the State, if application to such court is made by either party and if the Supreme Court shall be willing to assume jurisdiction of the case. (1957 Code, §11-129)

Sec. 5-1-130. Recount.

If, upon the trial of any contested election under this election code, the statement or counter-statement sets forth an error in canvass sufficient to change the result, the trial judge shall have power to conduct a recount of the ballots cast or the votes tabulated on the voting machines in the precinct or precincts where the alleged error was made. The Court may also require the production before it of such witnesses, documents, records and other evidence as may have or contain information regarding

the legality of any vote cast or counted for either of the contesting candidates, or the correct number of votes cast for either candidate, and may correct the canvass in accordance with the evidence presented and its finding thereon. (1957 Code, §11-130)

Sec. 5-1-131. Judgment.

The Court shall pronounce judgment whether the contestee or any other person was duly elected. The person so declared elected will be entitled to the office upon qualification. If the judgment is against the contestee and he or she has received his or her certificate, the judgment annuls it. If the Court finds that no person was duly elected, the judgment shall be that the election be set aside and that a vacancy exists. (1957 Code, §11-131)

Secs. 5-1-132--5-1-134. Reserved.

Article XII
Other Judicial Proceedings

Sec. 5-1-135. Controversies.

(a) Whenever any controversy shall arise between any official charged with any duty or function under this act and any candidate or other person, the District Court, upon the filing of a verified petition by any such official or persons setting forth in concise form the nature of the controversy and the relief sought, shall issue an order commanding the respondent in such petition to appear before the Court and answer under oath to such petition. It shall be the duty of the Court to summarily hear and dispose of any such issues, with the view to obtaining a substantial compliance with the provisions of this election code by the parties to such controversy, and to make and enter orders and judgments, and issue the writ of process of such Court to enforce all such orders and judgments.

(b) Such proceedings may be reviewed and finally adjudicated by the Supreme Court of the State if application to such Court is made within five (5) days after the termination thereof by the Court in which the petition was filed, if the Supreme Court shall be willing to assume jurisdiction of the case. (1957 Code, §11-135)

Sec. 5-1-136. Correction of errors.

(a) The City Clerk shall, on his or her own motion, correct without delay any error in publication or sample ballots or official ballot labels which he or she may discover or which are brought to his or her attention and which can be corrected without interfering with the timely preparation of the voting machine or distribution of the election materials.

(b) Whenever it shall appear by verified petition of a candidate or his or her agent to the District Court that an error or omission has occurred in the publication of the names or descriptions of the candidates, or in the printing of the sample ballots or official ballot labels, which has not been corrected by the Clerk, the Court shall issue an order requiring the City Clerk to forthwith correct such error, or to forthwith show cause why such error should not be corrected. Costs, including a reasonable attorney's fee, may be taxed in the discretion of such Court against either party.

(c) Such proceedings may be reviewed and finally adjudicated by the Supreme Court of the State, if application to such Court is made within five (5) days after the termination thereof by the Court in which the petition was filed, if the Supreme Court shall be willing to assume jurisdiction of the case. (1957 Code, §11-136)

Secs. 5-1-137--5-1-139. Reserved.

Article XIII
Election Offenses

Sec. 5-1-140. City Attorney to prosecute.

(a) Any person may file with the City Attorney an affidavit stating the name of any person who has violated any of the provisions of this election code and stating the facts which constitute the alleged offense. Upon the filing of such affidavit, the City Attorney shall forthwith investigate, and if reasonable grounds appear therefor, he or she shall prosecute the same in the Municipal Court in the same manner as other ordinance violations.

(b) The District Attorney and the Attorney General of the State shall have equal power with the City Attorney to file information or complaints against any persons for violating any provisions of this election code. (1957 Code, §11-140)

Sec. 5-1-141. Sufficiency of complaint; judicial notice.

Irregularities or defects in the mode of calling, giving notice of, convening, holding or conducting any regular or special election shall constitute no defense to a prosecution for a violation of this election code. When an offense shall be committed in relation to any municipal election, an indictment, information or complaint for such offense shall be sufficient if it alleges that such election was authorized by law, without stating the call or notice of the election, the names of the judges holding such election, or the names of the persons voted for at such election. Judicial notice shall be taken of the holding of any regular or special election. (1957 Code, §11-141)

Sec. 5-1-142. Immunity of witness from prosecution.

Any person so offending against any provision of this Chapter is a competent witness against any other person so offending, and may be compelled to attend and testify upon any trial, hearing, proceeding or investigation in the same manner as any other person. But the testimony so given shall not be used in any prosecution or proceeding, civil or criminal, against the person so testifying, except for perjury in giving such testimony. A person so testifying shall not thereafter be liable to indictment, prosecution or punishment for the offense with reference to which his or her testimony was given, and may plead or prove the giving of testimony accordingly in bar of such indictment or prosecution. (1957 Code, §11-142)

Sec. 5-1-143. Penalties for election offenses.

Any violation of this election code, except perjury and forgery, same as hereinafter set forth, may be tried in the Municipal Court in the manner as any other ordinance violation, and shall be

punishable as provided in Section 1-2-1 of this Code and Section 17-11 of the Charter. (1957 Code, §11-143)

Sec. 5-1-145. Perjury.

Any person having taken any oath or made any affirmation required by this election code, who shall swear or affirm willfully, corruptly and falsely in a manner material to the issue or point in question, or shall suborn any other person to swear or affirm as aforesaid, shall be guilty of perjury or subornation of perjury, as the case may be, and upon conviction thereof shall be punished as provided in Section 31-10-1506, C.R.S. (1957 Code, §11-145)

Sec. 5-1-146. Forgery.

Any person who shall falsely make, alter, forge or counterfeit any ballot before or after it has been cast, or who shall forge any name of a person as a signer or witness to a petition or nomination paper, or who shall forge the name of a registered elector to an absent voter's ballot, or upon the form required to be signed as a condition precedent to permission to vote shall be punished as provided by Section 31-10-1507, C.R.S. (1957 Code, §11-146)

Sec. 5-1-147. Election violations.

(a) Tampering With Nomination Papers. Any person who, being in possession of nomination papers entitled to be filed under this Chapter, wrongfully or willfully destroys, defaces, mutilates, suppresses, neglects or fails to cause the same to be filed by the proper time in the Clerk's office or who files any such paper knowing the same, or any part thereof, to be falsely made, commits a municipal offense.

(b) Bribery of Petition Signers. Any person who offers or knowingly permits any person to offer for his or her benefit any bribe or promise or other gain to an elector to induce him or her to sign any nomination petition or other election paper, or any person who accepts any such bribe or promise of gain of any kind in the nature of a bribe as consideration for signing the same, whether such bribe or promise of gain in the nature of a bribe is offered or accepted before or after signing, commits a municipal offense.

(c) Custody and Delivery of Ballots and Other Election Papers.

(1) Any election official having charge of official ballots, tally sheets, the registration book or list, and the pollbook and who destroys, conceals or suppresses the same, except as expressly permitted by this Chapter, commits a municipal offense.

(2) Any election official who has undertaken to deliver the official ballots, the tally sheets, the registration book or list, and the pollbook to the Clerk and who neglects or refuses to do so within the time prescribed by law or who fails to account fully for all official ballots and other papers in his or her charge, commits a municipal offense.

(d) Destroying, Removing or Delaying Delivery of Ballots and Other Election Papers. Any person who willfully destroys or defaces any ballot or tally sheet, or who willfully delays the delivery of the ballots, tally sheets, registration book or list, or pollbook, or who conceals or removes any

ballot, ballot box or tally sheet from the polling place or from the possession of the person authorized by law to have the custody thereof, or who aids, counsels, procures or assists any person in doing any of the aforesaid acts, commits a municipal offense.

(e) Unlawfully Refusing or Permitting to Vote. Any election judge who willfully and maliciously refuses or neglects to receive the ballot of any registered elector who has taken or offered to take the oath prescribed in Section 5-1-109 of this Code or knowingly and willfully permits any person to vote who is not entitled to vote at any election commits a municipal offense.

(f) Revealing How Elector Voted. Any election official, watcher or person who assists a disabled person in voting who reveals how a voter has voted commits a municipal offense.

(g) Violation of Duty. Any municipal official, election official or other person upon whom any duty is imposed by this Chapter who violates, neglects or omits to perform such duty or is guilty of corrupt conduct in the discharge of the same, or any notary public or other officer authorized by law to administer oaths who administers an oath knowing it to be false, or who knowingly makes a false certificate in regard to an election matter, commits a municipal offense.

(h) Unlawful Receipt of Money. It is unlawful and a municipal offense for any person directly or indirectly, by himself or herself or through any other person:

(1) To receive, agree to or contract for, before or during any municipal election, any money, gift, loan or other valuable consideration for himself or herself or any other person for voting or agreeing to vote, or for going or agreeing to go to the polls, or for remaining away or agreeing to remain away from the polls, or for refraining or agreeing to refrain from voting for any particular person or measure at any municipal election; or

(2) To receive any money or other valuable thing during or after any municipal election on account of himself or herself or any other person for voting or refraining from voting at such election, or on account of himself or herself or any other person for voting or refraining from voting for any particular person at such election, or on account of himself or herself or any other person for going to the polls or remaining away from the polls at such election, or on account of having induced any person to vote or refrain from voting for any particular person or measure at such election.

(i) Delivering and Receiving Ballots at Polls. It shall be unlawful and a municipal offense for:

(1) Any voter to receive an official ballot from any person, except one (1) of the judges or clerks of election, or for any person other than a judge or clerk of election to deliver an official ballot to a voter;

(2) Any person except a judge or clerk of election to receive from any voter a ballot prepared for voting; or

(3) Any voter to fail to return his or her ballot to the judge or clerk of election from whom he or she received the same before leaving the polling place.

(j) Voting Twice. If any person votes more than once or, having voted once, offers to vote again or offers to deposit in the ballot box more than one (1) ballot, he or she commits a municipal offense.

(k) Voting in the Wrong Precinct. Any person who, at any municipal election, fraudulently votes or offers to vote in any precinct in which he or she does not reside commits a municipal offense.

(l) Electioneering Near Polls. Any person who does any electioneering on election day within any polling place or in any public street or room or in any public manner within one hundred (100) feet of any building in which a polling place is located commits a municipal offense.

(m) Employer's Unlawful Acts. It shall be unlawful and a municipal offense for any employer, whether corporation, association, company, firm or person or any officer or agent of such employer:

(1) To influence the vote of any employee by force, violence or restraint, by inflicting or threatening to inflict any injury, damage, harm or loss, by discharging from employment, or by promoting in employment;

(2) To enclose, in paying his or her employees the salary or wages due them, their pay in pay envelopes upon which there are written or printed any political mottoes, devices or arguments containing threats, expressed or implied, intended or calculated to control the political opinions, views or actions of such employees; or

(3) To either expressly or by implication threaten, intimidate, influence, induce or compel any employee to vote or refrain from voting for any particular person or issue in any municipal election or to refrain from voting at any municipal election.

(n) Intimidation. It shall be unlawful and a municipal offense for any person, directly or indirectly, by himself or herself or any other person in his or her behalf, to make use of any force, violence, restraint, abduction, duress or forcible or fraudulent device or contrivance, or to inflict or threaten the infliction of any injury, damage, harm or loss, or in any manner to practice intimidation upon or against any person in order to impede, prevent or otherwise interfere with the free exercise of the elective franchise of any qualified elector, or to compel, induce or prevail upon any qualified elector either to give or refrain from giving his or her vote at any municipal election or to give or refrain from giving his or her vote for any particular person or measure at any such election.

(o) Unlawfully Giving or Promising Money. It shall be unlawful and a municipal offense for any person, directly by himself or herself, or through any other person:

(1) To pay, loan or contribute, or offer or promise to pay, loan or contribute, any money or other valuable consideration to or for any qualified or registered elector or to or for any other person, to induce such elector to vote or refrain from voting at any municipal election, to induce such elector to vote or refrain from voting at such election for any particular person, or to induce such elector to go to the polls or remain away from the polls at such election, or on account of such elector having voted or refrained from voting for any particular person or having gone to the polls or remained away from the polls at such election; or

(2) To advance, pay or cause to be paid any money or other valuable thing to or for the use of any other person with the intent that the same, or any part thereof, be used in bribery at any

municipal election or to knowingly pay or cause to be paid any money or other valuable thing to any person in discharge or repayment of any money wholly or in part expended in bribery at any such election.

(p) **Corrupt Means of Influencing Vote.** If any person, by bribery, menace or other corrupt means or device whatsoever, either directly or indirectly, attempts to influence any voter of the State in giving his or her vote or ballot, deters him or her from giving the same, or disturbs or hinders him or her in the free exercise of the right of suffrage at any municipal election in the State, or fraudulently or deceitfully changes or alters a ballot, every person so offending commits a municipal offense.

(q) **Interference With Voter While Voting.** Any person who intentionally interferes with any voter when inside the immediate voting area or when marking a ballot or operating a voting machine commits a municipal offense.

(r) **Introducing Liquor Into Polls.** It shall be unlawful and a municipal offense for any person to introduce into any polling place or to use therein or offer to another for use therein, at any time while any election is in progress or the results thereof are being ascertained by the counting of the ballots, any intoxicating malt, spirituous or vinous liquors.

(s) **Inducing Defective Ballot.** Any person who willfully causes a ballot to misstate in any way the wishes of the voter casting the same or who causes any other deceit to be practiced with intent fraudulently to induce such voter to deposit a defective ballot so as to have the ballot or any vote thrown out and not counted commits a municipal offense.

(t) **Personating Elector.** Any person who falsely personates any registered elector and votes or attempts to vote under the name of such elector commits a municipal offense.

(u) **Wagers With Electors.** It shall be unlawful and a municipal offense for any person, including any candidate for public office, before or during any municipal election, to make any bet or wager with a qualified elector to take a share or interest in, or in any manner become a party to, any such bet or wager or provide or agree to provide any money to be used by another in making such bet or wager upon any event or contingency whatever arising out of such election.

(v) **Tampering With Notices or Supplies.** Any person who, prior to a municipal election, willfully defaces, removes or destroys any notice of election posted in accordance with the provisions of this Chapter, or who, during an election, willfully defaces, removes or destroys any card of instruction or sample ballot posted for the instruction of voters, or who, during an election, willfully removes or destroys any of the supplies or conveniences furnished to enable a voter to prepare his or her ballot commits a municipal offense.

(w) **Tampering With Registration Book, Registration List or Pollbook.** Any person who mutilates or wrongfully erases any name, figure or word on any registration book, registration list or pollbook, or who removes such registration book, registration list or pollbook or any part thereof from the place where it has been deposited with an intention to destroy the same, to procure or prevent the election of any person, or to prevent any registered elector from voting, or who destroys any registration book or pollbook or part thereof, commits a municipal offense.

(x) Tampering With Voting Machine. Any person who tampers with a voting machine before, during or after any municipal election with intent to change the tabulation of votes thereon to reflect other than an accurate accounting commits a municipal offense.

(y) Interference With Election Official. Any person who at any municipal election intentionally interferes with any election official in the discharge of his or her duty, who induces any election official to violate or refuse to comply with his or her duty, or who aids, counsels, procures, advises or assists any person to do so, commits a municipal offense.

(z) Absentee Voting. Any election official or other person who knowingly violates any of the provisions of this Chapter relative to the casting of absent voters' ballots, or who aids or abets fraud in connection with any absent vote cast or to be cast, commits a municipal offense.

(aa) Penalties. Any person found guilty of conduct declared by this Section to be unlawful or a municipal offense shall be punished by a fine of not more than one thousand dollars (\$1,000.00) or imprisonment for a period not to exceed one (1) year, or by both such fine and imprisonment, and shall be disqualified from holding any office, position or employment with the City as provided in Section 17-11 of the Charter. (1957 Code, §11-147; Ord. No. 5310, 4-28-86; Ord. No. 7937 §13, 12-8-08)

Sec. 5-1-148. False statements relating to candidates or questions submitted to voters.

(a) It shall be unlawful for any person to knowingly make, publish, broadcast or cause to be made, published or broadcast any false statement relating to any candidate seeking nomination or election to any City elective office.

(b) It shall be unlawful for any person to make, publish, broadcast or cause to be made published or broadcast in any letter, circular, advertisement or poster or in any other communication or writing any false statement designed to affect the vote on any question submitted to the voters at any City municipal election. (Ord. No. 4402, 12-12-77)

Sec. 5-1-149. Anonymous and unauthorized statements concerning candidates.

(a) It shall be unlawful for any person to knowingly publish, distribute or cause to be published or distributed any card, pamphlet, circular, poster, dodger, advertisement or other communication or writing relating to or concerning any candidate seeking nomination or election to any City elective office which does not contain, clearly set apart from the text, the true and correct names of the persons, associations, committees or corporations publishing or distributing such communication or writing and identifying them as its sponsors.

(b) It shall be unlawful for any person to knowingly publish or distribute or cause to be published or distributed any card, pamphlet, circular, poster, broadcast or advertisement, or other writing or communication relating to or concerning any candidate seeking nomination or election to any City elective office without the written authorization of the candidate unless such publication or advertisement shall clearly contain on the face of any printed matter, or at the beginning or end of a radio or television broadcast, the names of the person or persons who financed the expenditure and the following notice: "This publication and advertisement has not been authorized or approved by the candidate named herein." (Ord. No. 4402, 12-12-77)

Sec. 5-1-180. Chapter to be liberally construed.

This Chapter shall be liberally construed so that all legally qualified and registered electors may be permitted to vote and so that fraud and corruption in municipal elections may be prevented. (1957 Code, §11-180)

Sec. 5-1-181. Applicability.

(a) This election code shall apply to regular and special municipal elections in the City, as defined in Section 5-1-2 of this Chapter.

(b) This election code is intended to conform, as nearly as may be, to the Colorado Municipal Election Code of 1965, the same being Chapter 146 of the Session Laws of 1965, codified as Section 49-25-1, et seq, C.R.S. To the end that the interpretation of this Chapter shall be uniform with the interpretation of the state law, section numbers and the contents of each section have been kept consistent with said Colorado Municipal Election Law, as nearly as practicable. However, all matters referred to herein, including those portions adopted by reference, are expressly and specifically declared to be local and municipal matters under Article XX of the Constitution of the State, and in the event of conflict, this election code shall govern. (1957 Code, §11-181)

CHAPTER 2

Campaign Expenditures and Disclosures

Sec. 5-2-1. Compliance with fair campaign practices act required.

(a) Every candidate for any city office in the City, and every candidate committee, issue committee and political committee supporting or opposing any candidate for any city office of the City or supporting or opposing any City initiative, referendum or other ballot issue, shall comply with the requirements of the Fair Campaign Practices Act. Section 1-45-101, et seq., C.R.S., adopted by the People of the State of Colorado on November 5, 1996.

(b) Every such candidate, candidate committee, issue committee and political committee shall timely file with the City Clerk the registration statements, disclosures and reports required by the Fair Campaign Practices Act on forms approved for such use by the Colorado Secretary of State.

(c) It shall be unlawful and a Class 1 municipal offense for any person to violate any provision of this Section or the Fair Campaign Practices Act with respect to any election for any City office of the City, or with respect to any City initiative, referendum or other ballot issue, and, upon conviction thereof, such person shall be punished by a fine not exceeding one thousand dollars (\$1,000.00) or imprisonment for a term not exceeding one (1) year, or by both such fine and imprisonment.

(d) The City Clerk shall impose an additional late charge of ten dollars (\$10.00) per day for each day that a statement, report or other information required to be filed by this Section or the Fair Campaign Practices Act is not filed. For purposes of this Subsection (d), the date of filing shall be the date of the postmark if the statement, report or other information is mailed. (Ord. No. 6215, 7-28-97; Ord. No. 7937 §14, 12-8-08)

CHAPTER 3

Mail Ballot Elections

Sec. 5-3-1. Option to hold mail ballot elections.

Upon recommendation of the Board of Elections, the City Council may authorize and direct by resolution or ordinance that any regular or special municipal election be conducted as a mail ballot election. (Ord. No. 7290 §7, 4-25-05)

Sec. 5-3-2. Mail ballot election procedures.

(a) Mail ballot elections shall be conducted in accordance with the procedures set forth in the Mail Ballot Election Act, Section 1-7.5-101, et seq., C.R.S.

(b) To the extent of any conflict between the Mail Ballot Election Act and the Charter or Title V of this Code, the requirements and provisions of the Charter or Code shall control and supersede the requirements and provisions of the Mail Ballot Election Act.

(c) Copies of the Mail Ballot Election Act are available for inspection, copying, distribution and sale to the public in the office of the City Clerk. (Ord. No. 7290 §7, 4-25-05)