

BY AUTHORITY

ORDINANCE NO.
SERIES OF 2013

COUNCIL BILL NO. _____
COMMITTEE OF REFERENCE:

A BILL

For an ordinance submitting to a vote of the qualified and registered electors of the City and County of Denver at a special municipal election to be held in conjunction with the state odd-year election of November 5, 2013, a proposed amendment to the Charter of the City and County of Denver concerning management of the safety departments of the City.

BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:

Section 1. There is hereby submitted to the properly qualified and registered electors of the City and County of Denver for their approval or rejection at a special municipal election to be conducted at the same time and in conjunction with the state odd-year election to be held in the City and County of Denver on November 5, 2013, a proposed amendment to the Charter of the City and County of Denver, as follows:

Effective upon publication and filing with the Secretary of State pursuant to the Constitution and laws of the State of Colorado, the following sections of the 2002 Charter of the City and County of Denver shall be and are hereby amended to read as follows:

Amend Section 2.6.1 by adding the language underlined, to read as follows:

§ 2.6.1 Department of Safety created; departmental powers and duties.

There shall be and hereby is created a Department of Safety which shall have, subject to the supervision and control of the Mayor, full charge and control of the departments of sheriff, fire and police, ~~and in addition thereto shall exercise the powers and perform the duties now required or that may hereafter be required by the Constitution or the general laws of the State to be exercised and performed by the Sheriff.~~

1 Amend section 2.6.3. by deleting the language stricken and adding the language underlined
2 to read as follows:

3 **§ 2.6.3 ~~Special police~~ Ordinance enforcement by persons other than police**
4 **officers.**

5 The Manager of Safety may, at the Manager's sole discretion, ~~appoint,~~
6 ~~subject to the supervision of the Mayor, such special police officers and patrol~~
7 ~~officers, with or without pay from the City, as necessary, all of whom shall be subject~~
8 ~~to the orders of the Chief of Police and shall be authorized and empowered to do~~
9 ~~and perform such of the duties of the members of the police force not inconsistent~~
10 ~~with this Charter and the ordinances of the City as may be specified by the said Chief~~
11 ~~of Police.~~ commission persons other than police officers to enforce specific
12 ordinances of the City for specific periods of time, with or without pay from the City.
13 To the extent such persons are employees of the City, they shall perform any and all
14 assigned enforcement duties under the supervision of their appointing authority. To
15 the extent such persons are authorized volunteers of the City, they shall perform any
16 all assigned enforcement duties under the supervision of the department or agency
17 for which the person is providing volunteer services. Such persons shall not be
18 considered members of the classified service, shall not be considered peace officers
19 within the meaning of state law, nor shall they have the power to effect arrests as
20 peace officers under state law.

21

22 Amend section 2.6.4 by deleting the language stricken and adding the language underlined to
23 read as follows:

24 **§ 2.6.4 Sheriff Department.**

25 The Sheriff Department, ~~which shall perform the duties delegated by the~~
26 ~~Manager of Safety,~~ shall be composed of the Sheriff, who shall be appointed by the
27 Mayor; Deputy Sheriff Division Chiefs and Deputy Sheriff Majors, all of whom shall
28 be appointed by the Sheriff with the approval of the Manager of Safety; and Deputy
29 ~~Sheriffs Deputy Sheriff Division Chiefs, Deputy Sheriff Majors and other employees,~~
30 as may be necessary to perform the duties of the department, ~~who~~ all of whom shall
31 be appointed by the Manager of Safety pursuant to Career Service requirements.
32 ~~and the Undersheriff, who shall be appointed by the Mayor and shall hold such~~
33 ~~position so long as his or her services are satisfactory to the Mayor. The salary,~~
34 ~~benefits and other compensation of the Sheriff, Deputy Sheriff Division Chiefs,~~
35 ~~Deputy Sheriff Majors and the Undersheriff shall be established by ordinance. The~~
36 Sheriff shall exercise the powers and perform the duties now required or that may
37 hereafter be required by the Constitution or the general laws of the State to be
38 exercised and performed by the county sheriff; provided, however, the Sheriff and
39 other employees of the Sheriff Department shall perform law enforcement duties
40 assigned by state law to county sheriffs only to the extent authorized by the Manager
41 of Safety; and provided further that the Manager of Safety shall be deemed the

1 appointing authority pursuant to Career Service requirements for purposes of hiring,
2 discipline and termination of deputy sheriffs and other employees within the Sheriff
3 department.
4

5 Amend Section 2.6.6 by deleting the language stricken, to read as follows:

6 **§ 2.6.6 Fire Department.**

7 The Fire Department shall be composed of the Chief of the Fire Department,
8 who shall be appointed by the Mayor ~~from the rank of Assistant Chief of the~~
9 ~~Classified Service of the Denver Fire Department~~, and such other subordinates
10 appointed pursuant to Civil Service requirements and employees appointed pursuant
11 to Career Service requirements, as may be necessary to protect the City and County
12 against fire and to provide other emergency services as designated by the Manager
13 of Safety.

14 Amend subsection 9.1.1 (C) and (E)(vi) by deleting the language stricken and adding the
15 language underlined, to read as follows:

16 **§ 9.1.1 Career Service personnel system.**

17 (C) The City Council shall by ordinance enact a classification and pay plan and
18 attendant pay rates for all classifications in the Career Service and all classifications
19 not in the Career Service except elected and appointed Charter officers, the ranks of
20 the classified service in the Police and Fire Departments, Deputy Sheriffs, Deputy
21 Sheriff Majors, Deputy Sheriff Division Chiefs, and the ~~Undersheriff~~ Sheriff, based
22 upon the duties of the several classifications. The pay rates as reflected in the pay
23 plan shall provide like pay for like work within such classifications. The Council shall
24 also by ordinance enact benefits for employees in such classifications. The Council
25 shall enact such ordinances after recommendations are made as provided in
26 subsection (D) of this section. Nothing in this section shall be deemed to prohibit the
27 payment of incentives for outstanding performance by employees within such
28 classifications according to standards and procedures established by ordinance.

29
30 (E) The Career Service shall comprise all employees of the City and their positions
31 except:

32
33 (vi.) members of the Classified Service of the Police and Fire Departments, the
34 Police Chief if not a member of the Classified Service, the Fire Chief if not a member
35 of the Classified Service, and the ~~Undersheriff~~ Sheriff;
36

1 Amend subsection (E)(i) of section 9.3.11 by adding the language underlined, to read as
2 follows:

3 **§ 9.3.11 Eligible registers, for original appointment and promotional**
4 **appointment; requisition and certification.**

5 (E) *Original appointment.* The Commission shall establish rules to provide for the
6 requisition by the Manager of Safety, and the certification to the Manager of Safety,
7 of applicants for original appointment.

8
9 (i) *Appointment of certified peace officer with a minimum of three years patrol*
10 *experience or firefighter with a minimum of three years full-time firefighting*
11 *experience.* An applicant to the Classified Service of the Denver Police Department
12 who is currently certified as a peace officer and who has a minimum of three years of
13 patrol experience as a law enforcement officer may receive original appointment in
14 the Police Department upon meeting all qualification and examination standards
15 established by the Commission and the Department of Safety, upon being certified to
16 the Manager of Safety, and upon receiving written approval of the Chief of the Police
17 Department and the Manager of Safety. An applicant to the Classified Service of the
18 Denver Fire Department who has a minimum of three years of full-time firefighting
19 experience may receive original appointment in the Fire Department upon meeting
20 all qualification and examination standards established by the Commission and the
21 Department of Safety, upon being certified to the Manager of Safety, and upon
22 receiving written approval of the Chief of the Fire Department and the Manager of
23 Safety.

24
25 Amend subsection 9.3.18 (B) by deleting language stricken, to read as follows:

26 **§ 9.3.18 Public safety cadet program.**

27 (B) Time spent in the public safety cadet program shall not be considered as time in
28 the Classified Service, if the public safety cadet is subsequently appointed to a
29 position in the Classified Service. ~~The Manager of Safety shall appoint no more than~~
30 ~~twenty-five percent cadets from the cadet eligible register of the total of any academy~~
31 ~~class selected for original appointment in the Classified Service.~~

32
33
34 Amend section 9.5.1 by deleting the language stricken and adding the language
35 underlined, to read as follows:

36 **§ 9.5.1 Chief of the Fire Department appointed by Mayor; reversion to prior rank**
37 **upon removal.**

1 The Chief of the Fire Department shall either be appointed from within or from
2 outside the Classified Service of the Denver Fire Department by the Mayor ~~from the~~
3 ~~rank of Assistant Chief of the Classified Service of the Denver Fire Department~~ and
4 shall hold such position so long as his or her services are satisfactory to the Mayor.
5 In the event that the appointment is made from within the Classified Service of the
6 Denver Fire Department and the Mayor removes such appointee, he or she shall
7 revert to ~~the rank of Assistant Chief~~ his or her previous rank, unless he or she is
8 eligible for retirement when so removed, in which event he or she shall be entitled to
9 retire as Chief of the Fire Department. The salary, fringe benefits, and other
10 compensation of this position shall be established by ordinance.

11
12 Amend Section 9.5.2 by deleting the language stricken and adding the language
13 underlined, to read as follows:

14 **§ 9.5.2 Deputy Chief and Division Chiefs.**

15 The Chief of the Fire Department may from time to time, with the approval of
16 the Manager of Safety, assign ~~not more than one (1) member~~ members of the
17 Classified Service of the Denver Fire Department of the rank of Assistant Chief to
18 perform the duties of Deputy Chief and ~~not more than six (6) members~~ of the
19 Classified Service of the Denver Fire Department of the rank of Assistant Chief to
20 perform the duties of Division Chief, each of whom shall perform such duties so long
21 as his or her services are satisfactory to the Chief and the latter shall see fit to
22 continue such assignment. The total number of command assignments permitted by
23 this section at any one time shall not exceed seven (7). The pay rates and fringe
24 benefits for those members assigned the duties of Deputy Chief or Division Chief
25 shall be established by ordinance. The Chief of the Fire Department shall appoint ~~the~~
26 a Deputy Chief or, if ~~the~~ a Deputy Chief is unavailable, a Division Chief to serve as
27 Acting Chief in the Chief's temporary absence.

28
29 Amend Section 9.5.5 by deleting the language stricken in subsection (B) and adding a new
30 subsection (C) to read as follows:

31 **§ 9.5.5 Rank and grade upon original appointment and thereafter.**

32 B. Applicants who are employed pursuant to a duly approved intergovernmental
33 agreement, as provided in § 9.3.11(E)(iii), may be appointed to any rank in the
34 Denver Fire Department ~~but not higher than the rank of Firefighter 1st Grade.~~

35
36 C. Applicants who are employed under the terms of Section 9.3.11(E)(i) shall be
37 appointed to Firefighter 4th Grade until such time as that member has successfully
38 completed the Fire Academy, at which time the Manager of Safety, at his or her

1 discretion, may continue the appointment of the member as a Firefighter 4th Grade
2 or may appoint the member based upon merit, experience, or record to:

3
4 (i) The rank of Firefighter 3rd grade, if that member has less than five years of prior
5 experience;

6
7 (ii) The rank of Firefighter 2nd grade, if that member has more than five years of
8 prior experience but less than eight years of prior experience; or

9
10 (iii) The rank of Firefighter 1st grade, if that member has eight or more years of prior
11 experience.

12
13 If the member serves as a Firefighter 3rd grade or a Firefighter 2nd grade, the
14 member shall serve a full year at such grade before advancement to the next grade.
15 The member retained or appointed to a grade as described herein shall have no right
16 to seek review of that decision before the Civil Service Commission, Chief of the Fire
17 Department, or the Manager of Safety. Appointments made pursuant to this Section
18 shall be considered original appointments and shall require completion of a full nine
19 month probationary period after having successfully completed the Fire Academy.

20
21
22 Amend section 9.6.1 by deleting the language stricken and adding the language
23 underlined to read as follows:

24 **§ 9.6.1 Chief of Police appointed by Mayor.**

25 The Chief of Police shall either be appointed from within or from outside the
26 Classified Service by the Mayor and shall hold such position or employment so long
27 as his or her services are satisfactory to the Mayor, ~~or shall be hired from outside of~~
28 ~~the Classified Service by the Mayor pursuant to a contract.~~

29
30 Amend section 9.6.3 by deleting the language stricken and adding the language underlined,
31 to read as follows:

32 **§ 9.6.3 Deputy Chief, Division Chief, and Commander.**

33 The Chief of Police may from time to time, with approval of the Manager of
34 Safety, assign ~~not more than two (2)~~ Police Officers in the Classified Service of the
35 Police Department of the rank of Captain of Police or Lieutenant of Police to perform
36 the duties of Deputy Chief of Police, who shall perform such duties so long as his or
37 her services are satisfactory to the Chief of Police and the latter shall see fit to
38 continue such assignment. Deputy Chiefs shall perform any and all duties assigned

1 by the Chief of Police and, if ~~there are two Deputy Chiefs~~ the Chief of Police has
2 assigned more than one Deputy Chief, one Deputy Chief shall be assigned by the
3 Chief of Police to act as Chief of Police whenever the Chief of Police is unable to act
4 because of absence or incapacity. The Chief of Police may from time to time, with
5 the approval of the Manager of Safety, assign ~~not more than five (5)~~ Police Officers
6 in the Classified Service of the Police Department of the rank of Captain of Police or
7 Lieutenant of Police to perform the duties of Division Chiefs of Police, each of whom
8 shall perform such duties so long as his or her services are satisfactory to the Chief
9 of Police and the latter shall see fit to continue such assignment. ~~In no event shall~~
10 ~~there be more than six Deputy Chiefs or Division Chiefs in total at any one time.~~ The
11 Chief of Police may from time to time, with the approval of the Manager of Safety,
12 assign ~~not more than twelve (12)~~ Police Officers in the Classified Service of the
13 Police Department of the rank of Captain of Police or Lieutenant of Police to perform
14 the duties of Commander of Police, each of whom shall perform such duties so long
15 as his or her services are satisfactory to the Chief of Police and the latter shall see fit
16 to continue such assignment. When ~~filling Commander positions~~ making
17 assignments under this section, the Chief shall make all reasonable efforts to do so
18 in a way that will not result in a net increase in the ongoing complement of command
19 staff (including the ranks of Lieutenants and Captains) or a net decrease in the
20 ongoing complement of line positions. The total number of command assignments
21 permitted by this section at any one time shall not exceed eighteen (18).

22

23 Amend section 9.6.4 by deleting the language stricken, to read as follows:

24 **§ 9.6.4 Salary and benefits of Chief, Deputy Chief, Division Chief, and**
25 **Commander.**

26 Salaries and fringe benefits for the Chief ~~if a member of the Classified~~
27 ~~Service~~, Deputy Chiefs, Division Chiefs, and Commanders of Police shall be
28 established by ordinance. ~~Salary and fringe benefits for the Chief if hired outside of~~
29 ~~the Classified Service pursuant to a contract shall be approved by ordinance.~~

30

31 Amend subsection 9.9.2 (A) by deleting the language stricken and adding the language
32 underlined, to read as follows:

33 **§ 9.9.2 Definitions.**

34 As used in this Section, the following terms shall, unless the context requires a
35 different interpretation, have the following meanings:

1 (A) The term "Deputy Sheriff" shall mean all members sworn by the Manager of
2 Safety in the Sheriff Department of the City and County of Denver, except the
3 Undersheriff Sheriff, Deputy Sheriff Division Chiefs, and Deputy Sheriff Majors.
4

5
6 **Section 2.** The voting machines and paper ballot for said election shall carry the following
7 designation, which shall be the title and submission clause:
8

9
10
11 **REFERRED QUESTION _____**
12

13 Shall the Charter of the City and County of Denver be amended concerning the
14 management of the public safety departments of the city by creating and empowering
15 the office of Sheriff and assigning to the Sheriff the powers and duties assigned by
16 general law to county sheriffs, eliminating the title of "special police," eliminating the
17 requirement that the Chief of the Fire Department must be appointed from within the
18 Department, providing authority for lateral hiring of experienced firefighters in the Fire
19 Department in a manner similar to the way lateral hiring is currently allowed in the Police
20 Department, and allowing the Chief of the Fire Department and the Chief of the Police
21 Department greater authority to assign command ranks within their respective command
22 staffs without increasing the overall size of their respective staffs?
23
24

25 **Section 3.** Each elector voting at the election and wishing to for or against the amendment
26 shall indicate the elector's choice by depressing the appropriate counter of the voting machine
27 which indicates the word "YES" or the word "NO", or by appropriate marking upon paper ballots
28 when used.

29 **Section 4.** The proper officials of the City and County of Denver as are charged with duties
30 relating to the election shall, before the election, issue such calls, make such certifications and
31 publications, give such notices, make such appointments, and do all such other acts and things in
32 connection with the submission of this Charter amendment to the registered electors of the City and
33 County of Denver at the election as are required by the Constitution and laws of the State of
34 Colorado and the Charter and ordinances of the City and County of Denver.

35 **Section 5.** The ballots cast at such election shall be canvassed and the results ascertained,
36 determined, and certified in accordance with the requirements of the Constitution and laws of the
37 State of Colorado and the Charter and ordinances of the City and County of Denver.

38 **Section 6.** If any section, paragraph, clause, or other portion of this ordinance is held to be

1 invalid or unenforceable for any reason, the validity of the remaining portions of this ordinance shall
2 not be affected.

3 **Section 7.** If approved by the voters, the Charter amendments set forth herein shall be
4 effective January 1, 2014.

5
6 COMMITTEE APPROVAL DATE: _____, 2013.

7 MAYOR-COUNCIL DATE: _____, 2013.

8 PASSED BY THE COUNCIL _____ 2013

9 _____ - PRESIDENT

10 APPROVED: _____ - MAYOR _____ 2013

11 ATTEST: _____ - CLERK AND RECORDER,
12 EX-OFFICIO CLERK OF THE
13 CITY AND COUNTY OF DENVER
14

15 NOTICE PUBLISHED IN THE DAILY JOURNAL _____ 2013; _____ 2013

16

17 PREPARED BY: David W. Broadwell, Asst. City Attorney; DATE: _____

18

19 Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the office of the
20 City Attorney. We find no irregularity as to form, and have no legal objection to the proposed
21 ordinance. The proposed ordinance **is not** submitted to the City Council for approval pursuant to §
22 3.2.6 of the Charter.
23

24 Douglas J. Friednash, City Attorney

25 BY: _____, _____ City Attorney

26 DATE: _____