

1 **BY AUTHORITY**

2 ORDINANCE NO.
3 SERIES OF 2013

COUNCIL BILL NO. CB13-0522
COMMITTEE OF REFERENCE:
Health, Safety, Education & Services

6 **A BILL**

7
8 **For an ordinance submitting to a vote of the qualified and registered electors of**
9 **the City and County of Denver at a special municipal election to be held in**
10 **conjunction with the state odd-year election of November 5, 2013, a proposed**
11 **amendment to the Charter of the City and County of Denver concerning**
12 **management of the safety departments of the City.**
13

14 **BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:**
15

16 **Section 1.** There is hereby submitted to the properly qualified and registered electors of
17 the City and County of Denver for their approval or rejection at a special municipal election to be
18 conducted at the same time and in conjunction with the state odd-year election to be held in the
19 City and County of Denver on November 5, 2013, a proposed amendment to the Charter of the
20 City and County of Denver, as follows:
21

22 **Effective upon publication and filing with the Secretary of State pursuant to the**
23 **Constitution and laws of the State of Colorado, the following sections of the 2002**
24 **Charter of the City and County of Denver shall be and are hereby amended to read**
25 **as follows:**
26

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

28 **§ 2.6.1 Department of Safety created; departmental powers and duties.**

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

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

1 **§ 2.6.3 ~~Special police~~ Ordinance enforcement by persons other than police**
2 **officers.**

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

19
20 Amend section 2.6.4 by deleting the language stricken and adding the language underlined to read
21 as follows:

22 **§ 2.6.4 Sheriff Department.**

23 The Sheriff Department, ~~which shall perform the duties delegated by the~~
24 ~~Manager of Safety,~~ shall be composed of the Sheriff, who shall be appointed by the
25 Mayor; Deputy Sheriff Division Chiefs and Deputy Sheriff Majors, all of whom shall be
26 appointed by the Sheriff with the approval of the Manager of Safety; and Deputy
27 ~~Sheriffs Deputy Sheriff Division Chiefs, Deputy Sheriff Majors and other employees,~~
28 ~~as may be necessary to perform the duties of the department, ~~who~~ all of whom shall~~
29 ~~be appointed by the Manager of Safety pursuant to Career Service requirements.~~
30 ~~and the Undersheriff, who shall be appointed by the Mayor and shall hold such~~
31 ~~position so long as his or her services are satisfactory to the Mayor. The salary,~~
32 ~~benefits and other compensation of the Sheriff, Deputy Sheriff Division Chiefs, and~~
33 ~~Deputy Sheriff Majors and the Undersheriff shall be established by ordinance. The~~
34 Sheriff shall, subject to the supervision of the Manager of Safety, have full charge
35 and custody of the jails of the city and county and the prisoners in the jails, transport
36 prisoners, and execute writs and attend the several courts of record held in the city
37 and county. In addition thereto, the Sheriff and the Sheriff Department shall exercise
38 and perform the powers and duties now required or that may hereafter be required
39
40 by the Constitution or the general laws of the state to be performed by the county
41 sheriff, to the extent any such powers or duties are approved by the Manager of
42 Safety. The Manager of Safety shall be deemed the appointing authority pursuant to
43 Career Service requirements for purposes of hiring, discipline and termination of

1 deputy sheriffs and other employees within the Sheriff department.

2
3 Amend Section 2.6.6 by deleting the language stricken, to read as follows:

4 **§ 2.6.6 Fire Department.**

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

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

14 **§ 9.1.1 Career Service personnel system.**

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

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

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

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

1 **§ 9.3.11 Eligible registers, for original appointment and promotional**
2 **appointment; requisition and certification.**

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

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

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

24 **§ 9.3.18 Public safety cadet program.**

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

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

33
34
35 **§ 9.5.1 Chief of the Fire Department appointed by Mayor; reversion to prior rank**
36 **upon removal.**

37 The Chief of the Fire Department shall either be appointed from within or from
38 outside the Classified Service of the Denver Fire Department by the Mayor ~~from the~~

1 rank of Assistant Chief of the Classified Service of the Denver Fire Department and
2 shall hold such position so long as his or her services are satisfactory to the Mayor. If
3 the Chief is appointed from within the Classified Service of the Denver Fire
4 Department, only members of the department holding the rank of Captain or any
5 higher rank shall be eligible for appointment. If the Chief is appointed from outside
6 the Classified Service of the Denver Fire Department, the appointee shall be a
7 professional firefighter with a minimum of seven years command experience in a like-
8 sized or larger urban fire department. In the event that the appointment is made from
9 within the Classified Service of the Denver Fire Department and the Mayor removes
10 such appointee, he or she shall revert to the rank of Assistant Chief his or her
11 previous rank, unless he or she is eligible for retirement when so removed, in which
12 event he or she shall be entitled to retire as Chief of the Fire Department. The salary,
13 fringe benefits, and other compensation of this position shall be established by
14 ordinance.

15
16 Amend Section 9.5.2 by deleting the language stricken and adding the language
17 underlined, to read as follows:

18 **§ 9.5.2 Deputy Chief and Division Chiefs.**

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

32
33 Amend Section 9.5.5 by adding a new subsection (C) to read as follows:

34
35 **§ 9.5.5 Rank and grade upon original appointment and thereafter.**

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 or
2 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 Amend section 9.6.1 by deleting the language stricken and adding the language underlined
22 to read as follows:

23 **§ 9.6.1 Chief of Police appointed by Mayor.**

24 The Chief of Police shall either be appointed from within or from outside the
25 Classified Service of the Denver Police Department by the Mayor and shall hold such
26 position or employment so long as his or her services are satisfactory to the Mayor;
27 ~~or shall be hired from outside of the Classified Service by the Mayor pursuant to a~~
28 ~~contract.~~ If the Chief is appointed from within the Classified Service of the Denver
29 Police Department, only members of the department holding the rank of Lieutenant or
30 any higher rank shall be eligible for appointment. If the Chief is appointed from
31 outside the Classified Service, the appointee shall be a certified peace officer with a
32 minimum of seven years command experience in a like-sized or larger law
33 enforcement agency.

34
35 Amend section 9.6.3 by deleting the language stricken and adding the language underlined,
36 to read as follows:

37 **§ 9.6.3 Deputy Chief, Division Chief, and Commander.**

38 The Chief of Police may from time to time, with approval of the Manager of
39 Safety, assign ~~not more than two (2)~~ Police Officers in the Classified Service of the

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

26
27 Amend section 9.6.4 by deleting the language stricken, to read as follows:

28 **§ 9.6.4 Salary and benefits of Chief, Deputy Chief, Division Chief, and**
29 **Commander.**

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

34
35 Amend subsection 9.9.2 (A) by deleting the language stricken and adding the language
36 underlined, to read as follows:

37 **§ 9.9.2 Definitions.**

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

1 (A) The term "Deputy Sheriff" shall mean all members sworn by the ~~Manager of~~
2 Safety Sheriff in the Sheriff Department of the City and County of Denver, except
3 the ~~Undersheriff~~ Sheriff, Deputy Sheriff Division Chiefs, and Deputy Sheriff
4 Majors.
5

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

9 **REFERRED QUESTION _____**
10

11 Shall the Charter of the City and County of Denver be amended concerning the
12 management of the public safety departments of the city by: creating the office of
13 Sheriff and assigning to the Sheriff certain powers and duties assigned by general
14 law to county sheriffs, subject to the supervision of the Manager of Safety, eliminating
15 the title of "special police," eliminating the cap on appointments from the Public
16 Safety Cadet Program; eliminating the requirement that the Chief of the Fire
17 Department must be appointed from within the Department; establishing criteria for
18 the internal or external appointment of any Chief of the Fire Department or Chief of
19 the Police Department; providing authority for lateral hiring of experienced
20 firefighters in the Fire Department ; and allowing the Chief of the Fire Department and
21 the Chief of the Police Department greater authority to assign command ranks within
22 their respective command staffs without increasing the overall size of their respective
23 staffs?
24

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

29 **Section 4.** The proper officials of the City and County of Denver as are charged with
30 duties relating to the election shall, before the election, issue such calls, make such
31 certifications and publications, give such notices, make such appointments, and do all such
32 other acts and things in
33

34
35
36 connection with the submission of this Charter amendment to the registered electors of the City
37 and County of Denver at the election as are required by the Constitution and laws of the State of
38 Colorado and the Charter and ordinances of the City and County of Denver.

39 **Section 5.** The ballots cast at such election shall be canvassed and the results

1 ascertained, determined, and certified in accordance with the requirements of the Constitution
2 and laws of the State of Colorado and the Charter and ordinances of the City and County of
3 Denver.

4 **Section 6.** If any section, paragraph, clause, or other portion of this ordinance is held to
5 be invalid or unenforceable for any reason, the validity of the remaining portions of this
6 ordinance shall not be affected.

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

9
10 COMMITTEE APPROVAL DATE: August 6, 2013.

11 MAYOR-COUNCIL DATE: August 13, 2013.

12 PASSED BY THE COUNCIL _____ 2013

13 _____ - PRESIDENT

14 APPROVED: _____ - MAYOR _____ 2013

15 ATTEST: _____ - CLERK AND RECORDER,
16 EX-OFFICIO CLERK OF THE
17 CITY AND COUNTY OF DENVER

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

19 PREPARED BY: David W. Broadwell, Asst. City Attorney; DATE: August 15, 2013

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

24
25 Douglas J. Friednash, City Attorney

26 BY: _____, _____ City Attorney

27 DATE: _____