

ORDINANCE NO. 2023 - \_\_\_\_\_

A BILL

FOR AN ORDINANCE SUBMITTING TO A VOTE OF THE REGISTERED ELECTORS OF THE CITY OF AURORA, COLORADO, AT THE REGULAR MUNICIPAL ELECTION OF NOVEMBER 7, 2023, PROPOSED AMENDMENTS TO ARTICLE 3-16, SUBSECTIONS (2) & (6), AND ARTICLE 3-17 SUBSECTION (3) OF THE CITY CHARTER CONCERNING POLICE AND FIRE PROBATIONARY PERIODS AND PROMOTIONS

THE POWERS AND DUTIES OF THE POLICE DEPARTMENT, ITS CONSTITUENT MEMBERSHIP, DISCIPLINARY PROCEDURES AND PROMOTION PROCESS

WHEREAS, Article XX, Section (6) of the Colorado Constitution and Article 1-6 of the City Charter empowers home rule municipalities to control and legislate in their Charters upon all matters of municipal concern and to amend those Charters through a vote of the electorate,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO:

Section 1. That Article 3-16, subsections (2) & (6) of the City Charter of the City of Aurora, Colorado, are hereby amended to read as follows:

(2) *Probationary appointment, grades of firefighters and police officers.* Every original appointment in the Civil Service shall have a period of probation of one year from the end of the Department's academy training. **If a probationary employee takes a cumulative amount of leave, for any purpose, of more than 4 weeks, the probation period will be extended beyond one year by the equivalent amount of time. If a probationary employee is on restricted duty for more than a cumulative 4 weeks, and the duty restrictions were such that a full performance of the conduct and capacity of the employee could not be fully evaluated, as determined by the Chief, the probation period will be extended beyond one year by the equivalent amount of time.** At the end of the period of probation following an original appointment, if the conduct and capacity of the person appointed has been satisfactory, the member shall be permanently appointed; otherwise, the member shall be involuntarily separated. Service during the period of probation following an original appointment shall be deemed active service in the civil service of the Departments and shall be included and credited in determining eligibility for advancement, promotion, retirement, pension, increased salary or compensation based on length of service, and other benefits of the Civil Service. A member of the Police or Fire Department is, during the period of probation following original appointment, a member of such Department in Civil Service for all purposes, except for tenure of the employment or position to which the member has been so appointed. During the period of probationary appointment the person appointed shall be classified as a police officer 4th grade or firefighter 4th grade. Members of the Departments, while serving during the probationary period, may be separated from the Service in the following manner:

During the probationary period after the date of appointment, the member shall be separated at any time by written notification (indicating the date of separation and stating the reason for separation) by the Chief of the Department with the approval of the City Manager or a designee within the City Manager's office. The chief's action shall be final.

(6) *Promotion.* All ranks in the Civil Service of the Police and Fire Departments above the grades of Police Officer 1st Grade and Firefighter 1st Grade shall be filled by promotion from within the respective Departments, under such service requirements ~~and examination procedures~~ as shall hereafter be outlined by the Civil Service Commission; provided that all such rules and regulations outlining qualifications and service requirements for both applicants for original appointment and for promotion be promulgated without any reference to ~~political or religious opinions or affiliations, or race, creed, color, or gender~~ **without reference to any legally protected characteristics pursuant to applicable federal, state, or local law.** All promotions shall be made by appointing the first person on the eligibility list for the position as certified by the Civil Service Commission **and appoint each subsequent candidate in order in which they appear on the certified eligibility list as positions become available.** For police promotions the Chief of Police, for a specific reason(s) without consideration of any legally protected characteristics pursuant to applicable federal, state, or local law, has the authority to bypass any candidate on the promotion eligibility list and move to consider the next candidate on the eligibility list. **If a candidate on the eligibility list is bypassed by the Chief of Police and not promoted, the candidate may appeal the Chief's decision to the Civil Service Commission.** The person(s) so appointed shall complete a probationary period after appointment of twelve months' duration, at the end of which period he or she shall either be permanently appointed to said grade or rank or demoted to his or her former position, in accordance with the following procedure:

Between ten (10) and fifteen (15) days prior to the end of the probationary period, the Chief shall have the right to serve an order of demotion upon the officer, in the event an officer, having been duly certified and promoted, fails to satisfactorily perform the duties of the position to which he was promoted, in the opinion of the Chief of his Department. A copy shall be filed with the Civil Service Commission. The order of demotion shall state with specificity the reasons said officer did not satisfactorily perform his duties and shall be approved by the City Manager or a designee within the City Manager's office. The order of demotion shall be served upon the member no later than ten (10) days prior to the end of the probationary period. If the member cannot be personally served with the order of demotion, a copy of the order shall be transmitted by certified mail to the member's official address as shown in the department records. If it is necessary to mail the order of demotion, the date of service shall be the date upon which the order is deposited in the United States mail. If no order of demotion is served within the specified time period, the promotion shall become permanent at the conclusion of the probationary period. Within ten (10) days after receipt of an order of demotion, the Civil Service Commission shall approve or disapprove said action, and the decision of the Commission in this matter shall be final, subject to judicial review.

Section 2. That Article 3-17, subsection (3) the City Charter of the City of Aurora, Colorado, is hereby amended to read as follows:

(3) *Duties, powers.* The Civil Service Commission shall be responsible for examination and certification of all applicants to positions in the Civil Service. They shall determine qualifications for, and examine for promotion within the Civil Service. Promotions in the Civil Service shall be

from within the respective Departments and those eligible for taking a promotional examination must be members of the Civil Service of the rank or grade immediately below the rank or grade for which they are being examined, except that (1) Police Officers 1st Grade, with the proper length of service in grade, shall be eligible to take the examination for Sergeant; (2) Firefighters 1st Grade, with the proper length of service in grade, shall be eligible to take the examination for Technician, Engineer or Lieutenant; (3) members of the Departments, with the proper length of service, shall be eligible to take the examination for a rank of equal status but different title. No member may take an examination for a position he officially holds. If it is determined by the Civil Service Commission that there are no qualified members within the Civil Service to take such promotional examinations the Civil Service Commission may undertake either open recruitment or designate additional ranks or grades which may be eligible for that particular examination only. All examinations for promotion shall be competitive among such members of each Department as are qualified and desire to submit themselves to examination. The Commission shall submit to the appointing authority the list with the names of all members who have satisfactorily passed the entire examination, in the order in which their grades placed them, and the appointing authority, after having received a list duly certified, shall make promotions therefrom in the order in which they appear **subject to other provisions of this Charter**. The method of examining, the rules governing the same, and the method of certifying may be the same, as near as possible, as provided for applicants for original appointments.

The Council shall furnish the Commission with suitable offices, office furniture, examination rooms, books, stationery, and all other necessary supplies and provide for the payment of the same as may be necessary in carrying out the provisions of this Article. The Commission shall be provided with sufficient funds to hire a Commission Administrator who will also be the Chief Examiner for the Commission and shall serve at the Commission's pleasure and perform such duties as the Commission shall, from time to time assign. Such other employees as shall be approved by Council, and shall be needed by the Commission from time to time, may be provided, and any such employees shall serve at the pleasure of the Commission. The Commission shall have the power to make and enforce rules for the purposes of carrying out the provisions of this Charter, which rules shall be printed for distribution. Copies shall be made available to the Chiefs of the Police and Fire Departments and the presidents of any employee organizations recognized pursuant to Article XIV and XV of the Charter. A copy shall be provided to a member upon request. The Commission shall have the power to investigate all breaches of this Article and to conduct hearings in disciplinary matters as herein provided and while conducting such an investigation or hearing the Commission shall have the authority to compel the attendance of witnesses and the production of books and papers. The Commission, with approval of the City Manager, may make use of existing City facilities and, as circumstances dictate, temporarily use other City employees to aid and assist the Commission in performing its duties.

Section 3. The following question shall be submitted to a vote of the registered electors of the City at the general election on November 7, 2023:

**“Amending the City Charter making changes to the probationary period for police officers and firefighters and the police promotion consideration process.”**

**Shall Article 3-16, subsections (2), (6), & (10) and Article 3-17, subsection (3) of the City Charter of the City of Aurora, Colorado be amended to extend the Police and Fire probationary periods to account for recognized leave time and allow the Police Chief to bypass a candidate for promotion subject to Civil Service appeal?**

**YES \_\_\_\_\_ NO \_\_\_\_\_**

Section 4. Pursuant to Section 31-2-210(3.5), C.R.S., the City Clerk is hereby directed to certify the proposed ballot question to the Clerk and Recorder of each county in which the City is located for submission at the statewide general election on November 7, 2023.

Section 5. Pursuant to Section 31-2-210(4), C.R.S., the City Clerk is hereby directed to publish, within thirty (30) days of the adoption of this ordinance, notice of the date and time of the election upon which the proposed Charter amendment will be considered said publication to appear in a newspaper of general circulation in the City which notice shall contain the full text of the proposed Charter amendment.

Section 6. The City Clerk shall secure from each county the votes in favor of and opposed to the proposed Charter amendment and shall report the same to City Council following the election within such time is as provided for by state law. If the majority of the registered electors voting thereon have voted in favor of the proposed amendment, such amendment shall be deemed approved.

Section 7. In the event the proposed Charter amendment is approved by a majority of the registered electors voting thereon, the City Clerk shall publish once, in the same newspaper which published the notice of the charter amendment being on the ballot the full text of the Charter amendment following the election within such time as is provided by state law. At such time, the City Clerk shall also file with the Secretary of State two (2) copies of said amendment, along with the official tally of the vote for and against, as certified by the City Clerk.

Section 8. The provisions of this ordinance, the Charter amendment, and the question authorized hereby are severable. If any portion of this ordinance, the Charter amendment, or the question are judicially determined to be invalid or unenforceable, such determination shall not affect the remaining provision of such ordinance, Charter amendment, or question.

Section 9. All ordinances or parts of ordinances, of the City Code of the City of Aurora, Colorado, in conflict herewith are expressly repealed.

Section 10. Pursuant to Article 5-5 of the Charter of the City of Aurora, Colorado, the second publication of this ordinance shall be by reference, utilizing the ordinance title. Copies of this ordinance are available at the office of the City Clerk.

Section 11. If two or more questions presented to and approved by the voters in the same election, whether by referral of City Council or through by the initiative process, are in direct conflict, the item receiving the highest number of affirmative votes shall become effective. If two or more items pass by majority vote creating inconsistency with the voter approved language changes but are not in direct conflict with the questions presented for vote, the codifier, after consultation and approval of the City Attorney, is authorized to incorporate and change language as necessary to codify the intention of the items as approved by the voters.

INTRODUCED, READ, AND ORDERED PUBLISHED this \_\_\_\_ day  
of \_\_\_\_\_, 2023

PASSED AND ORDERED PUBLISHED BY REFERENCE this \_\_\_\_ day of  
\_\_\_\_\_, 2023

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MIKE COFFMAN, Mayor

ATTEST:

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KADEE RODRIQUEZ, City Clerk

APPROVED AS TO FORM:

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JACK D. BAJOREK, Deputy City Attorney