

Charter Article XII, Municipal Public Utilities

Following is the language for the proposed new Section 7 of Article XII of the Charter:

Charter Article XII, Municipal Public Utilities

Section 7. Telecommunication facilities and services.

(a) In addition to all the powers granted by this Charter to the Council to acquire, condemn, establish, construct, own, lease, operate and maintain an electric utility to provide light, power and other electrical facilities and services, the Council may, by ordinance and without a vote of the electors, authorize the electric utility to acquire, construct, provide, fund and contract for telecommunication facilities and services within and outside the City's territorial limits, whether directly or in whole or part through one or more third-party providers. Alternatively, the Council may create by ordinance, and without a vote of the electors, a telecommunications utility to exercise these same powers to furnish telecommunication facilities and services within and outside the City's territorial limits. If the Council creates a telecommunications utility, it may also establish that utility as an enterprise of the City in the same manner, with the same powers and subject to the same requirements and limitations established under Section 19.3(b) of Article V of this Charter for the City's other enterprises. The Council may also exercise with respect to the telecommunications utility the same general authority and powers granted to Council in this Charter with respect to the City's other utilities.

(b) The Council, acting as itself, the board of the electric utility enterprise or as the board of the telecommunications utility enterprise, shall have the power to issue revenue and refunding securities and other debt obligations as authorized in Sections 19.3 and 19.4 of Article V of this Charter to fund the provision of the telecommunication facilities and services authorized in this Section. The cumulative total principal amount of any such securities and other debt obligations issued shall not exceed one hundred and fifty million dollars (\$150,000,000), except that any refunding of such securities or other debt obligations shall not be included in that cumulative total. The City's payment of and performance of covenants under the securities and other debt obligations issued under this subsection (b) and any other contract obligations of the City relating to the provision of telecommunication facilities and services under this Section, shall not be subject to annual appropriation so long as annual appropriation is not required under Article X, Section 20 of the Colorado Constitution.

(c) The Council shall set by ordinance the rates, fees and charges for furnishing the telecommunication facilities and services authorized in this Section subject to the same limitations in Section 6 of Article XII of this Charter for setting the rates, fees and charges for other City utilities, except to the extent this authority is delegated by Council pursuant to subsection (e) below. In setting such rates, fees and charges, the Council may also include amounts payable to the City's general fund for a franchise fee, a reasonable rate of return on any contributions from the general fund to acquire or construct telecommunication facilities, and the repayment of any loans from the general fund used to support the provision of telecommunication facilities and services under this Section, to include the payment of a reasonable rate of interest on any such loans.

(d) In addition to the authority to go into executive session as provided in Section 11 of Article II of this Charter, the Council, and any board or commission established under subsection (e) below, may go into executive session to consider matters pertaining to issues of competition in providing the telecommunication facilities and services authorized in this Section, which shall include, without limitation, matters subject to negotiation, strategic planning, pricing, sales and marketing, development phasing and any other matter allowed under Colorado law.

(e) As authorized in Section 1 of Article IV of this Charter, the Council may, by ordinance, establish a Council-appointed board or commission and delegate to it, in whole or part, the Council's governing authority and powers granted under this Section concerning the furnishing of telecommunication facilities and services by the City's electric utility or telecommunications utility, but not the power to issue securities as provided in subsection (b), above which shall only be exercised by the Council acting as itself or as the board of the electric utility enterprise or as the board of the telecommunications utility enterprise. The Council may also delegate by ordinance to the City Manager, in whole or part, its authority in subsection (c) above to set the rates, fees and charges for furnishing telecommunication facilities and services. Any Council ordinance delegating this authority shall set forth the process to be used by the delegate for the setting of these rates, fees and charges. In addition, the amount of the rates, fees and charges so set by the delegate shall be determined under the same criteria the Council is authorized and required to follow in subsection (c) above.

(f) For purposes of this Section, *telecommunication facilities and services* shall mean those facilities used and services provided for the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received, to include, without limitation, any broadband Internet facilities and services using any technology having the capacity to transmit data to enable a subscriber to the service to originate and receive high-quality voice, data, graphics and video. *Telecommunication facilities and services* and "broadband Internet facilities and services" are to be interpreted under this Section in the broadest possible way to cover the widest range of technologies and technology infrastructure, regardless of how these terms may be defined by federal or state law.