

CHARTER

Article I INCORPORATION AND POWERS

Section 1.1 CONTINUING CORPORATE EXISTENCE.

The City of El Paso shall continue as a body politic, exercising all powers of local self-government which are or come to be conferred upon constitutional home rule cities in the State of Texas, and will exercise these powers as a municipal corporation, subject to the Constitution and the laws of the State of Texas. Specific mention of particular powers shall not be construed as limiting in any way the general powers granted to the City by this Charter. The corporate limits shall be those which are or may be established lawfully.

Section 1.2 DEFINITIONS.

As used in this Charter, the term "laws of Texas" shall include the Constitution and statutes of the State of Texas, the common law, as it exists in the State of Texas, and appropriate case law. As used herein, "State" shall mean the State of Texas; "City" shall mean the City of El Paso; "Council" shall mean the Mayor and Representatives of the City of El Paso; and "department" shall mean any City agency, office, bureau or other organizational unit.

Section 1.3 INTERGOVERNMENTAL RELATIONS.

Nothing in this Charter shall be construed as a bar upon the consolidation of City departments, either with one another or with agencies of government of the County of El Paso or other political subdivisions within El Paso County. Further, nothing in this Charter shall be construed as a bar upon consolidation between the City and the County.

Section 1.4 PUBLIC UTILITY REGULATION.

The City shall have all authority permitted under the laws of Texas to regulate and fix the reasonable rates to be charged by public utility corporations engaged in supplying gas, electricity, water, sewerage or any other convenience or commodity to consumers, provided such rates shall be fixed, in accordance with the applicable laws of Texas, after giving the company an opportunity to be heard. The City shall have access to any company books, records or accounts necessary to exercise this power. Whenever a public utility company, railroad company, telegraph company, irrigation company or any other public corporation has an obligation imposed by franchise or by any lawful order of the City, the City shall cause written notice to be given to an appropriate official in the company stating the act required to be performed and specifying a reasonable time for performance. Failure to comply in timely fashion shall subject the company to such penalty as may be provided by ordinance.

Section 1.5 APPLICATION FOR REMEDY PREREQUISITE TO SUIT AGAINST CITY.

No suit shall be instituted against the City unless the claimant shall aver and prove that, previous to filing the original petition, the claim was presented to the Council and the Council failed either to grant or act upon the claim in a timely fashion. This provision shall not apply in instances in which injunction or any other of the extraordinary writs are sought.

Article II NOMINATIONS AND ELECTIONS

Section 2.1 CITY ELECTIONS

A. Regular Elections. The regular City election shall be held on the uniform election date established in the Texas Election Code during the month of May first Saturday in May with a run-off election to be held on the earliest date practicable in accordance with the law. ~~either the last or next to last Saturday in May and a~~All terms of elected officers to commence on the fourth second Tuesday in June.

B. Officers Elected. The qualified voters of El Paso shall, as necessary to fill expired terms, elect the following officers at each regular election: A Mayor, eight District Representatives, and Judges of the Municipal Courts ~~and, until the election of 1989, a City Tax Collector.~~ Each Representative shall be elected from a district and the Mayor and other officers shall be elected from the City at large. Commencing in June 2005, the Judges of the Municipal Courts, the Mayor, and the District Representatives from districts numbers 2, 3, 4 and 7 shall be elected ~~for~~ to four-year terms. ~~and the Mayor shall serve a term of four (4) years.~~ Commencing in June 2005, the District Representatives from districts numbers 1, 5, 6 and 8 shall be elected to a two-year term, and commencing in June 2007, they shall thereafter be elected to four-year terms. ~~any persons elected as Representatives who have held such office for six consecutive years shall serve a two-year term. Persons elected as Representatives from four (4) other Representative Districts, to be identified by the drawing of lots, shall serve for a term of four (4) years. The persons elected as Representatives from the remaining Representatives Districts shall serve an initial two-year term. Thereafter, each Representative will serve a four-year term. Prior to the commencement of terms of office in 1993 there shall be six Representatives. Beginning with the terms of office commencing in 1993, and continuing thereafter, there shall be eight Representatives.~~ Each officer shall hold office during the term for which elected and established herein and until the election and qualification of a successor, unless sooner removed in any manner provided in this Charter.

C. ~~Running for Other Office.~~ ~~After the first Saturday of April, 1985, a~~Any elected officer of the City who announces or files as a candidate for any other public office shall have resigned automatically the office then held, except that this provision shall not apply to a Representative seeking the office of Mayor.

C D. Recall. Any elected officer of the City may be removed from office, for stated reasons, by those voters who are qualified to vote for a successor to such office.

The Council shall enact, within sixty days of the adoption of this Charter, an ordinance providing for:

1. The general conduct of recall elections;
2. Receipt, by the City Clerk, prior to the conduct of any recall election of a petition bearing authentic signatures of a number of registered voters equal to at least twenty percent of the total number of votes cast in the election of the officer whose recall is sought;
3. Completion of a recall petition within sixty days of filing notice with the City Clerk of intent to circulate a petition for recall; and
4. Recall petitions to specify the reasons for which recall is sought.

No recall petition shall be filed against any elected officer within six months after taking office, nor within twelve months of the end of the elected officer's term or office, nor in case of an officer who was the subject of an unsuccessful recall election, until six months after that election. Should the elected officer, whose recall is sought, resign, no recall election shall be held.

~~Until the Council enacts a recall ordinance meeting the requirements here set forth, the procedure prescribed by Section 32A of the former City Charter shall govern recall.~~

D. E. Vacancies and Removal from Office. An elective office also shall become vacant upon death, resignation, forfeiture of or removal from office of the officer in any manner authorized by law. Any elected City official shall be subject to removal from office if that official:

1. Lacks, at any time during the term of office, any qualification or requirement prescribed by this Charter or other law;
2. Is convicted of any felony, or of a misdemeanor involving moral turpitude;
3. Violates the City Ethics Ordinance; ~~or~~
4. Makes any willful false statements or commits any fraud preventing the impartial execution of the provisions of this charter;
5. Knowingly and willfully solicits or assists in soliciting any contributions from any political party to be used in conjunction with any City election of City officers; or
4. 6 In the case of the Mayor or a Representative, fails to attend three consecutive regular meetings of the Council without being excused by the Council. A Representative shall forfeit office if, during the term of office, that Representative establishes residence outside the Council district from which elected, unless otherwise provided by law.

E. F. Qualified Voters. All citizens qualified by the laws of Texas to vote in the City and who satisfy the requirements for registration shall be qualified voters of the City.

F. G. Election Information. Within 120 days of the adoption of this Article, the City Attorney shall write a summary of legal requirements, which must be met, and procedures that must be followed by any candidate for a City elective office. The summary must be written in terms, which can be understood by an average adult who is not an attorney, and shall be updated as necessary and shall be made available in the City Clerk's office as provided in the Texas ~~Open~~ Records Public Information Act.

Section 2.2 NOMINATIONS.

A. Qualifications for Office. In addition to the requirements prescribed by law, the following shall be the qualifications for City elective offices:

1. Candidates for Mayor shall have been City residents for the 12 months next preceding the election, and must be at least 21 years of age.;
2. Candidates for Representative shall have been City residents for the 12 months next preceding the election, and residents of the district for 6 months next preceding the election, and must be at least 21 years of age.;
3. Candidates for Municipal Judge shall have been City residents for the 12 months next preceding the election, licensed to practice law in Texas, and at least 21 years of age.;
4. ~~Candidates for City Tax Collector shall have been City residents for the 12 months next preceding the election, and must be at least 21 years of age.~~
- 5 4 Candidates for Mayor and Representative shall be eligible for that elective office only when holding that office for a term of four years shall not result in the candidate exceeding the term limitation established in Section 2.2 D E.

B. Indebtedness: Financial Disclosure.

1. No person shall be eligible for any elective office that, at the time of taking office, whether by virtue of election or appointment, is indebted to the City in any sum of money on judgment, contract or valid tax levy or assessment.
2. Each person elected to City office, as a condition to being administered the oath of office, shall have filed with the City Clerk a signed, sworn statement disclosing:
 - a. Where, by whom, and by what specific capacity that person and that person's spouse, if any, is employed or self-employed;
 - b. Membership on boards of directors of corporations, whether they are organized for profit or not, of that person and that person's spouse, if any;

- c. Partnership interest of that person and that person's spouse, if any;
 - d. The names and addresses of any business in which that person or that person's spouse, if any, has a financial investment; and
 - e. Ownership of real property of that person and of that person's spouse, if any.
3. No person submitting such a statement of financial disclosure must indicate therein the extent of financial involvement in any investments.
4. Each person subject to this provision shall file with the City Clerk a signed, sworn, updated revision of this statement, annually, while in office.

C. Ethics Review Commission. The Council shall, by ordinance, establish an independent ethics review commission to administer and enforce the ethics section of the City Code. To the extent permitted by Texas law, the Council shall authorize the commission to issue advisory opinions, conduct investigations, request witness testimony and production of evidence, make determinations on whether a violation has occurred, and issue appropriate sanctions. The Council shall provide sufficient resources to the commission to enable it to perform the duties assigned to it under the Charter and City Code.

D. E. Limitation. No Mayor or Representative may hold such office for more than a total of ten years throughout their lifetime.

E. D. Filing for Candidacy. To become a candidate for elective office a person must file a sworn application with the City Clerk, in accordance with the laws of Texas for nonpartisan or independent candidates, and must accompany the application with a filing fee of \$500.00 for the office of Mayor and \$250.00 for any other office.

F. E. Petition for Candidacy. In lieu of the payment of a filing fee, any person qualified for an elective office may become a candidate by petition of 25 qualified voters who are eligible to vote for that candidate. The signed petitions shall be filed with the City Clerk at the time of filing for candidacy. Each signer next to his signature shall indicate voter registration number, date of signing and place of residence. Within five days after the filing of a nominating petition, the City Clerk shall notify the candidate and the person who filed the petition, if other than the candidate, whether it satisfies the requirements prescribed by this Charter. If a petition is found insufficient, the City Clerk shall return it immediately to the person who filed it with a statement certifying wherein it is insufficient. Within the regular time for filing petitions a corrected petition may be filed for the same candidate.

G. F. Non-Partisan Elections. Candidates for City elective office shall not be nominated by primary elections.

Section 2.3 ELECTIONS.

A. Conduct of Elections. All elections shall be held in accordance with the laws of Texas. If State law does not make adequate provisions, the Council shall make the necessary provisions.

~~B. Filling of Vacancies. Representative and Mayoral vacancies shall be filled for the unexpired portion of the term by special election with a run-off election where no person receives a majority vote in the first election. All vacancies in elective City offices will be filled in accordance with the laws of Texas.~~

C. B. Names on Ballots. The names of all candidates for all elective city offices, except those who have withdrawn, died or become ineligible, shall be printed without party designation or symbol on the official ballots. If two or more candidates have the same surname or surnames so similar as to be likely to cause confusion, their residence addresses shall be printed with their names on the ballot.

~~D. Run-off Elections. The Council shall canvass the returns of the election as soon as practicable. If no candidate for a particular office receives a majority vote, a run-off election shall be held in accordance with the laws of Texas.~~

Section 2.4 REPRESENTATIVE DISTRICTS; ADJUSTMENT OF DISTRICTS.

~~A. Number of Districts. Prior to the commencement of terms of office in 1993, there shall be six Representative districts. Beginning with the terms of office commencing in 1993 and continuing thereafter, t~~There shall be eight Representative districts. The Representative districts shall be of substantially equal population. One Representative shall be elected from each of the Representative districts established by the Council. Each district shall be numbered; for example, "Representative District No. 1."

B. Districting Commission. On or before September 1 next following the publication of the results of each decennial United States census, each Representative shall nominate one qualified voter from his or her district and the Mayor shall nominate one qualified voter from the City at large. Upon approval by the Council, these nominees shall comprise the Districting Commission. The Commission shall elect its own presiding officer. The nominees chosen shall not serve the City in any other capacity, whether appointive or elective, nor shall they hold any other elective public office. The Commission shall make recommendations to the Council concerning adjustments of the boundaries of the Representative districts. Upon receiving the Commission's recommendations, the Council shall review the population of each district, and as soon as possible, shall change the boundaries thereof as necessary to insure substantial equality in the populations of the districts. In addition, the Council may change the boundaries of the Representative districts more often than after each decennial census, as necessary to insure substantial equality in the populations of such Representative districts. All such changes shall be made in a manner that complies with the constitutional principles and laws governing voting rights of the United States and Texas.

Article III THE CITY COUNCIL

Section 3.1 CREATION; COMPOSITION; POWERS AND DUTIES.

There shall be a City Council consisting of District Representatives and the Mayor. The Council shall have legislative powers, and the power and duty to select, direct, and regularly evaluate the City Manager, as well as such other and specific powers and duties as may be provided by law or this Charter. Each Representative shall have the discretion and sole authority to appoint and remove a personal legislative aide.

Section 3.2 SALARIES.

~~Upon the adoption of this Charter, the salaries of the Mayor and the Representatives shall be those authorized prior to the adoption of this Charter. Subsequent to the adoption of this Charter, the Council shall have the power to increase these salaries by not more than five percent, but such act must be taken at least three months prior to the next general city election and may not take effect until after the inauguration of the next Council. Any proposed salary increase in excess of five percent shall be subject to voter approval, by referendum, conducted at a general City election.~~

Commencing on September 1, 2007, the annual base salary of the District Representatives shall be thirty-nine thousand five hundred dollars, and the annual base salary of the Mayor shall be sixty-three thousand two hundred dollars. On and after September 1, 2008, the base salaries will be increased by a percentage equal to the percent increase of the general salary adjustment, if any, given to the classified employees in the general services effective as of September 1st.

Section 3.3 PROHIBITIONS.

A. Other Public Employment. No Council member may hold any other compensated public office or public employment, and no former Council member shall hold any compensated City position until one year has elapsed following the expiration of the term for which that member was elected to the Council.

B. Nepotism. No person shall be appointed as City Manager or to any City board or commission who, at the time of appointment, is related in the first or second degree of consanguinity or in the first or second degree of affinity to a member of the Council. The words "consanguinity" and "affinity" are, in popular usage, often referred to, respectively, as "blood" and "marriage."

C. "Lame Duck" Elected Officers Not to Make ~~Contracts~~ Appointments.

~~1. From that date of any City general election until inauguration of those elected, the City shall not enter into any contract for the purchase of materials or supplies or for professional services, the acquisition of any land or buildings, the construction or repair of any public building, or the carrying on of any other public work requiring, creating, or imposing an obligation or liability of any nature upon the City in excess of \$3,000.00; providing that in the following situations this provision shall not apply:~~

~~a. In the case of public calamity, where it becomes necessary to act at once to appropriate money to relieve the necessity of citizens or to preserve the property of the City, or when it is necessary to preserve or protect the public health.~~

~~b. In the case of contract lawfully authorized prior to any City general election or to contracts which may be lawfully authorized by a vote of the people; and~~

~~e. In the case of obligations incurred by the City for providing essential and indispensable maintenance for any City Department.~~

~~2. From the date of any City general election until inauguration of those elected, neither the Mayor nor the City Council shall make any appointment of a City Manager, or any appointments to any standing or special public boards, commissions or committees of the City, except when in conflict with State law or when due process rights of employees or citizens would be compromised.~~

Section 3.4 DETERMINATION OF ELECTIONS AND QUALIFICATIONS.

Except as provided in Article II, Section 2.1D, the Council shall be the judge of the election and qualifications of its members and of other elected City officials and of the grounds for removal from office and for that purpose shall have the power to subpoena witnesses, administer oaths, and require the production of evidence. An officer, including a Representative or the Mayor, charged with conduct constituting grounds for removal from office shall be entitled to a public hearing, and notice shall be published in one or more newspapers of general, daily circulation in the city at least one week in advance of the hearing. Decisions made by the Council under this section shall be subject to review by the courts.

Section 3.5 CITY COUNCIL PROCEDURES AND RULES.

A. Meetings. Regular meetings of the Council shall be held in Council chambers a minimum of one time per week at such times as may be prescribed by resolution. Provided however, that the Council by resolution may cancel one or more regular meetings, not to exceed three meetings during each calendar year, provided that such canceled meetings are not consecutive but not less than one regular meeting shall be held each week. Special meetings and informal work sessions of the Council shall be called by the Mayor or a majority of the entire Council by giving written notice to the City Clerk. All meetings of the Council and of any committees thereof shall be held as permitted by the Texas Open Meetings Act.

B. Parliamentary Procedure. At the beginning of each term the Council shall adopt rules of order, and should the Council fail to do this, then Roberts Rules of Order, Revised, shall control until such time as the Council adopts some other rules of order. In any event, copies of rules of order employed by the Council shall be available, in the office of the City Clerk, for examination by interested persons. The Mayor, with the advice and consent of the Representatives, shall designate a Municipal Parliamentarian and Alternate Municipal Parliamentarians, but no members of the Council may hold those offices. The Council must keep minutes of its open proceedings, and these shall be a public record. It shall also have power to compel the attendance of absent members, and, by the favorable vote of a majority of the entire Council, may expel a member from a Council meeting for disorderly conduct or serious violation of its rules and may order that member to be physically removed from the meeting.

C. Quorum. Except as otherwise provided in this Charter, a quorum to do business shall consist in more than one-half of the number of members of the Council, including the Mayor; provided, however, that a lesser number may adjourn until a specific time and compel the attendance of absent members, in the manner prescribed by ordinance.

D. Voting. Voting, except on procedural motions, shall be by roll call and the vote shall be recorded in the minutes. No action of the Council, except as otherwise provided in this Charter, shall be valid or binding unless adopted by the affirmative vote of a majority of the members present and voting. Ordinances that impose taxes provide for the issuance of bonds, or grant franchises or leases or authorize conveyances shall not be valid unless adopted by a majority of the entire Council.

E. Veto. Ordinances and resolutions finally adopted by the Council shall be filed in the office of the City Clerk and signed by the Mayor before they take effect. If the Mayor vetoes the ordinance or resolution, reasons shall be set forth by the Mayor in writing, and the ordinance or resolution with those reasons shall be returned to the Council. However, the Mayor shall not have any veto power over any City Council action that removes the City Manager. To override the Mayor's veto, three fourths of all of the Representatives must vote in favor of the returned ordinance or resolution, in which event the adopted ordinance or resolution shall become law. If the Mayor shall either fail to approve or object in writing to any adopted ordinance or resolution within five days after it has been filed with the City Clerk, exclusive of the day of filing, it shall become law.

Section 3.6 LEGISLATIVE COMMITTEES.

The Representatives may resolve themselves into committees, both standing and special, when this is convenient for the conduct of legislative business, including the investigative powers described in Section 3.8. The Council shall make rules governing the organization and procedures of these committees, and the Mayor shall have no power to veto any of those rules except upon grounds of illegality.

Section 3.7 APPOINTMENTS.

A. The City Attorney. Whenever a vacancy in the position of City Attorney or any Assistant City Attorney occurs, the Mayor shall appoint a successor with a majority vote of the entire Council. Candidates for this position may be nominated by any member of the Council. The City Attorney or any Assistant City Attorney may be removed by the Mayor with a majority vote of the entire Council.

B. Boards and Commissions. Except where otherwise provided in this Charter, or by the laws of Texas, or of the United States, appointments to and removals from standing or special public boards, commissions or committees of the City shall be made by the Council. The Council is required to ensure that appointments are distributed uniformly among Representatives.

C. A City Clerk shall be appointed pursuant to the Civil Service Article of this Charter.

Section 3.8 INVESTIGATIVE POWERS.

The Council shall have the express power to inquire into the official conduct of any department, officer or employee of the City, and for that purpose shall have the power to administer oaths, subpoena witnesses, and compel the production of evidence material to the inquiry. The Council shall provide by ordinance penalties for contempt in failing or refusing to obey any such subpoena or to produce any such evidence, and shall have the power to punish any such contempt in the manner provided by such ordinance. The Council must respect the dignity, rights and liberties of all persons in exercising these investigative powers. These investigative powers shall not extend to those matters covered under Civil Service nor shall this power be used to pursue criminal matters, other than those over which the Council has legislative power.

Section 3.9 ORDINANCES IN GENERAL.

A. Form and Introduction. Ordinances and resolutions shall be introduced at Council meetings only in written form; but amendments to ordinances and resolutions may be made orally at the same meetings. No ordinance shall concern more than one subject, and that shall be expressed clearly in the title. The enacting clause of all ordinances shall read: "Be it ordained by the City Council of the City of El Paso." Any ordinance that repeals or amends an existing ordinance or other part of the City Code shall summarize the ordinance, sections or subsections to be repealed or amended.

B. Legislative Procedure. Except as provided in Section 3.13, an ordinance may be introduced by any Council member at any meeting of the Council. A proposed ordinance must be filed with the City Clerk in sufficient time for inclusion on the agenda for the Council meeting at which it is to be introduced. Upon such filing the City Clerk shall distribute copies to each member of the Council and to the City Manager. A reasonable number of copies shall be available in the office of the City Clerk, and at such other public places as the Council may designate, for examination by interested persons. No ordinance shall be adopted finally ~~except at a~~ until it has been read, at the first regular open meeting of the Council following notice, publication, and a public hearing. ~~The public hearing may be held by a designated Council committee.~~ The notice shall contain:

1. The proposed ordinance or a brief summary thereof;
2. The places where copies of it have been filed and the times when they are available for public examination; and,
3. The time and place for the public hearing. ~~The notice shall be published in a newspaper of general daily circulation at least seven days prior to the public hearing. The notice shall be given published by any contemporary means of information sharing, including but not limited to publication in a newspaper of general circulation in the City or placement on a web site at least five days prior to the public hearing.~~ The hearing may be held by a designated Council committee or the Council separately or in connection with any Council meeting and may be adjourned to a specified time. All interested persons present shall have an opportunity to be heard. As soon as practicable after adoption of any ordinance, the City Clerk shall publish it again, with notice of its adoption, in abstract form, by any contemporary means of information sharing a newspaper that is of general, daily circulation in this City. These abstracts must state, at a minimum, the purpose of the ordinance and, where penal, the penalty provided. In any event, the publication must be written so as to be understood by an average person.

C. Actions Requiring Ordinances. The Council may exercise the following powers by ordinance only:

1. Authorize the conveyance of any City real property;

2. Adopt or amend any administrative code and establish, abolish, alter or combine any City departments, so long as such action is not in conflict with this Charter;
3. Amend, extend, or repeal any ordinance previously adopted;
4. Prescribe a fine or penalty or establish any rule or regulation for the violation of which a fine or other penalty is imposed;
5. Adopt Civil Service Rules, ~~except as provided in Section 6.1.~~

Section 3.10 EMERGENCY ORDINANCES.

A. Limitation. To meet a public emergency affecting life, health, property, or the public peace, the Council may adopt one or more emergency ordinances, but such ordinances may not levy taxes, grant, renew or extend a franchise, authorize a conveyance of real property, or authorize the borrowing of money.

B. Procedures. An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it may be introduced on two hours' public notice, and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing the emergency in clear and specific terms. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced, but the unanimous vote of the Representatives present, and the consent of the Mayor, shall be required for adoption.

C. Adoption, Re-enactment, Repeal. After its adoption the ordinance shall be published and printed as prescribed for other adopted ordinances. It shall become effective upon adoption or at such later time as the ordinance may specify. Every emergency ordinance shall stand repealed automatically as of the 31st day following the date on which it was adopted, but this shall not prevent the re-enactment of the ordinance, in the manner specified in this section, if the emergency still exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance, in the same manner specified in this section for adoption of emergency ordinances.

Section 3.11 INITIATIVE.

Whenever a number of registered voters equal to at least five percent of the voters who voted in the last general City election sign a petition setting forth the precise content of an ordinance desired by the signers, the Council must place that ordinance on the agenda of a Council meeting to be held within thirty working days of the receipt, by the City Clerk, of the petition bearing the authenticated names and addresses of the petitioners. Such an item shall be treated by the Council exactly as any other proposed ordinance.

Should an ordinance proposed by such petition not be enacted by the Council, or should it be enacted in an amended form, a second petition, signed by a number of registered voters equal to at least five percent of the voters who voted in the last general City election, may be submitted to the City Clerk and that official shall have twenty working days in which to authenticate the signatures and thereafter must place the re-proposed ordinance on the ballot at the next general election specified in State law, if the proposal received the favorable vote of a majority of those voting in that election it shall thereupon become a City ordinance.

The Council is not obliged to consider the same ordinance initiated by petition, or one that is substantially the same, more often than once in two years.

Section 3.11A REFERENDUM.

A referendum election may be called by the City Council when a collective bargaining agreement between the City and an employee organization so provides.

Section 3.12 RESOLUTIONS.

The Council may act by resolution in all cases unless an ordinance is required by this Charter.

Section 3.13 CODES OF TECHNICAL REGULATIONS.

A. The Council may adopt any standard code of technical regulations by referring to that code in an adopting ordinance.

B. The procedure and requirements governing such an adopting ordinance shall be as prescribed for ordinances generally except that:

1. The requirements of Section 3.9A and B of this Charter, for distribution and filing of copies of the ordinance, shall be construed to include copies of the code of technical regulations as well as of the adopting ordinance;
2. A copy of each adopting code of technical regulations as well as of the adopting ordinance shall be authenticated and recorded by the City Clerk pursuant to Section 3.14A of this Charter; and,
3. Copies of any adopted code of technical regulations shall be made available in the office of the City Clerk for examination by interested persons.
4. ~~The technical code need not be read publicly.~~

Section 3.14 AUTHENTICATION AND RECORDING; CODIFICATION; PRINTING.

A. All ordinances and resolutions of the Council shall be authenticated by the City Clerk and recorded in an indexed public record.

B. The Council shall provide for the preparation of a general codification of this Charter and its amendments, and of those ordinances selected by the Council. This codification shall be known and officially cited as the El Paso City Code. Copies of the Code shall be furnished to City officers and placed in libraries and public offices within the El Paso City limits, for free public reference.

Section 3.15 CONSERVATION.

The Council must, in consultation with the Public Service Board, and within two years following the adoption of this Charter, enact and maintain a comprehensive plan for the conservation of water and other natural resources. The plan shall take into consideration the impact on natural resources resulting from any governmental action, including, but not limited to, land use, zoning regulations, building code requirements, and development and operation of public facilities. The City shall continue to implement the plan by using such means, as the Council makes available to acquire, conserve and preserve natural resources for future generations.

Section 3.16 BORDER RELATIONS.

The Council must, within one year following the adoption of this Charter, provide for the duties, appointment, structure, and terms of office and filling of vacancies on a standing Committee on Border Relations, comprised of El Paso citizens.

The Committee on Border Relations shall propose, promote and, from time to time, revise a program to enhance relations with Ciudad Juarez and with the border area in proximity to El Paso.

Section 3.17 ANNEXATION OF TERRITORY.

The Council may, by ordinance, fix or extend the boundaries of the City and may also, by ordinance, annex or exchange territory adjoining or abutting upon the territory of the City. The territory so annexed shall, in all respects and for all purposes, be part of the City. In no event

shall an annexation ordinance be passed without notice, published in accordance with state law, through a newspaper of general, daily circulation, to the residents of the City and of the territory to be annexed, nor without a ~~special~~ meeting of the Council at which proponents and opponents of the annexations must be given ample opportunity to express their views.

Section 3.18 LEASE; FRANCHISE; AND CONVEYANCE AND SPECIAL PRIVILEGE.

The right of control, ownership and use of streets, alleys, parks and public places of the City is declared to be inalienable except as provided by ordinance passed by the ~~entire~~ Council.

Any ordinance providing for the conveyance, lease, or grant of a franchise ~~or special privilege~~ regarding the property of the City shall provide for payment to the City of a reasonable fee as consideration for that conveyance, lease, or franchise or special privilege. In addition, any ordinance providing for the lease, or franchise, or special privilege shall provide that:

1. At the termination of the lease, or franchise or special privilege, the property involved, together with any improvements thereto, made or erected during the term of the lease, or franchise or special privilege, shall (either without further compensation or upon payment of a fair valuation therefore as determined by the terms of the ordinance), become the property of the City; and
2. ~~No lease, franchise or special privilege shall be granted for a period in excess of thirty years; and;~~
2. 3. Every lease, or franchise or special privilege may be revoked by the City if necessary to secure efficiency of public service at a reasonable rate, or to assure that the property is maintained in good order throughout the life of the grant.

Section 3.19 ~~DRAINAGE ASSESSMENTS.~~

~~The Council may enact an ordinance requiring the construction of a drainage system at a property owner's expense if:~~

- ~~A. The City Plan Commission has refused to approve a plat or replat of land within the City limits because of inadequate drainage;~~
- ~~B. The City Engineer has approved a minimum drainage system for the land that will:
—— 1. Provide for drainage of contiguous land which is inadequately drained; and
—— 2. Enhance the value of the contiguous land;~~
- ~~C. No assessment exceeds the value by which the land is enhanced; and~~
- ~~D. The assessment divides the cost fairly among the parcels of land drained by the system.~~

~~The Council may assess any or all of the cost of the system as a lien upon the land drained (if the land is not a homestead) and as a personal charge against the owner.~~

~~Any person legally interested may file suit to contest such assessment in a district court of El Paso County, within 90 days after the passage of an ordinance under this section.~~

Section 3.20 3.19 PROHIBITING THE SALE OF ALCOHOLIC BEVERAGES IN RESIDENTIAL SECTIONS OF THE CITY.

The sale of beer and liquor is hereby prohibited in residential areas of the City.

Article IV THE MAYOR

Section 4.1. POWERS AND DUTIES OF THE MAYOR.

A. The Mayor shall be recognized as head of the City government for all ceremonial purposes and by the governor for purposes of military law but shall have no administrative duties except as may be specifically provided in this Charter.

B. The Mayor shall be a member of and preside over the City Council, having the power to propose legislation; represent the City in intra-governmental and intergovernmental relationships; appoint with the consent of the Council the members of citizen advisory boards and commissions; make appointments and perform duties pursuant to federal and state law; present an annual state of the City message, break tie votes, sign all lawful ordinances and resolutions of the Council and other documents when required by state law, veto legislation except for any City Council action which removes the City Manager, convene the Council in special session and perform other duties specified by the Council.

C. The Mayor shall have the sole authority to appoint and remove the Mayor's Executive Secretary and Executive Assistant(s).

~~Section 4.2 — DUTIES OF THE MAYOR.~~

~~A. Under the authority of the Council, the Mayor shall sign all lawful acts of the Council, such as ordinances, resolutions, conveyances, grant agreements, plats, contracts and bonds. The Council may by ordinance provide that additional designated officials may sign such acts of Council on behalf of the Mayor, as provided by law.~~

~~B. The Mayor shall have the sole authority to appoint and remove the Mayor's Executive Secretary and Executive Assistant(s).~~

Section 4.3 4.2 MAYOR PRO TEMPORE.

A. At the first meeting ~~after taking~~ upon the start of new terms of office, the Council shall elect from among the Representatives a Mayor Pro Tempore, who shall hold that office ~~through the~~ for a two year term for which elected to the Council. Should the office of Mayor Pro Tempore become vacant, the Council shall elect a new Mayor Pro Tempore.

B. During the absence or disability of the Mayor, the Mayor Pro Tempore shall act as Mayor, but shall vote as a Representative, and shall have no veto power.

C. In the event of the absence of both the Mayor and Mayor Pro Tempore, the Council shall elect an alternate Mayor Pro Tempore to serve until the return of the Mayor or Mayor Pro Tempore.

Article V CITY MANAGER

Section 5.1 APPOINTMENT; QUALIFICATIONS; COMPENSATION.

The City Council by a majority vote of its total membership shall appoint a City Manager and fix the Manager's compensation. The City Manager shall be appointed solely on the basis of executive and administrative qualifications. The Manager need not be a resident of the City at the time of appointment but shall establish residence in the City within sixty days after the date of appointment.

Section 5.2 POWERS AND DUTIES.

The City Manager shall be the chief administrative officer of the City, responsible to the Council for the administration of all City affairs placed in the Manager's charge by or under this Charter. The City Manager shall:

- (1) Take all personnel actions regarding employees ~~as authorized under this Charter~~, except as provided by law or in this Charter ~~or by any agreement with the County of El Paso with respect to City-County Health and Environmental District employees~~. The City Manager may authorize the Deputy City Managers and department directors ~~heads~~ to exercise these powers with respect to their subordinates;
- (2) Direct and supervise the administration of all departments, offices and agencies of the City, except as otherwise provided by this Charter or by law;
- (3) Attend all City Council meetings. The City Manager shall have the right to take part in discussion but shall not vote;
- (4) See that all laws, provisions of this Charter and acts of the City Council, subject to enforcement by the City Manager or by employees subject to the Manager's direction and supervision, are faithfully executed;
- (5) Prepare and submit the annual budget and capital program to the City Council;
- (6) Submit to the City Council and make available to the public a complete report on the finances and administrative activities of the City as of the end of each fiscal year;
- (7) Make such other reports as the City Council may require concerning the operations of City departments, offices and agencies subject to the City Manager's direction and supervision;
- (8) Keep the City Council fully advised as to the financial condition and future needs of the City;
- (9) Make recommendations to the City Council concerning the affairs of the City;
- (10) Provide support to the offices of the Mayor and the Representatives; and
- (11) Perform such other duties as are specified in this Charter or may be required by the City Council.

Section 5.3 REMOVAL.

The City Manager may be removed by a resolution approved by the majority of the total membership of the City Council, with or without cause.

Section 5.4 ACTING CITY MANAGER.

By letter filed with the City Clerk, the City Manager shall designate a City employee to exercise the powers and perform the duties of City Manager during the Manager's temporary absence or disability. The City Council may revoke such designation at any time and appoint another employee of the City to serve until the City Manager returns.

Section 5.5 INTERFERENCE WITH PERSONNEL OR ADMINISTRATION.

Except for the purposes of investigations under Section 3.8 and inquiries, the members of the Council shall deal with City employees who are subject to the direction and supervision of the City Manager solely through the City Manager, and neither the Council nor any of its members shall give orders to any such employee, either publicly or privately. Neither the Council nor any of its members shall in any manner control or demand the appointment or removal of any City employee whom the City Manager is empowered to appoint, but the Council may express its views and fully and freely discuss with the City Manager anything pertaining to appointment and removal of such employees.

Section 6.1 CIVIL SERVICE COMMISSION

Section 6.1-1 GENERAL.

The civil service system exists to ensure a personnel system that is based solely on merit. The Civil Service Commission of El Paso exists for the purposes of ~~overseeing the operation of the~~

City's Civil Service system, of ensuring its fairness, economy and efficiency and of hearing grievances by or against classified employees. The Commission shall establish its own procedures within the framework of this Charter to carry out these functions.

Section ~~6.1-5~~ 6.1-2 FUNCTIONS AND DUTIES OF THE CIVIL SERVICE COMMISSION.

The Commission shall hold regular meetings as may be ~~at least once a month on a day~~ prescribed by Commission procedures ~~the Rules~~. Special meetings shall be held as required for the proper discharge of the duties of the Commission, due notice having been given. Five members of the Commission will constitute a quorum, ~~except as otherwise provided in the City Charter~~. It shall be the duty of the Commission to:

- A. Recommend to the Council:
 - 1. adoption of Rules for the administration of the Civil Service provisions of this Charter, and
 - 2. Thereafter, appropriate amendments.
- B. Investigate ~~all~~ matters concerning the enforcement and effect of the Civil Service provisions of this Charter.
- C. Hear and determine appeals or complaints as may be further prescribed in the Rules ~~by or concerning members of the classified service~~.
- D. ~~Supervise~~ Oversee the Civil Service provisions of this Charter, ensuring fair and equitable treatment of all classified employees.
- E. Appoint hearing officers.

Section ~~6.1-2~~ 6.1-3 APPOINTMENT.

The Commission shall consist of nine persons appointed by the Council ~~in consultation with the Commission, as provided in the Civil Service Rules~~. All members serving on the Commission when this amendment takes effect will continue to serve until their terms of office expire. ~~The initial terms of the two additional Commissioners appointed after this amendment takes effect will expire in 1996 when other existing Commissioners' terms expire in 1996 and until the appointment of their successors. Thereafter, all a~~Appointments shall be for three-year terms. Commissioners serving consecutive terms shall be limited to two full successive three-year terms, regardless of the date of their original appointments. ~~except that the initial terms of two additional members shall not be counted in determining the two term limitation of this paragraph.~~ No person may serve as a member on the Commission for more than a total of ten years throughout their lifetime and no person may be appointed as a member on the Commission if, serving out the full length of the term to which they would be appointed would result in the person having more than a total of ten years of lifetime service.

Section ~~6.1-3~~ 6.1-4 QUALIFICATIONS.

Members of the Commission must be ~~have been~~ residents of the City at least ~~two years~~ immediately preceding the time of their appointment and remain a resident of the City throughout their term of office. No Commissioner may hold any salaried public office or other employment compensated by the City, ~~and no Commissioner shall be directly or indirectly interested in any work, business or contract, the expense, price or consideration of which is paid from the City Treasury, or by any assessment levied by ordinance or resolution of the City Council,~~ and any violation of this provision shall be deemed malfeasance in office and cause for removal therefrom. At least two Commissioners must hold or have retired from positions other than managerial or professional. No more than three commissioners may be former city

employees, and any such commissioners are not eligible for appointment until two years following separation from the City. Any Commissioner may be either actively employed or retired.

Section 6.1-4 ~~6.1-5~~ COMPENSATION.

Members of the Commission shall serve without salary.

Section 6.1-6 RULES.

A. ~~Original Rules. Within 120 days after the adoption of this Article, the Council shall publish Rules detailing Civil Service procedures under the Charter.~~ The Rules shall be consistent with the principles and practices of the merit civil service system incorporated in this Article. They shall be adopted by the Council by ordinance, after considering recommendations of the Commission ~~following procedures set forth in Article III, Section 3.9A and B.~~

B. ~~Procedures for Adoption. Immediately upon approval of Article VI, the Personnel~~ The Human Resources Director shall submit to the Commission the proposed Rules for its review and recommendation to the Council. Failure by the Commission to recommend approval, modification or disapproval of ~~the~~ proposed Rules within sixty days after receipt shall constitute authority for the Council to proceed without a recommendation from as if the Commission had recommended approval. ~~In the event of disagreement, the Council may override the Commission only by a four-fifths majority of those present and voting, based on a quorum of five. Otherwise, the Commission's position will prevail.~~

C. ~~Changes, Additions or Deletions.~~ Proposed changes, additions or deletions to the Rules shall be processed through the Commission to the Council in the same manner and subject to the same standards as for the basic Rules as set forth in A and B above.

D. ~~Council Action.~~ Failure by Council to approve, amend and approve, or deny the Commission's changes within sixty days after Council's receipt shall result in their automatic adoption. In the event of disagreement, the Council may deny or amend the Commission's changes, additions or deletions only by a two-thirds majority of the Council.

Section 6.1-7 POWER TO SUBPOENA WITNESSES.

The Commission shall have the power to subpoena witnesses, require the production of evidence and administer oaths. The Council shall provide, by ordinance, penalties for contempt for failing or refusing to obey a subpoena or to produce evidence, and shall have the power to punish any of these acts of contempt in the manner provided in the ordinance. Costs incident to actions under this section shall be borne by the party requesting the subpoena.

Section 6.1-8 ~~CIVIL SUITS.~~

~~The Commission may prosecute all civil suits necessary for the proper enforcement of this Article and of the Rules of the Commission and must defend all civil suits which may be brought against the Commission. The Commission may be represented in such suits by the legal staff of the City.~~

Section 6.1-9 ~~LEGAL COUNSEL.~~

~~The Commission is authorized to employ legal counsel to advise and assist it in its proceedings and deliberations, and, where necessary, to represent it in civil suits. Reasonable fees or salaries shall be paid by the City, as determined by the Commission subject to Council approval.~~

Section ~~6.1-10~~ 6.1-8 JURISDICTION.

The Commission will have jurisdiction over all employees in the classified service.

Section ~~6.1-11~~ 6.1-9 ORGANIZATION.

The Commission shall elect from its members a Chairman and a Vice-Chairman, each for a term of one year. The Chairman may not be re-elected for one year successive terms.

~~Section 6.1-12 MEETINGS.~~

~~Meetings of the Commission shall be conducted as permitted by the Texas Open Meetings Act.~~

~~Section 6.1-13 REPORTS.~~

~~The Commission shall may file with the Council an annual report on:~~

~~A. Recommendations for promoting efficiency in the public service;~~

~~B. Details of expenditures made; and~~

~~C. A summary of the work of the Commission.~~

~~The Council may at any time require from the Commission a report regarding any matter within the scope of its jurisdiction and duties.~~

~~Section 6.1-14 RECORDS.~~

~~Records of the Commission will be administered as permitted by the Texas Public Information Open Records Act.~~

Section ~~6.1-15~~ 6.1-10 REMOVAL.

Members of the Commission will not be removed from office except for incompetence or nonfeasance, misfeasance or malfeasance in office, such as neglect of duty or refusal to perform the duties imposed by this Charter. Action may be initiated in writing by any member of the Council or Commission. Any removal will require an affirmative vote of two-thirds ~~four-fifths~~ of the Council present and voting, ~~based on a quorum of five.~~

Section ~~6.1-16~~ 6.1-11 NON-DISCRIMINATION.

All personnel actions must be free of discrimination as is prohibited by law. ~~based on race, religion, color, national origin, age, sex or handicap.~~

Section ~~6.1-17~~ 6.1-12 HEARING OFFICERS.

The Commission will appoint one or more compensated ~~salaries~~ hearing officers to hear appeals made under Section 6.13-4. The need for hearing officers in excess of one shall be determined jointly by the Commission and the City Manager ~~Council~~. Hearing officers will perform those duties and functions necessary to render a recommendation to the Commission on the matter in dispute.

The hearing officers will serve at the Commission's pleasure, and will not be classified. Reasonable compensation ~~salaries~~ shall be paid by the City, ~~as determined by the Commission,~~ subject to Council approval.

Section 6.2 DIVISION OF THE CITY SERVICE

Section 6.2-1 DIVISION.

All offices and positions of trust or employment in the service of the City are hereby divided into the unclassified and classified services.

Section 6.2-2 UNCLASSIFIED SERVICES.

The unclassified services shall include only the following positions:

- A. The City Attorney, Assistant City Attorneys, law clerks and paralegal personnel;
- B. The Mayor's executive secretary(s) and Executive Assistant(s);
- C. A person hired solely as a District Representative's legislative aide for the limited period of the term of office for that District Representative.
- ~~C~~ D. Hearing officer(s) and the Commission Recorder;
- ~~D~~ E. All elected officials;
- ~~E. The City-County health officer, and all doctors, dentists, and other persons by the City or City-County health units;~~
- ~~F. The Manager of the Municipal Airport, the Manager of the Municipal Golf Course, and the Director of the Museum of Art;~~
- ~~F, G. Members of all City boards, commissions, and committees who serve without compensation;~~
- ~~H, G. Employees hired under Section 6.6-5~~ 6.6-4;
- I. H. The City Manager;
- I. All Department Heads or Directors, Deputy City Managers, and executive staff or salaried professional employees reporting directly to the City Manager; and
- J. City employees hired on or after the effective date of this amendment who work at the Metropolitan Planning Organization Office; and
- K. Persons given provisional and temporary appointments who are not classified employees at the time of such appointment.

Section 6.2-3 APPOINTMENT AND REMOVAL OF UNCLASSIFIED PERSONNEL.

A. Except as otherwise provided in this Charter, appointments to the unclassified services shall be made by the City Manager solely on the basis of education and experience in the accepted competencies and practices of their field.

~~B. After the effective date of this Charter Amendment,~~ Except as otherwise provided by law or in this Charter, unclassified personnel may be removed by the City Manager or designee, who may establish written procedures for removal, or by the department head with approval of the City Manager, except for hearing officers and the Commission Recorder, who may be removed only by a majority vote of the commissioners, present and voting, based on a quorum of five.

Section 6.2-4 CLASSIFIED SERVICES.

The classified services include all positions not listed in Section 6.2-2 of this Article.

~~Section 6.3 DEPARTMENT HEADS~~ RESERVED

~~Section 6.3-1 APPOINTMENT.~~

~~After the effective date of this Charter, department heads will be appointed as set forth in this section.~~

~~A. Specifications. Specifications for all these positions will be formulated by the Personnel Director in coordination with the departments, and approved by the Commission and Council. Compliance with all applicable federal and state laws regarding hiring practices of governmental entities will be required.~~

~~B. Examinations. Examination standards and procedures for such positions shall be developed by the Personnel Director to test daily the relative capacity of the person examined to discharge the~~

particular duties of the position to which appointment is sought. Examinations will be developed and administered in accordance with applicable Charter provisions and Civil Service Rules.

C. ~~Eligible List.~~ At the conclusion of the examination process, an eligible list of those persons passing will be compiled in order of ranking on the examination. No seniority or veteran's credits shall be awarded for persons on the lists. The order of certification shall not apply to the ranking of persons on the eligible list and the eligible list shall be compiled solely on the basis of the results of the examination process.

D. ~~Appointment.~~ Appointment of classified and unclassified department heads, excluding the City Attorney, will be made by the City Manager, subject to confirmation by a majority of the entire Council.

~~Section 6.3-2 REMOVAL.~~

A. ~~For Cause.~~ After the effective date of this Charter Amendment, department heads may be removed or demoted from their positions in the Civil Service for cause by the City Manager for any of the specifications set forth in Article VI, Section 6.13-3, of this Charter. In such a case, the department head may appeal to the Commission as provided in Article VI, Section 6.13-4.

B. ~~For Good of Service.~~ In addition, department heads who were appointed after the effective date of this Charter may be removed by the City Manager for any reason or reasons which will promote the good of the service and the efficiency of the department affected, or the City Manager may specifically demote the department head to a grade at or below that formerly held in the City Civil Service. If removed or demoted after serving twelve months, the department head may appeal to the Council and demand in writing that the City Manager file written reasons for the removal or demotion with the Council. To perfect an appeal, written demand must be made by the department head within ten days after receipt of notice of the removal or demotion. The Council shall hold a hearing on the department head's appeal within fifteen days from receipt of the written charges from the City Manager. Pending the hearing, the Council may suspend the department head from office. At the hearing the department head shall be reinstated unless a majority of the entire Council affirms the action taken by the City Manager. The action taken by the Council shall be final.

~~Section 6.3-3 OTHER CHARTER PROVISIONS.~~

Any of the provisions of this Article as to recruitment, appointment, probation period, the order of certification, termination and any other matter, which may conflict with the provisions of this section, are suspended by this section as they relate to City department heads.

Section 6.4 CLASSIFICATION AND COMPENSATION

~~Section 6.4-1 CLASSIFICATION PLANS, CLASSES AND GRADES.~~

~~After consideration of the recommendation of the Personnel Director and the Commission, the Council shall arrange all positions and offices into classes, subdivisions or grades. The Human Resources Director shall update as necessary the classification and compensation plans of the City for the classified services. The Director shall present such plans, and the recommendation of the Civil Service Commission, to the City Council for acceptance and approval.~~

Section 6.4-2 APPOINTMENT OF CITY EMPLOYEES.

Appointment of City employees to classified positions shall be made at pay rates within the appropriate grade and in accordance with the Rules.

Section 6.4-3 COMPENSATION REDUCTION.

~~The Council has no power to reduce~~ The pay of any City employee or group of employees may not be reduced, except when such reduction is necessary to equalize the pay according to the provisions of the classification and compensation plans for reasons of economy, or as otherwise provided in Article VI, Section 6.10, Section 6.11-4 and Section 6.13 of this Charter. If a pay reduction is for reasons of economy or pay equalization, it must be uniform throughout the classified service on a proportionate basis.

Section 6.4-4 SALARY STANDARDIZATION.

Grades for classes of positions having substantially similar requirements as to duties, authority, responsibility, training and experience must be uniform for all Civil Service positions.

Payment of different rates within grades must be based only on factors of: longevity, merit increases, step increases, shift differentials and hazardous duty, as defined under the Rules.

Provided that, the Commission shall provide in the Rules and Regulations an exception to salary standardization in cases where downgrading has occurred as a result of reclassification.

Section 6.5 ~~ORDER OF CERTIFICATION AND SELECTION OF CANDIDATES~~

Section 6.5-1 CERTIFICATION PROCESS.

A. The Human Resources Director shall certify candidates eligible for hire or promotion based solely on their qualifications in accordance with established departmental policies and procedures or by Rule, which may allow a preference for the hiring and promotion of former employees separated without fault or delinquency, or for other just and reasonable cause in conformity with the Charter and consistent with the principles of the civil service system and established policies.

B. When needed, the Human Resources Director will compile lists of eligible candidates for job classifications and consolidate, revise and maintain them as necessary and appropriate, in accordance with established policies and procedures or by Rule.

C. When an employee is eligible for appointment to a position, but there is no vacancy in that position, the employee may be certified to an appropriate lower grade position. If a vacancy occurs in the higher graded position, while the employee is in good standing on the eligible list, the employee may be appointed to that position in accordance with the procedures established for the order of certification.

D. The Human Resources Director will permit persons on eligible lists to waive certification, reinstatement, or appointment two times, after which the person's name may be removed from such list in accordance with procedures established by Rule.

Upon receipt of a requisition from an appointing officer to fill a vacancy, the Personnel Director shall certify the names of qualified eligibles. Except as otherwise provided in this Article, that certification shall be in accordance with Section 6.5-2 and in the following order of certification of those persons who are:

~~A. Incapacitated from performing their position, in accordance with Section 6.11-4 of the Charter, and as more fully set forth in the Rules;~~

~~B. Permanent employees who fail to successfully complete the probationary periods for positions to which they promoted or transferred;~~

~~C. Separated, without fault or delinquency on their part, from positions in the same department in which a vacancy exists, excluding those who have resigned;~~

- D. Separated, without fault or delinquency on their part, excluding those who have resigned, and who are being reinstated to a position of the same job description as their former position, but not in the same department;
- E. On a reinstatement list and who were not formerly employed in the same department, excluding those who have resigned;
- F. On a transfer list;
- G. Permanent part time employees who are applying for full time vacancies, in the same classification and in the same department, ahead of employees, outside the department, seeking promotion or lateral transfer to those positions;
- H. On a promotion list;
- I. Work part time in the same classification;
- J. Permanent classified employees applying for positions at or below their current pay grades. These employees shall be paid in accordance with Ordinance 8064, will be subject to probationary periods, and their seniority, for layoff purposes, will not be affected;
- K. On a reinstatement list as the result of resignation in good standing or as a result of a permanent employee's probationary period failure resulting layoff; and
- L. On an original entrance list.

Section 6.5-2 RULE OF FIVE.

As necessary, the Human Resources Director shall certify Upon receipt of a requisition to fill a vacancy, the five highest names on the proper eligible list shall be certified for one vacancy, and one additional name (the next highest) for each additional vacancy shall be certified except as may be provided by appropriate policies and procedures or by Rule, in cases where a certification for incapacity or a reinstatement from layoff is being made, where there are fewer than five names on the proper eligible list, and in situations where eligible persons are serving in the department in which the vacancy exists. In cases of certification for incapacity or reinstatement from layoff, the highest name only on such list shall be certified, in accordance with procedures set forth in the Rules.

In cases where there are fewer than five names on the proper eligible list, the Personnel Director may certify names from the next lower list(s) until five names are certified. Regular appointment may be either full time or part time. Conditions regarding part time may be further defined in the Rules.

In making certification from promotional lists, however, the Personnel Director, in accordance with the Rules, may direct that those persons serving in the department in which the vacancy exists, be certified in preference to persons on the same list serving in other departments, if it appears that this would improve the efficiency of the department.

Section 6.5-3 OTHER PROVISIONS.

A. Certification from Lower Grade. When an employee is eligible for appointment to a position, but there is no vacancy in that position, the employee may be certified to an appropriate lower grade position. Appointment to a lower grade position establishes the employee in that position provisionally. If a vacancy occurs in the higher grade position, while the employee is in good standing on the eligible list, the employee may be appointed to that position in accordance with the order of certification.

If the employee's name is removed from the eligible list for the higher grade position while holding the lower grade position, then the employee will be deemed permanently appointed to the lower grade position.

~~B. Certification to More Than One Vacancy. Where certification has been made to more than one vacancy, the relative seniority of those appointed will be determined by procedures established in the Rules.~~

~~C. Positions Vacant Through Leave of Absence. Any position made vacant by the leave of absence of an employee may be filled temporarily only. Persons certified for temporary employment to take the place of employees on leave will take their original place on the eligible list upon termination of the leave.~~

~~D. Waiver. The Personnel Director will permit persons on eligible lists to waive certification, reinstatement or appointment five times.~~

~~E. Police, Fire, and Training Academy Temporary Employees. A temporary employee, assigned to a Police, Fire, or EMS training academy, who is unable to complete said training academy due to an injury sustained while in the course and scope of their employment, may once be placed back on the original entrance eligible list for an academy scheduled to begin within one year from the last day of the academy in which they were first enrolled, without re-qualifying on the written examination, but is subject, however, to all other qualification~~

Section 6.6 APPOINTMENTS

Section 6.6-1 REGULAR APPOINTMENT

Upon receipt of a certification list from the Human Resources Personnel Director, the City Manager or designee department head will appoint any person or persons certified to be within the applicable number of highest names from the list to fill the applicable vacancies to which the list applies. Regular appointments may be either full-time or part-time. ~~Conditions regarding part-time appointments may be further defined in the Rules.~~

Section 6.6-2 PROVISIONAL APPOINTMENTS.

~~With approval of the Council, In the absence of an appropriate certification list, a provisional appointment may be made by the City Manager or designee as provided by appropriate policies and procedures or by Rule. upon receipt of a request to fill a vacancy for which fewer than three names can be certified from the proper eligible list(s). Any person so appointed must meet the minimum qualifications established for the position. Under no condition may a newly created position be filled by provisional appointment. No person may receive more than one provisional appointment in any twelve months. A Pprovisional appointment will be effective only until a regular appointment is made from a certification list. A provisional appointment may initially be made not to exceed six months. One additional period not to exceed six months may be allowed. In no case shall a provisional appointment extend beyond twelve months from the date of the original appointment.~~

Section 6.6-3 TEMPORARY APPOINTMENT.

~~With approval of the Council, wWhen services to be rendered are of a temporary character, a temporary appointment may be made by the City Manager or designee from one of the first three persons on a certification list who is willing to accept the appointment or as may be provided by appropriate policies and procedures or by Rule. The person appointed will retain all rights to certification for permanent appointment as though no temporary appointment had been made. If it is not practicable to make a temporary appointment from a certification list, the Council may authorize the employment of a noneligible until regular appointment can be made. The duration of a temporary appointment may not exceed one year.~~

~~Section 6.6-4 TEMPORARY APPOINTMENT MADE REGULAR.~~

~~The appointment of any person serving under Article VI, Section 6.6-3 may be made permanent provided conditions set forth in the Rules are met.~~

Section 6.6-5 6.6-4 CONTRACTORS.

The City Manager shall have the authority to contract for professional services and personal services for reasons such as economy, efficiency, immediate or temporary need, when such contracts are in the best interest of the City and not contrary to the principles and practices of the civil service system incorporated in this Article. Such contracts shall be subject to the limitations and requirements for Council approval as set forth by ordinance.

~~As an exception to the order of certification, contracts may be made, with approval of Council and the concurrence of the Commission, where for reasons of economy, efficiency or immediate and temporary need, it is necessary to contract with persons outside the Civil Service. The reasons shall be limited to a need for:~~

- ~~A. Temporary services, in which case the contract may not exceed one year and may not be renewed or extended;~~
- ~~B. Professional services;~~
- ~~C. Personal services;~~
- ~~D. Any other service contracts authorized in this Charter;~~
- ~~E. Where independent contracts are required as a condition of receipt of a federal or state grant or to comply with other federal or state requirements, or where a determination is made that the use of independent contracts will increase the likelihood of either receiving or increasing the amount of federal or state funding; or~~
- ~~F. Where three-fourths of the entire City Council determine that it would be in the best interest of the City, and three-fourths of the entire Civil Service Commission determine that it would not be contrary to the fundamental principles of the City's Civil Service system for a function of the City or of a City department, section, division or unit to be performed through contract. These contracts will be governed by the Rules adopted under this Article.~~

Section 6.7 ORIGINAL ENTRANCE EXAMINATIONS AND ELIGIBLE LISTS

~~Section 6.7-1 RESIDENCE REQUIREMENTS.~~

~~All classified employees normally must reside within the city. The Commission may make exceptions, either permanent or temporary, because of particular job-related circumstances.~~

Section 6.7-2 6.7-1 EXAMINATION STANDARDS.

The Human Resources Director shall establish appropriate policies and procedures for the advertising of vacancies and the operation of the competitive process for selection including the administration of and standards for original entrance and related examinations such as oral examinations, practical tests, medical and physical examinations, and police investigations. Whenever necessary, the Personnel Director shall hold original, competitive entrance examinations for positions in the classified service. Examinations will be held only after due notice, as defined in the Rules. Persons attaining at least the minimum rating required for the examination shall be placed on an eligible list in the relative order of scores achieved. Tests shall be confined to subjects which will determine fairly the capacity of the persons examined to perform the duties of the position to which appointment is to be made. When it is not practicable to give examinations (as in the case of labor positions which do not require any specialized

knowledge, skills and abilities) priority in filing applications will establish priority of standing on the eligible list. No question in any examination will relate to the applicant's religion or political affiliation. The Personnel Director may refuse to examine or to certify an applicant judged disqualified for any just reason, as delineated in the Rules.

Section 6.7-3 ~~6.7-2~~ PENALTY FOR DECEIT IN EXAMINATION.

An applicant in any examination who uses or attempts to use any unfair or deceitful means to pass the examination shall be excluded from further participation in the examination and the papers not rated, except as may be provided in the applicable Rules.

Section 6.7-4 ~~MEDICAL AND PHYSICAL EXAMINATIONS.~~

All applicants for classified positions must meet physical requirements to be set in the classification manual.

Section 6.7-5 ~~ORAL EXAMINATIONS AND PRACTICAL TESTS.~~

The Personnel Director may include oral examinations or performance tests of fitness, subject to conditions prescribed in the Rules.

Section 6.7-6 ~~POLICE INVESTIGATIONS.~~

All applicants for examination or for employment must agree to participate in identification procedures and provide information, for purposes of background investigation, to the Police Department Bureau of Identification. Failure to comply with this section will constitute a valid reason for rejection of the application.

Section 6.7-7 ~~ELIGIBLE LISTS.~~

Eligible lists will be compiled and maintained by the Personnel Director. They will be in force for at least one year, and removal from eligible lists will be governed by the Rules.

Section 6.7-8 ~~CONSOLIDATION OF ELIGIBLE LISTS.~~

When there are names on an eligible list for a position for which a new list is approved, the lists will be consolidated and all names will be placed on the consolidated list. Those persons who are named on the first list, who have not taken the new examination or who do not pass the new examination, will have their names removed from the consolidated list on the cancellation or expiration of the earlier list.

Section 6.7-9 ~~REMOVAL FROM ELIGIBLE LIST ON ACCOUNT OF NON-APPOINTMENT.~~

The Personnel Director must remove the name of any eligible person from the list who:

- A. Refuses regular appointment three times after an offer of employment is made or who is not accepted for appointment after certification to any position three times;
- B. No longer fulfills the requirements for the position; or,
- C. Is appointed from a higher list.

Section 6.8 PROMOTION

Section 6.8-1 EXAMINATION.

Promotion to any position in the Civil Service shall be by examination weighed by seniority and performance record, except as otherwise provided in the Charter or Rules. Eligibility criteria and

~~rating factors for promotions shall be established by Rule and shall include a credit for seniority. Examination standards shall be as described in Section 6.7. Promotional examinations shall be held whenever a vacancy or anticipated vacancy exists for which there is no reinstatement or appropriate promotional list, unless the Commission and the Council determine that it is not reasonably possible to do so. Examinations may also be held when fewer than three eligibles are available on a current list, if requested by the department head or appointing authority. The frequency of promotional exams may be further determined in the Rules.~~

Section 6.8-2 ELIGIBILITY.

A person will be eligible for promotion following successful completion of the initial probationary period and after meeting any criteria established in the Rules.

~~**Section 6.8-3 RATING OF SENIORITY.**~~

~~The credit given for seniority will be prescribed by the Rules.~~

~~**Section 6.8-4 RATING OF EFFICIENCY.**~~

~~The weight to be given to the factor of efficiency, and the method by which the factor will be computed, will be prescribed by the Rules.~~

Section 6.9 SPECIAL PROVISIONS

Section 6.9-1 PROBATION PERIOD.

~~Probationary periods shall be established by Rule. Such Rule shall prescribe the procedures and consequences applicable to employees who fail to successfully complete probationary periods, and provide criteria for the extension of probationary periods. All persons certified from original or promotional eligible lists will be on probation for a period of six months of actual service. Permanent employees who fail to successfully complete probationary periods, for positions to which they promoted or transferred, shall be placed in a vacant position for which they are qualified, at or below the pay grade from which they promoted or transferred. If such position does not exist, the employee will be laid off and placed on a reinstatement list for their former position.~~

Section 6.9-2 IMPACT OF STAFF REDUCTIONS.

The ~~Personnel~~ Human Resources Director is authorized and directed, subject to approval by the Council, to establish systems for reducing the impact on the Civil Service of staff reductions and layoffs caused by operating economies.

Section 6.9-3 NEPOTISM PROHIBITED.

Except in the case in which the City Manager or other person making the appointment ~~an appointing officer~~ appoints the highest scoring individual certified from a proper promotional or original-entrancee eligible list, or from a reinstatement list involving the appointment of a former incumbent, no person may be appointed to or reinstated in any classified position or appointed to any unclassified position who, at the time of appointment or reinstatement, is related in the manner described in Article III, Section 3.3B, to any member of the Council, the City Manager or other person making the appointment ~~appointing officer~~, the Personnel Human Resources Director, or the direct superior of the position being considered.

Section 6.9-4 SPECIAL CREDIT FOR WAR VETERANS.

Veterans of any of the wars or other armed conflicts of the United States who are otherwise qualified, who have obtained a passing score on an original entrance examination, and who present an honorable discharge from military service, will have their ratings in the examination advanced five points.

Veterans who are suffering from disability traceable directly or indirectly to war service will have their original entrance examination rating advanced another five points.

Section 6.9-5 DELEGATION.

The ~~City Manager~~ ~~Mayor or Representatives~~, as applicable, may delegate to appropriate individuals to the Personnel Director the execution of the these personnel functions, duties and responsibilities set forth in assigned to them under this Article Charter, as he they deems appropriate. Appropriate designees may include department directors and other persons able and assigned to execute the specific functions, duties or responsibilities.

Section 6.10 LAY-OFF; LEAVE OF ABSENCE; VACATIONS; RESIGNATION AND REINSTATEMENT

Section 6.10-1 CONDITIONS FOR LAYOFF.

Whenever it becomes necessary through lack of work or funds, or through the abolishment of a position or class, or for any other reason not involving delinquency on the part of the employee, to reduce the number of employees in any class, the appointing authority may order a layoff.

The reduction will be made in accordance with the procedures set forth in the Rules. ~~the following order:~~

- A. ~~Temporary and provisional employees;~~
- B. ~~Permanent classified employees in the reverse order of permanent employment based on seniority in all City positions held.~~

~~Procedures governing this section will be prescribed in the Rules.~~

Section 6.10-2 JOB RIGHTS.

Employees who are removed from their positions as the result of abolishment or a layoff (to include subsequent displacement action) will have the right to be appointed to any vacant position for which qualified, in accordance with the procedures established in the Rules. ~~provided that the class to which appointment is sought is at or below the employees' class grades at the time of removal.~~

~~If such an appointment cannot be made, the employees will have the right of appointment to positions in any department in a lower class in the same class series or to a class in which the employees have served, provided that:~~

- A. ~~The employees are fully qualified for the positions; and~~
- B. ~~The employees who may be displaced as a result of the appointment have less seniority than the employees claiming the job.~~

~~Rights of affected employees and detailed procedures covering displacement actions will be defined in the Rules.~~

Section ~~6.10-4~~ 6.10-3 LEAVE OF ABSENCE.

Permanent employees may be granted a leave of absence by the City Manager or designee ~~After consideration of an employee's request and the recommendation of the department head, the Mayor may grant leave of absence to an employee~~ under conditions set forth in the Rules.

Provisions regarding the reinstatement of an employee upon the expiration of a leave of absence and the separation from the service of an employee who fails to report at the expiration of a leave of absence will be set forth in the Rules.

Section 6.10-5 REINSTATEMENT FOLLOWING LEAVE OF ABSENCE.

~~Upon the expiration of a leave of absence, an employee shall be reinstated except as otherwise provided in the Rules.~~

Section 6.10-6 FAILURE TO RETURN AFTER LEAVE.

~~Failure to report at the expiration of a leave of absence will be cause for separation from the service. However, if the employee so separated shows to the satisfaction of the Mayor that the failure to report was excusable, the Mayor shall then order reinstatement.~~

Section 6.10-7 6.10-4 SICK LEAVE.

Classified employees are entitled to an annual sick leave, in accordance with the provisions set forth in the Rules. The City Manager may grant the same sick leave benefits to provisional appointees. with full pay, in addition to the time provided herein and in the Rules for vacations.

Section 6.10-8 6.10-5 VACATIONS.

Those Classified employees who have held a city classified position for a period of six months, and who have successfully completed their respective probationary periods, will be entitled to take accrued vacation with pay as specified in the Rules. ~~As an exception, Council may provide that persons entering classified service from positions in the unclassified service or other City funded positions may count such previous service in meeting the six-month period. Vacation entitlement accrued at the time of the adoption of this Article shall not be reduced.~~

Section 6.10-9 6.10-6 RESIGNATION.

The resignation of a classified employee will be filed and accepted on behalf of the City in accordance with the provisions set forth in the Rules. ~~with the Personnel Director by the head of the department receiving and accepting the resignation. The Personnel Director will permit the withdrawal of a resignation at any time within ten working days after its filing, but in no case after the last day of work.~~

Section 6.10-10 6.10-7 REINSTATEMENT FOLLOWING RESIGNATION.

Any person who has held a classified position and has resigned from the service in good standing and without fault or delinquency may seek reinstatement in accordance with the provisions set forth in the Rules. ~~will, upon Council approval of a request, be placed on the proper reinstatement list below those on the list because of layoff or job abolishment. Such requests must be made within one year from the date of resignation, except as provided in the Rules. Not more than one reinstatement after resignation may be granted any employee.~~

Section 6.10-11 — REMOVAL FROM REINSTATEMENT LIST.

~~Any person on any reinstatement list who becomes ineligible to hold the position or who has not been appointed within two years will be removed from the list, unless an exception is made as provided in the Rules.~~

Section 6.11 TRANSFER AND REDUCTION

Section 6.11-1 WHEN TRANSFER IS PERMISSIBLE.

Transfers may be made from a position in one department to a similar position, of the same class and grade, in another department, in accordance with the procedures set forth in the Rules. ~~provided that requirements of the order of certification are met and that the heads of the two departments concerned approve the request.~~

~~Section 6.11-2 WHEN TRANSFER NOT PERMISSIBLE.~~

~~Transfer will not be allowed where the:~~

- ~~A. Examination upon which the appointment of an employee was based was not of a character and standard to test the fitness of the employee for the position to which it is proposed to make the transfer;~~
- ~~B. Class grade of the position to which the employee is seeking transfer is higher than the employee's current class grade; or~~
- ~~C. Transfer is requested to avoid a layoff when there are persons of greater seniority about to be laid off.~~

Section 6.11-3 REORGANIZATION.

~~When an official reorganization of the City staff results in the transfer of a position from one department to another without substantive change in duties, the incumbent will, with approval of the majority of the Commission and Council, be transferred with the position. The provisions of Section 6.5 (Order of Certification) are not applicable in this instance.~~

Section 6.11-4 6.11-2 REDUCTION FOR PHYSICAL INCAPACITY.

An employee may be reduced from a higher to a lower class when physically unable to perform the duties of the higher position, in accordance with the provisions set forth in the Rules. ~~Requests for such reduction may be made either by the employee or the department head, but the reduction will become effective only upon its approval by the Personnel Director. The employee will be placed on the appropriate reinstatement list whenever able to perform the duties of the former position.~~

Section 6.12 STANDARDS OF EFFICIENCY

~~Section 6.12-1 STANDARDS OF EFFICIENCY~~

The City Manager, or by designation the Human Resources Director, shall establish by written policy appropriate Sstandards of efficiency for all positions in each class and grade in the classified positions will be established by the Council after considering recommendations of the Personnel Director and Commission.

~~Section 6.12-2 OP EN RECORDS.~~

~~Records, reports, and ratings of efficiency maintained by the Personnel Department will be administered as permitted by the Texas Open Records Act. The efficiency records maintained by the Personnel Director will be open to the appointing authority and to the superior officers of the employee's department, except as may be limited by law.~~

Section 6.13 DISCHARGE, APPEAL, HEARING

Section 6.13-1 DISCHARGE DURING PROBATION.

The appointing authority or appointing officer may discharge a A new employee may be discharged at any time during the probation period for any reasons but, for the record, a full statement of those reasons must be filed with the Human Resources Personnel Director within three days of the discharge.

Section 6.13-2 ~~DISCHARGE OF PERMANENT EMPLOYEES.~~ DISCIPLINARY ACTION.

A permanent employee may be discharged, suspended or reduced in rank or position as provided in this Charter or further defined in the Rules.

~~The appointing authority or the head of the department in which an employee is serving may, for any cause defined below or further defined in the Rules, discharge, suspend or reduce in rank or position any permanent employee.~~

Section 6.13-3 CAUSES OF SUSPENSION, REDUCTION OR DISCHARGE.

The following, which may be further defined in the Rules, may constitute causes for discharge, suspension or reduction in grade of permanent employees:

- A. Conviction of a felony or of a misdemeanor involving moral turpitude;
- B. Brutality to a City prisoner;
- C. Being under the influence of intoxicants or drugs or the use thereof while on duty;
- D. Being physically or mentally unfit for City service;
- E. Being wantonly offensive in conduct or language;
- F. Performance of duty consistently below established minimum standards.
- G. Negligence in care or misuse of City property;
- H. Unexcused absence from duty for a period of three or more successive days;
- I. Exerting improper use of political influence;
- J. Inducing or assisting another to commit an unlawful act;
- K. Exerting improper influence on behalf of a relative;
- L. Engaging in improper political activity;
- M. Violates the City's Ethics Ordinance; ~~and~~
- N. Refusal to follow the lawful order of a superior or supervisor;
- O. Subjecting a fellow employee or subordinate to unlawful intimidation, harassment or retaliation; and
- ~~N.~~ P. For just cause.

Section 6.13-4 APPEALS.

Any permanent classified employee, ~~except a department head removed or demoted under Article VI, Section 6.3-2B,~~ may appeal to the Commission any order which is believed to violate the rights granted employees by this Charter. This appeal must be filed with the Commission within thirty days from the date of the alleged violation and may be in any form clearly directing the attention of the Commission to the order complained of and the rights or provisions violated. Decisions of the Commission shall be final.

Section 6.13-5 HEARING OPTIONS.

Upon receiving notice of appeal, the Commission may in its discretion hear the appeal directly or refer it to a Hearing Officer.

Section 6.13-6 ACTION BY COMMISSION.

A. If the Commission hears the appeal in a disciplinary case it will, by majority vote of its members present and voting, determine whether the evidence sustains the charges. ~~are sustained by the evidence.~~ If the Commission determines that the charges are sustained, in whole or in part, it will at once determine whether the good of the service requires that the appealed action be upheld or reduced. If the Commission determines that the charges are not sustained, the accused will be reinstated immediately and without prejudice, and will not be deprived of any salary for any period of suspension preceding the hearing.

B. In cases involving ~~alleged discrimination or other administrative matters such as a denial of promotions, or demotion assignments, grading and examinations,~~ the Commission shall review all facts in the cases and direct appropriate corrective steps, if necessary.

C. In conducting any hearing, the Commission must in all cases, afford full and free opportunity to all parties ~~in interest~~ to present evidence relevant to the issue or issues involved. The burden of proving an alleged offense and of establishing just ground of discharge, suspension or reduction rests upon the City Manager or designee ~~department head or officer~~ by whom the action was taken. A preponderance of the evidence is required to substantiate any charge.

Section 6.13-7 HEARING OFFICER.

A. The Hearing Officer shall have the power to establish appropriate procedures for the conduct of the hearing, issue subpoenas to compel the attendance of witnesses, make appropriate findings during the course of a hearing, prepare written recommendations to the Commission, and such other powers and duties as set forth in the Rules.

~~e powers and duties of the Hearing Officer are here delineated:~~

A. ~~Pre-Hearing Conference.~~ The Hearing Officer may conduct pre-hearing conferences, during which that officer may:

1. Encourage parties to pursue actively a settlement of the dispute;
2. Require parties to designate their representative when desired;
3. Require submission of exhibits and witness lists with brief summaries of their proposed testimony;
4. Rule on evidentiary questions and reject irrelevant or unnecessarily cumulative exhibits or testimony;
5. Accept all exhibits, witnesses' testimony and stipulations of fact between the parties;
6. Authorize the preparation and submission of written interrogatories and depositions;
7. Issue subpoenas to compel the attendance of witnesses;
8. Determine all facts de novo;
9. Prepare a written record of all stipulations, the issues in dispute, the rulings made on exhibits and witnesses and any agreements on terms of settlement arrived at between the parties; and
10. Perform any additional duties imposed by the Commission.

B. ~~Additional Duties.~~ The Hearing officer is further empowered to:

1. ~~Hearings:~~ Preside at all hearings, maintaining order and decorum, taking testimony under oath or affirmation, disposing of all objections, asking questions when necessary and assuring that a clear and complete record is made of all proceedings;
2. ~~Determination of issues:~~ Render determination on all issues which will be binding upon all parties;
3. ~~Preparation of opinions:~~ Prepare a written recommendation affirming, reducing or reversing the action appealed in conformance with the procedures and time limitations set forth in the Charter, Rules and ordinances. This opinion must be submitted to the Commission for action as

~~specified in Section 6.13-8 below with a copy to the appellant and the person whose actions are being appealed;~~

~~4. Further appeal: Forward to the Commission recommendations concerning any rehearing or review when a motion for rehearing has been filed by one of the parties;~~

~~5. Continuance: Grant or deny continuances; and~~

~~6. Related duties: Perform such other duties as may be necessary to implement and maintain an efficient, fair and speedy system of appeal adjudication.~~

~~C. Principles: B. The principles established in Section 6.13-6, will apply equally to hearing officers.~~

Section 6.13-8 SUBSEQUENT ACTION.

Upon receipt of the Hearing Officer's opinion and recommendations where applicable, the Commission will review the written record of the hearing, review any written briefs or oral arguments which the parties are permitted by the Commission to submit in accordance with the Rules, and take one of the following actions:

A. Accept or modify the Hearing Officer's recommendations; or

B. Remand the matter to the Hearing officer for development of such additional facts and findings as the Commission deems necessary. Consistent with the remand, the Hearing Officer must conduct an additional hearing and render a further opinion or recommendations for its further action pursuant to this provision

Section 6.13-9 PREFERRAL OF CHARGES BY CITIZENS.

~~A. Any citizen of the City has the right to prefer sworn written charges, before the Commission, alleging misconduct against any employee subject to its jurisdiction. The Commission may order investigation of the charges when it deems proper and in its discretion may hear and dispose of the charges in the same manner as prescribed in Sections 6.13 (6-8) above.~~

~~B. This section does not apply to any charges or appeals which may be brought before the Commission under Section 6.13-4.~~

Section ~~6.13-10~~ 6.13-9 CONSTITUTIONAL RIGHTS.

Nothing in this Charter shall be construed as denying or abridging any constitutional right of appeal.

Section ~~6.13-11~~ 6.13-10 PENSION PLANS.

Draft Revisions by staff as of 1/12/07

A. The Council shall ~~continue~~ sponsor a pension plan for all permanent full time ~~classified~~ employees. Permanent part-time and eligible contract employees may elect not to participate in the City Employee's Pension Fund. Other employees of the City and employees of governmental agencies of the City, except policemen, and firemen, ~~fire alarm operators~~ and elected officials of the City, shall have the option of participating in ~~belonging to~~ the plan. Eligible employees of an adopting employer of the plan shall be participants of the City Employee's Pension Fund. ~~Joint employees of the City and governmental agencies of the City who are current participants in any City pension plan shall continue to be included in that plan. In addition, any joint employees hired after the adoption of this Article may be included in a City pension plan to the extent the City pays their salaries.~~

~~If the governing body of the El Paso Public Library follows personnel practices concerning tenure, approved by the Council, employees of the Library shall continue to be included in the pension plan, under terms fixed by ordinance. This tenure protection must be substantially~~

~~equivalent to that given classified City employees. Employment of Library employees prior to June 27, 1968 shall not be considered in determining pension benefits.~~

B. Funding and Liability. The funds for the plan shall be provided in part by the City and in part by deductions from the salaries of employees; provided, that the amount paid into the fund by the city shall not exceed double the amount paid into the fund by the salary deductions; and provided further that the City shall not be liable to any beneficiaries of the fund except to the extent of its appropriations for the fund. The claims of all beneficiaries shall be limited to the available monies or securities in the pension fund.

C. Pension Benefits. The Council may provide by ordinance for the retirement, disability or death benefits to be paid and persons to be entitled thereto, and the conditions under which payments of benefits or repayment of contributions may be made. The Council may make such changes and amendments as, in its judgment and discretion, conditions may require.

D. Firemen and Policemen Pension Fund of El Paso. The City shall continue to augment the Firemen and Policemen Pension Fund of El Paso in a manner consistent with the laws of Texas. To augment the Firemen and Policemen Pension Fund, the Council shall in each fiscal year beginning after February, 1968, appropriate an amount equal to three times the amount paid into the fund by the participants therein; provided that the amount contributed by the City shall not exceed eighteen percent of the total amount expended for salaries of the participants; provided further, however, that in the event age limits for participation in the pension fund, or any division of the fund, are increased as permitted by law and the raising of the age limits causes an increase in funding costs as determined by an actuary, the City shall appropriate an amount equal to such cost increase notwithstanding that such increased appropriation may exceed eighteen percent of the total amount expended for salaries of the participants, but such increased appropriation shall in no case exceed eighteen and one-half percent of the total amount expended for salaries of the participants. Notwithstanding the foregoing, if the City elects to pick up participant contributions to the Firemen and Policemen Pension Fund of El Paso under Section 414(h) of the Internal Revenue Code of 1986, as amended (the "Code"), then the participant contributions picked up by the City shall be derived from a corresponding reduction in participant cash salaries and treated as a contribution by the City solely for determining tax treatment of such contributions under the Code. The picked up contributions by the City shall not be considered a contribution or required contribution by the City for any other purpose, including the limitations for the total amount expended for salaries of the participants designated in this Section 6.13-11.D. Notwithstanding the foregoing, the City shall have the authority to contract with the Firemen and Policemen Pension Fund to make a one time contribution (either in lump sum or installments) to the Firemen and Policemen Pension Fund solely for an under funded liability as of December 31, 2003 or the date of contribution, under such conditions as the City in its sole discretion may require and provided that (a) such authority, action and/or contribution complies with the Firemen and Policemen Pension Fund plan documents and all applicable statutes, laws, rules and regulations, and (b) a binding written agreement between the City and the Firemen and Policemen Pension Fund has been reached regarding (i) the amount of such under-funded liability, if any, (ii) the amount to be contributed by the City for such under-funded liability, and (iii) procedures (including, if necessary, amendments to the Firemen and Policemen Pension Fund plan documents) for managing the Firemen and Policemen Pension Fund on a going forward basis.

~~**Section 6.13A LIBRARY EMPLOYEES.**~~

~~If the El Paso Public Library Association transfers all of the Library collection to the City then the existing Library employees shall be admitted into Civil Service without examinations, probationary periods, or loss of accrued vacation and a Library Department shall be established.~~

~~Section 6.13C CITY SUN METRO LIFT EMPLOYEES.~~

~~As of July 1, 2001, all City Sun Metro Lift Employees, who are currently under contract with the City, will be admitted into the classified civil service, without examinations, probationary periods, or loss of accrued leave. The seniority date for all such employees, for purposes of layoff, shall be the date of admission into the classified service.~~

~~Section 6.13D UNCLASSIFIED GRANT FUNDED POSITIONS.~~

~~As of July 1, 2001, all City employees in the unclassified service whose salaries are paid pursuant to any federal grant or aid program and who have gained current employment through examination shall be admitted into classified positions in the Civil Service without reexamination, additional probationary period, or loss of accrued leave. The seniority date for all such employees for purposes of layoff shall be the date of admission into the classified service.~~

Section 6.13E A. CONSOLIDATION OF FUNCTIONS WITH OTHER POLITICAL SUBDIVISIONS.

If the City and any other political subdivision agree that the City will thereafter assume the responsibility for performing a governmental function which is at the time of the agreement being performed by employees of the other political subdivision, the employees of the other political subdivision who have been performing the function may be admitted into classified positions in the Civil Service without examinations, probationary periods, or loss of accrued leave. The seniority date for all such employees for purposes of layoff shall be the date of admission into the classified service. Any such employees going into lower compensated positions shall be protected from any loss of pay in accordance with the Civil Service Commission Rules as to Reclassification to Lower Grades. Any such consolidation of functions must be approved by City Council. Any question regarding the eligibility of any employee to be included in the consolidation is to be decided by the Civil Service Commission, whose decision shall be final.

Section 6.14 DEFINITIONS OF TERMS

~~Section 6.14-1 DEFINITIONS.~~

The following definitions apply to this article:

Abolishment: Either temporary or permanent discontinuance of a given office, service, or position, by reason whereof the functions and duties of the office, service or employment cease; generally evidenced by the deletion of a position from a departmental manning table.

Advancement: ~~A salary increase within a range of compensation provided for each position which is conditioned upon a given minimum term of meritorious service in the same position.~~

Appeal: ~~The procedure by which an employee gives written notice in the prescribed form to the Commission requesting review of a protest of any personnel action.~~

Appointing Authority: ~~The Mayor and Representatives.~~

Appointing Officer: ~~The department head having the power of appointment to subordinate offices or positions.~~

Appointment: ~~Selection by the appointing officer of an individual from the certification list to fill a vacancy or by the appointing authority in the case of department heads.~~

Certification: ~~The process by which the names and addresses of persons on a proper eligible list are placed in the correct order in which vacancies are to be filled and thereby become entitled to be considered to fill a vacancy.~~

Certification List: The list of names from an eligible list sent to the appointing authority or appointing officer for consideration in filling a vacancy.

City Council: The Mayor and the Representatives.

Class: A group of positions within the same title, so arranged because of similarity in duties and responsibilities and for which the same basic examination, compensation, and minimum qualifications apply.

Classification:

1. A classification plan consisting of a systematic arrangement or index of class titles arranged by:

—— (a) occupation groups;

—— (b) class series; and

—— (c) class title within series.

2. A compensation plan consisting of:

—— (a) a minimum rate, serving as the entrance rate for new appointees to any position in the class;

—— (b) a maximum rate representing the highest rate to be paid to any employee in the class; and

—— (c) a series of specific rates, between the minimum and maximum rate, together with rules outlining elements of efficiency and length of service to be used in determining when and under what conditions an employee is to receive an intermediate rate.

3. An administration plan consisting of rules for the application and administration of the classification plan and the compensation plan.

Classified: All offices and positions in the Civil Service, excluding those defined “unclassified” in Section 6.2-2 of this Charter.

Commission (when used by itself): The Civil Service Commission.

Competitive Examination: An examination in which the candidates are in competition and from which an eligible list is promulgated.

Department: Any City agency, office, bureau or other organization unit.

Dismissed, Discharged, and Removed: Actions under which employees are separated from their respective positions for cause.

Efficiency or Service Records: Records of the manner in which an employee’s service was rendered, the records being made at stated intervals by the several department heads and submitted to the Personnel Director.

Eligible List: A list of names of persons who have been determined to be qualified through applicable criteria, for employment in positions allocated to a specified class, arranged in order of merit. Includes Original Entrance, Promotional and Reinstatement Lists.

Grade: Term representing a specific range of compensation.

Layoff: The involuntary temporary separation of employees from their positions, often on a seasonal basis, without fault or delinquency on their part, normally by reason of lack of work or funds; generally evidenced by the retention of a vacant position within the department. If the position is deleted from the department’s manning table, the “layoff” becomes an “abolishment.”

New Position: A position created through the authorized addition to a department of a position not previously existent or a position created through an authorized change in classification.

Permanent Employee: Any classified employee who has been regularly appointed after serving a probationary period to a position normally involving continuous year round service.

Position (when used by itself): A specific set of duties to be performed by an employee of the City.

Promotion: A change from a position in a lower class to a position in a higher class. It involves a change of duties or responsibilities as well as an upward change in compensation.

Provisional Employee: Any employee temporarily filling a position without competition pending the establishment of a certification list.

Resignation: The voluntary separation from employment of a classified employee, notice of which is tendered, in writing, to the employee's department head no later than ten working days prior to the employee's last working day.

Reinstatement: The act of reinstalling a person separated from a classified position to that position or some other position for which fitted.

Rules: When used by itself, the Rules of the Commission.

Suspension: Action under which an employee is for cause temporarily separated without pay for a definite or indefinite period.

Temporary Employee: An employee whose services are of a temporary nature or for a limited period.

Title:

1. Functional divisions or groups which are determined irrespective of departmental organizations or lines of authority and including offices and employments having duties of similar line and character; or

2. An authorized office or employment for Civil Service and fiscal control.

Unclassified: Those positions exempted from the Civil Service provisions of the City Charter. All positions not specified in Section 6.2-2 of this Article to be "unclassified" are "classified."

Work Day: Any day that the City Personnel Department is open to the public for the transaction of business.

Section 6.15 TRANSITION

Section 6.15-1.

~~Article VI of this Charter shall be effective 120 days after a favorable vote of the electors at the January 21, 1984, special election. Until this Article becomes effective the provisions of Article X A-F of the former City Charter and all Rules adopted thereunder, shall govern Civil Service matters.~~

Section 6.15-2-EXISTING LAWS AND CONSTITUTIONALITY.

All Civil Service Charter Amendments, including those of 1917, 1935, 1943, 1968, 1977, and 1981, respectively, and all existing Charter provisions pertaining to Civil Service are hereby repealed, and all ordinances, or parts thereof, in anywise conflicting or inconsistent with this Charter or any of the provisions hereof are hereby expressly repealed. However, the adoption of this Charter will in no wise affect the rights of persons whose appeals are pending before the Commission or in the courts at the time of its adoption. Such appeals and other pending matters may be decided by the Commission or other appropriate tribunal in the light of the provisions of the previous Civil Service amendment or amendments.

Article VII PUBLIC FINANCE

Section 7.1 FISCAL YEAR.

~~In 1992, ¶The fiscal year and the budget year of the City shall begin on September 1st and end on the succeeding August 31st, or as otherwise provided by state law or city ordinance adopted pursuant thereto. September 30th, 1993. Thereafter, the fiscal year and the budget year of the City shall begin on October 1st of each year and end on the succeeding September 30th.~~

Section 7.2 BUDGET.

The budget must present a complete financial plan for the fiscal year. The elements listed below must be included:

- A. Message. The City Manager’s budget message shall encompass a statement of fiscal policy, and a projection of income and expenditures for the current year.
- B. Summary. A general budget summary, with supporting schedules, shall reflect all material income and expense figures for a balanced budget.
- C. Estimates. The City Manager shall estimate anticipated income and expenditures and shall explain significant deviations from the preceding year’s budget.
- D. Debt. The City Manager shall state the extent of the bonded debt and the amounts in debt service funds.
- E. Resolutions. The City Manager shall attach the proposed budget resolution; and any other resolutions or ordinances required to effectuate the budget.

Section 7.3 BUDGET PROCEDURES.

The procedures here stated shall govern adoption of the annual budget and the appropriations of monies pursuant thereto.

- A. Department Estimates. Annually, but not later than June 1, administrative units of the City shall transmit estimates of their budgetary requirements and descriptions of their work programs to the Office of Management and Budget and to the City Manager. The work programs shall include all requested appropriations for the departments’ operation and maintenance, including capital equipment, construction, and acquisition.
- B. Public Hearing. After its presentation to the Council, at least one public hearing on the budget shall be held prior to its adoption; and notice of that public hearing shall be published in accordance with state law, ~~a City newspaper of general, daily circulation, at least ten days and not more than twenty days prior to the hearing.~~ The proposed budget shall be made available for examination at the office of the City Clerk at least fifteen days prior to the public hearing.
- C. Changes. After the required public hearing, the Representatives may make such changes in the proposed budget as they deem prudent, provided that no change shall be made that will cause proposed expenditures in any fund to exceed the estimated revenue for that fund.
- D. Adoption. The budget shall be adopted by resolution, subject to the Mayor’s veto, not later than August 31 of each year; but, in the event the budget is not adopted, the appropriation for personnel and essential operating supplies made in the previous year shall be extended until the new budget is adopted.
- E. Filing. A copy of the budget, as finally approved, shall be filed with the El Paso City and County Clerks’ offices.
- F. Tax Levy. As soon as possible after the completion of the tax roll, the Council shall pass the tax levy ordinance in accordance with the laws of Texas.
- G. Balanced Budget. If at any time during the fiscal year, the City Manager ascertains that available income for the year, including fund balances, will be less than total appropriations, the Council shall reduce those appropriations so that expenditures will not exceed income. Expenditures in excess of gross revenues during the fiscal year are prohibited.
- H. Availability. The final budget shall be available for use by City departments and for examination in the City Clerk’s office by any interested persons.

Section 7.4 CASH RESERVE FUND.

The cash reserve fund shall be maintained in an amount equal to its existing balance at the date of adoption of this Charter. The cash reserve fund shall be maintained as a separate accounting entity and must be invested in accordance with the laws of Texas. Short term borrowing from the cash

reserve fund shall be for a period of no more than one calendar year and must be approved by the Council. Annual income from the cash reserve fund may be used only for capital improvements. "Capital improvements" shall be construed to include acquisition, construction, reconstruction, or improvement of facilities, equipment, or land for use by the City and all expense incidental thereto.

Section 7.5 MONEY TO BE DRAWN FROM TREASURY IN ACCORDANCE WITH APPROPRIATIONS.

No money shall be drawn from the treasury of the City, nor shall any obligation for the expenditure of money be incurred, except in pursuance of the annual appropriation resolution or any of its amendments. At the close of each fiscal year any unencumbered balance of an appropriation shall revert to the fund from which appropriated and shall be subject to reappropriation as provided by this Charter.

Section 7.6 SALE OF CAPITAL ASSETS.

The proceeds from the sale of capital assets may not be used for recurring operational expenses. These proceeds shall be invested in accordance with the laws of Texas, until used for the purchase of other capital assets or to retire bonded debt.

Section 7.7 DEPOSITORIES.

All monies received by any person, in connection with the business of the City, shall be deposited promptly in a City depository and, whenever possible, within one business day after its receipt.

~~In every odd-numbered year, the Council shall designate a depository bank or banks in accordance with the laws of Texas relating to City depositories, and shall enter into a written depository contract on or before June 1 for a period not to exceed two years. Any existing depository contracts shall remain in effect until new contracts are executed.~~

All City bank accounts shall be carried in the name of the City, with such additional designations as are required to distinguish accounts for special purposes.

The Council may, from time to time, authorize transfer from a depository for the purpose of purchasing direct interest-bearing obligations of the United States government, or may authorize withdrawal for investment otherwise in any other manner permitted by the laws of Texas, provided the purchase or investment shall not deny the City the use of such funds when required.

Section 7.8 PROPERTY TAX YEAR.

The tax year of the City shall begin on January 1st of each year.

Section 7.9 CITY PROPERTY.

City property of every nature, and its appurtenances, shall be exempt forever from City taxes, executions, attachments or forced sales.

Section 7.10 ASSESSMENT OF PROPERTY TAXES.

On January 1st of each year, or on any other date prescribed by the laws of Texas, each person, firm, business, partnership and corporation owning real or personal property in the City shall be subject to assessment for tax purposes, in accordance with the laws of Texas.

Section 7.11 PROPERTY TAX PAYMENTS.

All property taxes due the City shall be paid in legal tender at the office of the City Tax Collector or the designated depository. All taxes remaining unpaid after January 31st will be delinquent.

The Council may, by ordinance, change the time and method of tax payments. The interest and penalty assessed on delinquent taxes shall accord with the laws of Texas.

Section 7.12 LEVYING OF PROPERTY TAXES.

Annually, the Council shall levy by ordinance on all property subject to property taxation by the City, a property tax not to exceed one dollar and eighty-five cents on each one hundred dollars of assessed valuation. The maximum tax provided shall not apply to the taxes required to be levied to pay the interest and principal on general obligation bonds. The Council shall levy taxes to retire bonds authorized in accordance with the laws of Texas.

No increase in the property tax rate shall be levied except by a majority of the entire Council at a regular meeting. Any levy of taxes to pay general obligation bonds shall not exceed the amount necessary to pay the interest and principal on such bonds.

Section 7.13 LEVY, ASSESSMENT AND COLLECTION OF OTHER MUNICIPAL TAXES.

The Council shall have power by ordinance to levy and collect occupation, license, franchise, hotel-motel occupancy taxes and other taxes, in a manner not inconsistent with the laws of Texas.

These taxes shall be collected by the Officer of the Comptroller or other designated officer, and shall be paid to that officer by each and every person or entity owing the tax.

Section 7.14 HOTEL OCCUPANCY TAX.

The City shall have the power to levy and collect a hotel-motel occupancy tax, as provided under the laws of Texas.

When this tax is levied by the Council, the proceeds shall be used as follows:

- A. To the extent of the proceeds raised by a rate of one-half of one percent, to maintain, improve, administer and develop auditorium and convention center and related permanent improvements owned by the City;
- B. To the extent of the proceeds raised by a rate of two and one-half percent, to pay the principal of and interest on bonds issued by the City to construct that auditorium and convention center and related permanent improvements;
- C. To the extent of the proceeds raised by any additional rate, as may be established by the City Council, to fund any use authorized by the laws of Texas.

Once the principal and interest on bonds issued pursuant to this section are paid, the Council then may levy and use the hotel-motel occupancy tax only as provided by the laws of Texas.

Section 7.15 LIABILITY OF THE TAXPAYER.

A failure on the part of the City Tax Collector, or any other officer or employee who shall be designated by the Council, to prepare the delinquent tax roll or to mail tax statements, or a failure on the part of the City to file suits within the proper time for the collection of taxes when due, or any other omission, shall in no way affect the liability of the delinquent taxpayer. Neither shall it release the property upon which the tax is due from the operation of the lien, charge or encumbrance here created.

Section 7.16 AUTHORIZATION TO ISSUE BONDS.

All bonds issued by the City shall be authorized by ordinance ~~approved by a majority of the entire Council and shall be sold at a public sale.~~ Where required by law, the bonds shall be approved by

the Texas Attorney General and registered by the Texas Comptroller of Public Accounts before delivery to the purchaser.

Section 7.17 GENERAL OBLIGATION BONDS.

General obligation bonds shall be issued only in accordance with the laws of Texas and, where required by law, shall be issued only when authorized through a bond election.

The total principal amount of such bonds together with the principal amount of all other outstanding tax indebtedness of the City shall not exceed ten percent of the total assessed valuation of the City's tax rolls.

Section 7.18 REVENUE BONDS.

The City may issue revenue bonds only in accordance with the laws of Texas.

Section 7.19 DEBT SERVICE FUND.

Debt service funds created for the retirement of bonds shall be deposited in separate accounts in the City depositories and shall not be used except to pay interest and principal on those bonds. These debts service funds may be invested as allowed by the laws of Texas.

Section 7.20 DISBURSEMENT OF CITY FUNDS.

All disbursement of City funds shall be by check, ~~or~~ electronic means, or as authorized by City ordinance, signed by the Comptroller and countersigned by the City Clerk or other designees of the City Council. ~~The Mayor shall countersign all checks in the amount of twenty five thousand dollars or more.~~

Section 7.21 INDEPENDENT AUDIT.

As soon as practicable after the close of each fiscal year, an independent audit, in accordance with specifications defined by ordinance, shall be made of all accounts of the City by a certified public accountant selected by a majority of the Council. The accountant(s) shall have no substantial financial interest in the affairs of the City. The complete audit report must be available for public examination.

Section 7.22 PUBLISHING OF FINANCIAL POSITION OF THE CITY.

Within 120 days after the close of each fiscal year, the City shall publish in any contemporary means of information sharing including but not limited to publication in a newspaper of general circulation in the City or placement on the City's web site in the manner designated by the Council ~~a newspaper of general, daily circulation,~~ a financial statement of the City prepared with generally accepted accounting principles for municipalities. This will be limited to balance sheets, statement of revenue and expenditures and changes in fund equities.

Article VIII ADOPTION AND TRANSITION

Section 8.1

This Charter shall be submitted to the qualified voters of the City at an election to be held for that purpose on the 21st day of January, 1984. The Council shall provide the form of ballot and conduct the election as required by law. The Charter Commission, in preparing this Charter, finds that by reason of the form of government provided herein and the nature of the provisions relating thereto, it is not practical to segregate each subject or article so as to permit a separate vote of "yes" or "no" thereon; and that it should be adopted in its entirety. Therefore, the Charter Commission directs that this Charter be voted upon as a whole. If a majority of those voting in

such election are in favor of this Charter, it shall become the Charter of the City of El Paso, and after the returns have been canvassed, the Charter shall be declared adopted, at which time the existing Charter shall be repealed.

Section 8.2

Any person holding elective office under the Charter in force prior to the adoption of the preceding Articles shall continue in office until the expiration of the prescribed term, unless sooner removed under the laws of Texas or as prescribed in the above Articles.

Section 8.3

If any provision of this Charter is held to be invalid, it shall be deemed severable and its invalidity shall not affect the remaining provisions of this Article.

Section 8.4

All rights, action, fines, penalties and forfeitures, in suits or otherwise, which have accrued under the laws in force as of the date of adoption of this Charter, shall not be affected by the passage of this Charter.

Section 8.5

Any contract to which the City is a party, which is in effect at the adoption of this Article, is hereby ratified and shall remain in full force and effect according to the terms thereof.

Section 8.6

All ordinances, regulations, resolutions or parts thereof in force in the City and not in conflict with this Charter, shall remain in force until altered, amended, or repealed by the City Council. All existing ordinances, regulations, resolutions or parts thereof, which conflict with this Charter, are hereby expressly repealed.

Section 8.7 TRANSITIONAL PROVISION TO THE 2004 AMENDMENTS.

Amendments to this Charter that are approved at an election on February 7, 2004, create a new system of government that requires an orderly transition. Accordingly, the following transitional provisions shall apply:

- A. Amendments to Articles III, IV, V, VI and VII relating to a Council-Manager form of government shall take effect on September 1, 2004. Until such amendments become effective, the provisions of Articles III, IV, V, VI, and VII of the City Charter shall remain in effect. All other amendments approved take effect as provided by law.
- B. On September 1, 2004, the position of Chief Administrative Officer shall be abolished and the person appointed to that position shall be automatically removed, provided however, that on and after September 1, 2004 and until such time as the Council appoints a City Manager or other Interim City Manager, the person serving as Chief Administrative Officer on August 31, 2004 shall serve as Interim City Manager and shall have the powers and duties of the City Manager. Upon the appointment of the City Manager, the Interim City Manager shall be automatically removed.
- C. Notwithstanding any other provision of this section, no amendment that is approved at the election on February 7, 2004 shall be effective unless and until the Voting Rights Section of the Civil Rights Division of the United States Department of Justice issues a letter interposing no objection to the implementation of the amendment, if voting rights review is required for the amendment.