

RED-LINE TEXT OF PROPOSED CHARTER PROVISIONS

ARTICLE II. NOMINATIONS AND ELECTIONS.

Section 2.1 CITY ELECTIONS.

A. **Regular Elections.** The regular City elections to be held in 2015 and 2017 shall be held on the uniform date established in the Texas Election Code during the month of May with a run-off election to be held on the earliest date practicable in accordance with the law. ~~All~~ These terms of elected office to commence on the last Tuesday in June or the Tuesday following the canvass of a run-off election, whichever is later. Beginning in 2018, the regular City elections shall be held on the uniform date established in the Texas Election Code during the month of November with a run-off election to be held on the earliest date practicable in accordance with the law. All terms of elected office beginning with the November 2018 election to commence on the first Tuesday in January following the election or the Tuesday following the canvass of a run-off election, whichever is later.

[Not recommended by the Ad Hoc Committee]

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: Each Representative shall be elected from a district and the Mayor and other officers shall be elected from the City at large. The Judges of the Municipal Courts, the Mayor, and the District Representatives from districts numbers 2, 3, 4 and 7 taking office in June 2013 shall serve four year terms. Commencing in June ~~2017~~ ~~2005~~ the Judges of the Municipal Courts, the Mayor, and the District Representatives from districts numbers 2, 3, 4 and 7 shall be elected to terms greater than three years but less than four years that conform to the change made in subsection A to the start of the term and the new election date beginning in November 2020 and they shall thereafter be elected to four-year terms. Commencing in June ~~2015~~ ~~2005~~, the District Representatives from districts numbers 1, 4, 5 and 8 shall be elected to terms greater than three years but less than four years that conform to the change made in subsection A to the start of the term and the new election date beginning in November 2018 and be elected to two-year terms, and commencing in June 2007, they shall thereafter be elected to four-year terms. 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.

[Not recommended by the Ad Hoc Committee]

Alternate proposal: The Ad Hoc Committee was asked to make a recommendation on whether the elections of the Mayor and Council should continue to be staggered. They first became staggered with the 2004 charter change that also moved from 2 year to 4 year terms. If removing the staggering of the terms is desired, the above provisions would need to be rewritten so that in June 2015, the District Representatives from districts numbers 1, 4, 5 and 8 would be elected to two year terms and thereafter, to four year terms beginning in 2017. This would eliminate the staggering and all elections would be on the same date beginning in May 2017 for four year terms and the entire Council would all be elected at the same time. This proposal was suggested based on a concern that voter turnout for district elections that don't include the city-wide Mayoral race has declined.

[Not recommended by the Ad Hoc Committee]

Second alternate proposal: To establish the time at which two additional District Representatives will be added to the Council by amending sections 2.1 B and 2.4 A.

[Recommended by the Ad Hoc Committee]

C. 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. A completed petition under this section shall be signed by a number of qualified voters equal to at least _____ percent of the qualified voters who were entitled to vote at the last election for the officer whose recall is sought.

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

1. The general conduct of recall election.
2. Receipt, by the City Clerk, prior to the conduct of any recall election of a petition bearing authentic signatures of the required a number of ~~registered~~ qualified 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 with 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.

When a recall election is to required be ordered, it shall be held on the next uniform election date as specified by state law, or the date of the next election that will be conducted by the County Elections Administrator. The top of each page of the recall petition must contain language detailing the specific reason or justification for the recall constituting neglect of office, incompetency, misconduct, malfeasance, or unfitness for office.

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 of 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.

[Not recommended by the Ad Hoc Committee except for the sentence regarding the holding of the election.]

Section 2.2 NOMINATIONS.

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 or such other greater number of qualified voters as may be required by state law. 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.

SECTION 2.3 ELECTIONS.

A. Conduct of Elections. All elections shall be held in accordance with the laws of Texas. Notwithstanding any other provision of this Charter, when special election is required by a provision of this Charter to be ordered, it will be scheduled for the next uniform election date as specified in state law or the date of the next election that will be conducted by the County Elections Administrator, as directed by the Council.

ARTICLE III THE CITY COUNCIL.

Section 3.2 SALARIES.

Commencing on June ~~23~~ 28, ~~2015~~ 2009, the annual base salary of the District Representatives shall be ~~set at the same amount as the HUD program income limits median income as established by the United States Department of Housing and Urban Development, or successor agency, for the 2015 fiscal year for El Paso County~~ twenty-nine thousand dollars, and the annual base salary of the Mayor shall be set at ~~one-hundred and fifty percent of this amount.~~ forty-five thousand dollars. On and after September 1, ~~2016~~ 2010, the base salaries will be ~~revised annually and be set according to the above formula based on the current fiscal year median income for El Paso County.~~ 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 the date designated in the budget resolution.

[Not recommended by the Ad Hoc Committee]

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~~ seven meetings during each calendar year, provided that the Council may not cancel more than two regular meetings in a row such canceled meetings are not consecutive. 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 Meeting Act.

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, grant franchises ~~or leases~~, or authorize conveyances shall not be valid unless adopted by a majority of the entire Council.

Section 3.6 LEGISLATIVE COMMITTEES.

A. 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. Rules governing the organization and procedures of these committees shall be made by the Council, and the Mayor shall have no power to veto any of

those rules except upon grounds of illegality.

B. The Council shall establish a Financial Oversight and Audit Committee “FOAC” for the purpose of providing legislative oversight of the function of the Internal Auditor, to review the financial policies of the City, and to formulate recommendations for the City Council regarding City finances and other matters referred by the City Council or City Manager. The FOAC shall be comprised of four members of the City Council, the Chief Internal auditor, and the City Manager or designee and shall meet when needed, at least quarterly.

Section 3.7 APPOINTMENTS.

A. The City Attorney. Whenever a vacancy in the position of City Attorney or any Assistant City Attorney occurs, the City Council by a majority vote of its total membership shall appoint a City Attorney or Assistant City Attorney. Mayor shall appoint a successor with a majority vote of the entire Council. The City Attorney shall be appointed solely on the basis of legal experience and qualifications. 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 the ability to submit nominations for appointments are is distributed uniformly among Representatives and the Mayor.

Section 3.9 ORDINANCES IN GENERAL.

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 be made available for examination by interested persons through any contemporary means of information sharing at such other public places as the Council may designate, ~~for examination by interested persons.~~ No ordinance shall be adopted finally except at a regular open meeting of the Council following notice, publication, and a public hearing. 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 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 after 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. 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 except as provided in section 3.18;
- ~~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;~~
- ~~2.~~ 3. Amend, extend, or repeal any ordinance previously adopted;
- ~~3.~~ 4. Prescribe a fine or penalty or establish any rule or regulation for the violation of which a fine or other penalty is imposed;
- ~~4.~~ 5. Adopt Civil Service Rules.

Section 3.11 INITIATIVE.

Whenever a number of ~~registered~~ qualified 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 hearing 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~~ qualified 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 proposed ordinance on the ballot at the next ~~general~~ uniform election date as specified in State law, or the date of the next election conducted by the County Elections Administrator, 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 obligated to consider the same ordinance initiated by petition, or one that is substantially the same, more often than once in two years.

[Not recommended by the Ad Hoc Committee except for the sentence regarding the holding of the election.]

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 produced as required by State law and the City Clerk shall make the Code available to the public by any contemporary means of information sharing. ~~furnished to City officers and placed in libraries and public offices within the El Paso City limits, for free public reference.~~

Section 3.18 LEASE, FRANCHISE, AND CONVEYANCE.

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 Council; provided however, the Council shall have the right by resolution to grant a lease of public property, or

grant a temporary use of a street, alley, public way or public property for a period not to exceed five years, by resolution, and also may establish except for uses of less than thirty days which may have a separate approval process for such temporary uses of a street, alley, public way or public property of less than thirty days as established by ordinance or resolution.

Any ordinance or resolution providing for the conveyance, lease, or grant of a franchise 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. In addition, any ordinance or resolution providing for the lease or franchise shall provide that:

1. At the termination of the lease or franchise, the property involved, together with any improvements thereto, made or erected during the term of the lease or franchise, shall (either without further compensation or upon payment of a fair valuation therefore as determined by the terms of the ordinance or resolution), become the property of the City; and
2. Every lease or franchise 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 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. For purposes of this section, residential areas shall mean areas restricted exclusively to residential uses and not areas zoned to permit mixed commercial and residential uses.

Section 3.20 ETHICS AND ACCOUNTABILITY.

A. 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 decisions and appropriate sanctions. The ethics review commission shall have the power to enforce its decisions by assessing civil fines and other sanctions authorized by ordinance. 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.

B. Interest in City Contracts Prohibited. No officer or employee of the City shall have a financial interest, direct or indirect, in any contract with the City, or shall be financially interested, directly or indirectly, in the sale to the City of any land, materials, supplies or service, except on behalf of the City as an officer or employee. An officer or an employee of a bank that serves as the city's depository bank shall be deemed not to have a financial interest in the city's contract. Any willful violation of this section shall constitute malfeasance in office, and any officer or employee guilty thereof shall thereby forfeit his office or position. Any violation of this section, with the knowledge, expressed or implied, of the person or corporation contracting with the council shall render the contract involved voidable by the city manager or the council.

[Not recommended by the Ad Hoc Committee]

C. Internal Audit Function.

1. The Council shall establish and create an internal audit function to ensure that appropriate internal audits will be performed in accordance with professionally recognized auditing standards of the operations of all City departments, offices, agencies and programs.
2. The function shall be staffed by a chief internal auditor and such other appropriate positions as are authorized by the Council who shall report to the chief internal auditor.
3. Consistent with the provisions of this Charter, the Council shall by ordinance or resolution provide for the powers and duties of the chief internal auditor as needed for the performance of the function.
4. The Financial and Audit Oversight Committee shall maintain legislative oversight over the internal audit function as provided in Section 3.6 B.
5. The Chief Internal Auditor shall be appointed by the City Manager in the same manner as other unclassified employees of the City. The City Manager shall maintain operational oversight over the internal audit function and be responsible for the implementation of any audit recommendations for changes to City administrative procedures and operations as requested by the Council.

ARTICLE IV THE MAYOR.

Section 4.1 POWERS OF THE MAYOR.

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; make appointments as provided in Section 3.7 B and as provided by federal and state law ~~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, 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.

ARTICLE VI CIVIL SERVICE.

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 City's Civil Service system, the purpose of which is to ensure of ensuring its fairness, economy and efficiency in the selection process and personnel system created for the ~~and of hearing grievances by or against~~ classified employees, and performing the duty of hearing grievances by or against the classified employees. The Commission shall establish its own procedures within the framework of this Charter to carry out these functions.

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

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. 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 matters concerning the enforcement and effect of the Civil Service provisions of this Charter in the manner prescribed by the Rules or by established Commission procedure.

C. Hear and determine appeals or complaints as may be further prescribed in the Rules.

D. Oversee the Civil Service provisions of this Charter, the Rules or policies and procedures, ensuring fair and equitable treatment of all persons appearing before the Commission ~~classified employees.~~

E. Appoint hearing officers.

Section 6.1-3 APPOINTMENT.

The Commission shall consist of nine persons, with each member of the Council appointing one member through a process to be established by resolution of the Council, which shall also provide for a process to fill a vacancy resulting from the failure of a Council member to make an appointment. ~~appointed by the Council.~~ All members serving on the Commission when this amendment takes effect will continue to serve until their terms of office expire. Appointments shall be for three-year terms, provided however, the terms of all members as established on the effective date of this amendment shall be extended such that all terms shall end on August 31st of the applicable year. All terms thereafter shall commence on September 1st. Commissioners serving consecutive terms shall be limited to two full successive three-year terms, regardless of the date of their original appointments. 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. The one-time extension of a term under this section to provide for uniform termination and commencement dates shall not be included in the calculation of the lifetime service of a member of the Commission.

Section 6.1-4 QUALIFICATIONS.

Members of the Commission must be residents of the City at the time of their appointment and remain a resident of the City throughout their term of office. No Commissioner shall be related in any manner described in Article III, Section 3.3 B to any employee of the City, the Public Service Board, or any entity that has a contract with the City to operate or manage any City facility or department, ~~n~~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, 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 6.1-6 RULES.

D. Council Action. The Human Resources Director shall submit the Commission's recommendations regarding proposed Rules to the Council without delay. Failure by Council to approve, amend and approve, or deny the Commission's changes within sixty days after the Commission's action ~~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 vote of the Council.

Section 6.1-10 REMOVAL.

~~A m~~Members of the Commission may be removed by the member of the Council, or his successor in office, who appointed the member through a process established by resolution of the Council, or by a majority vote of the entire Council for cause as determined by the Council. ~~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 for removal by the entire Council may be initiated in writing by any member of the Council. ~~or Commission. Any removal will require an affirmative vote of two-thirds of the Council.~~

[Not recommended by the Ad Hoc Committee]

Section 6.1-11 NON-DISCRIMINATION.

The City shall afford equal employment and benefit opportunities to all qualified individuals in compliance with all applicable laws, without regard to their race, gender, gender identity, sexual orientation, marital status, color, religion, ethnic background or national origin, age, disability, or any other characteristic or status that is protected by federal, state, or local law. ~~All personnel actions must be free of discrimination as is prohibited by law.~~

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. Hearing officer(s) and the Commission Recorder;
- D. All elected officials;
- E. Members of all City boards, commissions, and committees who serve without compensation;
- F. Employees hired by contract, and short-term or limited-funding grant-funded employees as designated by the City Manager and hired on or after the effective date of this amendment as allowed under this Article;
- G. The City Manager;
- H All executive level employees, Department Heads or Directors, Deputy City Managers, and executive staff or salaried professional employees reporting directly to the City Manager;
- I. ~~Employees hired on or after the effective date of this amendment~~ May 18, 2007 who work at the Metropolitan Planning Organization; and
- J. Persons given provisional and temporary appointments who are not classified employees at the time of such appointment.
- K. A person hired solely as a District Representative's legislative aide for the limited period of the term of office for that District Representative.

Section 6.4 CLASSIFICATION AND COMPENSATION.

Section 6.4-1 CLASSIFICATION PLANS.

The Human Resources Director shall update as necessary the classification and compensation plans of the City for the classified services and present such plans to the City Council as part of the annual budget. ~~The Director shall present such plans, and the recommendation of the Civil Service Commission, to the City Council for acceptance and approval. Such plans shall include the annual sick leave and vacation benefits to be provided, establish the factors that are authorized for use in the payment of different rates within the grades or total compensation, and shall also include and address as necessary any reduction in compensation that is anticipated to occur during the next budget year. The classification and compensation plans may be adopted as part of the budget or by separate resolution or ordinance in conjunction with the adoption of the budget.~~

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 or administrative policies or procedures.

~~Section 6.4-3 COMPENSATION REDUCTION.~~

~~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 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 6.5-1 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~~ administrative 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 appropriate needed, the Human Resources Director will establish administrative procedures as necessary for the certification and selection process, including procedures to allow for a fair and competitive selection process designed to meet the needs of the departments while ensuring that the most qualified candidates are certified for selection. ~~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.~~

Section 6.5-2 RULE OF FIVE.

~~As necessary for the promotion process, the Human Resources Director shall certify the five highest names on the proper a promotion-only eligible list for one a vacancy, and additional names one additional name (the next highest) for each additional vacancy except as may be provided by appropriate policies and procedures or in situations where eligible persons are serving in the department in which the vacancy exists and as authorized 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.~~

Section 6.6 APPOINTMENTS.

Section 6.6-1 REGULAR APPOINTMENT.

~~Employees may be hired as regular full or part-time employees, provisional or temporary employees, or as contract appointments. The City Manager shall establish administrative policies and procedures for each category of appointment consistent with the provisions of this Article and all applicable federal and state employment laws. The Human Resources Director shall establish administrative policies and procedures for the entrance process consistent with the provisions of this Article and all applicable federal and state employment laws. Contracts for personal or professional services shall also be subject to any limitations and requirements for Council approval as set forth by ordinance or resolution. Upon receipt of a certification list from the Human Resources Director, the City Manager or designee 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.~~

Section 6.6-2 PROVISIONAL APPOINTMENTS.

~~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. Any person so appointed must meet the minimum qualifications established for the position. A provisional appointment will be effective only until a regular appointment is made from a certification list. In no case shall a provisional appointment extend beyond twelve months from the date of the original appointment.~~

~~Section 6.6-3~~ TEMPORARY APPOINTMENT.

~~When 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. The duration of a temporary appointment may not exceed one year.~~

~~Section 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.~~

Section 6.7 ORIGINAL ENTRANCE EXAMINATIONS.

~~Section 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.~~

Section 6.7-2 1 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 or policies and procedures.

Section 6.8 PROMOTION.

Section 6.8-1 EXAMINATION AND ELIGIBILITY.

The Human Resources Director shall establish administrative policies and procedures for the promotion process, including examination and eligibility, consistent with the provisions of this Article and all applicable federal and state employment laws. 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.

~~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 6.9 SPECIAL PROVISIONS.

Section 6.9-5 DELEGATION ADMINISTRATIVE ACTION.

A. Policies and procedures utilized by the Human Resources Department shall be established administratively by the City Manager or the Human Resources Director as required or authorized by this Article or as necessary for the proper management and operation of the system. All

administrative policies and procedures adopted by the City Manager or the Human Resources Director must be consistent with the provisions of this Article, the Civil Service Rules, and applicable state and federal laws.

B. The City Manager may delegate to appropriate individuals the execution of the functions, duties and responsibilities set forth in this Article, ~~as he 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 City Manager may order a layoff. The reduction will be made in accordance with the principles established ~~procedures set forth~~ in the Rules and the administrative procedures established by the Human Resources Director, consistent with the provisions of this Article and all applicable federal and state employment laws.

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 or policies and procedures.

[Not recommended by the Ad Hoc Committee]

Section 6.10-3 LEAVE OF ABSENCE; REINSTATEMENT.

The City Manager shall establish administrative policies and procedures regarding the eligibility of employees to take a leave of absence and to be reinstated, consistent with the provisions of this Article and all applicable federal and state employment laws.

~~Permanent employees may be granted a leave of absence by the City Manager or designee 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 6.10-4 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.~~

~~Section 6.10-5 VACATIONS.~~

~~Classified employees who have held a city 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.~~

~~Section 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.~~

~~Section 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.~~

Section 6.11 TRANSFER AND REDUCTION.

Section 6.11-1 ~~WHEN TRANSFER IS PERMISSIBLE AND REDUCTION.~~

~~The Human Resources Director shall establish administrative policies and procedures for the transfer and reduction process, including transfer and reduction for physical incapacity, consistent with the provisions of this Article and all applicable federal and state employment laws. 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.~~

~~Section 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.~~

Section 6.12 STANDARDS OF EFFICIENCY.

~~The City Manager, or by designation the Human Resources Director, shall establish by written policy appropriate standards of efficiency for all positions in each class and grade in the classified positions.~~

Section 6.13 DISCHARGE, APPEAL, HEARINGS.

Section 6.13-2 DISCIPLINARY ACTION; REDUCTION.

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

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 regular employees:

- A. Conviction of, or deferred adjudication community supervision for, a felony or of a Class A or B misdemeanor involving moral turpitude;
- B. Abusive, threatening, or coercive treatment of another employee or a member of the public, the provocation or instigation of violence, brutality to a City prisoner, or abusive treatment to an animal in the care or control of the employee;
- 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 to the extent permissible under federal and state laws;
- E. Being wantonly offensive in conduct or language;
- F. Performance of duty consistently below established minimum standards. Incompetency or negligence in the performance of duties, including but not limited to, failure to perform assigned tasks, or failure to discharge duties in an accurate, prompt, competent, or responsible manner;

- G. Dishonesty, theft, violation of a law or policies relating to the handling or procurement of property, or negligence in care or misuse of City property;
- H. ~~Unexcused absence from duty for a period of three or more successive days~~ Abandonment of position, repeated unexcused absence or tardiness, abuse of leave privileges, or absence without notification or the provision of a valid or acceptable reason for absence;
- I. ~~Exerting improper use of political influence~~ Failure to meet or maintain qualifications, including but not limited to, failing to obtain or maintain required certificates, licenses or other credentials established for the employee's position or classification;
- J. ~~Inducing or assisting another to commit an unlawful act;~~ Reserved;
- K. ~~Exerting improper influence on behalf of a relative~~ Deliberate or careless conduct endangering the safety of self or others;
- L. ~~Engaging in improper political activity;~~ Reserved;
- M. Violates the City's Ethics Ordinance;
- 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
- P. For just cause.

Section 6.13-4 APPEALS.

Any ~~permanent~~ regular classified employee 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.

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 reduce ~~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; or
- C. Reject the Hearing Officer's recommendations and refer the matter to the Civil Service Commission for a de novo hearing.

Section 6.13-11 PENSION PLANS.

A. The Council shall continue a pension plan for all ~~permanent~~ regular full time employees. ~~Permanent~~ Regular part-time and eligible contract employees may elect not to participate in the plan. Other employees of the City and employees of governmental agencies of the City, except policemen, firemen, and elected officials of the City, shall have the option of participating in the plan. Eligible employees of an adopting employer of the plan shall be participants of the plan.

Section 6.14 DEFINITIONS OF TERMS.

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.

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.

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.

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

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

Executive Level Employees: Those employees designated as executive level employees in their job descriptions and/or scope of duties based on the high level of management responsibilities and duties performed as determined by the Human Resources Director.

Grade: Term representing a specific range of compensation.

Human Resources Director: The director of the Human Resources Department or designee.

Permanent Regular Employee: Any classified employee who has been regularly appointed service.

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.

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.

ARTICLE VII PUBLIC FINANCE.

Section 7.4 CASH RESERVE FUND.

The A cash reserve fund in the general operating fund of the City shall be maintained in an amount no less than five percent (5%) of the prior year's adopted general fund operating expenditure budget equal to its existing balance at the date of adoption of this Charter. The cash reserve fund shall be maintained and reported as restricted under applicable Governmental Accounting Standards Board rules ~~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 7.7 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.

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 City's investments shall be governed by a City Investment Policy which shall be adopted and reviewed as provided by state law, but in no event, shall the policy be adopted or reviewed by the council less frequently than annually. 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 7.17 GENERAL OBLIGATION BONDS.

General obligation bonds ~~may shall~~ be issued ~~for any lawful purpose 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 7.23 LEASE AND LEASE PURCHASE.

The City may execute, perform, and make payments under a contract with any person for the use, purchase or other acquisition of any real or personal property, or the financing thereof, including a lease, a lease with an option or option to purchase, an installment purchase or other form considered appropriate by the Council.

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. Reserved.~~

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. Reserved.~~

Section 8.7 TRANSITIONAL PROVISION TO THE 2004 2013 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, n~~No amendment that is approved at the election on February 7, 2004 May 11, 2013 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. In the event that an objection is interposed to the amendments made in Section 2.1 A and B, the provisions of Section 2.1 A and B establishing the terms of office, as approved at the election on May 12, 2007, shall remain in force and effect.

**RED-LINE TEXT OF PROPOSED CHARTER PROVISIONS
WITH RESEARCH INFORMATION**

ARTICLE II. NOMINATIONS AND ELECTIONS.

Section 2.1 CITY ELECTIONS.

A. Regular Elections. The regular City elections to be held in 2015 and 2017 shall be held on the uniform date established in the Texas Election Code during the month of May with a run-off election to be held on the earliest date practicable in accordance with the law. ~~All~~ These terms of elected office to commence on the last Tuesday in June or the Tuesday following the canvass of a run-off election, whichever is later. Beginning in 2018, the regular City elections shall be held on the uniform date established in the Texas Election Code during the month of November with a run-off election to be held on the earliest date practicable in accordance with the law. All terms of elected office beginning with the November 2018 election to commence on the first Tuesday in January following the election or the Tuesday following the canvass of a run-off election, whichever is later.

[Not recommended by the Ad Hoc Committee]

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: Each Representative shall be elected from a district and the Mayor and other officers shall be elected from the City at large. The Judges of the Municipal Courts, the Mayor, and the District Representatives from districts numbers 2, 3, 4 and 7 taking office in June 2013 shall serve four year terms. Commencing in June 2017 ~~2005~~ the Judges of the Municipal Courts, the Mayor, and the District Representatives from districts numbers 2, 3, 4 and 7 shall be elected to terms greater than three years but less than four years that conform to the change made in subsection A to the start of the term and the new election date beginning in November 2020 and they shall thereafter be elected to four-year terms. Commencing in June 2015 ~~2005~~, the District Representatives from districts numbers 1, 4, 5 and 8 shall be elected to terms greater than three years but less than four years that conform to the change made in subsection A to the start of the term and the new election date beginning in November 2018 and be elected to two-year terms, and commencing in June 2007, they shall thereafter be elected to four-year terms. 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.

[Not recommended by the Ad Hoc Committee]

Note: Under Article 11, Section 11, Texas Constitution, a home rule city has no authority to extend a term beyond four years. Thus, if it is desired to move the elections from May to November, the terms must be shortened. The starting date of the terms could be moved up to the last Tuesday in December or delayed to the second Tuesday in January if one of those days is preferred over the first Tuesday in January.

Alternate proposal: The Ad Hoc Committee was asked to make a recommendation on whether the elections of the Mayor and Council should continue to be staggered. They first became staggered with the 2004 charter change that also moved from 2 year to 4 year terms. If removing

the staggering of the terms is desired, the above provisions would need to be rewritten so that in June 2015, the District Representatives from districts numbers 1, 4, 5 and 8 would be elected to two year terms and thereafter, to four year terms beginning in 2017. This would eliminate the staggering and all elections would be on the same date beginning in May 2017 for four year terms and the entire Council would all be elected at the same time. This proposal was suggested based on a concern that voter turnout for district elections that don't include the city-wide Mayoral race has declined.

[Not recommended by the Ad Hoc Committee]

Note: The following are the election results since the staggering of the terms went into effect in 2004, showing the total number of persons voting for each position. Note--after all positions were up for election in 2005, and after the election, the representatives drew lots for the staggering. The Representatives in Districts 1, 5, 6 and 8 drew 2 year terms, so they came up for re-election in 2007. The Mayor and Representatives in Districts 2, 3, 4 and 7 served four year terms, and came up for re-election in 2009.

	2007	2011		2009
District 1	6,555	4,749	Mayor	30,604
District 5	2,651	3,161	District 2	3,338
District 6	2,207	2,020	District 3	3,984
District 8	3,350	1,923	District 4	4,841
			District 7	3,271

Second alternate proposal: To establish the time at which two additional District Representatives will be added to the Council by amending sections 2.1 B and 2.4 A.

[Recommended by the Ad Hoc Committee]

C. **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. A completed petition under this section shall be signed by a number of qualified voters equal to at least _____ percent of the qualified voters who were entitled to vote at the last election for the officer whose recall is sought.

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

1. The general conduct of recall election.
2. Receipt, by the City Clerk, prior to the conduct of any recall election of a petition bearing authentic signatures of the required a number of registered qualified 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 with 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.

When a recall election is to required be ordered, it shall be held on the next uniform election date as specified by state law, or the date of the next election that will be conducted by the County

Elections Administrator. The top of each page of the recall petition must contain language detailing the specific reason or justification for the recall constituting neglect of office, incompetency, misconduct, malfeasance, or unfitness for office.

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 of 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. [Not recommended by the Ad Hoc Committee except to approve the sentence regarding the holding of the election.]

Recall provisions—NCL model charter and other cities:

San Antonio: requires 10% of qualified voters at the time of the last regular election.

Dallas: requires 15% of voters who were entitled to vote at the last election.

Ft. Worth: 20% of the persons entitled to vote for successor.

Austin: requires 10% of qualified voters. Austin has a provision stating that no council member shall be subject to more than one election during a term of office.

Houston: requires 25% of those voting at the Democratic primary election. Houston requires grounds be stated: "petition shall set forth distinctly and specifically grounds showing or tending to show some ground of incompetency or unfitness for or misconduct or malfeasance in the office".) Houston also limits recall elections to one in any calendar year.

The NCL Model Charter states that recall petitions are usually signed by registered voters of the city equal in number to at least 10 to 20 percent of the total number of registered voters to vote at the last regular election.

Section 2.2 NOMINATIONS.

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 or such other greater number of qualified voters as may be required by state law. 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.

Note: this change is needed so that the provision conforms to state law—there are times when the Election Code requires more than 25 signatures on the petition. Section 143.005, Texas Elections Code, provides that this type of petition must contain the greater of 25 or one-half of one percent of the total votes received in the territory from which the office is elected by all candidates for mayor in the most recent mayoral general election.

SECTION 2.3 ELECTIONS.

A. Conduct of Elections. All elections shall be held in accordance with the laws of Texas. Notwithstanding any other provision of this Charter, when special election is required by a provision of this Charter to be ordered, it will be scheduled for the next uniform election date as specified in state law or the date of the next election that will be conducted by the County Elections Administrator, as directed by the Council.

This provision will allow for an option to move some special elections when they would ordinarily need to be set in May of even years—a date when the El Paso County Elections Administrator can refuse to hold the election. If revisions to the recall and initiative procedures are made to incorporate this language within those provisions, then this new section will not be needed.

ARTICLE III THE CITY COUNCIL.

Section 3.2 SALARIES.

Commencing on June ~~23~~ ~~28~~, ~~2015~~ ~~2009~~, the annual base salary of the District Representatives shall be set at the same amount as the HUD program income limits median income as established by the United States Department of Housing and Urban Development, or successor agency, for the 2015 fiscal year for El Paso County ~~twenty-nine thousand dollars~~, and the annual base salary of the Mayor shall be set at one-hundred and fifty percent of this amount. ~~forty-five thousand dollars.~~ On and after September 1, ~~2016~~ ~~2010~~, the base salaries will be revised annually and be set according to the above formula based on the current fiscal year median income for El Paso County. ~~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 the date designated in the budget resolution.~~

[Not recommended by the Ad Hoc Committee]

Note: This provision was amended in 2007. The salaries of the Representatives were roughly based on the median income for a family of four at that time, and the Mayor was paid approximately 150% of that amount. The exact amount selected was less than the actual median income amount in 2007, so as to keep the amount of the increase from being too great, as the prior salary of the Representatives was \$19,144.39 and \$32,423.39 for the Mayor. Although the provision provided for the possibility of an increase in the salaries, no salary increase occurred since 2009, but the median income calculation has risen, as during the last four years, the City has chosen to base salary increases on competency adjustments and market rate increases rather than an across the board increase.

The information provided by the Community Development Department is that the median income for a family of four in El Paso County for use under applicable federal programs during 2013 is \$42,000.00.

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~~ seven meetings during each calendar year, provided that the Council may not cancel more than two regular meetings in a row ~~such canceled meetings are not consecutive~~. 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 Meeting Act.

Note: The NCL Model Charter has this language; “The council shall meet regularly at least once in every month at such times and places as the council may prescribe by rule.”

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, grant franchises ~~or leases~~, or authorize conveyances shall not be valid unless adopted by a majority of the entire Council.

Note: This change is needed due to the change proposed in Section 3.18.

Section 3.6 LEGISLATIVE COMMITTEES.

A. 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. Rules governing the organization and procedures of these committees shall be made by the Council, and the Mayor shall have no power to veto any of those rules except upon grounds of illegality.

B. The Council shall establish a Financial Oversight and Audit Committee “FOAC” for the purpose of providing legislative oversight of the function of the Internal Auditor, to review the financial policies of the City, and to formulate recommendations for the City Council regarding City finances and other matters referred by the City Council or City Manager. The FOAC shall be comprised of four members of the City Council, the Chief Internal auditor, and the City Manager or designee and shall meet when needed, at least quarterly.

Note: This proposal, along with additional language in Section 3.20 C, is made to ensure that there will always be an independent internal audit function with the appropriate types of oversight by both the City Council and the City Manager.

Section 3.7 APPOINTMENTS.

A. **The City Attorney.** Whenever a vacancy in the position of City Attorney or any Assistant City Attorney occurs, the City Council by a majority vote of its total membership shall appoint a City Attorney or Assistant City Attorney. Mayor shall appoint a successor with a majority vote of the entire Council. The City Attorney shall be appointed solely on the basis of legal experience and qualifications. 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 the ability to submit nominations for appointments are is distributed uniformly among Representatives and the Mayor.

Note: The revisions to this section and to section 4.1 B more clearly state the existing practice for making appointments to the boards and commission.

Section 3.9 ORDINANCES IN GENERAL.

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 be made available for examination by interested persons through any contemporary means of information sharing at such other public places as the Council may designate, ~~for examination by interested persons~~. No ordinance shall be adopted finally except at a regular open meeting of the Council following notice, publication, and a public hearing. 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 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 after 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. 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.

Note: The amendment to this section and to section 3.14 below will further streamline the process of making information on ordinances available to the public.

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

1. Authorize the conveyance of any City real property except as provided in section 3.18;
- ~~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;~~
2. ~~3.~~ Amend, extend, or repeal any ordinance previously adopted;
3. ~~4.~~ Prescribe a fine or penalty or establish any rule or regulation for the violation of which a fine or other penalty is imposed;
4. ~~5.~~ Adopt Civil Service Rules.

Section 3.11 INITIATIVE.

Whenever a number of ~~registered~~ qualified 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 hearing 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~~ qualified 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 proposed ordinance on the ballot at the next general uniform election date as specified in State law, or the date of the next election conducted by the County Elections Administrator, 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 obligated to consider the same ordinance initiated by petition, or one that is substantially the same, more often than once in two years.

[Not recommended by the Ad Hoc Committee except to approve the sentence regarding the holding of the election.]

Initiative provisions—NCL model charter and other cities:

The NCL Model Charter states that initiative petitions are usually signed by registered voters of the city equal in number to at least 5 to 10 percent of the total number of qualified voters to vote at the last regular election.

San Antonio, Dallas, Austin and Ft. Worth base their calculation of the number of needed signatures on a percentage of the registered voters or qualified voters (essentially the same thing).

Houston bases its calculation of the number of needed signatures on a percentage of persons voting at the Democratic primary election. As Houston is such a large city, the number of signatures needed is likely to be comparable to the number of signatures typically needed in the other major Texas cities.

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 produced as required by State law and the City Clerk shall make the Code available to the public by any contemporary means of information sharing. ~~furnished to City officers and placed in libraries and public offices within the El Paso City limits, for free public reference.~~

Note: State statute presently requires that one copy of the code be printed.

Section 3.18 LEASE, FRANCHISE, AND CONVEYANCE.

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 Council; provided however, the Council shall have the right by resolution to grant a lease of public property, or grant a temporary use of a street, alley, public way or public property for a period not to exceed five years, by resolution, and also may establish ~~except for uses of less than thirty days which may have a separate approval process for such temporary uses of a street, alley, public way or public property of less than thirty days as established~~ by ordinance or resolution.

Any ordinance or resolution providing for the conveyance, lease, or grant of a franchise 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. In addition, any ordinance or resolution providing for the lease or franchise shall provide that:

1. At the termination of the lease or franchise, the property involved, together with any improvements thereto, made or erected during the term of the lease or franchise, shall (either without further compensation or upon payment of a fair valuation therefore as determined by the terms of the ordinance or resolution), become the property of the City; and
2. Every lease or franchise 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.

Note: The above revision is based on language contained in San Antonio's ordinance. Allowing for the approval of leases and short term uses of rights-of-way by resolution will streamline these processes.

Section 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. For purposes of this section, residential areas shall mean areas restricted exclusively to residential uses and not areas zoned to permit mixed commercial and residential uses.

Note: This change will clarify how this provision applies to areas zoned under the smart code.

Section 3.20 ETHICS AND ACCOUNTABILITY.

A. 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 decisions and appropriate sanctions. The ethics review commission shall have the power to enforce its decisions by assessing civil fines and other sanctions authorized by ordinance. 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.

Note: Section A is the text from Section 2.2 G which is moved to this location to be under the

new section titled Ethics and Accountability and is amended to add authority to impose civil fines, as authorized by an ordinance. San Antonio has a similar provision in their charter granting this type of authority.

Information obtained from the City of San Antonio is that the San Antonio Ethics Commission has never imposed a civil fine. State law allows the El Paso County Ethics Commission to impose civil fines.

B. Interest in City Contracts Prohibited. No officer or employee of the City shall have a financial interest, direct or indirect, in any contract with the City, or shall be financially interested, directly or indirectly, in the sale to the City of any land, materials, supplies or service, except on behalf of the City as an officer or employee. An officer or an employee of a bank that serves as the city's depository bank shall be deemed not to have a financial interest in the city's contract. Any willful violation of this section shall constitute malfeasance in office, and any officer or employee guilty thereof shall thereby forfeit his office or position. Any violation of this section, with the knowledge, expressed or implied, of the person or corporation contracting with the council shall render the contract involved voidable by the city manager or the council. [Not recommended by the Ad Hoc Committee]

Note: This proposed change is based on provisions currently the charters in San Antonio and Ft. Worth. Under the provisions in chapter 252, Local Govt Code, a provision such as the one in B above is needed in the Charter if the City desires to prevent officers and employees from being awarded contracts based on a low bid.

If you include land as part of this proposal, it would be necessary to proceed to eminent domain to acquire any land from a City official or employee, even if it is just a small piece needed for a large project consisting of several parcels. This would add to the expense and to the time needed to acquire property for a project. Accordingly, you may wish just to exclude land or draft some type of exception, such as requiring the Council to make a finding that there is no reasonable alternative to the acquisition of the particular property or that the property is essential to the successful completion of a project prior to proceeding with the purchase.

C. Internal Audit Function.

1. The Council shall establish and create an internal audit function to ensure that appropriate internal audits will be performed in accordance with professionally recognized auditing standards of the operations of all City departments, offices, agencies and programs.
2. The function shall be staffed by a chief internal auditor and such other appropriate positions as are authorized by the Council who shall report to the chief internal auditor.
3. Consistent with the provisions of this Charter, the Council shall by ordinance or resolution provide for the powers and duties of the chief internal auditor as needed for the performance of the function.
4. The Financial and Audit Oversight Committee shall maintain legislative oversight over the internal audit function as provided in Section 3.6 B.
5. The Chief Internal Auditor shall be appointed by the City Manager in the same manner as other unclassified employees of the City. The City Manager shall maintain operational oversight over the internal audit function and be responsible for the implementation of any audit recommendations for changes to City administrative procedures and operations as requested by the Council.

ARTICLE IV THE MAYOR.

Section 4.1 POWERS OF THE MAYOR.

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; make appointments as provided in Section 3.7 B and as provided by federal and state law ~~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, 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.

ARTICLE VI CIVIL SERVICE.

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 City's Civil Service system, the purpose of which is to ensure ~~of ensuring its~~ fairness, economy and efficiency in the selection process and personnel system created for the ~~and of hearing grievances by or against~~ classified employees, and performing the duty of hearing grievances by or against the classified employees. The Commission shall establish its own procedures within the framework of this Charter to carry out these functions.

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

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. 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 matters concerning the enforcement and effect of the Civil Service provisions of this Charter in the manner prescribed by the Rules or by established Commission procedure.

C. Hear and determine appeals or complaints as may be further prescribed in the Rules.

D. Oversee the Civil Service provisions of this Charter, the Rules or policies and procedures, ensuring fair and equitable treatment of all persons appearing before the Commission ~~classified employees.~~

E. Appoint hearing officers.

Note: The above two sections were re-written in 2007 to better state the proper role of the Commission under the Council-Manager form of government adopted in 2004. The above amendments will refine the language to further clarify the true meaning of the provisions.

Section 6.1-3 APPOINTMENT.

The Commission shall consist of nine persons, with each member of the Council appointing one member through a process to be established by resolution of the Council, which shall also provide for a process to fill a vacancy resulting from the failure of a Council member to make an appointment, appointed by the Council. All members serving on the Commission when this amendment takes effect will continue to serve until their terms of office expire. Appointments shall be for three-year terms, provided however, the terms of all members as established on the effective date of this amendment shall be extended such that all terms shall end on August 31st of the applicable year. All terms thereafter shall commence on September 1st. Commissioners serving consecutive terms shall be limited to two full successive three-year terms, regardless of the date of their original appointments. 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. The one-time extension of a term under this section to provide for uniform termination and commencement dates shall not be included in the calculation of the lifetime service of a member of the Commission.

Note: This change, and the change to the removal process below in Section 6.1-10, will completely revise the method by which the CSC Commissioners are appointed and removed. Rather than having each Council member submit a nomination, each Council member will be responsible to appoint and remove their appointee on the Commission. Provisions are added to allow the entire Council to take action to appoint and remove, should a Council member fail to take action.

Over the years, the terms have been inadvertently moved and adjusted from the original dates established in 1984. This provision will restore the terms to a defined starting and ending date and provide that the adjustment to the terms will not count for the calculation of lifetime service. The appropriate starting and ending date may need to be adjusted should the City move the regular elections from May to November.

Section 6.1-4 QUALIFICATIONS.

Members of the Commission must be residents of the City at the time of their appointment and remain a resident of the City throughout their term of office. No Commissioner shall be related in any manner described in Article III, Section 3.3 B to any employee of the City, the Public Service Board, or any entity that has a contract with the City to operate or manage any City facility or department, nNo 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, 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.

Note: Adding this provision will eliminate an area of potentially significant conflicts of interest

that can result in the need for a Commissioner to abstain from participation in Commission actions on a regular basis.

This proposal includes the recommendation by the Ad Hoc Committee that the language prohibiting a Commissioner from being interested in any city contracts, which was removed from the Charter in 2007, be added back to the Charter.

Section 6.1-6 RULES.

D. Council Action. The Human Resources Director shall submit the Commission's recommendations regarding proposed Rules to the Council without delay. Failure by Council to approve, amend and approve, or deny the Commission's changes within sixty days after the Commission's action 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 vote of the Council.

Section 6.1-10 REMOVAL.

~~A member of the Commission may be removed by the member of the Council, or his successor in office, who appointed the member through a process established by resolution of the Council, or by a majority vote of the entire Council for cause as determined by the Council. 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 for removal by the entire Council may be initiated in writing by any member of the Council. or Commission. Any removal will require an affirmative vote of two-thirds of the Council.~~

[Not recommended by the Ad Hoc Committee]

Note—see comment under Section 6.1-3. Comments have been made that this amendment would remove a necessary degree of independence from the Commission and its members in terms of their security on the Commission.

Section 6.1-11 NON-DISCRIMINATION.

The City shall afford equal employment and benefit opportunities to all qualified individuals in compliance with all applicable laws, without regard to their race, gender, gender identity, sexual orientation, marital status, color, religion, ethnic background or national origin, age, disability, or any other characteristic or status that is protected by federal, state, or local law. All personnel actions must be free of discrimination as is prohibited by law.

Note: This language was proposed by City Council members in 2010 to provide a broader and more inclusive provision requiring non-discrimination in the application of the City's employment procedures and the benefits that are provided to employees.

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. Hearing officer(s) and the Commission Recorder;
- D. All elected officials;
- E. Members of all City boards, commissions, and committees who serve without compensation;

F. Employees hired by contract, and short-term or limited-funding grant-funded employees as designated by the City Manager and hired on or after the effective date of this amendment as allowed under this Article;

G. The City Manager;

H All executive level employees, Department Heads or Directors, Deputy City Managers, and executive staff or salaried professional employees reporting directly to the City Manager;

I. ~~Employees hired on or after the effective date of this amendment~~ May 18, 2007 who work at the Metropolitan Planning Organization; and

J. Persons given provisional and temporary appointments who are not classified employees at the time of such appointment.

K. A person hired solely as a District Representative's legislative aide for the limited period of the term of office for that District Representative.

Note: See also the new definition added to Section 6.14 to define the term "executive level employee". The above changes would allow employees hired to work under short-term grants to be unclassified without the necessity of hiring them by written contract, and would move all employees currently classified in the Executive Service (EX) and paid pursuant to the EX pay scale to the unclassified services. These are high level employees with significant management duties and responsibilities who are more appropriately assigned to the unclassified service. The change in Subsection I memorializes the correct date for this subsection.

Section 6.4 CLASSIFICATION AND COMPENSATION.

Section 6.4-1 CLASSIFICATION PLANS.

The Human Resources Director shall update as necessary the classification and compensation plans of the City for the classified services and present such plans to the City Council as part of the annual budget. ~~The Director shall present such plans, and the recommendation of the Civil Service Commission, to the City Council for acceptance and approval. Such plans shall include the annual sick leave and vacation benefits to be provided, establish the factors that are authorized for use in the payment of different rates within the grades or total compensation, and shall also include and address as necessary any reduction in compensation that is anticipated to occur during the next budget year. The classification and compensation plans may be adopted as part of the budget or by separate resolution or ordinance in conjunction with the adoption of the budget.~~

Note: This section was inadvertently amended in 2007 to require that the classification and compensation plan (Ordinance 8064) go to the CSC for review. Prior to 2007, this plan did not go to the CSC as it covers financial matters such as the provision of benefits which are exclusively the decision of the City Council. This revision corrects this error and also puts all of the decisions regarding benefits such as sick leave and vacation into the classification and compensation plan, rather than having some provisions in the Rules and others in the plan. It also requires the plan to address the matters being deleted below in Sections 6.4-3 and 6.4-4.

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 or administrative policies or procedures.

Section 6.4-3 COMPENSATION REDUCTION.

~~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 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.~~

Note: The four subsections under this Section are being combined and the City Manager will be responsible to develop the criteria for when and how the different methods of appointment are utilized.

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~~ administrative 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 appropriate needed, the Human Resources Director will establish administrative procedures as necessary for the certification and selection process, including procedures to allow for a fair and competitive selection process designed to meet the needs of the departments while ensuring that the most qualified candidates are certified for selection. ~~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.~~

Section 6.5-2 RULE OF FIVE.

As necessary for the promotion process, the Human Resources Director shall certify the five highest names on the proper a promotion-only eligible list for one a vacancy, and additional names one additional name (the next highest) for each additional vacancy except as may be provided by appropriate policies and procedures or in situations where eligible persons are serving in the department in which the vacancy exists and as authorized 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.

Note: The revision under 6.5-1 will move the details regarding eligibility and appointment from the Charter into administrative policies and procedures, eliminating the need for the provisions in 6.5-1 C and D and all of the provisions below in Section 6.7. It also eliminates the need for the provisions in Rule 6.5-2 to apply to anything other than the promotional only eligible list process.

Section 6.6 APPOINTMENTS.

Section 6.6-1 REGULAR APPOINTMENT.

Employees may be hired as regular full or part-time employees, provisional or temporary employees, or as contract appointments. The City Manager shall establish administrative policies and procedures for each category of appointment consistent with the provisions of this Article and all applicable federal and state employment laws. The Human Resources Director shall establish administrative policies and procedures for the entrance process consistent with the provisions of this Article and all applicable federal and state employment laws. Contracts for personal or professional services shall also be subject to any limitations and requirements for Council approval as set forth by ordinance or resolution. Upon receipt of a certification list from the Human Resources Director, the City Manager or designee 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.

Section 6.6-2 PROVISIONAL APPOINTMENTS.

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. Any person so appointed must meet the minimum qualifications established for the position. A provisional appointment will be effective only until a regular appointment is made from a certification list. In no case shall a provisional appointment extend beyond twelve months from the date of the original appointment.

Section 6.6-3 TEMPORARY APPOINTMENT.

When 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. The duration of a temporary appointment may not exceed one year.

~~Section 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.~~

Note: The four subsections under this Section are being combined and the City Manager will be responsible to develop the criteria for when and how the different methods of appointment are utilized.

~~Section 6.7 ORIGINAL ENTRANCE EXAMINATIONS.~~

~~Section 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.~~

~~Section 6.7-2 1 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 or policies and procedures.~~

Note: See the notation under Section 6.5 above as to why the first subsection is deleted. The phrase policies and procedures was added so as to include the provisions applicable to original applicants.

~~Section 6.8 PROMOTION.~~

~~Section 6.8-1 EXAMINATION AND ELIGIBILITY.~~

~~The Human Resources Director shall establish administrative policies and procedures for the promotion process, including examination and eligibility, consistent with the provisions of this Article and all applicable federal and state employment laws. 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.~~

~~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.~~

Note: The above amendment will require that administrative policies and procedures address the requirements of fairness and eligibility for a promotion which allows the specific details to be deleted from the Charter.

Section 6.9 SPECIAL PROVISIONS.

Section 6.9-5 ~~DELEGATION~~ ADMINISTRATIVE ACTION.

A. Policies and procedures utilized by the Human Resources Department shall be established administratively by the City Manager or the Human Resources Director as required or authorized by this Article or as necessary for the proper management and operation of the system. All administrative policies and procedures adopted by the City Manager or the Human Resources Director must be consistent with the provisions of this Article, the Civil Service Rules, and applicable state and federal laws.

B. The City Manager may delegate to appropriate individuals the execution of the functions, duties and responsibilities set forth in this Article, ~~as he deems appropriate.~~ Appropriate designees may include department directors and other persons able and assigned to execute the specific functions, duties or responsibilities.

Note: The new provision in subsection A serves to clarify the authority for the establishment of administrative policies and procedures. The revision to subsection B eliminates superfluous language.

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 City Manager may order a layoff. The reduction will be made in accordance with the principles established ~~procedures set forth~~ in the Rules and the administrative procedures established by the Human Resources Director, consistent with the provisions of this Article and all applicable federal and state employment laws.

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 or policies and procedures.

[Not recommended by the Ad Hoc Committee]

Section 6.10-3 LEAVE OF ABSENCE; REINSTATEMENT.

The City Manager shall establish administrative policies and procedures regarding the eligibility of employees to take a leave of absence and to be reinstated, consistent with the provisions of this Article and all applicable federal and state employment laws.

~~Permanent employees may be granted a leave of absence by the City Manager or designee 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 6.10-4 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.~~

~~Section 6.10-5 VACATIONS.~~

~~Classified employees who have held a city 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.~~

~~Section 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.~~

~~Section 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.~~

Note: The above amendment will require that administrative policies and procedures address the matters such as leave of absence, resignation, reinstatement which allows the specific details to be deleted from the Charter. The provisions relating to vacations and sick leave will be addressed in the compensation and classification plan, per Section 6.4-1.

Section 6.11 TRANSFER AND REDUCTION.

Section 6.11-1 ~~WHEN TRANSFER IS PERMISSIBLE~~ AND REDUCTION.

The Human Resources Director shall establish administrative policies and procedures for the transfer and reduction process, including transfer and reduction for physical incapacity, consistent with the provisions of this Article and all applicable federal and state employment laws. 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.

~~Section 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.~~

Note: The above amendment will require that administrative policies and procedures address transfers and reduction in force which allows the specific details to be deleted from the Charter.

Section 6.12 STANDARDS OF EFFICIENCY.

The City Manager, ~~or by designation the Human Resources Director,~~ shall establish by written policy appropriate standards of efficiency for all positions in each class and grade in the classified positions.

Note: Reference to the HR Director was eliminated, as that language was superfluous.

Section 6.13 DISCHARGE, APPEAL, HEARINGS.

Section 6.13-2 DISCIPLINARY ACTION; REDUCTION.

A ~~permanent~~ regular employee may be discharged, suspended or reduced in rank or position as

provided in this Charter or further defined in the Rules.

Note: The change from “permanent” to “regular” is made here and a number of other places, including in the definitions section in Section 6.14, to establish uniformity in the use of terms.

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~~ regular employees:

- A. Conviction of, or deferred adjudication community supervision for, a felony or of a Class A or B misdemeanor ~~involving moral turpitude~~;
- B. Abusive, threatening, or coercive treatment of another employee or a member of the public, the provocation or instigation of violence, bBrutality to a City prisoner, or abusive treatment to an animal in the care or control of the employee;
- 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 to the extent permissible under federal and state laws;
- E. Being wantonly offensive in conduct or language;
- F. ~~Performance of duty consistently below established minimum standards~~ Incompetency or negligence in the performance of duties, including but not limited to, failure to perform assigned tasks, or failure to discharge duties in an accurate, prompt, competent, or responsible manner;
- G. Dishonesty, theft, violation of a law or policies relating to the handling or procurement of property, or nNegligence in care or misuse of City property;
- H. ~~Unexcused absence from duty for a period of three or more successive days~~ Abandonment of position, repeated unexcused absence or tardiness, abuse of leave privileges, or absence without notification or the provision of a valid or acceptable reason for absence;
- I. ~~Exerting improper use of political influence~~ Failure to meet or maintain qualifications, including but not limited to, failing to obtain or maintain required certificates, licenses or other credentials established for the employee’s position or classification;
- J. ~~Inducing or assisting another to commit an unlawful act~~; Reserved;
- K. ~~Exerting improper influence on behalf of a relative~~ Deliberate or careless conduct endangering the safety of self or others;
- L. ~~Engaging in improper political activity~~; Reserved;
- M. Violates the City’s Ethics Ordinance;
- 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
- P. For just cause.

Note: The above revisions are proposed to make clarifications in the causes for disciplinary action so that the wording used is clear to City administration and the employees, and appropriately encompasses the actions for which disciplinary action is appropriate. Two provisions that are now encompassed in the City’s ethics ordinance are deleted (I and K) and new provisions are now included under these subsection letters.

This language includes the CSC’s recommendations for minor revisions to subsections A and F, and to delete the proposal to remove the word “wantonly” in subsection E.

This language also includes the recommendation of the Ad Hoc Committee to delete subsections J and L.

Section 6.13-4 APPEALS.

Any ~~permanent~~ regular classified employee 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.

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 reduce ~~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; or
- C. Reject the Hearing Officer's recommendations and refer the matter to the Civil Service Commission for a de novo hearing.

Note: This revision is being made to clarify the language and procedures of the Commission in light of current practices and applicable law.

Section 6.13-11 PENSION PLANS.

A. The Council shall continue a pension plan for all ~~permanent~~ regular full time employees. ~~Permanent Regular~~ part-time and eligible contract employees may elect not to participate in the plan. Other employees of the City and employees of governmental agencies of the City, except policemen, firemen, and elected officials of the City, shall have the option of participating in the plan. Eligible employees of an adopting employer of the plan shall be participants of the plan.

Section 6.14 DEFINITIONS OF TERMS.

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.

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.

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.

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

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

Executive Level Employees: Those employees designated as executive level employees in their job descriptions and/or scope of duties based on the high level of management responsibilities

and duties performed as determined by the Human Resources Director.

Grade: Term representing a specific range of compensation.

Human Resources Director: The director of the Human Resources Department or designee.

Permanent Regular Employee: Any classified employee who has been regularly appointed service.

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.

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.

Note: The new definition to define executive level employees, as used in section 6.2-2, is highlighted above. The addition of a definition for Human Resources Director will make it clear that she can delegate her duties, as appropriate.

ARTICLE VII PUBLIC FINANCE.

Section 7.4 CASH RESERVE FUND.

The A cash reserve fund in the general operating fund of the City shall be maintained in an amount no less than five percent (5%) of the prior year's adopted general fund operating expenditure budget equal to its existing balance at the date of adoption of this Charter. The cash reserve fund shall be maintained and reported as restricted under applicable Governmental Accounting Standards Board rules ~~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.

Note: Information from the City Comptroller shows that the current \$16 million reserve fund balance has ranged from 5.68% to 4.97% of the general fund operating expenditure budget from 2007 to the present.

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.

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 City's investments shall be governed by a City Investment Policy which shall be adopted and reviewed as provided by state law, but in no event, shall the policy be adopted or reviewed by the council less frequently than annually. ~~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.~~

Note—presently state law requires an investment policy and that it be reviewed annually. (Chapter 2256, Gov't Code) This language would provide for an annual review in the event state law were to be changed.

Section 7.17 GENERAL OBLIGATION BONDS.

General obligation bonds ~~may shall~~ be issued for any lawful purpose ~~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.

Note: This revision will clarify the authority for the issuance of GO bonds, so that the issuance is not restricted to the types of authority specifically listed in state statutes, but rather is allowed for any lawful purpose. For example, this change would allow the City to utilize GO bonds as a funding source for an economic development project—a lawful purpose, but not one specifically listed in a state statute.

Section 7.23 LEASE AND LEASE PURCHASE.

The City may execute, perform, and make payments under a contract with any person for the use, purchase or other acquisition of any real or personal property, or the financing thereof, including a lease, a lease with an option or option to purchase, an installment purchase or other form considered appropriate by the Council.

Note: This will be a new section in the charter that will allow the City to have more options in the development or joint development of property and projects. The Texas Attorney General requires this type of authorization be in a home-rule city's charter before a city can enter into a lease-purchase agreement—a common form of real estate transaction in the business world.

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. Reserved.~~

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. Reserved.~~

Section 8.7 TRANSITIONAL PROVISION TO THE ~~2004~~ 2013 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, n~~No amendment that is approved at the election on February 7, 2004 May 11, 2013 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. In the event that an objection is interposed to the amendments made in Section 2.1 A and B, the provisions of Section 2.1 A and B establishing the terms of office, as approved at the election on May 12, 2007, shall remain in force and effect.

Note: revisions to Article VIII are only needed if changes are made to the terms of the election or the increase in the number of District Representatives.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EL PASO, TEXAS, CALLING A SPECIAL ELECTION FOR THE SUBMISSION OF CHARTER AMENDMENTS TO BE HELD WITHIN THE CITY, ON MAY 11, 2013; MAKING PROVISIONS FOR THE CONDUCT OF THE ELECTION AND OTHER PROVISIONS INCIDENT AND RELATED TO THE PURPOSE OF THIS ORDINANCE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

1. That pursuant to Section 3.9 of the City Charter, this Ordinance was introduced at the City Council meeting held on February 19, 2013, and a "Notice of Introduction of Ordinance" was published on February ___, 2013 in a newspaper of general circulation in this City, which notice summarized this Ordinance as introduced and gave notice of the time, date, and place of a public hearing to be held prior to the passage of this Ordinance, and the meeting at which this Ordinance is considered is open to the public as required by law, and that public notice of the time, place and purpose of said meeting was given as required by Chapter 551, Texas Government Code, as amended.
2. That pursuant to the Texas Election Code, as amended, an election shall be held in and throughout the City of El Paso, Texas, on May 11, 2013, which date is not less than sixty-two (62) nor more than ninety (90) days from the date of this Ordinance and the City Council hereby finds and declares it to be in the public interest that said Election be held on a uniform election date.
3. That at such election, the following amendments to the Charter of the City of El Paso ("Propositions") shall be submitted to the qualified voters of the City and official ballots for the election shall be prepared in accordance with the Texas Election Code so as to permit the electors to vote for, or against, the proposed amendments with the ballots to contain such provisions, markings, and language required by law, and with such propositions to be expressed substantially as follows:

AMENDMENT NO. 1

Text of Amendment

Amending Sections 2.2 E and 2.3 A, of the City Charter, relating to elections, to read in pertinent part, as follows:

Section 2.2 NOMINATIONS, subsection E.

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 or such other greater number of qualified voters as may be required by state law. 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.

SECTION 2.3 ELECTIONS, subsection A.

A. Conduct of Elections. All elections shall be held in accordance with the laws of Texas. Notwithstanding any other provision of this Charter, when special election is required by a provision of this Charter to be ordered, it will be scheduled for the next uniform election date as specified in state law or the date of the next election that will be conducted by the County Elections Administrator, as directed by the Council.

Ballot Proposition

FOR () Shall Sections 2.2 E and 2.3 A of the City Charter be amended, relating to the filing requirements to run for office in lieu of paying the fee and the conduct of elections: to revise the requirements for filing for office to conform with state law, and to provide for the scheduling of special elections on dates allowed by state law when the election will be conducted by the County Elections Administrator?

AGAINST ()

AMENDMENT NO. 2

Text of Amendment

Amending Sections 3.5 A and D, 3.7, 3.9 B and C, 3.14, 3.18, and 4.1 B of the City Charter, relating to City Council processes, procedures and appointments, to read in pertinent part, as follows:

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~~ seven meetings during each calendar year, provided that the Council may not cancel more than two

regular meetings in a row such canceled meetings are not consecutive. 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 Meeting Act.

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, grant franchises ~~or leases~~, or authorize conveyances shall not be valid unless adopted by a majority of the entire Council.

Section 3.7 APPOINTMENTS.

A. The City Attorney. Whenever a vacancy in the position of City Attorney or any Assistant City Attorney occurs, the City Council by a majority vote of its total membership shall appoint a City Attorney or Assistant City Attorney. ~~Mayor shall appoint a successor with a majority vote of the entire Council.~~ The City Attorney shall be appointed solely on the basis of legal experience and qualifications. 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 the ability to submit nominations for appointments are ~~is~~ distributed uniformly among Representatives and the Mayor.

Section 3.9 ORDINANCES IN GENERAL, subsections B and C.

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 be made available for examination by interested persons through any contemporary means of information sharing at such other public places as the Council may designate, ~~for examination by interested persons.~~ No ordinance shall be adopted finally except at a regular open meeting of the Council following notice, publication, and a public hearing. 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 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 after 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. 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 except as provided in section 3.18;
- ~~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;~~
2. ~~3.~~ Amend, extend, or repeal any ordinance previously adopted;
3. ~~4.~~ Prescribe a fine or penalty or establish any rule or regulation for the violation of which a fine or other penalty is imposed;
4. ~~5.~~ Adopt Civil Service Rules.

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 produced as required by State law and the City Clerk shall make the Code available to the public by any contemporary means of information sharing, furnished to City officers and placed in libraries and public offices within the El Paso City limits, for free public reference.

Section 3.18 LEASE, FRANCHISE, AND CONVEYANCE.

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 Council; provided however, the Council shall have the right by resolution to grant a lease of public property, or grant a temporary use of a street, alley, public way or public property for a period not to exceed five years, by resolution, and also may establish except for uses of less than thirty days which may have a separate approval process for such temporary uses of a street, alley, public way or public property of less than thirty days as established by ordinance or resolution.

Any ordinance or resolution providing for the conveyance, lease, or grant of a franchise 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. In addition, any ordinance or resolution providing for the lease or franchise shall provide that:

1. At the termination of the lease or franchise, the property involved, together with any improvements thereto, made or erected during the term of the lease or franchise, shall (either without further compensation or upon payment of a fair valuation therefore as determined by the terms of the ordinance or resolution), become the property of the City; and
2. Every lease or franchise 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 4.1 POWERS OF THE MAYOR, subsection B.

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; make appointments as provided in Section 3.7 B and as provided by federal and state law ~~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, 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.

Ballot Proposition

FOR () Shall Sections 3.5 A and D, 3.7, 3.9 B and C, 3.14, 3.18 and 4.1 B of the City Charter be amended, relating to Council processes, procedures, and appointments: to allow for the cancelation of not more than seven regular Council meetings annually and not more than two in a row, to allow the Council to authorize leases of public property and temporary uses of streets and rights-of-way by resolution; to provide that ordinances and the City Code be made available by contemporary means such as the Internet, to provide that the City Attorney is appointed by the City Council solely on the basis of legal experience and qualifications, and to provide that the Mayor and Representatives each uniformly have the ability to submit nominations for the appointments to the City's boards and commissions?

AGAINST ()

AMENDMENT NO. 3

Text of Amendment

Amending Section 3.19 of the City Charter, relating to the prohibition of the sale of alcoholic beverages in residential sections of the City, to read as follows:

Section 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. For purposes of this section, residential areas shall mean areas restricted exclusively to residential uses and not areas zoned to permit mixed commercial and residential uses.

FOR () Shall Section 3.19 of the City Charter be amended, relating to prohibition of the sale of alcoholic beverages in residential sections of the City: to provide for the application of this provision to areas zoned as mixed use developments?

AGAINST ()

AMENDMENT NO. 4

Text of Amendment

Amending Sections 2.2 G and 3.6 and adding Section 3.20 of the City Charter, relating to ethics and accountability, to read in pertinent part, as follows:

Section 2.2 NOMINATIONS.

~~**Section 2.2 G. 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.~~

Section 3.6 LEGISLATIVE COMMITTEES.

A. 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. Rules governing the organization and procedures of these committees shall be made by the Council, and the Mayor shall have no power to veto any of those rules except upon grounds of illegality.

B. The Council shall establish a Financial Oversight and Audit Committee "FOAC" for the purpose of providing legislative oversight of the function of the Internal Auditor, to review the financial policies of the City, and to formulate recommendations for the City Council regarding City finances and other matters referred by the City Council or City Manager. The FOAC shall be comprised of four members of the City Council, the Chief Internal auditor, and the City Manager or designee and shall meet when needed, at least quarterly.

Section 3.20 ETHICS AND ACCOUNTABILITY.

A. 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 decisions and appropriate sanctions. The ethics review commission shall have the power to enforce its decisions by assessing civil fines and other sanctions authorized by ordinance. 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.

B. Internal Audit Function.

1. The Council shall establish and create an internal audit function to ensure that appropriate internal audits will be performed in accordance with professionally recognized auditing standards of the operations of all City departments, offices, agencies and programs.
2. The function shall be staffed by a chief internal auditor and such other appropriate positions as are authorized by the Council who shall report to the chief internal auditor.
3. Consistent with the provisions of this Charter, the Council shall by ordinance or resolution provide for the powers and duties of the chief internal auditor as needed for the performance of the function.
4. The Financial and Audit Oversight Committee shall maintain legislative oversight over the internal audit function as provided in Section 3.6 B.
5. The Chief Internal Auditor shall be appointed by the City Manager in the same manner as other unclassified employees of the City. The City Manager shall maintain operational oversight over the internal audit function and be responsible for the implementation of any audit recommendations for changes to City administrative procedures and operations as requested by the Council.

Ballot Proposition

FOR () Shall Section 3.20, Ethics and Accountability, of the City Charter be created and Section 2.2 G be deleted, to move and amend the provision governing the Ethics Review Commission to give the Commission the power to enforce its decisions by assessing civil fines and sanctions authorized by ordinance, and to create requirements for the establishment of an independent internal audit function and a Financial Oversight and Audit Committee to provide oversight of the audit function and review City financial policies?

AGAINST ()

AMENDMENT NO. 5

Text of Amendment

Amending Sections 6.1-1, 6.1-2, 6.1-3, 6.1-4, 6.1-6 D, and 6.13-8 of the City Charter, relating to functions and duties of the Civil Service Commission, to read in pertinent part, as follows:

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 City's Civil Service system, the purpose of which is to ensure of ensuring its fairness, economy and efficiency in the selection process and personnel system created for the and of hearing grievances by or against classified employees, and performing the duty of hearing grievances by or against the classified

employees. The Commission shall establish its own procedures within the framework of this Charter to carry out these functions.

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

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. 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 matters concerning the enforcement and effect of the Civil Service provisions of this Charter in the manner prescribed by the Rules or by established Commission procedure.

C. Hear and determine appeals or complaints as may be further prescribed in the Rules.

D. Oversee the Civil Service provisions of this Charter, the Rules or policies and procedures, ensuring fair and equitable treatment of all persons appearing before the Commission ~~classified employees.~~

E. Appoint hearing officers.

Section 6.1-3 APPOINTMENT.

The Commission shall consist of nine persons, with each member of the Council appointing one member through a process to be established by resolution of the Council, which shall also provide for a process to fill a vacancy resulting from the failure of a Council member to make an appointment, appointed by the Council. All members serving on the Commission when this amendment takes effect will continue to serve until their terms of office expire. Appointments shall be for three-year terms, provided however, the terms of all members as established on the effective date of this amendment shall be extended such that all terms shall end on August 31st of the applicable year. All terms thereafter shall commence on September 1st. Commissioners serving consecutive terms shall be limited to two full successive three-year terms, regardless of the date of their original appointments. 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. The one-time extension of a term under this section to provide for uniform termination and commencement dates shall not be included in the calculation of the lifetime service of a member of the Commission.

Section 6.1-4 QUALIFICATIONS.

Members of the Commission must be residents of the City at the time of their appointment and remain a resident of the City throughout their term of office. No Commissioner shall be related in any manner described in Article III, Section 3.3 B to any employee of the City, the Public Service Board, or any entity that has a contract with the City to operate or manage any City facility or department, n~~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, 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 6.1-6 RULES, subsection D.

D. Council Action. The Human Resources Director shall submit the Commission's recommendations regarding proposed Rules to the Council without delay. Failure by Council to approve, amend and approve, or deny the Commission's changes within sixty days after the Commission's action ~~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 vote of the Council.

Section 6.13 DISCHARGE, APPEAL, HEARINGS.

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 reduce ~~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; or
- C. Reject the Hearing Officer's recommendations and refer the matter to the Civil Service Commission for a de novo hearing.

Ballot Proposition

FOR () Shall Sections 6.1-1, 6.1-2, 6.1-3, 6.1-4, 6.1-6 D, and 6.13-8 of the City Charter be amended, relating to the functions and duties of the Civil Service Commission: to state the purpose of the civil service system, to provide for the specific duties and functions of the Commission, to create a new system for the appointment of the members of the Commission by each member of the City Council, to establish uniform starting dates for terms, to prohibit the appointment of a person closely related to a city employee to the Commission or one who is interested in a city contract, to specify the time for the City Council to take action on proposed Rules,

and to provide when the Commission may reduce disciplinary action taken against an employee and re-hear a disciplinary appeal?

AGAINST ()

AMENDMENT NO. 6

Text of Amendment

Amending Sections 6.1-11, 6.2-2, 6.4, 6.6, 6.13-2, 6.13-3, 6.13-4, 6.13-11 A, and 6.14 of the City Charter, relating to the terms and conditions of employment, to read in pertinent part, as follows:

Section 6.1-11 NON-DISCRIMINATION.

The City shall afford equal employment and benefit opportunities to all qualified individuals in compliance with all applicable laws, without regard to their race, gender, gender identity, sexual orientation, marital status, color, religion, ethnic background or national origin, age, disability, or any other characteristic or status that is protected by federal, state, or local law. All personnel actions must be free of discrimination as is prohibited by law.

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. Hearing officer(s) and the Commission Recorder;
- D. All elected officials;
- E. Members of all City boards, commissions, and committees who serve without compensation;
- F. Employees hired by contract, and short-term or limited-funding grant-funded employees as designated by the City Manager and hired on or after the effective date of this amendment as allowed under this Article;
- G. The City Manager;
- H All executive level employees, Department Heads or Directors, Deputy City Managers, and executive staff or salaried professional employees reporting directly to the City Manager;
- I. Employees hired on or after the effective date of this amendment May 18, 2007 who work at the Metropolitan Planning Organization; and
- J. Persons given provisional and temporary appointments who are not classified employees at the time of such appointment.
- K. A person hired solely as a District Representative's legislative aide for the limited period of the term of office for that District Representative.

Section 6.4 CLASSIFICATION AND COMPENSATION.

Section 6.4-1 CLASSIFICATION PLANS.

The Human Resources Director shall update as necessary the classification and compensation plans of the City for the classified services and present such plans to the City Council as part of the

annual budget. The Director shall present such plans, and the recommendation of the Civil Service Commission, to the City Council for acceptance and approval. Such plans shall include the annual sick leave and vacation benefits to be provided, establish the factors that are authorized for use in the payment of different rates within the grades or total compensation, and shall also include and address as necessary any reduction in compensation that is anticipated to occur during the next budget year. The classification and compensation plans may be adopted as part of the budget or by separate resolution or ordinance in conjunction with the adoption of the budget.

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 or administrative policies or procedures.

Section 6.4-3 COMPENSATION REDUCTION.

~~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 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 6.6 APPOINTMENTS.

Section 6.6-1 REGULAR APPOINTMENT.

Employees may be hired as regular full or part-time employees, provisional or temporary employees, or as contract appointments. The City Manager shall establish administrative policies and procedures for each category of appointment consistent with the provisions of this Article and all applicable federal and state employment laws. The Human Resources Director shall establish administrative policies and procedures for the entrance process consistent with the provisions of this Article and all applicable federal and state employment laws. Contracts for personal or professional services shall also be subject to any limitations and requirements for Council approval as set forth by ordinance or resolution. Upon receipt of a certification list from the Human Resources Director, the City Manager or designee 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.

~~Section 6.6-2~~ — PROVISIONAL APPOINTMENTS.

~~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. Any person so appointed must meet the minimum qualifications established for the position. A provisional appointment will be effective only until a regular appointment is made from a certification list. In no case shall a provisional appointment extend beyond twelve months from the date of the original appointment.~~

~~Section 6.6-3~~ — TEMPORARY APPOINTMENT.

~~When 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. The duration of a temporary appointment may not exceed one year.~~

~~Section 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.~~

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

~~Section 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.~~

~~Section 6.10-5~~ — VACATIONS.

~~Classified employees who have held a city 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.~~

Section 6.13 DISCHARGE, APPEAL, HEARINGS.

Section 6.13-2 DISCIPLINARY ACTION; REDUCTION.

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

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~~ regular employees:

- A. Conviction of, or deferred adjudication community supervision for, a felony or of a Class A or B misdemeanor involving moral turpitude;
- B. Abusive, threatening, or coercive treatment of another employee or a member of the public, the provocation or instigation of violence, brutality to a City prisoner, or abusive treatment to an animal in the care or control of the employee;
- 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 to the extent permissible under federal and state laws;
- E. Being wantonly offensive in conduct or language;
- F. ~~Performance of duty consistently below established minimum standards~~ Incompetency or negligence in the performance of duties, including but not limited to, failure to perform assigned tasks, or failure to discharge duties in an accurate, prompt, competent, or responsible manner;
- G. Dishonesty, theft, violation of a law or policies relating to the handling or procurement of property, or negligence in care or misuse of City property;
- H. ~~Unexcused absence from duty for a period of three or more successive days~~ Abandonment of position, repeated unexcused absence or tardiness, abuse of leave privileges, or absence without notification or the provision of a valid or acceptable reason for absence;
- I. ~~Exercising improper use of political influence~~ Failure to meet or maintain qualifications, including but not limited to, failing to obtain or maintain required certificates, licenses or other credentials established for the employee's position or classification;
- J. ~~Inducing or assisting another to commit an unlawful act~~;
- K. ~~Exercising improper influence on behalf of a relative~~ Deliberate or careless conduct endangering the safety of self or others;
- L. ~~Engaging in improper political activity~~;
- M. Violates the City's Ethics Ordinance;
- 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
- P. For just cause.

Section 6.13-4 APPEALS.

Any ~~permanent~~ regular classified employee 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.

Section 6.13-11 PENSION PLANS, subsection A.

A. The Council shall continue a pension plan for all ~~permanent~~ regular full time employees. ~~Permanent Regular~~ part-time and eligible contract employees may elect not to participate in the plan. Other employees of the City and employees of governmental agencies of the City, except policemen, firemen, and elected officials of the City, shall have the option of participating in the plan. Eligible employees of an adopting employer of the plan shall be participants of the plan.

Section 6.14 DEFINITIONS OF TERMS.

[Amending/adding the following two definitions:]

Executive Level Employees: Those employees designated as executive level employees in their job descriptions and/or scope of duties based on the high level of management responsibilities and duties performed as determined by the Human Resources Director.

Permanent Regular Employee: Any classified employee who has been regularly appointed service.

Ballot Proposition

FOR () Shall Sections 6.1-11, 6.2-2, 6.4, 6.6, 6.13-2, 6.13-3, 6.13-4, 6.13-11 A, and 6.14 of the City Charter be amended, relating to the appointment, discipline and termination of employees, and the terms of their employment: to provide that all executive level employees and short-term grant funded employees shall be in the unclassified service, to combine separate subsections providing that employees may be hired as regular full or part-time, provisional or temporary or by contract, to require the City Council to annually provide for the annual approval of the classification and compensation plan for employees and require that deleted Charter provisions be included in the plan; to provide for non-discrimination in employment and provision of benefits, to revise the list of causes for disciplinary action of employees, to change the term permanent employee to regular employee in all places where the term appears, and to re-title sections, as necessary?

AGAINST ()

AMENDMENT NO. 7

Text of Amendment

Amending Sections 6.5-1, 6.5-2, 6.7, 6.8, 6.9, 6.10-1, 6.10-3, 6.10-6, 6.10-7, 6.12, and 6.14 of the City Charter, relating to the duties of the City Manager and the Human Resources Director, to read in pertinent part, as follows:

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~~ administrative 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 appropriate needed, the Human Resources Director will establish administrative procedures as necessary for the certification and selection process, including procedures to allow

~~for a fair and competitive selection process designed to meet the needs of the departments while ensuring that the most qualified candidates are certified for selection, 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.~~

Section 6.5-2 RULE OF FIVE.

~~As necessary for the promotion process, the Human Resources Director shall certify the five highest names on the proper a promotion-only eligible list for one a vacancy, and additional names one additional name (the next highest) for each additional vacancy except as may be provided by appropriate policies and procedures or in situations where eligible persons are serving in the department in which the vacancy exists and as authorized 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.~~

Section 6.7 ORIGINAL ENTRANCE EXAMINATIONS.

Section 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.~~

Section 6.7-2 1 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 or policies and procedures.~~

Section 6.8 PROMOTION.

Section 6.8-1 EXAMINATION AND ELIGIBILITY.

~~The Human Resources Director shall establish administrative policies and procedures for the promotion process, including examination and eligibility, consistent with the provisions of this Article and all applicable federal and state employment laws. 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.

~~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 6.9 SPECIAL PROVISIONS.

Section 6.9-5 ~~DELEGATION~~ ADMINISTRATIVE ACTION.

A. Policies and procedures utilized by the Human Resources Department shall be established administratively by the City Manager or the Human Resources Director as required or authorized by this Article or as necessary for the proper management and operation of the system. All administrative policies and procedures adopted by the City Manager or the Human Resources Director must be consistent with the provisions of this Article, the Civil Service Rules, and applicable state and federal laws.

B. The City Manager may delegate to appropriate individuals the execution of the functions, duties and responsibilities set forth in this Article, as he 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 City Manager may order a layoff. The reduction will be made in accordance with the principles established ~~procedures set forth~~ in the Rules and the administrative procedures established by the Human Resources Director, consistent with the provisions of this Article and all applicable federal and state employment laws.

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

Section 6.10-3 LEAVE OF ABSENCE; ~~REINSTATEMENT.~~

The City Manager shall establish administrative policies and procedures regarding the eligibility of employees to take a leave of absence and to be reinstated, consistent with the provisions of this Article and all applicable federal and state employment laws.

~~Permanent employees may be granted a leave of absence by the City Manager or designee 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 6.10-6 — 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.—~~

~~Section 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.—~~

Section 6.11 TRANSFER AND REDUCTION.

Section 6.11-1 WHEN TRANSFER IS PERMISSIBLE AND REDUCTION.

The Human Resources Director shall establish administrative policies and procedures for the transfer and reduction process, including transfer and reduction for physical incapacity, consistent with the provisions of this Article and all applicable federal and state employment laws. 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.—

~~Section 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.—~~

Section 6.12 STANDARDS OF EFFICIENCY.

The City Manager, ~~or by designation the Human Resources Director,~~ shall establish by written policy appropriate standards of efficiency for all positions in each class and grade in the classified positions.

Section 6.14 DEFINITIONS OF TERMS.

[Adding the following definition:]

Human Resources Director: The director of the Human Resources Department or designee.

Ballot Proposition

FOR () Shall Sections 6.5-1, 6.5-2, 6.7, 6.8, 6.9, 6.10-1, 6.10-3, 6.10-6, 6.10-7, 6.12, and 6.14 of the City Charter be amended, relating to the duties of the City Manager and the Human Resources Director: to require that administrative policies and procedures conform to federal and state law and the charter; to allow for the creation of administrative policies and procedures to address the following employment processes: examination procedures, layoff procedures, leave of absence and reinstatement procedures, certification process procedures for hire or promotion, and development of standards of efficiency; to provide for the use of the

rule of five in the promotion process; to define the term human resources director; and to re-title and re-number sections as necessary?

AGAINST ()

AMENDMENT NO. 8

Text of Amendment

Amending Sections 7.4, 7.7 and 7.17 and adding Section 7.23, of the City Charter, relating to financial matters and policies, to read in pertinent part, as follows:

Section 7.4 CASH RESERVE FUND.

~~The A cash reserve fund in the general operating fund of the City shall be maintained in an amount no less than five percent (5%) of the prior year's adopted general fund operating expenditure budget equal to its existing balance at the date of adoption of this Charter. The cash reserve fund shall be maintained and reported as restricted under applicable Governmental Accounting Standards Board rules 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 7.7 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.

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 City's investments shall be governed by a City Investment Policy which shall be adopted and reviewed as provided by state law, but in no event, shall the policy be adopted or reviewed by the council less frequently than annually. 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 7.17 GENERAL OBLIGATION BONDS.

General obligation bonds ~~may shall~~ be issued for any lawful purpose ~~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 7.23 LEASE AND LEASE PURCHASE.

The City may execute, perform, and make payments under a contract with any person for the use, purchase or other acquisition of any real or personal property, or the financing thereof, including a lease, a lease with an option or option to purchase, an installment purchase or other form considered appropriate by the Council.

Ballot Proposition

FOR () Shall Sections 7.4, 7.7 and 7.17 of the City Charter be amended and Section 7.23, Lease and Lease Purchase, be created, relating to the financial operations of the City; to require the City to maintain a cash reserve in a minimum amount of 5% of the operating expense budget, to provide that City investments be governed by an annual investment policy, to establish that general obligations bonds may be approved by the voters for any lawful purpose, and to allow for the use of lease-purchase and similar agreements for the acquisition of property?

AGAINST ()

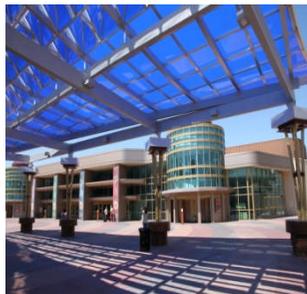
DRY



City of El Paso

Proposed City Charter Revisions

2013





Ad Hoc Charter Advisory Committee

- Committee consists of nine community members each appointed by a member of Council and the Mayor
- Tasked with reviewing and making recommendations on proposed Charter amendments submitted by:
 1. City Council,
 2. City staff,
 3. City employees,
 4. Civil Service Commission, and
 5. Members of the public.



City Council requests the Committee consider amendments:

- appropriate to the Council-Manager form of government,
- that will continue to modernize and streamline government operations,
- that will eliminate redundancies and inefficiencies or costly obligations, and
- other changes and improvements that the Committee deems appropriate.

The Committee will report back to the City Council with its recommendations.



Charter Review Meetings

- January 7 *Ad Hoc Charter Advisory Committee*
- January 10 and 14 *Employee Advisory Committee*
- January 17 *Civil Service Commission*
(reviewed and provided
recommendation on Article VI (Civil
Service) provisions)
- January 22 *Ad Hoc Charter Advisory Committee*
- January 28 *Ad Hoc Charter Advisory Committee*



Charter Review Meetings

- February 11 *City Council* (introduction and overview of proposed charter amendments. Public comment and Council action to be taken February 14, 2013)
- February 14 *Special City Council Meeting* (discussion, public comment and Council action on proposed Charter amendments)
- February 19 *City Council* (introduction of ordinance calling the Special Election for Charter Amendments)
- February 26 *City Council* (adoption of ordinance calling the Special Election for Charter Amendments)



Summary of Proposed Amendments

- The Committee considered approximately 54 proposals.
- The Committee recommended approval of 41 proposals, and did not recommend 13 of the proposals.
- The Committee also advanced several other suggestions for consideration, which will be addressed at the end of this presentation.



Article II Nominations and Elections

1. **PROPOSAL:** Move City elections from May to November

CHARTER REVIEW COMMITTEE: Not recommended

2. **PROPOSAL:** Eliminate staggered terms

CHARTER REVIEW COMMITTEE: Not recommended

3. **PROPOSAL:** Reduce Council terms from 4 to 2 years

CHARTER REVIEW COMMITTEE: Not recommended



4. **PROPOSAL:** Increase recall provision to require signatures by
- (1) Increasing percentage;
 - (2) Base percentage on qualified/registered voters; or
 - (3) Both

CHARTER REVIEW COMMITTEE: Not recommended

5. **PROPOSAL:** Allow special elections to be held on the next uniform election date as permitted under state law or the next election conducted by County Elections Administrator

CHARTER REVIEW COMMITTEE: Recommended

6. **PROPOSAL:** Modify the Charter provision regarding petitions for candidacy to conform with the Election Code which requires the greater of 25 signatures or one-half percent (1/2 %) of the total votes received in the most recent mayoral election

CHARTER REVIEW COMMITTEE: Recommended



Article III The City Council

7. **PROPOSAL:** Increase the number of representative districts to 10 with redistricting [proposal brought by Committee and Redistricting Commission]

CHARTER REVIEW COMMITTEE: Recommended

8. **PROPOSAL:** Increase Mayor and Council salaries:
- (1) Indexed to the HUD median income for a family of 4 in El Paso
 - (2) Council at 100% of this amount
Mayor at 150% of this amount
 - (3) Commencing June 23, 2015

CHARTER REVIEW COMMITTEE: Not recommended



9. **PROPOSAL:** Allow council to cancel up to 7 meetings a year; provided that they not cancel more than two regular meetings in a row

CHARTER REVIEW COMMITTEE: Recommended

10. **PROPOSAL:** Creation of a Financial Oversight and Advisory Committee (“FOAC”) to provide legislative oversight of the finance policies and internal audit functions of the City

- 4 City Council members
- CFO
- City Manager
- Internal Auditor

CHARTER REVIEW COMMITTEE: Recommended

11. **PROPOSAL:** Allow proposed ordinances “be made available for examination by interested persons through any contemporary means of information sharing”

CHARTER REVIEW COMMITTEE: Recommended



12. PROPOSAL: Allow Council to approve by resolution:

- Leases of public property for a period not to exceed 5 years
- Special Privileges for a period not to exceed 5 years

CHARTER REVIEW COMMITTEE: Recommended

13. PROPOSAL: Deletion of the following actions requiring ordinances:

- Adoption of or amendment to any administrative code
- Establishment or alteration of City departments

CHARTER REVIEW COMMITTEE: Recommended

14. PROPOSAL: Allow Civil Service Rules to be adopted by resolution in lieu of ordinance

CHARTER REVIEW COMMITTEE: Not recommended

15. PROPOSAL: Allow copies of the City Code to be made available to public by any contemporary means of information sharing

CHARTER REVIEW COMMITTEE: Recommended



16. PROPOSAL: Clarify that the prohibition against the sale of alcohol in residential areas does not apply to the Smart Code and mixed use districts

CHARTER REVIEW COMMITTEE: Recommended

17. PROPOSAL: Grant the Ethics Review Commission the power to assess civil fines and other sanctions

CHARTER REVIEW COMMITTEE: Recommended

18. PROPOSAL: Prohibition against any officer or city employee from having a financial interests in city contracts or financial interest in the sale to the City of any land, materials, supplies or services

CHARTER REVIEW COMMITTEE: Not recommended



19. PROPOSAL: Establishment of an internal audit function in the Charter

CHARTER REVIEW COMMITTEE: Recommended

20. PROPOSAL: Creation of an appeal process for the Ethics Review

CHARTER REVIEW COMMITTEE: Recommended

21. PROPOSAL: Modify appointment process of City Attorneys and Assistant City Attorneys

- Appointment made by all of Council
- Based upon qualifications and legal experience

CHARTER REVIEW COMMITTEE: Recommended



22. PROPOSAL: Clarify the Mayor is authorized to make appointments to boards and commissions

CHARTER REVIEW COMMITTEE: Recommended

23. PROPOSAL: Increase the number of voters required for an initiative petition

- Increase percentage
- Based on qualified/registered voters

CHARTER REVIEW COMMITTEE: Not recommended



Article IV The Mayor

24. PROPOSAL: Clarify the practice for making appointments to boards and commissions by the Mayor to conform with federal and state law

CHARTER REVIEW COMMITTEE: Recommended



Article VI Civil Service Commission

25. PROPOSAL: Clarify the role of the Commission under the Council-Manager form of government

CHARTER REVIEW COMMITTEE: Recommended

26. PROPOSAL: Revise process by which CSC Commissioners are appointed; each Council member will be responsible to appoint their appointee on the Commission, rather than by submitting a nomination

CHARTER REVIEW COMMITTEE: Recommended

27. PROPOSAL: Prohibit anyone related to an employee of City, the PSB, or any entity that has a contract with the City to operate or manage City facilities or departments (SMG, First Transit) from service as a Commissioner

CHARTER REVIEW COMMITTEE: Recommended



28. PROPOSAL: Prohibit a person who is a party to a contract with the City from service as a Commissioner

CHARTER REVIEW COMMITTEE: Recommended

29. PROPOSAL: Allow adoption of Civil Service Rules by ordinance or resolution, after CSC review and recommendation

CHARTER REVIEW COMMITTEE: Not Recommended

30. PROPOSAL: Clarify that the 60-day time period during which Council must act on the CSC's recommendations regarding proposed Rules commences on the date the CSC made its recommendations

CHARTER REVIEW COMMITTEE: Recommended change



31. PROPOSAL: Allow the appointing Council member to remove Civil Service Commissioner

CHARTER REVIEW COMMITTEE: Not recommended

32. PROPOSAL: Add broader non-discrimination provision in the application of the City's employment procedures and benefits

CHARTER REVIEW COMMITTEE: Recommended

33. PROPOSAL: Allow employees hired to work under short-term grants to be unclassified without the necessity of hiring them by written contract

CHARTER REVIEW COMMITTEE: Recommended

34. PROPOSAL: Convert Executive Service/EX pay scale employees to unclassified services

CHARTER REVIEW COMMITTEE: Recommended



35. PROPOSAL: Correct error from 2007 amendments to remove requirement that classification and compensation plan (Ordinance 8064) go to the CSC for review; and putting the decisions regarding benefits such as sick leave and vacation, and compensation reduction and salary reduction, into the classification and compensation plan, which are exclusively the decisions of Council

CHARTER REVIEW COMMITTEE: Recommended

36. PROPOSAL: Allow appointment of City employees to be made in accordance with Rules or administrative policies or procedures

CHARTER REVIEW COMMITTEE: Recommended

37. PROPOSAL: Move the details regarding the certification and selection process, and the original entrance examinations process, from the Charter to administrative policies and procedures, and apply the Rule of Five only to the promotion process

CHARTER REVIEW COMMITTEE: Recommended



38. PROPOSAL: Combine the four different types of appointments (regular, provisional, temporary and contractors) into one section and allow the City Manager to develop the criteria for when and how the different methods of appointment are utilized

CHARTER REVIEW COMMITTEE: Recommended

39. PROPOSAL: Add a statement requiring that administrative policies and procedures address the requirements of fairness and eligibility for a promotion, and delete details from the Charter

CHARTER REVIEW COMMITTEE: Recommended

40. PROPOSAL: Clarify the authority for the establishment and adoption of administrative policies and procedures

CHARTER REVIEW COMMITTEE: Recommended



41. PROPOSAL: Allow that matters of lay off, leave of absence, reinstatement, transfers and reductions be handled by administrative policy, and deleting the Charter provisions regarding same

CHARTER REVIEW COMMITTEE: Recommended

42. PROPOSAL: Clarify the causes for disciplinary action

CHARTER REVIEW COMMITTEE: Recommended

43. PROPOSAL: Remove from the list of actions that may result in discipline “inducing or assisting another to commit an unlawful act” and “engaging in improper political activity” [raised by the Committee]

CHARTER REVIEW COMMITTEE: Recommended



44. PROPOSAL: Revise process for appealing to the Commission to more accurately state what actions can be appealed under the Charter versus those under the grievance policy

CHARTER REVIEW COMMITTEE: Not recommended

45. PROPOSAL: Clarify the meaning of “modify” in the subsequent action provision of this article, and provide for a de novo hearing by the Commission in the event that the Hearing Officer’s opinion is rejected by the Commission

CHARTER REVIEW COMMITTEE: Recommended



46. PROPOSAL: Add definitions for the “Human Resources Director” and “Executive Level Employees”

CHARTER REVIEW COMMITTEE: Recommended

47. PROPOSAL: Change the term “permanent” employee to “regular” throughout the article to establish uniformity in the use of the terms; and eliminate superfluous language

CHARTER REVIEW COMMITTEE: Recommended



Article VII Public Finance

48. PROPOSAL: Require that the general operating fund of the City be maintained in an amount no less than 5% of the prior year's adopted general fund operating expenditure budget, and reported as restricted under applicable Governmental Accounting Standards Board rules (Cash Reserve)

CHARTER REVIEW COMMITTEE: Recommended

49. PROPOSAL: Provide for an annual review of the City Investment Policy

CHARTER REVIEW COMMITTEE: Recommended

50. PROPOSAL: Clarify the authority for the issuance of General Obligation bonds so that the issuance is not restricted to the types listed in state statutes, but allows for lawful purpose

CHARTER REVIEW COMMITTEE: Recommended



51. PROPOSAL: Allow the City to have more options in the development or joint development of property and projects; Texas Attorney General requires this type of authorization in a home-rule city's charter before a city can enter into a lease-purchase agreement

CHARTER REVIEW COMMITTEE: Recommended



Article VIII Adoption and Transition

52. PROPOSAL: The proposed amendments to this article are all non-substantive “clean ups”

CHARTER REVIEW COMMITTEE: Recommended



Additional suggestions advanced for consideration by/to the Ad Hoc Charter Advisory Committee:

53. PROPOSAL: Impose a two-year moratorium on ordinances enacted by voter's initiative

CHARTER REVIEW COMMITTEE: Not recommended

54. PROPOSAL: Hire an ombudsman to facilitate the resolution of employee complaints and grievances

CHARTER REVIEW COMMITTEE: Not recommended



Questions / Comments

