

CHARTER

of the
CITY OF EL PASO



January 24, 1984

REVISED:

April 4, 1987

May 6, 1989

November 5, 1991

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January 20, 2001

February 7, 2004

May 12, 2007

May 20, 2013

November 3, 2015

November 6, 2018

CHARTER OF THE CITY OF EL PASO, TEXAS

Article I INCORPORATION AND POWERS.

Section 1.1 CONTINUING CORPORATE EXISTENCE.

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

Section 1.2 DEFINITIONS.

As used in this Charter, the term “laws of Texas” shall include the Constitution and statutes of the State of Texas, the common law as it exists in the State of Texas, and appropriate case law. As used herein, “State” shall mean the State of Texas; “City” shall mean the City of El Paso; “City Council” or “Council” shall mean the Mayor and Representatives of the City of El Paso, with the Mayor being a non-voting member of Council; provided, however, the Mayor shall not be considered a member of Council for items and matters requiring a super-majority vote of all members of the governing body; and “department” shall mean any City agency, office, bureau or other organizational unit.

Section 1.3 INTERGOVERNMENTAL RELATIONS.

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

Section 1.4 PUBLIC UTILITY REGULATION.

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

Section 1.5 APPLICATION FOR REMEDY PREREQUISITE TO SUIT AGAINST CITY.

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

Article II NOMINATIONS AND ELECTIONS

Section 2.1 CITY ELECTIONS.

A. Regular Elections. The regular City 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. These terms of elected office commence on the last Tuesday in June, or if necessary to comply with state or federal law, 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 commence on the first Tuesday in January following the election, or if necessary to comply with state or federal law, the Tuesday following the canvass of a run-off election, whichever is later.

B. Officers Elected. The qualified voters of El Paso shall, as necessary to fill expired terms, elect the following officers, as provided herein and under Section 2.4 A, at the regular elections: 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 2015, the District Representatives from districts numbers 1, 5, 6 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 they shall thereafter be elected to four-year terms. Commencing in June 2017, 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. Each officer shall hold office during the term for which elected and established herein and until the election and qualification of a successor, unless sooner removed in any manner provided in this Charter.

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

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

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

No recall petition shall be filed against any elected officer within six months after taking office, nor within twelve months of the end of the elected officer's term 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.

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

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

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

Section 2.2 NOMINATIONS.

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

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

B. Indebtedness: Financial Disclosure.

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

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

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

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

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.

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

Section 2.3 ELECTIONS.

A. Conduct of Elections. All elections shall be held in accordance with the laws of Texas. Notwithstanding any other provision of this Charter, when a 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.

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

Section 2.4 REPRESENTATIVE DISTRICTS; ADJUSTMENT OF DISTRICTS.

A. Number of Districts. There shall be eight Representative districts. The Representative districts shall be of substantially equal population. One Representative shall be elected from each of the Representative districts established by the Council. Each district shall be numbered; for example, "Representative District No. 1." At such time when the results of a decennial United States census

shows the population of the City to be one million or more, the Council may take the appropriate action to increase the number of District Representatives from eight to ten.

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

Article III THE CITY COUNCIL

Section 3.1 CREATION; COMPOSITION; POWERS AND DUTIES.

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

Section 3.2 SALARIES.

Prior to September 1, 2019, the annual base salary of the District Representatives shall be set at twenty-nine thousand dollars, and the annual base salary of the Mayor shall be set at forty-five thousand dollars.

Commencing on September 1, 2019, the annual base salary of the District Representatives shall be set at the amount equal to the 2017 El Paso County area median household income as established by the United States Department of Housing and Urban Development or successor agency (\$45,300), and the annual base salary of the Mayor shall be set at one and one-half this amount (\$67,950). Thereafter, on September 1, the base salaries will be revised annually and be set according to the above formula based on the prior fiscal year median income for El Paso County.

Section 3.3 PROHIBITIONS.

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

B. Nepotism. No person shall be appointed as City Manager or to any City board or commission who, at the time of appointment, is related in the first or second degree of consanguinity or in the

first or second degree of affinity to a member of the Council. The words “consanguinity” and “affinity” are, in popular usage, often referred to, respectively, as “blood” and “marriage.”

C. “Lame Duck” Elected Officers Not to Make Appointments. From the date of any City general election until inauguration of those elected, neither the Mayor nor the City Council shall make any appointment of a City Manager, or any appointments to any standing or special public boards, commissions or committees of the City, except when in conflict with State law or when due process rights of employees or citizens would be compromised.

Section 3.4 DETERMINATION OF ELECTIONS AND QUALIFICATIONS.

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

Section 3.5 CITY COUNCIL PROCEDURES AND RULES.

A. Meetings. Regular meetings of the Council shall be held in Council chambers no less than once every other week at such times as may be prescribed by resolution. Special meetings and informal work sessions of the Council shall be called by the Mayor or a majority of the entire Council by giving written notice to the City Clerk. All meetings of the Council and of any committees thereof shall be held as permitted by the Texas Open Meetings Act.

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

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

D. Voting. 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 or resolutions that impose taxes, grant franchises or leases, or authorize conveyances shall not be valid unless adopted by a majority of the entire Council.

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

Section 3.6 LEGISLATIVE COMMITTEES.

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. **Appointment and Removal of the City Attorney.** The City Council by a majority vote of its total membership shall appoint a City Attorney and fix the City Attorney's compensation. The City Attorney shall be appointed solely on the basis of legal experience and qualifications. The City Attorney may be removed by a resolution approved by a majority vote of the total membership of the City Council. Assistant City Attorneys shall be appointed by, and will report to and work at the direction and under the supervision of the City Attorney.

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

Section 3.8 INVESTIGATIVE POWERS.

The Council shall have the express power to inquire into the official conduct of any department, officer or employee of the City, and for that purpose shall have the power to administer oaths, subpoena witnesses, and compel the production of evidence material to the inquiry. The Council shall provide by ordinance penalties for contempt in failing or refusing to obey any such subpoena or to produce any such evidence, and shall have the power to punish any such contempt in the manner provided by such ordinance. The Council must respect the dignity, rights and liberties of all persons in exercising these investigative powers. These investigative powers shall not extend to

those matters covered under Civil Service nor shall this power be used to pursue criminal matters, other than those over which the Council has legislative power.

Section 3.9 ORDINANCES IN GENERAL.

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

B. Legislative Procedure. Except as provided in Section 3.13, an ordinance may be introduced by any Council member at any meeting of the Council. A proposed ordinance must be filed with the City Clerk in sufficient time for inclusion on the agenda for the Council meeting at which it is to be introduced. Upon such filing the City Clerk shall distribute copies to each member of the Council and to the City Manager. A reasonable number of copies shall be available in the office of the City Clerk, and at such other public places as the Council may designate, for examination by interested persons. No ordinance shall be adopted finally except at a 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 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;
2. Adopt or amend any administrative code and establish, abolish, alter or combine any City departments, so long as such action is not in conflict with this Charter;
3. Amend, extend, or repeal any ordinance previously adopted;
4. Prescribe a fine or penalty or establish any rule or regulation for the violation of which a fine or other penalty is imposed;
5. Adopt Civil Service Rules.

Section 3.10 EMERGENCY ORDINANCES.

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

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

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

Section 3.11 INITIATIVE.

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

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

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

Section 3.11A REFERENDUM.

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

Section 3.12 RESOLUTIONS.

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

Section 3.13 CODES OF TECHNICAL REGULATIONS.

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

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

1. The requirements of Section 3.9A and B of this Charter, for distribution and filing of copies of the ordinance, shall be construed to include copies of the code of technical regulations as well as of the adopting ordinance;
2. A copy of each adopting code of technical regulations as well as of the adopting ordinance shall be authenticated and recorded by the City Clerk pursuant to Section 3.14A of this Charter; and,
3. Copies of any adopted code of technical regulations shall be made available in the office of the City Clerk for examination by interested persons.

Section 3.14 AUTHENTICATION AND RECORDING; CODIFICATION; PRINTING.

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

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

Section 3.15 CONSERVATION.

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

Section 3.16 BORDER RELATIONS.

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

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

Section 3.17 ANNEXATION OF TERRITORY.

The Council may, by ordinance, fix or extend the boundaries of the City and may also, by ordinance, annex or exchange territory adjoining or abutting upon the territory of the City. The territory so annexed shall, in all respects and for all purposes, be part of the City. In no event shall an annexation ordinance be passed without notice, published in accordance with state law, to the residents of the

City and of the territory to be annexed, nor without a meeting of the Council at which proponents and opponents of the annexations must be given ample opportunity to express their views.

Section 3.18 LEASE; FRANCHISE; AND CONVEYANCE.

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 and except for uses of less than thirty days which may have a separate approval process as established by ordinance.

Any ordinance 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 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), 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.

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, and make determinations on whether a violation has occurred, and issue decisions and appropriate sanctions. The commission shall have the power to enforce its decisions by assessing civil fines and other sanctions as 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. On and after the effective date of this amendment, the Chief Internal Auditor shall be appointed and removed by the City Manager subject to the approval of the Council. 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.

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

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

Section 4.2 DUTIES OF THE MAYOR.

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

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

Section 4.3 MAYOR PRO TEMPORE.

A. At the first meeting upon the start of new terms of office following each general election, the Council shall elect from among the Representatives a Mayor Pro Tempore, who shall hold that office for a two year term. Should the office of Mayor Pro Tempore become vacant, the Council shall elect a new Mayor Pro Tempore.

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

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

Article V CITY MANAGER.

Section 5.1 APPOINTMENT; QUALIFICATIONS; COMPENSATION.

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

Section 5.2 POWERS AND DUTIES.

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

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

Section 5.3 REMOVAL.

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

Section 5.4 ACTING CITY MANAGER.

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

Section 5.5 INTERFERENCE WITH PERSONNEL OR ADMINISTRATION.

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

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 fairness, economy and efficiency in the selection process and personnel system created for the classified employees, and performing the duty of hearing grievances by or against classified employees. The Commission shall establish its own procedures within the framework of this Charter to carry out these functions.

Section 6.1-2 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 ensuring fair and equitable treatment of all persons coming before the Commission.

E. Appoint hearing officers.

Section 6.1-3 APPOINTMENT.

The Commission shall consist of nine persons 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 January 31st of the next-following year, as applicable. All terms thereafter shall commence on February 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 the uniform termination and commencement dates of the terms 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, nor hold any salaried public office or other employment compensated by the City, 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 6.1-5 COMPENSATION.

Members of the Commission shall serve without salary.

Section 6.1-6 RULES.

A. **Rules.** The Rules shall be consistent with the principles and practices of the civil service system incorporated in this Article. They shall be adopted by the Council by ordinance, after considering recommendations of the Commission.

B. **Procedures for Adoption.** The Human Resources Director shall submit to the Commission proposed Rules for its review and recommendation to the Council. Failure by the Commission to recommend approval, modification or disapproval of proposed Rules within sixty days after receipt shall constitute authority for the Council to proceed without a recommendation from the Commission.

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

D. **Council Action.** 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 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 6.1-7 POWER TO SUBPOENA WITNESSES.

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

Section 6.1-8 JURISDICTION.

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

Section 6.1-9 ORGANIZATION.

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

Section 6.1-10 REMOVAL.

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

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.

Section 6.1-12 HEARING OFFICERS.

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

The hearing officers will serve at the Commission’s pleasure, and will not be classified. Reasonable compensation shall be paid by the City.

Section 6.2 DIVISION OF THE CITY SERVICE.

Section 6.2-1 DIVISION.

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

Section 6.2-2 UNCLASSIFIED SERVICES.

The unclassified services shall include only the following positions:

- A. The City Attorney, Assistant City Attorneys, law clerks and paralegal personnel;
- B. The Mayor’s executive secretary(s) and Executive Assistant(s);
- C. 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;
- G. The City Manager;
- H All executive level employees, and executive staff or salaried professional employees reporting directly to the City Manager;
- I. Employees hired on or after 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 6.2-3 APPOINTMENT AND REMOVAL OF UNCLASSIFIED PERSONNEL.

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

B. Except as otherwise provided by law or in this Charter, unclassified personnel may be removed by the City Manager or designee, who may establish written procedures for removal, except for hearing officers and the Commission Recorder, who may be removed only by a majority vote of the commissioners.

Section 6.2-4 CLASSIFIED SERVICES.

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

Section 6.3 RESERVED.

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. 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 calculating 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 6.5 CERTIFICATION AND SELECTION OF CANDIDATES

Section 6.5-1 CERTIFICATION PROCESS.

A. The Human Resources Director shall certify candidates eligible for hire or promotion based solely on their qualifications in accordance with established 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, 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.

Section 6.5-2 RULE OF FIVE.

As necessary for the promotion process, the Human Resources Director shall certify the five highest names on a promotion-only eligible list for a vacancy, and additional names in situations where eligible persons are serving in the department in which the vacancy exists and as authorized by Rule.

Section 6.6 APPOINTMENTS

Section 6.6-1 APPOINTMENTS.

Employees may be appointed 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.

Section 6.7 EXAMINATIONS.

Section 6.7-1 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 6.9 SPECIAL PROVISIONS.

Section 6.9-1 PROBATION PERIOD.

Probationary periods shall be established by Rule. Such Rule shall prescribe the procedures and consequences applicable to employees who fail to successfully complete probationary periods, and provide criteria for the extension of probationary periods.

Section 6.9-2 IMPACT OF STAFF REDUCTIONS.

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

Section 6.9-3 NEPOTISM PROHIBITED.

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

Section 6.9-4 SPECIAL CREDIT FOR WAR VETERANS.

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

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

Section 6.9-5 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. 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; 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 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.

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.

Section 6.11 TRANSFER AND REDUCTION.

Section 6.11-1 TRANSFER 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.

Section 6.12 STANDARDS OF EFFICIENCY.

The City Manager 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, HEARING.

Section 6.13-1 DISCHARGE DURING PROBATION

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

Section 6.13-2 DISCIPLINARY ACTION; REDUCTION.

A 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 regular employees:

- A. Conviction of, or deferred adjudication community supervision for, a felony or of a Class A or B misdemeanor;
- 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. 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 violation of policies relating to the handling or procurement of property, or negligence in care or misuse of City property;
- H. 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. 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. 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 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 6.13-5 HEARING OPTIONS.

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

Section 6.13-6 ACTION BY COMMISSION.

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

B. In cases involving matters such as denial of promotion, the Commission shall review all facts in the cases and direct appropriate corrective steps, if necessary.

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

D. Decisions of the Commission shall be final.

Section 6.13-7 HEARING OFFICER.

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

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

Section 6.13-8 SUBSEQUENT ACTION.

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

- A. Accept or reduce the Hearing Officer's recommendations;
- 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 6.13-9 RESERVED.

Section 6.13-10 CONSTITUTIONAL RIGHTS.

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

Section 6.13-11 PENSION PLANS.

A. The Council shall continue a pension plan for all regular full time employees. 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.

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

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

D. Firemen and Policemen Pension Fund of El Paso. The City shall continue to augment the Firemen and Policemen Pension Fund of El Paso in a manner consistent with the laws of Texas. To augment the Firemen and Policemen Pension Fund, the Council shall in each fiscal year beginning after February, 1968, appropriate an amount equal to three times the amount paid into the fund by the participants therein; provided that the amount contributed by the City shall not exceed eighteen percent of the total amount expended for salaries of the participants.; provided further, however, that in the event age limits for participation in the pension fund, or any division of the fund, are increased as permitted by law and the raising of the age limits causes an increase in funding costs

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

Section 6.13E CONSOLIDATION OF FUNCTIONS WITH OTHER POLITICAL SUBDIVISIONS.

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

Section 6.14 DEFINITIONS OF TERMS

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.

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.

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

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.

Section 6.15 EXISTING LAWS AND CONSTITUTIONALITY.

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

Article VII PUBLIC FINANCE.

Section 7.1 FISCAL YEAR.

The fiscal year and the budget year of the City shall begin on September 1st and end on the succeeding August 31st.

A. Change in Fiscal Year. The Council, by ordinance, is authorized to provide for a change in the City's fiscal and budget year from the present period to the period October 1 through September 30, in one or more stages, and to provide for necessary and appropriate changes to be made in the dates for preparation and adoption of the budget and other related matters. In order to provide any necessary financing during the transition or changeover period, the Council may, by ordinance, authorize the borrowing of money by the issuance of general obligation bonds or promissory notes and the levying of a sufficient tax to pay the interest thereon and to provide the required sinking fund to pay the principal thereof, and/or may authorize the payment of all or any part of said interest and principal from any other anticipated tax receipts or other available funds.

Section 7.2 BUDGET.

The budget must present a complete financial plan for the fiscal year, and must contain all elements required under State law.

Section 7.3 BUDGET PROCEDURES, Subsections A, B, C and D.

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

A. Department Estimates. Annually, but not later than three months before the first day of the City's fiscal and budget year, administrative units of the City shall transmit estimates of their budgetary requirements and descriptions of their work programs to the Office of Management and Budget and to the City Manager. The work programs shall include all requested appropriations for the departments' operation and maintenance, including capital equipment, construction, and acquisition.

B. Public Hearing. After its presentation to the Council, at least one public hearing on the budget shall be held prior to its adoption; and notice of that public hearing shall be published in accordance with state law. The proposed budget shall be made available for examination at the office of the City Clerk, in accordance with State law.

C. Changes. After the required public hearing, the governing body may make any changes to the budget in accordance with and/or permitted by State law.

D. Adoption. The budget shall be adopted by resolution, subject to the Mayor's veto, not later than the day before the first day of the City's fiscal and budget year; but, in the event the budget is not adopted, the appropriation for personnel and essential operating supplies made in the previous year shall be extended until the new budget is adopted.

Section 7.4 CASH RESERVE FUND.

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. The cash reserve fund shall be maintained and reported as restricted under applicable Governmental Accounting Standards Board rules and must be invested in accordance with the laws of Texas. Short term borrowing from the cash reserve fund shall be for a period of no more than one calendar year and must be approved by the Council. Annual income from the cash reserve fund may be used only for capital improvements. "Capital improvements" shall be construed to include acquisition, construction, reconstruction, or improvement of facilities, equipment, or land for use by the City and all expense incidental thereto.

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

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

Section 7.6 SALE OF CAPITAL ASSETS.

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

Section 7.7 DEPOSITORIES.

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

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.

Section 7.8 PROPERTY TAX YEAR.

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

Section 7.9 CITY PROPERTY.

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

Section 7.10 ASSESSMENT OF PROPERTY TAXES.

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

Section 7.11 PROPERTY TAX PAYMENTS.

All property taxes due the City shall be paid in legal tender at the office of the City Tax Collector or the designated depository. All taxes remaining unpaid after January 31st will be delinquent. The Council may, by ordinance, change the time and method of tax payments. The interest and penalty assessed on delinquent taxes shall accord with the laws of Texas.

Section 7.12 LEVYING OF PROPERTY TAXES.

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

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

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

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

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

Section 7.14 HOTEL OCCUPANCY TAX.

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

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

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

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

Section 7.15 LIABILITY OF THE TAXPAYER.

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

Section 7.16 AUTHORIZATION TO ISSUE BONDS.

All bonds issued by the City shall be authorized by ordinance. Where required by law, the bonds shall be approved by the Texas Attorney General and registered by the Texas Comptroller of Public Accounts before delivery to the purchaser.

Section 7.17 GENERAL OBLIGATION BONDS.

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

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

Section 7.18 REVENUE BONDS.

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

Section 7.19 DEBT SERVICE FUND.

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

Section 7.20 DISBURSEMENT OF CITY FUNDS.

All disbursement of City funds shall be by check, electronic means, or as authorized by City ordinance.

Section 7.21 INDEPENDENT AUDIT.

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

Section 7.22 PUBLISHING OF FINANCIAL POSITION OF THE CITY.

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

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.

Section 8.2

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

Section 8.3

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

Section 8.4

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

Section 8.5

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

Section 8.6

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

Section 8.7 TRANSITIONAL PROVISION TO THE 2013 AMENDMENTS.

No amendment that is approved at the election on 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.