

## **PART I CHARTER<sup>1</sup>**

### **CHARTER OF THE CITY OF KILLEEN**

## **ARTICLE I. INCORPORATION: FORM OF GOVERNMENT: TERRITORY**

### ***INCORPORATION***

Section 1. The inhabitants of the City of Killeen, within the corporate limits as now established or as hereafter established in the manner provided by this charter, shall continue to be a municipal body politic and corporate in perpetuity, under the name of the "City of Killeen."

### ***FORM OF GOVERNMENT***

Section 2. The municipal government provided by this charter shall be known as the "council-manager government." Pursuant to its provisions and subject only to the limitations imposed by the state constitution and by this charter, all powers of the city shall be vested in an elective council, hereinafter referred to as "the council," which shall enact local legislation, adopt budgets, determine policies, and employ the city manager, who shall execute the laws and administer the government of the city. All powers of the city shall be exercised in the manner prescribed by this charter, or if the manner be not prescribed, then in such manner as may be prescribed by ordinance.

### ***BOUNDARIES***

Section 3. The bounds and limits of the City of Killeen shall be established and described by ordinance passed and approved by the city council.

### ***CREATION OF DISTRICT BOUNDARIES***

Section 4. Until and unless changed as provided by this Charter, the City of Killeen shall be divided into four (4) districts for voting purposes. Districts 1, 2, 3, and 4 shall be single member districts, and their boundaries shall be established by ordinance passed and approved by the City Council. (Amend. of 5-3-97; Amend. of 5-7-05)

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<sup>1</sup>Editor's note(s)—Printed in this part is the home rule charter for the City of Killeen, Texas. The charter was adopted by the voters of the city on March 3, 1949 and amended on April 1, 1958 and May 4, 1971. This part is derived from a copy of the charter furnished by the city in which such amendments had been included in the text. The charter is printed as found in such copy, except that obvious spelling errors have been corrected. Any other change is encased in brackets.

## ARTICLE II. CORPORATE AND GENERAL POWERS

### ***POWERS OF THE CITY***

Section 5. The City shall have all the powers granted to municipal corporations and to cities by the constitution and laws of the State of Texas, together with all the implied powers necessary to carry into execution all the powers granted. The city may acquire property within or without its corporate limits for any city purposes in fee simple or any lesser interest or estate, by purchase, gift, devise, lease, or condemnation, and may sell, lease, mortgage, hold, manage and control such property as its interests may require; and, except as prohibited by the constitution of this state or restricted by this charter, the city shall and may exercise all municipal powers, functions, rights, privileges and immunities of every name and nature whatsoever. The city may use a corporate seal; may sue and be sued, may contract and be contracted with; may implead and be impleaded in all courts and places and in all matters whatever; may cooperate with the government of the State of Texas or any agency thereof, the Federal Government or any agency thereof, or any political subdivision of the State of Texas, to accomplish any lawful purpose for the advancement of the interest, welfare, health, morals, comfort, safety, and convenience of the city or its inhabitants; and may pass such ordinances as may be expedient for maintaining and promoting the peace, welfare and government of the city, and for the performance of the functions thereof. The enumeration of particular powers by this charter shall not be deemed to be exclusive, and in addition to the powers enumerated therein or implied thereby, or appropriate to the exercise of such powers, it is intended that the City of Killeen shall have, and may exercise, all powers of local self-government, and all powers enumerated in Chapter 13, Title 28, Revised Civil Statutes of the State of Texas of 1925, and the acts amendatory thereof and supplementary thereto, now or hereafter enacted, or any other powers which, under the constitution and laws of the State of Texas, it would be competent for this charter specifically to enumerate, and also such further powers as may hereafter be granted under the constitution and laws of Texas.

### ***EXTENSION OF CITY LIMITS UPON REQUEST, PETITION OR ELECTION***

Section 6. The City Council may, by ordinance, annex an area if each owner of land in the area requests the annexation in accordance with Texas Local Government Code 43.0671, et seq, and as it may be hereinafter amended.

When a majority of the ~~inhabitants, qualified to vote for members of the Texas State Legislature, of any territory adjoining Killeen~~ registered voters of an area with a population of less than 200, as said territory may be designated by the City Council desires the annexation of such ~~territory~~ area to Killeen, they may present a written petition to that effect to the City Council and shall attach to said petition the affidavit of one or more of their number to the effect that said petition is signed by a majority of such ~~qualified~~ registered voters, and thereupon, the City Council ~~at the next regularly scheduled session held not sooner than twenty (20) days after the presentation of said petition~~ may, by ordinance, annex such territory to Killeen in accordance with Texas Local Government Code 43.0681, et seq, and as it may be hereinafter amended. If the registered voters of the area do not own more than 50 percent of the land in the area, the petition must be signed by more than 50 percent of the owners of the land in the area.

The City Council may, by ordinance, annex an area with a population of 200 or more after the City holds an election in the area to be annexed at which a majority of the votes received approved the annexation and if the registered voters of the area do not own more than 50 percent of the land in the area, the City obtains consent to annex the area through a petition signed by more than 50 percent of the owners of land in the area.

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EXTENSION OF CITY LIMITS UPON PETITION

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On the effective date of the ordinance, the area becomes a part of the City of Killeen and the inhabitants thereof shall be entitled to all the rights and privileges of other citizens of the City of Killeen and shall be bound by the acts, ordinances, resolutions and regulations of the city.

~~Should there be no such qualified voters in said territory, the owners may petition the City Council in accordance with Texas Local Government Code, § 43.028 or any successor statute thereto, and the City Council by ordinance consistent with State law, may annex the area. (Amend. of 5-4-91)~~

### ***EXTENSION OF CITY LIMITS BY THE CITY COUNCIL***

Section 7. The City Council shall have power, by ordinance, to fix and extend the boundaries of Killeen and to exchange area with other municipalities, ~~with or without the consent of the territory and inhabitants annexed or relinquished.~~ Upon the introduction of such ordinance by the city council, the procedures for annexation set forth by state law shall be followed, as found in Chapter 43, Local Government Code, and as may hereafter be amended. Once annexed, the territory and inhabitants shall be a part of Killeen, entitled to all rights and privileges and shall be bound by the acts, ordinances, resolutions and regulations of Killeen. (Amend. of 5-3-97; Amend. of 5-5-01)

### ***CHANGE OF DISTRICT BOUNDARIES***

Section 8. The City Council may, by ordinance, alter or change the district boundaries of the City of Killeen, and resubdivide the City into districts, designating and describing same by metes and bounds or other adequate means, provided there shall at all times be four districts within the city. Each district now existing or that may hereafter be established shall be designated so that each district shall contain as nearly as possible the same number of qualified electors. The City Council shall review such districts for possible boundary changes within two (2) years after the federal decennial census has been conducted and reported; and the City Council, at its discretion, may review and change such districts at any time deemed necessary. ~~All amendments of existing district boundaries shall be effective only after preclearance approval under Section 5, Federal Voting Rights Act, 42 U.S.C. Section 1973c and the acts amendatory thereof and supplementary thereto, now or hereafter enacted.~~ If district boundaries are altered or changed and a councilmember no longer lives in the district for which he was elected, he shall remain in office until the end of his term. (Amend. of 5-4-91; Amend. of 5-7-05; Amend. of 5-11-13)

### ***EMINENT DOMAIN***

Section 9. The City shall have the full right, power and authority to exercise the power of eminent domain when necessary and desirable to carry out any of the powers conferred upon it by this charter, or by the constitution or laws of the state of Texas. (The City shall have and possess this power of condemnation of property within or without the corporate limits for any municipal or public purpose, even though not specifically enumerated herein or in this charter.) (Amend. of 5-3-97)

### ***ESTABLISHMENT AND CONTROL OF STREETS***

Section 10. The City of Killeen, shall have the power to lay out, establish, open, alter, widen, lower, extend, grade, abandon, discontinue, abolish, close, care for, pave, supervise, maintain and improve streets, alleys, sidewalks, parks, squares, public places and bridges; and regulate the use thereof and require the removal from streets, sidewalks, alleys and other public property or places of all obstructions and encroachments of every nature or character.

### ***STREET IMPROVEMENTS***

Section 11. The City of Killeen shall have exclusive dominion, control and jurisdiction in, upon, and over and under the public streets, avenues, alleys and highways of the city, and may provide for the improvement thereof by paving, re-paving, raising, draining, or otherwise. Such exclusive dominion, control and jurisdiction in, upon, over and under the public streets, avenues, alleys and highways of the city shall also include, but not be limited to, the right to regulate, locate, relocate, remove or prohibit the location of, all utility pipes, lines, wires, or other property.

### ***GARBAGE DISPOSAL***

Section 12. The city council shall have the right by ordinance to adopt and prescribe rules and regulations for the handling and disposition of all garbage, trash, refuse and rubbish within the City of Killeen, and shall further have the right to fix charges and compensation to be charged by the city for the removal of garbage, trash, refuse and rubbish, providing rules and regulations for the collection thereof.

### ***MUNICIPAL COURT***

Section 13. There shall be a court for the trial of misdemeanor offenses known as the Municipal Court of Record of the City of Killeen, with such powers and duties as are given and prescribed by the laws of the State of Texas, with a Municipal Court judge and a Municipal Court clerk whose duties shall be in accordance with the laws of the State of Texas.

### ***HOSPITAL: OPERATION***

Section 14. Deleted from the Charter. (Amend. of 5-11-13)

### ***HOSPITAL: FINANCES***

Section 15. Deleted from the Charter. (Amend. of 5-11-13)

### ***SANITARY SEWER SYSTEM***

Section 16. The City of Killeen shall have the power to provide for a sanitary sewer system and to require property owners to connect their premises with such sewer system; to provide for fixing penalties for failure to make sanitary sewer connections; and shall further have the right to fix charges and compensation to be charged by the City for sewerage services, providing rules and regulations for the collection thereof. In the event any property owner fails or refuses to connect his property with the sanitary sewer system in accord with the requirements of the City then the city may itself connect such premises to the sewer system and the cost thereof shall be assessed and levied against the property so connected and the City of Killeen shall have a lien against such property for such cost plus interest and such lien shall be paramount and prior to any and all other liens against such property except State, County, City and School taxes and any prior assessment made against such property by the City of Killeen.

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POLICE FORCE

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***POLICE FORCE***

Section 17. There shall be a police department for the City of Killeen, the head of which shall be the Chief of Police. The officers of the police department are vested with the powers and authorities given to them as peace officers under the laws of the State of Texas, the laws of the United States, and the ordinances of the City of Killeen. (Amend. of 5-11-13)

***NUISANCES***

Section 18. The City of Killeen shall have the power to define and regulate any nuisance which may be created or occur in the city limits of Killeen or within five thousand feet of the city limits of the City of Killeen, except on the Military Reservation of Fort Hood, Texas.

***OCCUPATION AND LICENSE TAXES***

Section 19. Deleted from the Charter. (Amend. of 5-11-13)

***REMOVAL OF DANGEROUS STRUCTURES***

Section 20. The City of Killeen shall have power to condemn and cause to be torn down and removed any dangerous or dilapidated building or structure as authorized in the constitution and state law. (Amend. of 5-11-13)

***ADOPTING STATE LAWS***

Section 21. The City of Killeen adopts and shall have all the benefits conferred by and powers extended by state law. (Amend. of 5-3-97)

**ARTICLE III. THE COUNCIL**

***NUMBER, SELECTION, TERM MAYOR AND THE COUNCIL***

Section 22. The members of the City Council of the City of Killeen shall be composed of a mayor and seven councilmembers. Four (4) of the councilmembers shall represent "single member districts," such districts being numbered and designated 1, 2, 3, and 4, and defined in this charter or by ordinance hereafter passed. The mayor and three (3) of the councilmembers shall represent the city at large. Such council shall be elected in the following manner:

At an election held on a uniform election date in even-numbered years, a mayor and three councilmembers shall be elected by a plurality vote of the city at large for a term of two (2) years. At an election held on a uniform election date in odd-numbered years, there shall be elected one councilmember from each of the single member districts 1, 2, 3, and 4, by a plurality vote of the registered voters residing within each district, to serve a term of two (2) years. All elections are to be held in a manner provided in Article IX of this charter and in accordance with state law.

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The members of the City Council shall serve not more than three (3) terms in succession, in whole or in part, whether appointed (to fill an unexpired portion of a term) or elected, and until their successors shall have been elected and qualified and they shall be ineligible to succeed themselves or another councilmember for an additional successive term; except if any member of the City Council holding office desires to run for a different office than that which the member holds, at the next election, the member must resign and vacate their present office at least forty (40) days prior to such election and his resignation shall be effective on the date of such resignation. For the purposes of this provision there shall be only two offices: the office of the mayor and the office of the councilmember. (Amend. of 5-3-97; Amend. of 5-7-05; Amend. of 5-11-13)

### ***QUALIFICATIONS***

Section 23. Candidates for mayor and councilmember shall meet the qualifications for elective office as established in the Texas Elections Code. In addition to the foregoing, candidates for the four district councilmembers herein above provided shall be bona fide residents of the district from which they seek election. A member of the council ceasing to possess any of the qualifications specified in this section or any other section of this charter, failing to attend three (3) consecutive regular meetings of the council without being excused by the council, or convicted of a felony while in office shall immediately forfeit his office. (Amend. of 5-4-91; Amend. of 5-11-13)

### ***COMPENSATION OF MEMBERS***

Section 24. The compensation for the councilmembers shall not exceed \$1000.00 per month and compensation for the mayor shall not exceed \$~~200~~1500.00 per month. Said compensation shall be fixed by the city council. (Amend. of 5-5-01; Amend. of 5-11-13)

### ***PRESIDING OFFICER: MAYOR***

Section 25. The mayor shall preside at the meetings of the council and shall be recognized as head of the City of Killeen government for all ceremonial purposes, and by the governor for purposes of military Law; but he shall have no regular administrative duties. The mayor shall only be entitled to vote upon matters considered by the council in the event there is a tie vote resulting from absence of a member or members or failure or refusal of a member to vote. However the mayor shall have no veto power. The council shall elect a mayor protem from their number, who shall act as mayor during the absence or disability of the mayor, and, if a vacancy should occur, shall become mayor until the next regular election.

### ***VACANCIES***

Section 26. A vacancy in the council of the City of Killeen, except the office of Mayor, shall be filled by a majority vote of the remaining members of the council, by the selecting of a person possessing all the qualifications prescribed by Section 23 of this Article, and who shall be a bona fide resident of the district in which the vacancy occurs; unless the vacancy in office is that of a councilmember at large, in which case the person selected to fill the vacancy shall be a bona fide resident of the City of Killeen without regard to the district in which he resides. However, if the vacancy occurs within 90 days before a regular municipal election, the vacancy is not required to be filled. Where more than one vacancy shall develop at any one time, then a special election shall be called on the first authorized uniform election date prescribed by the Election Code that allows sufficient time to comply with the other requirements of law, and that occurs on or after the 30th day after the date the ordinance

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calling the election is adopted, and any vacancy shall be filled in the same manner as herein provided for general election. If the Mayor protem succeeds to the office of Mayor under the provisions of Section 25 of this Article, then his office of councilmember shall be considered vacant within the meaning of this Section. (Amend. of 5-4-91; Amend. of 5-7-05; Amend. of 5-11-13)

***POWERS***

Section 27. All powers of the City of Killeen and the determination of all matters of policy shall be vested in the City council. Except where in conflict with and otherwise expressly provided by this charter the city council shall have all powers authorized to be exercised by the city council by Chapter 4 of Title 28, Vernon's Annotated Civil Statutes, and acts amendatory thereof and supplementary thereto, now or hereafter enacted. Without limitation of the foregoing and among the other powers that may be exercised by the council, the following are hereby enumerated for greater certainty:

- (1) Appoint and remove the city manager.
- (2) Establish other administrative departments and distribute the work of divisions.
- (3) Adopt the budget of the city.
- (4) Authorize the issuance of bonds by a bond ordinance.
- (5) Inquire into the conduct of any office, department or agency of the city and make investigations as to municipal affairs.
- (6) Provide for a planning commission, a zoning commission and a zoning board of adjustment, and appoint the members of all such commissions and boards, and as well the members of the hospital board, if a hospital is established. The planning [and] zoning commissions may be combined. Such boards and commissions shall have all powers and duties now and hereafter conferred and created by this charter, by city ordinance or by law.
- (7) Adopt plats.
- (8) Adopt and modify the official map of the city.
- (9) Adopt, modify and carry out plans proposed by the planning commission for the clearance of slum districts and rehabilitation of blighted areas.
- (10) Adopt, modify and carry out plans proposed by the planning commission for the replanning, improvement, and redevelopment of neighborhoods and for the replanning, reconstruction or redevelopment of any area or district which may have been destroyed in whole or in part by disaster.
- (11) Regulate, license and fix the charges or fares made by any person owning, operating or controlling any vehicle of any character used for the carrying of passengers for hire or the transportation of freight for hire on the public streets and alleys of the city.
- (12) Provide for the establishment and designation of fire limits and to prescribe the kind and character of buildings or structures or improvements to be erected therein, and to provide for the erection of fireproof buildings within certain limits, and to provide for the condemnation of dangerous structures or buildings or dilapidated buildings or buildings calculated to increase the fire hazard, and the manner of their removal or destruction.
- (13) Provide for creation of the following departments: Finance, Police, Fire, and Public Works, and such other departments as may be established by the council as hereinafter provided. The council may

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create, change, and abolish offices, departments and agencies other than those established by this charter.

### ***APPOINTMENT AND REMOVAL OF CITY MANAGER***

Section 28. The Council shall appoint a City Manager who shall have the powers and perform the duties in this charter provided. No councilmember shall receive such appointment during the term for which he shall have been elected, nor within one year after he leaves office.

The salary of the City Manager shall be fixed by the City Council, and he shall hold office at its will; ~~but if removed at any time after six months from his appointment, he may demand written charges and a public hearing thereon before the City Council prior to the date on which his final removal shall take effect, but during such hearing the Council may suspend him from office.~~ The action of the Council in suspending or removing the City Manager shall be final, it being the intention of this charter to vest all authority and fix all responsibility for such suspension or removal in the City Council. During the absence or disability of the City Manager, the Council shall designate some properly qualified person to perform the duties of the office; except in case of his temporary absence or disability. (Amend. of 5-11-13)

### ***COUNCIL NOT TO INTERFERE IN APPOINTMENTS OR REMOVALS***

Section 29. Neither the council nor any of its members shall direct the appointment of any person to, or his removal from office, by the city manager or by any of his subordinates; provided, however, that the appointment of assistant city managers, department heads and the city secretary shall be subject to the approval of the council. Except for the purpose of inquiry the council and its members shall deal with the administrative service solely through the city manager and neither the council nor any member thereof shall give orders to any subordinates of the city manager, either publicly or privately. (Amend. of 5-11-13)

### ***RIGHTS OF THE CITY MANAGER AND OTHER OFFICERS IN COUNCIL***

Section 30. The City manager, and such other officers of the city as may be designated by vote of the council, shall be entitled to seats in the council, but shall have no vote therein. The city manager shall have the right to take part in the discussion of all matters coming before the council, and other officers shall be entitled to take part in all discussions of the council relating to their respective offices, departments or agencies.

### ***CITY SECRETARY***

Section 31. There shall be a city secretary who shall be the city clerk. He shall give notices of council meetings, shall keep the journal of its proceedings, shall authenticate by his signature and record in full in a book kept and indexed for the purpose all ordinances and resolutions, and shall perform such other duties assigned to him, and those elsewhere provided for in this Charter, by city ordinance or in state law. (Amend. of 5-11-13)

### ***MUNICIPAL JUDGE***

Section 32. There shall be a Municipal Court of Record for Killeen. The City Council shall appoint a magistrate as a presiding judge for the court, and associates judges, as deemed necessary for the benefit and conduct of the court. Each judge shall be a competent and duly-licensed attorney. The initial appointments of the presiding judge

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and associate judges shall be by resolution of the City Council at their first regular meeting in June, following the May 3, 1997 election and their initial terms shall be staggered, not to exceed 4 years, as may be decided by the City Council. Thereafter, all judges shall serve terms of 4 years and may serve successive terms, but may be removed by the city council at any time for incompetency, misconduct, malfeasance, or disability. Judges shall receive such salary as may be fixed by the council.

When the municipal judge and the associate judge(s) are absent at the same time, the Mayor shall appoint a temporary municipal judge. All costs and fines imposed by the Municipal Court, or by any court in cases appealed from judgments of the Municipal Court, shall be paid into the City treasury for the use and benefit of the city. (Amend. of 5-3-97; Amend. of 5-7-05)

### ***LEGAL DEPARTMENT***

Section 33. There shall be Legal Department, the head of which shall be the City Attorney. The City Attorney shall be a competent and duly-licensed attorney and shall represent the city in all litigation. He shall be the legal advisor of and attorney and counsel for the city and all offices and departments thereof. There shall be such deputy or assistant city attorneys as may be authorized by the council and appointed by the City Attorney, who shall be authorized to act for and on behalf of the City Attorney. (Amend. of 5-11-13)

### ***INDUCTION INTO OFFICE: MEETINGS***

Section 34. ~~On the next regular~~The Council shall hold a special meeting following each regular municipal election held under this Charter, or any special election for the purpose of filling vacancies in the council, ~~or as soon thereafter as practicable, the council shall meet at the usual time and place for holding meetings, for the purpose of qualifying, and the newly elected members shall qualify and assume the duties of office.~~ Thereafter, the council shall meet regularly at such times as may be prescribed by its rules but not less frequently than twice each month. All meetings shall be open to the public, in accordance with the Texas Government Code; special meetings shall be called by the city clerk upon request of the mayor, or a majority of the members of the council. (Amend. of 1-15-94)

### ***COUNCIL TO BE JUDGE OF QUALIFICATIONS OF ITS MEMBERS***

Section 35. Deleted from the Charter. (Amend. of 5-11-13)

### ***RULES OF PROCEDURE: JOURNAL***

Section 36. The council shall determine its own rules and order of business. It shall keep an indexed journal of its proceedings and the journal shall be open to the public inspection.

### ***ORDINANCES***

Section 37. In addition to such acts of the council as are required by statute or by this charter to be by ordinance, every act of the council establishing a fine or other penalty or providing for the expenditure of funds or for the contracting of indebtedness shall be by ordinance. The enacting clause of the ordinances shall be "BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KILLEEN."

## ***PROCEDURE FOR PASSAGE OF ORDINANCES***

Section 38. Every ordinance shall be introduced in written or printed form and, upon passage, shall take effect at the time indicated therein; provided that any ordinance imposing a penalty, fine or forfeiture for a violation of its provisions shall become effective not less than ten days from the date of its passage; subject to the provisions of Article X of this charter. Any ordinance imposing or increasing a fine or fee shall require a public hearing. The city clerk shall give notice of the passage of every ordinance imposing a penalty, fine or forfeiture for a violation of the provisions thereof, by causing the caption or title, including the penalty, of any such ordinance to be published in accordance with state law. He shall note on every ordinance, the caption of which is hereby required to be published, and on the record thereof, the fact that same has been published as required by the charter, and the date of such publication, which shall be prima facie evidence of the legal publication and promulgation of such ordinance; provided that the provisions of this correction, amendment, revision and codification of the ordinances of the city for publication in book or pamphlet form. Except as otherwise provided by Article XI of this charter, it shall not be necessary to the validity of any ordinance that it shall be read more than one time or considered at more than one session of the City Council. Every ordinance shall be authenticated by the signature of the mayor and city clerk and shall be systematically recorded and indexed in an ordinance book in a manner approved by the council. It shall only be necessary to record the caption or title of ordinances in the minutes or journal of council meetings. The city council shall have power to cause the ordinances of the city to be corrected, amended, revised, codified and printed in code form as often as the council deems advisable, and such printed code, when adopted by the council, shall be in full force and effect without the necessity of publishing the same or any part thereof in a newspaper. Such printed code shall be admitted in evidence in all courts and places without further proof. (Amend. of 5-11-13)

## ***INVESTIGATION BY COUNCIL***

Section 39. ~~The council~~Councilmembers shall have power to inquire into the conduct of any office, department, agency, or officer of the city. and to~~Council shall have power to~~ make investigations as to municipal affairs, and for that purpose may subpoena witnesses, administer oaths, and compel the production of books, papers and other evidence. Failure to obey such subpoena or to produce books, papers or other evidence as ordered under the provisions of this section shall constitute a misdemeanor and shall be punishable by fine not to exceed the maximum amount allowed by law. (Amend. of 5-11-13)

## ***AUDITORS***

Section 40. Prior to the end of each fiscal year the council shall designate qualified Certified Public Accountants who, as of the end of the fiscal year, shall make an independent audit of accounts and other evidences of financial transactions of the city government and shall submit their report to the council. Such accountant shall have no personal interest, direct or indirect, in the fiscal affairs of the city government. They shall not maintain any accounts or record of the city business, but, within specifications approved by the council, shall post-audit the books and documents kept by the department of finance and any separate or subordinate accounts kept by any other office, department or agency of the city government.

The city council may appoint a city auditor. The city auditor shall carry out the internal audit functions, shall perform such other duties as the city council shall assign to him and shall be a Certified Public Accountant. (Amend. of 5-11-13)

### ***PUBLIC LIBRARY***

Section 41. The City Council shall have the authority to establish and maintain a free public library within the City and to cooperate with any person, firm, association or corporation under such terms as the City Council may prescribe for the establishment or maintenance of such public library. For the budget purposes, the library shall be considered as a division of the City and the appropriations therefor shall comply with all the budgetary requirements as outlined in this charter and as may be prescribed from time to time by the City Council. (Amend. of 5-11-13)

### ***HOUSING AUTHORITY***

Section 42. The City Council may create a housing authority of such number and terms of members as the Council may determine and may delegate to the housing authority such powers relating to the planning, construction, reconstruction, alteration, repair, maintenance or operation of housing projects and housing accommodations as the Council may determine. (Amend. of 5-11-13)

### ***DISABLED EMPLOYEES' PENSIONS AND INSURANCE***

Section 43. Deleted from the Charter. (Amend. of 5-11-13)

## **ARTICLE IV. THE CITY MANAGER**

### ***QUALIFICATIONS***

Section 44. The city manager shall be chosen by the city council solely on the basis of his executive and administrative qualifications with special reference to his actual experience in, or his knowledge of, accepted practice in respect to the duties of his office as hereinafter set forth. At the time of his appointment, he need not be a resident of the city or state, but during his tenure of office he shall reside within the city.

### ***POWERS AND DUTIES***

Section 45. The city manager shall be the chief executive officer and the head of the administrative branch of the city government. He shall be responsible to the council for the proper administration of all affairs of the city and to that end he shall have power and shall be required to:

- (1) Appoint and, when necessary for the good of the service, remove all officers and employees of the city except as otherwise provided by this charter and except as he may authorize the head of a department to appoint and remove subordinates in such department.
- (2) Prepare the budget annually and submit it to the council and be responsible for its administration after adoption.
- (3) Prepare and submit to the council at the end of the fiscal year a complete report on the finances and administrative activities of the city for the preceding year.

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- (4) Keep the council advised of the financial condition and future needs of the city and make such recommendations as may seem to him desirable.
- (5) Perform such other duties as may be prescribed by this charter or required of him by the council, not inconsistent with this charter.

***ABSENCE OF CITY MANAGER***

Section 46. To perform his duties during his temporary absence or disability, the manager may designate by letter filed with the city clerk a qualified administrative officer of the city.

***DIRECTORS OF DEPARTMENTS***

Section 47. At the head of each administrative department there shall be a director, who shall be an officer of the city and shall have supervision and control of the department subject to the city manager.

Two or more departments may be headed by the same individual, the manager or assistant city manager may head one or more departments, and directors of departments may also serve as chiefs of divisions. (Amend. of 5-11-13)

***DEPARTMENTAL DIVISIONS***

Section 48. The work of each administrative department may be distributed among such divisions thereof as may be established by ordinance upon the recommendation of the manager. Pending the passage of an ordinance or ordinances distributing the work of departments under the supervision and control of the manager among specific divisions thereof, the manager may establish temporary divisions.

**ARTICLE V. THE BUDGET**

***FISCAL YEAR***

Section 49. The fiscal year of the City of Killeen shall begin the 1<sup>st</sup> day of October and shall end on the last day of September of each calendar year. Such fiscal year shall also constitute the budget and accounting year.

***PREPARATION AND SUBMISSION OF BUDGET***

Section 50. Not less than forty-five (45) days prior to the beginning of each fiscal year, the city manager shall submit to the council a proposed budget, which budget shall provide a complete financial plan for the fiscal year, and shall contain the following:

- (1) A budget message, explanatory of the budget, which message shall contain an outline of the proposed financial policies of the city for the fiscal year, shall set forth the reasons for salient changes from the previous fiscal year in expenditures and revenue items, and shall explain any major changes in financial policy.
- (2) A consolidated statement of receipts and expenditures of all funds.

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PREPARATION AND SUBMISSION OF BUDGET

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- (3) An analysis of property valuations.
- (4) An analysis of tax rate.
- (5) Tax levies and tax collections by years for at least five years or, if records for five years are not available, then for as many years as are available.
- (6) General fund resources in detail.
- (7) Summary of proposed expenditures by function, department, and activity.
- (8) Summary of proposed expenditures by character and subject.
- (9) Detailed estimates of expenditures shown separately for each activity to support the summaries No. 7 and 8 above. Such estimates of expenditures are to include an itemization of positions showing the number of persons having each title and the rate of pay.
- (10) A revenue and expense statement for all types of bonds.
- (11) A description of all bond issues outstanding, showing rate of interest, date of issue, maturity date, amount and authorized, amount issued, and amount outstanding.
- (12) A schedule of requirements for the principal and interest of each issue of bonds.
- (13) A special funds section.
- (14) The appropriation ordinance.
- (15) The tax levying ordinance.

(Amend. of 5-11-13)

***ANTICIPATED REVENUES COMPARED WITH OTHER YEARS IN BUDGET***

Section 51. In preparing the budget, the City Manager shall in the preparation of the budget place in parallel columns opposite the several items of revenue the actual amount of each item for the last completed fiscal year, the estimated amount for the current fiscal year, and the proposed amount for the ensuing fiscal year.

***PROPOSED EXPENDITURES COMPARED WITH OTHER YEARS***

Section 52. The City Manager in the preparation of the budget shall in parallel columns opposite the various items of expenditures place the actual amount of such items of expenditures for the last completed fiscal year, the estimated amount for the current fiscal year, and the proposed amount for the ensuing fiscal year.

***BUDGET A PUBLIC RECORD***

Section 53. The budget and all supporting schedules shall be filed with the City Clerk when submitted to the Council and shall be a public record for inspection by anyone. The City Manager shall cause copies to be made for inspection by all interested persons. (Amend. of 5-11-13)

### ***NOTICE OF PUBLIC HEARING ON BUDGET***

Section 54. At the meeting of the Council at which the budget is submitted, the Council shall fix the time and place of a public hearing on the budget and shall cause to be published a notice of the hearing setting forth the time and place thereof at least five days before the date of hearing.

### ***PUBLIC HEARING ON BUDGET***

Section 55. At the time and place set forth in the notice required by Section 54, or at any time and place to which such public hearing shall from time to time be adjourned, the council shall hold a public hearing on the budget submitted and all interested persons shall be given an opportunity to be heard for or against any item or the amount of any item therein contained.

### ***PROCEEDINGS ON BUDGET AFTER PUBLIC HEARING AMENDING OR SUPPLEMENTING BUDGET***

Section 56. After the conclusion of such public hearing, the Council may insert new items or may increase or decrease the items of the Budget, except items in proposed expenditures fixed by law. Before inserting any additional item or increasing any item of appropriation **where the overall effect is an increase in expenditures**, it must cause to be published a notice setting forth the nature of the proposed increases and fixing a place and time, not less than five days after publication, at which the Council will hold a public hearing thereon.

### ***PROCEEDINGS ON ADOPTION OF BUDGET***

Section 57. After such further hearing, the Council may insert the additional item or items, and make the increase or increases, to the amount in each case indicated by the published notice, or to a lesser amount, but where it shall increase the total proposed expenditures, it shall also provide for an increase in the total anticipated revenue to at least equal such total proposed expenditures.

### ***VOTE REQUIRED FOR ADOPTION***

Section 58. The budget shall be adopted by the favorable vote of a majority of the members of the whole Council.

### ***DATE OF FINAL ADOPTION: FAILURE TO ADOPT***

Section 59. The budget shall be finally adopted not later than the twentieth day of the last month of the fiscal year. Should the council take no action on or prior to such day, the budget as submitted by the city manager shall be deemed to have been finally adopted by the council.

***EFFECTIVE DATE OF BUDGET: CERTIFICATION: COPIES MADE AVAILABLE***

Section 60. Upon final adoption, the budget shall be in effect for the fiscal year. A copy of the budget, as finally adopted, shall be filed with the City Clerk, the County Clerk of Bell County, ~~and the State Comptroller of Public Accounts at Austin~~. The final budget shall be made available for the use of all offices, departments and agencies, and for the use of interested persons and civic organizations. (Amend. of 5-11-13)

***BUDGET ESTABLISHES APPROPRIATIONS***

Section 61. From the effective date of the budget, the several amounts stated therein as proposed expenditures shall be and become appropriated to the several objects and purposes therein named.

***BUDGET ESTABLISHES AMOUNT TO BE RAISED BY PROPERTY TAX***

Section 62. From the effective date of the budget, the amount stated therein as the amount to be raised by property tax shall constitute a determination of the amount of the levy for the purposes of the City in the corresponding tax year.

***CONTINGENT APPROPRIATION***

Section 63. Deleted from the Charter. (Amend. of 5-11-13)

***ESTIMATED EXPENDITURES SHALL NOT EXCEED ESTIMATED RESOURCES***

Section 64. The total estimated expenditures of the general fund and debt service fund shall not exceed the total estimated resources of each fund (Prospective income plus cash on hand.) The classification of revenue and expenditure accounts shall conform as nearly as local conditions will permit to the uniform classification as promulgated by the National Committee on Municipal Accounting, or some other nationally accepted classification.

***EMERGENCY APPROPRIATIONS***

Section 65. Deleted from the Charter. (Amend. of 5-11-13)

**ARTICLE VI. ISSUANCE AND SALE OF BONDS**

***POWER TO BORROW***

Section 66. The City of Killeen shall have the right and power to issue its general obligation bonds on the full faith and credit of the City, payable from ad valorem taxes not to exceed the maximum rate permitted by the Texas Constitution, for the purpose of providing permanent public improvements or for any other public purpose. The City also shall have the right and power to issue its revenue bonds payable from the revenues of any municipally owned utility or utilities, ~~and may secure such revenue bonds by a mortgage or deed of trust on the~~

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~~physical properties of such utility or utilities.~~ The City also shall have the right and power to issue interest bearing time warrants pursuant to state law. (Amend. of 5-11-13)

***ISSUANCE OF BONDS AND TIME WARRANTS***

Section 67. All bonds and warrants of the City of Killeen shall be issued pursuant to the procedures and requirements established by the general laws of the State of Texas.

**ARTICLE VII. FINANCE ADMINISTRATION**

***DIRECTOR OF FINANCE: APPOINTMENT***

Section 68. There shall be a department of finance, the head of which shall be the director of finance. (Amend. of 5-11-13)

***DIRECTOR OF FINANCE: QUALIFICATIONS***

Section 69. The director of finance shall have the proper knowledge of municipal accounting and sufficient experience in budgeting and financial control to properly perform the duties of the office, and shall be a Certified Public Accountant. (Amend. of 5-11-13)

***DIRECTOR OF FINANCE: POWER AND DUTIES***

Section 70. Under the direction of the city manager, the director of finance shall have charge of the administration of the financial affairs of the city and to that end he shall have authority and shall be required to:

- (1) Supervise and be responsible for the disbursement of all monies and have control over all expenditures to ensure that budget appropriations are not exceeded;
- (2) Maintain a general accounting system for the city government and each of its offices, departments, and agencies, keep books for and exercise financial budgetary control over each office, department and agency; keep separate accounts for the items of appropriation contained in the city budget, each of which accounts shall show the amount of the appropriation, the amounts paid therefrom, the unpaid obligations against it and the unencumbered balance; require reports of receipts and disbursements from each receiving and spending agency of the city government to be made daily or at such intervals as may be deemed expedient;
- (3) Submit to the council through the city manager a monthly statement of all receipts and disbursements in sufficient detail to show the exact financial condition of the city;
- (4) Prepare, as of the end of each fiscal year, a complete financial statement and report;
- (5) Collect license fees and other revenues of the city or for whose collection the city is responsible and receive all money receivable by the city from state or federal government, or from any court, or from any office, department or agency of this city;
- (6) Have custody of all public funds belonging to or under the control of the city, or any office, department or agency of the city government, and deposit all funds coming into his hands in such depository or

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depositories as may be designated by the city council, subject to the requirements of law in force from time to time as to the furnishing of bond or the deposit of securities and the payment of interest on deposits. All such interest shall be the property of the city and shall be accounted for and credited to the proper account;

- (7) Have custody of all investments and invested funds of the city government, or in possession of such government in a fiduciary capacity, and have the safekeeping of all bonds and notes of the city and the receipt and delivery of city bonds and notes for transfer, registration or exchange;
- (8) Supervise and be responsible for the purchase, storage and distribution of all supplies, materials, equipment and other articles used by any office, department or agency of the city government;
- (9) Approve all proposed expenditures; unless he shall certify that there is an unencumbered balance of appropriation and available funds, no expenditure shall be made.

### ***TRANSFERS OF APPROPRIATIONS***

Section 71. The city manager may at any time transfer any unencumbered appropriation balance or portion thereof between general classifications of expenditures within an office, department or agency. At the request of the city manager, the council may by ordinance transfer any unencumbered appropriation balance or portion thereof from one office, department or agency to another. (Amend. of 5-11-13)

### ***ACCOUNTING SUPERVISION AND CONTROL***

Section 72. Deleted from the Charter. (Amend. of 5-11-13)

### ***LAPSE OF APPROPRIATIONS***

Section 73. Except for an appropriation approved as part of the Capital Improvement Program, all appropriations shall lapse at the end of the fiscal year to the extent that they shall not have been expended or lawfully encumbered. An appropriation approved as part of the Capital Improvement Program shall continue in force until the purpose for which it was made has been accomplished or abandoned. The purpose of any such appropriation shall be deemed abandoned if three years pass without any disbursement from the appropriation.

( Amend. of 5-15-18 )

### ***FEES SHALL BE PAID TO CITY***

Section 74. All fees received by any officer or employee shall belong to the city government and shall be paid to the department of finance at such times as required by the director of finance.

### ***SALE OF CITY PROPERTY***

Section 75. Any sale or contract for the sale of any property belonging to the City, either in the form of land, real estate or other real or personal properties, shall be in accordance with the Texas Constitution, Texas Local Government Code, Chapters 252, 253, 271, 272, 273, and 280, and the acts amendatory thereof and supplementary thereto, now or hereafter enacted, and all other applicable State law. (Amend. of 5-4-91)

### ***PURCHASE PROCEDURE***

Section 76. The Director of Finance shall have authority to make expenditures from one or more municipal funds without the approval of the City Council for all budgeted items up to that amount which, under State law, triggers the competitive Procurement process. All contracts or purchases requiring expenditures from one or more municipal funds in the amount involving more than the dollar amount which, according to Section 252.021 of the Local Government Code, or any successor statute thereto, triggers the competitive procurement process, shall be let in compliance with the procedures prescribed by Chapter 252 of the Local Government Code and the acts amendatory thereof and supplementary thereto, now or hereafter enacted. (Amend. of 5-4-91; Amend. of 5-5-01; Amend. of 5-7-05)

### ***CONTRACTS FOR IMPROVEMENTS***

Section 77. Any city contract requiring an expenditure by, or imposing an obligation or liability on the City of more than the amount provided in Section 271.054 of the Texas Local Government Code and the acts amendatory thereof and supplementary thereto, must comply with the competitive bidding process of the Local Government Code. These contracts shall include contracts for the construction of public works or the purchase of materials, equipment, supplies, or machinery for which competitive bidding is required by the Local Government Code. (Amend. of 5-4-91; Amend. of 5-5-01; Amend. of 5-11-13)

### ***DISBURSEMENT OF FUNDS***

Section 78. All checks, vouchers or warrants for the withdrawal of money from the city depository shall be signed by the director of finance, or his deputy, and countersigned by the city manager. In the event the city manager is the director of finance, all checks signed by him shall be countersigned by the assistant city manager or the city clerk. (Amend. of 5-11-13)

### ***ACCOUNTING CONTROL OF PURCHASES***

Section 79. All purchases made shall be pursuant to a written requisition from the head of the office, department or agency whose appropriation will be charged, and no contract or order shall be issued to any seller unless and until the director of finance certifies that there is to the credit of such office, department or agency a sufficient unencumbered appropriation balance to pay for the supplies, materials, equipment or contractual services for which the contract or order is to be issued.

### ***BORROWING IN ANTICIPATION OF PROPERTY TAXES***

Section 80. For the purpose of temporary borrowing, the City Council shall have the power by ordinance to raise money on the credit of the city by the issuance of warrants and notes in anticipation of the collection of taxes and of special assessments.

### ***SALE OF NOTES: REPORT OF SALE***

Section 81. All notes issued pursuant to this article may be sold at not less than par and accrued interest at private sale by the director of finance without previous advertisement, but such sale shall be authorized by the Council.

### ***SURETY BONDS***

Section 82. Deleted from the Charter. (Amend. of 5-11-13)

## **ARTICLE VIII. TAX ADMINISTRATION**

### ***DIRECTOR OF TAXATION: APPOINTMENT***

Section 83. Deleted from the Charter. (Amend. of 5-11-13)

### ***POWER TO TAX***

Section 84. The City Council shall have the power under the provisions of State Law to levy, assess and collect an annual tax upon taxable property within the city to the maximum provided by the Constitution and general laws of the State of Texas.

### ***PROPERTY SUBJECT TO TAX: METHOD OF ASSESSMENT***

Section 85. Deleted from the Charter. (Amend. of 5-11-13)

### ***BOARD OF EQUALIZATION: APPOINTMENT: QUALIFICATIONS***

Section 86. Deleted from the Charter. (Amend. of 5-11-13)

### ***BOARD OF EQUALIZATION: PUBLIC HEARINGS: NOTICE TO OWNER***

Section 87. Deleted from the Charter. (Amend. of 5-11-13)

### ***BOARD OF EQUALIZATION: POWER AND DUTIES***

Section 88. Deleted from the Charter. (Amend. of 5-11-13)

### ***BOARD OF EQUALIZATION: RECORDS: APPROVAL OF ROLLS***

Section 89. Deleted from the Charter. (Amend. of 5-11-13)

### ***TAXES: WHEN DUE AND PAYABLE***

Section 90. Deleted from the Charter. (Amend. of 5-11-13)

### ***SEIZURE AND SALE OF PERSONAL PROPERTY***

Section 91. Deleted from the Charter. (Amend. of 5-11-13)

### ***TAX LIENS***

Section 92. The tax levied by the city is hereby declared to be a lien, charge, or encumbrance upon the property upon which the tax is due, which lien, charge, or encumbrance the city is entitled to enforce and foreclose in any court having jurisdiction over the same, and the lien, charge and encumbrance on the property in favor of the city, for the amount of the taxes due on such property is such as to give the state courts jurisdiction to enforce and foreclose said lien on the property on which the tax is due, not only as against any resident of this state or person whose residence is unknown, but also as against non-residents. All taxes upon real estate shall especially be a lien and a charge upon the property upon which the taxes are due, which lien may be foreclosed in any court having jurisdiction. The city's tax lien shall exist from January 1 in each year until the taxes are paid. Such lien shall be prior to all other claims, and no gift, sale, assignment or transfer of any kind, or judicial writ of any kind, can defeat such lien.

All persons or corporations owning or holding personal property or real estate in the City of Killeen on the first day of January of each year shall be liable for all municipal taxes levied thereon for such year.

The personal property of all persons owing any taxes to the City of Killeen is hereby made liable for all of said taxes, whether the same be due upon personal or real property, or upon both.

## **ARTICLE IX. NOMINATIONS AND ELECTIONS**

### ***MUNICIPAL ELECTIONS***

Section 93. The regular election for the choice of members of the council as provided in Section 22 of Article III of this Charter, shall be held each year on an authorized uniform Election Date provided for in the Texas Election Code. The council may, by resolution, order a special election on the first authorized uniform election date prescribed by the Election Code that allows sufficient time to comply with other requirements of law as may be authorized by law. The Council shall set the date of all other elections in accordance with applicable provisions of the Election Code, Local Government Code, Constitution and other general laws of the State of Texas. (Amend. of 5-4-91; Amend. of 5-11-13)

### ***REGULATIONS OF ELECTIONS***

Section 94. The council shall make all regulations which it considers needful or desirable, not inconsistent with this charter or the laws of the State of Texas, for the conduct of municipal elections, for the prevention of fraud in such elections and for the recount of ballots in case of doubt or fraud. Municipal elections shall be

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conducted by the appointed election authorities, who shall also have power to make such regulations not inconsistent with this charter, with any regulations made by the council or the laws of the State of Texas.

***HOW TO GET NAME ON BALLOT***

Section 95. Any qualified person may have his or her name placed on the official ballot as a candidate for Mayor or Councilmember at any election held for the purpose of electing a Mayor or Councilmember by filing with the City Secretary, in accordance with the Texas Election Code, a sworn application on a form prepared by the City Secretary in conformance with Section 141.031 of the Texas Election Code or any successor statute thereto. (Amend. of 5-4-91)

***COUNCIL BALLOTS***

Section 96. The ~~full~~ names of all candidates for the council as hereinbefore provided, except such as may have withdrawn, died, or become ineligible, shall be printed on the official ballots without party designations. If two candidates with the same surnames or with names so similar as to be likely to cause confusion are nominated, the addresses of their places of residence shall be placed with their names on the ballot. The order of the names on the ballot shall be determined by lot. The official ballots shall be printed not less than twenty (20) days before the date of the election.

***ELECTION OF MAYOR & COUNCILMEMBERS BY PLURALITY***

Section 97. At the regular municipal election (or any special election held to fill vacancies on the City Council) the candidates for the office of mayor or councilmember, to the number to be elected, who shall have received the highest number of votes cast in such election for each office to be filled shall be declared elected.

In case of a tie vote a new election shall be ordered and held conformably to the following section of this charter; at which the only persons eligible to have their names printed on the ballot shall be those whose votes were tied in the election at which they were candidates. (Amend. of 5-3-97)

***LAWS GOVERNING CITY ELECTIONS***

Section 98. All city elections shall be governed by the laws of the State of Texas governing general and municipal elections, so far as same may be applicable thereto; and in event there should be any failure of the general laws or this charter to provide for some feature of the city elections, then the city council shall have the power to provide for such deficiency, and no informalities in conducting a city election shall invalidate the same, if it be conducted fairly and in substantial compliance with the general laws, where applicable, and the charter and ordinances of the city. (Amend. of 5-11-13)

***CANVASSING ELECTIONS***

Section 99. Returns of elections following general or special elections shall be made in accordance with state law. (Amend. of 5-3-97)

**ARTICLE X. INITIATIVE, REFERENDUM AND RECALL**

### ***POWER OF INITIATIVE***

Section 100. The electors shall have power to propose any ordinance except an ordinance appropriating money or authorizing the levy of taxes or subject to state or federal law requirements that cannot be met through the initiative ordinance process, and to adopt or reject the same at its polls, such power being known as the initiative. Any initiative ordinance may be submitted to the council by a petition signed by qualified electors of the city equal in number to at least twenty-five per cent of the number of voters in the last regular municipal election of the mayor and at-large councilmembers. (Amend. of 5-11-13)

### ***POWER OF REFERENDUM***

Section 101. The electors shall have power to approve or reject at the polls any ordinance passed by the council, or submitted by the council to a vote of the electors, such power being known as the referendum, except in cases of bond ordinances and ordinances making the annual tax levy. Ordinances submitted to the council by initiative petition and passed by the council without change shall be subject to the referendum in the same manner as other ordinances. Within twenty days after the enactment by the council of any ordinance which is subject to a referendum, a petition signed by qualified electors of the city equal in number to at least twenty-five per centum of the number of voters at the last preceding regular municipal election of the mayor and at-large councilmembers may be filed with the city clerk requesting that any such ordinance be either repealed or submitted to a vote of the electors. (Amend. of 5-11-13)

### ***FORM OF PETITIONS: COMMITTEE OF PETITIONERS***

Section 102. Initiative petition papers shall contain the full text of the proposed ordinance. The signatures to initiative or referendum petitions need not be appended to one paper, but to each separate petition there shall be attached a statement of the circulator thereof as provided by this section. Each signer of any petition paper shall sign his name in ink and shall indicate after his name his place of residence by street and number, or other description sufficient to identify the place. There shall appear on each petition the names and addresses of five electors, who, as a committee of the petitioners, shall be regarded as responsible for the circulation and filing of the petition. Attached to each separate petition paper there shall be an affidavit of the circulator thereof that he and he only, personally circulated the foregoing paper, that it bears a stated number of signatures, that all signatures appended thereto were made in his presence, and that he believes them to be the genuine signatures of the persons whose names they purport to be. (Amend. of 5-11-13)

### ***FILING, EXAMINATION AND CERTIFICATION OF PETITIONS***

Section 103. All petition papers comprising an initiative or referendum petition shall be assembled and filed with the city clerk as one instrument. Within ten days after the petition is filed, the city clerk shall determine whether each paper of the petition has a proper statement of the circulator and whether the petition is signed by a sufficient number of qualified electors. The city clerk shall declare any petition paper entirely invalid which does not have attached thereto an affidavit signed by the circulator thereof. If a petition paper is found to be signed by more persons than the number of signatures certified by the circulator, the last signatures in excess of the number certified shall be disregarded. If a petition paper is found to be signed by fewer persons than the number certified, the signatures shall be accepted unless void on other grounds. After completing his examination of the petition, the city clerk shall certify the result thereof to the council at its regular meeting. If he shall certify that the petition

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is insufficient he shall set forth in his certification the particulars in which it is defective and shall at once notify the committee of the petitioners of his findings.

### ***AMENDMENT OF PETITIONS***

Section 104. An initiative or referendum petition may be amended at any time within ten days after the notification of insufficiency has been sent by the city clerk, by filing a supplementary petition upon additional papers and filed as provided in case of an original petition. The city clerk shall, within five days after such an amendment is filed, make examination of the amended petition and, if the petition is still insufficient, he shall file his certificate to that effect in his office and notify the committee of petitioners of his findings and no further action shall be had on such insufficient petition. The finding of the insufficiency of a petition shall not prejudice the filing of a new petition for the same purpose.

### ***EFFECT OF CERTIFICATION OF REFERENDUM PETITION***

Section 105. When a referendum petition, or amended petition as defined in Section 104 of this article, has been certified as sufficient by the city clerk, the ordinance specified in the petition shall not go into effect, or further action thereunder shall be suspended if it shall have gone into effect, until and unless approved by the electors, as hereinafter provided.

### ***CONSIDERATION BY COUNCIL***

Section 106. Whenever the council receives a certified initiative or referendum petition from the city clerk, it shall proceed at once to consider such petition. A proposed initiative ordinance shall be read and provision shall be made for a public hearing upon the proposed ordinance. The council shall take final action on the ordinance not later than sixty days after the date on which such ordinance was submitted to the council by the city clerk. A referred ordinance shall be reconsidered by the council and its final vote upon such reconsideration shall be upon the question, "Shall the ordinance specified in the referendum petition be repealed?"

### ***SUBMISSION TO ELECTORS***

Section 107. If the council shall fail to pass an ordinance proposed by the initiative petition, or shall pass it in a form different from that set forth in the petition thereof, or if the council fails to repeal a referred ordinance, the proposed or referred ordinance shall be submitted to the electors on the first authorized uniform election date prescribed by the Election Code that allows sufficient time to comply with the other requirements of law. ~~The council may, in its discretion, and if no regular election is to be held within such period shall, provide for a special election.~~ (Amend. of 5-11-13)

### ***FORM OF BALLOT FOR INITIATED AND REFERRED ORDINANCES***

Section 108. Ordinances submitted to vote of the electors in accordance with the initiative and referendum provisions of this charter shall be submitted by ballot title, which shall be prepared in all cases by the city attorney. The ballot title may be different from the legal title of any such initiated or referred ordinance and shall be a clear, concise statement, without argument or prejudice, descriptive of the substance of such ordinance, if a paper ballot, shall have below the ballot title the following propositions, one above the other in the order indicated: "FOR

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THE ORDINANCE" and "AGAINST THE ORDINANCE." Any number of ordinances may be voted on at the same election and may be submitted on the same ballot, but any paper ballot used for voting thereon, shall be for that purpose only. If voting machines are used, the ballot title of any ordinance shall have below it the same two propositions, one above the other or one preceding the other in the order indicated, and the elector shall be given an opportunity to vote for either of the two propositions and thereby to vote for or against the ordinance.

### ***RESULTS OF ELECTION***

Section 109. If a majority of the electors voting on a proposed initiative ordinance shall vote in favor thereof, it shall thereupon be an ordinance of the city. A referred ordinance which is not approved by a majority of the electors voting thereon shall thereupon be deemed repealed. If conflicting ordinances are approved by the electors at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

### ***REPEALING ORDINANCES: PUBLICATION***

Section 110. Initiative and referendum ordinances adopted or approved by the electors shall be published, and may be amended or repealed by the council, as in the case of other ordinances.

### ***RECALL: GENERAL***

Section 111. Any member of the City Council, including the mayor, may be removed from office by recall.

### ***RECALL PROCEDURE***

Section 112. Any elector of the City of Killeen may make and file with the city clerk an affidavit containing the name or names of the officer or officers whose removal is sought and a statement of the grounds for removal. By the close of business on the first business day following receipt of the affidavit, the clerk shall deliver to the elector making such affidavit copies of petition blanks demanding such removal. Such blanks when issued by the city clerk shall bear the signature of that officer and be addressed to the city council, and shall be numbered, dated, and indicate the name of the person to whom issued. The petition blanks when issued shall also indicate the number of such blanks issued and the name of the officer whose removal is sought. The city clerk shall enter in a record to be kept in his office the name of the elector to whom the petition blanks were issued and the number issued to said person.

### ***RECALL PETITIONS***

Section 113. The recall petition to be effective must be returned and filed with the city clerk within thirty days after the date on which the petition blanks are provided by the city clerk. A recall petition for the mayor or an at-large councilmember must be signed by qualified electors of this city equal in number to more than fifty percent (50%) of the total number of voters in the last municipal election at which three at-large councilmembers and the mayor were elected. A recall petition for a district councilmember must be signed by qualified electors of the district represented by the councilmember in number equal to more than fifty percent (50%) of the total number of voters for that district in the last municipal election where the district seat was filled. Each signer of any petition

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blank shall sign his name in ink and shall indicate after his name his place of residence by street and number, or other description sufficient to identify the place.

The elector may allow others to circulate a petition. Upon submitting the petition, the elector must submit a list to the city clerk of the names and addresses of all circulators that were authorized by him to collect signatures for the petition, and a list of the pages of the petition upon which each circulator obtained signatures. Attached to each petition, there shall be an affidavit of the circulator(s) thereof that he/they and he/they only, personally circulated the foregoing paper, that it bears a stated number of signatures, that all signatures appended thereto were made in his/their presence, and that he/they believes them to be the genuine signatures of those persons whose names they purport to be. No petition papers shall be accepted as part of a petition unless it bears the signature of the city clerk as required in Section 112 of this Article.

### ***RECALL ELECTION***

Section 114. The city clerk shall at once examine the recall petition and if he finds it sufficient and in compliance with the provisions of this article of the charter, he shall within ten (10) days submit it to the city council with his certificate to that effect and notify the officer sought to be recalled of such action. If the officer whose removal is sought does not resign within five (5) days after such notice the city council shall order and fix a date for holding a recall election. Any such election shall be held on the first authorized uniform election date prescribed by the Election Code that allows sufficient time to comply with the other requirements of law.

Only a resident qualified to vote in an election for a candidate may vote in a recall election for that candidate.

### ***BALLOTS IN RECALL ELECTION***

Section 115. Ballots used at recall elections shall conform to the following requirements:

- (1) With respect to each person whose removal is sought the question shall be submitted "Shall (name of person) be removed from the office of councilman by recall?"
- (2) Immediately below each question there shall be printed the two following propositions, one above the other, in the order indicated:  
  
"For the recall of (name of person)"  
  
"Against the recall of (name of person)"

### ***RESULTS OF RECALL ELECTION***

Section 116. If a majority of the votes cast at a recall election shall be against the recall of the officer named on the ballot, he shall continue in office for the remainder of his unexpired term, subject to recall as before, if a majority of the votes cast at such an election be for the recall of the officer named on the ballot, he shall, regardless of any technical defects in the recall petition, be deemed removed from office and the vacancy shall be filled by the City Council as in other vacancies.

PART I - CHARTER  
ARTICLE X. - INITIATIVE, REFERENDUM AND RECALL  
LIMITATIONS OF RECALLS

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***LIMITATIONS OF RECALLS***

Section 117. No recall petition shall be filed against a councilmember within six months after he begins a term nor in respect to an officer subjected to a recall election and not removed thereby, until at least six months after such election. If a councilmember is subject to recall pursuant to the provisions of this Article but is re-elected before the recall election takes place, the recall petition is negated and the councilmember retains his seat.

***DISTRICT JUDGE MAY ORDER ELECTION***

Section 118. Should the city council fail or refuse to order any of the elections as provided for in this charter, an elector may seek recourse in a court of competent jurisdiction.

**ARTICLE XI. FRANCHISES AND PUBLIC UTILITIES**

***CONTROL OVER AND POWERS WITH REFERENCE TO CITY PROPERTY***

Section 119. The ownership, right of control and use of streets, highways, alleys, parks, public places and all other real property of the City of Killeen is hereby declared to be inalienable to said City, except by ordinances passed by vote of the majority of the governing body of the city, as hereinafter provided; and no franchise or easement involving the right to use same, either along, across, over or under the same, shall ever be valid unless expressly granted and exercised in compliance with the terms hereof, and of the ordinances granting the same. No act or omission of the city, its governing body, officers or agents shall be construed to confer or extend by estoppel or indirection, any right, franchise or easement not expressly granted by ordinance.

The City of Killeen shall have the power, subject to the terms and provisions hereof, by ordinance to confer upon any person or corporation the franchise or right to use the property of the City, as defined in the preceding paragraph, for the purpose of furnishing to the public any general public service.

***LIMITATIONS***

Section 120. No exclusive franchise or privilege shall ever be granted and no franchise shall be directly or indirectly extended beyond the term originally fixed by the ordinance granting the same, except as provided by the terms of the City Charter.

***PROCEDURE***

Section 121. The City of Killeen shall have the power by ordinance to grant any franchise ~~or right mentioned in the preceding sections hereof~~, which ordinances shall not be passed finally until its third and final reading shall be at three separate regular meetings of the City Council of the City of Killeen, the last of which shall take place not less than thirty days from the first. No ordinance granting a franchise shall pass any reading except by a vote of the City Council, and such ordinance shall not take effect until sixty days after its adoption on its third and final reading.

## ***TERMS AND CONDITIONS***

Section 122. No determinate or fixed term franchise shall ever be granted for a longer term than twenty-five years; nor shall any right, privilege or franchise now in existence be extended beyond the period now fixed for its termination, directly or indirectly, or through any means whatsoever, and any ordinance in violation or evasion of this prohibition shall be absolutely void; provided, however, that any corporation, person or association of persons now holding any franchise under any charter or charters or ordinances of the City of Killeen may, with the consent of the City Council of the City surrender such franchise or franchises, subject to the provisions of the City Charter then in force, and take a new franchise under such charter or a new franchise may be granted to a new company or another person with the privilege of acquiring the properties of such franchise holder upon the surrender of the franchise rights then held.

No holder of a franchise heretofore or hereafter granted shall have a right (unless such right is granted in the franchise) to transfer or assign its properties and franchise to any other person, firm or corporation without the consent of the city, and such consent when given shall not operate as the granting of a franchise or as a new franchise.

The City Council shall have the power to compel all persons, firms or corporations operating any public utilities in this City, whether operating under existing franchises, or franchises that may be hereafter granted, to extend their service, lines, pipes, etc., if the person to be benefitted by such extension will pay the costs thereof, or if it can be shown that the revenue resulting from such extension will, within a reasonable time after same is made, pay a reasonable return on the investment, after making the customary allowance for depreciation.

All public utility franchises in the City of Killeen shall be held whether expressed in the ordinance or not, subject to the right of the City (each of the following being a condition):

- (1) To repeal the same by ordinance at any time for failure to begin construction or operation within the time prescribed or otherwise to comply with the terms of the franchise, such power to be exercised only after due notice and hearing.
- (2) To require an adequate extension of plant and service, and the maintenance of the plant and fixture at the highest reasonable standard of efficiency.
- (3) To establish reasonable standards of service and quality of products and prevent unjust discrimination in service or rates.
- (4) To collect from every public utility operating in the city such proportion of the expense of excavating, grading, paving, repaving, constructing, reconstructing, draining, repairing, maintaining, lighting, sweeping and sprinkling the streets, alleys, bridges, culverts, viaducts and other public places of the city as represents the increased cost of such operating resulting from the occupancy of such public places by such public utilities, and such proportion of the costs of such operations as results from the damage to or disturbance of such public places caused by such public utility; or to compel such public utility to perform at its own expense, such operations as above listed which are made necessary by the occupancy of such public places by such utility or by damage to or disturbance of such public places caused by such public utility.
- (5) At any time to examine and audit the accounts and other records of any such utility and to require annual and other reports, including on local operations by each such public utility.
- (6) To impose such reasonable regulations and restrictions as may be deemed desirable or conducive to the safety, welfare, and accommodation of the public.

PART I - CHARTER  
ARTICLE XI. - FRANCHISES AND PUBLIC UTILITIES  
TERMS AND CONDITIONS

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Every public utility franchise hereafter granted shall be subject to the terms and conditions of this Charter, whether such terms and conditions are specifically mentioned in the franchise or not.

***UTILITY RATES AND CHANGES***

Section 123. The City Council shall have the power by ordinance to fix and regulate the rates, charges and fares of every franchise holder operating in the city to the fullest extent allowed by law.

***APPLICABLE TO STREETS AND HIGHWAYS***

Section 124. Deleted from the Charter. (Amend. of 5-11-13)

***PUBLIC SERVICE CORPORATIONS TO FILE ANNUAL REPORTS***

Section 125. ~~It shall be the duty of the City Council to pass an ordinance requiring all public service corporations operating within the corporate limits of the city to file a sworn annual report of the receipts from the operation of the said business for the current year, how expended, how much therefor for betterments or improvements, the rate of tolls and charges for services rendered to the public, and any other facts or information that the council may deem pertinent for its use in intelligently passing upon any question that may arise between the City and the said public service corporations; and reports to be filed with the City Clerk, and preserved for the use of the City Council Deleted from the Charter.~~

***OPTION TO PURCHASE***

Section 126. Deleted from the Charter. (Amend. of 5-11-13)

***CONSENT OF PROPERTY OWNERS***

Section 127. Deleted from the Charter. (Amend. of 5-11-13)

***EXTENSIONS***

Section 128. Deleted from the Charter. (Amend. of 5-11-13)

***OTHER CONDITIONS***

Section 129. Deleted from the Charter. (Amend. of 5-11-13)

***FRANCHISE RECORDS***

Section 130. Deleted from the Charter. (Amend. of 5-11-13)

**ARTICLE XII. GENERAL PROVISIONS**

### ***PUBLICITY OF RECORDS***

Section 131. All records and accounts of every office, department or agency of the city shall be open for inspection, pursuant to state law, to any citizen. (Amend. of 5-3-97)

### ***PERSONAL INTEREST***

Section 132. The City of Killeen hereby adopts chapter 171 of the Texas Local Government Code, as currently written and as may be amended in the future. Any violation of such state law shall constitute malfeasance in office and any officer or employee guilty thereof shall thereby forfeit the office or position. Any violation of such state law with the knowledge express or implied of the person or corporation contracting with the governing body of the city shall render the contract voidable by the City Manager or Council. (Amend. of 5-7-05)

### ***NO OFFICER OR EMPLOYEE TO ACCEPT GIFTS***

Section 133. No officer or employee of the City of Killeen shall ever accept, directly or indirectly, any gift, favor, privilege or employment from any public utility corporation enjoying the grant of any franchise, privilege or easement from the city during the term of office of such officer, or during such employment of such employee except as may be authorized by law or ordinance; provided, however, that policemen and firemen in uniform or wearing their official badges may accept such free service where the same is permitted by ordinance. Any officer or employee of the city who shall violate the provisions of this section shall be guilty of a misdemeanor and may be punished by any fine that may be prescribed by ordinance for this offense, and shall forthwith be removed from office.

### ***RELATIVES OF OFFICERS SHALL NOT BE APPOINTED OR EMPLOYED***

Section 134. No person related within the second degree of affinity, or within the third degree of consanguinity, to members of the city council or city manager shall be appointed to any office, position or service in the city, but this provision shall not affect officers or employees who are already employed by the city at the time when any officer who may be related within the named degree takes office.

### ***PERSONS INDEBTED TO THE CITY SHALL NOT HOLD OFFICE OR EMPLOYMENT***

Section 135. Deleted from the Charter. (Amend. of 5-5-01)

### ***OATH OF OFFICE***

Section 136. Every elected and appointed officer of the city shall take and subscribe to the oaths or affirmations prescribed by Article XVI, Section 1, of the Texas Constitution, as it may be amended. Such oaths or affirmations shall be filed as required by the Constitution and with the City Secretary. (Amend. of 5-4-91)

### ***DAMAGE SUITS***

Section 137. Deleted from the Charter. (Amend. of 5-11-13)

PART I - CHARTER  
ARTICLE XII. - GENERAL PROVISIONS  
POWER TO SETTLE CLAIMS

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***POWER TO SETTLE CLAIMS***

Section 138. The city council shall have the power to compromise and settle any and all claims and lawsuits of every kind and character in favor of or against the city, including suits by the city to recover delinquent taxes.

***SERVICE OF PROCESS AGAINST THE CITY***

Section 139. All legal process against the city shall be served upon the Mayor, or Mayor pro-tem.

***CITY NOT REQUIRED TO GIVE SECURITY OR EXECUTE BOND***

Section 140. Deleted from the Charter. (Amend. of 5-11-13)

***LIENS AGAINST CITY PROPERTY***

Section 141. Deleted from the Charter. (Amend. of 5-4-91; Amend. Of 5-11-13)

***PROVISIONS RELATING TO ASSIGNMENT, EXECUTION AND GARNISHMENT***

Section 142. Deleted from the Charter. (Amend. of 5-11-13)

***POWER TO REMIT PENALTIES***

Section 143. Deleted from the Charter. (Amend. of 5-11-13)

***CHURCH AND SCHOOL PROPERTY NOT EXEMPT FROM SPECIAL ASSESSMENTS***

Section 144. ~~No property of any kind, church, school, or otherwise, in the city of Killeen, shall be exempt from any of the special taxes and assessments authorized by this charter for local improvements unless the exemption is required by State law. Deleted from the Charter.~~

***SALE OR LEASE OF PROPERTY OTHER THAN PUBLIC UTILITIES OR ACQUIRED BY  
TAX SALE***

Section 145. Any real property owned by the City of Killeen may be sold or leased by the City Council when in its judgment such sale or lease will be for the best interests of the city; provided, however, a sale or a lease for more than five (5) years shall never become effective until thirty (30) days after passage of the ordinance of [or] resolution affecting same. If, during such thirty day period, a referendum petition is presented to the City Clerk which in all respects conforms to the referendum provisions of Article X of this charter, and same is found sufficient, then the clerk shall certify the sufficiency of same to the City Council, and an election shall be called submitting the question of whether or not the sale or lease shall be consummated. Provided, further, however, the provisions of this section shall not apply to public utilities, nor to property purchased by the city at tax sales.

### ***EFFECT OF THIS CHARTER ON EXISTING LAW***

Section 146. All ordinances, resolutions, rules, regulations, rights, claims actions, orders contracts and legal administrative proceedings shall continue except as modified pursuant to the provisions of this charter and in each case shall be maintained, carried on or dealt with by the city department, office or agency appropriate under this charter.

### ***CONTINUANCE OF CONTRACTS AND SUCCESSION OF RIGHTS***

Section 147. Deleted from the Charter. (Amend. of 5-11-13)

### ***CONSTRUCTION AND SEPARABILITY CLAUSE***

Section 148. The charter shall be liberally construed to carry out its intents and purposes. If any section or part of section of this charter shall be held invalid by a court of competent jurisdiction such holding shall not affect the remainder of this charter nor the context in which such section or part of section so held invalid may appear, except to the extent that an entire section or part of section may be inseparably connected in meaning and effect with the section or part of section to which such holding shall directly apply.

### ***AMENDING THE CHARTER***

Section 149. Amendments to this Charter may be framed and submitted to the qualified electors of the city by a Charter commission in the manner provided by law for framing and submitting a new Charter. Amendments may also be proposed and submitted by ordinance, passed by a majority vote of the full membership of the council, or by a petition signed by not less than a number equal to at least five percent (5%) of the number of qualified voters of the municipality or 20,000, whichever is the smaller. When a Charter amendment petition shall have been filed with the council in conformity with the provisions of this Charter as to petitions for initiated ordinances, the council shall forthwith provide by ordinance for submitting such proposed amendment to a vote of the qualified electors. Any ordinance for submitting a Charter amendment to the qualified electors shall provide that such amendment be submitted at the next authorized uniform election date prescribed by the Election Code, or on the earlier of the date of the next municipal general election or presidential general election. The election date must allow sufficient time to comply with other requirements of law and must occur on or after the 30<sup>th</sup> day after the date the ordinance is adopted. Notice of the election for the submission of said amendment or amendments shall be given by publication thereof, in some newspaper of general circulation published in said city, on the same day in each of two (2) successive weeks; the date of the first publication to be not less than fourteen (14) days prior to the date set for said election. If a proposed amendment be approved by a majority of the qualified electors voting thereon it shall become a part of the Charter at the time fixed therein. Each amendment shall be confined to one subject; and when more than one amendment shall be submitted at the same time, they shall be so submitted as to enable the qualified electors to vote on each amendment separately. (Amend. of 5-5-01)

### ***EFFECTIVE DATE AND INTERIM GOVERNMENT***

Section 150. Deleted from the Charter. (Amend. of 5-11-13)

PART I - CHARTER  
ARTICLE XII. - GENERAL PROVISIONS  
DEFINITIONS

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***DEFINITIONS***

Section 151.

- (A) The term "City of Killeen," "City," or "said City" as used in this charter shall in all cases mean and refer to the City of Killeen, Bell County, Texas.
- (B) The term "Mayor" or "said Mayor" as used in this charter shall in all cases mean and refer to the duly elected and qualified mayor of the City of Killeen, Bell County, Texas.
- (C) The terms "Councilman," "Councilmember," "Council," and "City Council" as used in this charter shall in all cases mean and refer to the city council of the City of Killeen, Bell County, Texas, and the duly elected and qualified members thereof.
- (D) The term "City Manager" or "Manager" as used in this charter shall in all cases mean and refer to the duly appointed City Manager of the City of Killeen, Bell County, Texas.
- (E) Wherever the term "man," "men," "him," or "he" is used shall be construed as gender neutral. (Amend. of 5-3-97)
- (F) The term "Officer" as used in this Charter shall mean and refer to the Mayor, City Councilmembers, City Manager, Assistant City Managers and department heads, except that "officers of the police department" and "peace officers" shall refer to law enforcement officers.

***CORRECTIONS: NUMBERING SECTION***

Section 152. The City Council shall have the power to have corrected typographical errors and have the sections of this Charter numbered consecutively; provided such corrections shall have no effect on the meaning and intent of this Charter.

**CHARTER COMPARATIVE TABLE**

This table shows the location of the amendments to the city Charter adopted after May 8, 1990.

Amendment Date	Section	Section this Charter
03-03-49	1—152	1—152
05-04-91		6, 8, 23, 26, 75-77, 93, 95, 136, 141
01-15-94		34
05-03-97		4, 7, 9, 21, 22, 32, 97, 99, 131, 151
05-05-01		7, 24, 76, 77, 135, 149
05-07-05		4, 8, 22, 26, 32, 76, 132
05-11-13		8, 14, 15, 17, 19, 20, 22, 23, 24, 26, 28, 29, 31, 33, 35, 38, 39, 40, 41, 42, 43, 47, 50, 53, 60, 63, 65, 66, 68, 69, 71, 72, 77, 78, 82, 83, 85, 86, 87, 88, 89, 90, 91, 93, 98,

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CHARTER COMPARATIVE TABLE

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		100, 101, 102, 107, 124, 126, 127, 128, 129, 130, 137, 140, 141, 142, 143, 147, 150
5-15-18		73