

**Notice of Meeting for the
Charter Review Committee
of the City of Georgetown
May 4, 2021 at 3:00 PM
at Virtual**

The City of Georgetown is committed to compliance with the Americans with Disabilities Act (ADA). If you require assistance in participating at a public meeting due to a disability, as defined under the ADA, reasonable assistance, adaptations, or accommodations will be provided upon request. Please contact the City Secretary's Office, at least three (3) days prior to the scheduled meeting date, at (512) 930-3652 or City Hall at 808 Martin Luther King Jr. Street, Georgetown, TX 78626 for additional information; TTY users route through Relay Texas at 711.

This is a meeting of the Council appointed Charter Review Committee.

Consistent with Governor Greg Abbott's suspension of various provisions of the Open Meetings Act, effective August 1, 2020 and until further notice, to reduce the chance of COVID-19 transmission, all City of Georgetown Advisory Board meetings will be held virtually. Public comment will be allowed via teleconference; no one will be allowed to appear in person.

Join from a PC, Mac, iPad, iPhone or Android device, Please click this URL to join:

Join Zoom Meeting

[https://georgetowntx.zoom.us/j/98291500878?](https://georgetowntx.zoom.us/j/98291500878?pwd=RVZFRlNzRzVMdWEzQlBNb3p2WG5pQT09)

[pwd=RVZFRlNzRzVMdWEzQlBNb3p2WG5pQT09](https://georgetowntx.zoom.us/j/98291500878?pwd=RVZFRlNzRzVMdWEzQlBNb3p2WG5pQT09)

Meeting ID: 982 9150 0878

Passcode: 347393

Dial by your location

877 853 5257 US Toll-free

888 475 4499 US Toll-free

833 548 0276 US Toll-free

833 548 0282 US Toll-free

Meeting ID: 982 9150 0878

Citizen comments are accepted in three different formats: Submit written comments tomayra.cantu@georgetown.org by 5:00 p.m. on the day before the date of the meeting and the Recording Secretary will read your comments into the recording during the item that is being discussed.

Log onto the meeting at the link above and "raise your hand" during the item.

Use your home/mobile phone to call the toll-free number.

To join a Zoom meeting, click on the link provided and join as an attendee. You will be asked to enter your name and email address (this is so we can identify you when you are called upon). To speak on an item, click on the icon labeled "Participants" at the bottom center of your PC or Mac screen. At the bottom of the window on the right side of the

screen, click the button labeled "Raise Hand." Click "Raise Hand" if you want to say something in the meeting. When you are called upon by the Recording Secretary, your device will be remotely un-muted by the Administrator and you may speak for three minutes. Please state your name clearly, and when your time is over, your device will be muted again. You can lower your hand by clicking the same button, now labeled "Lower Hand."

The same method can be used to raise your hand in a Zoom meeting on a mobile device, simply tap "Raise Hand" at the bottom left corner of the screen. The hand icon will turn blue and the text below it will switch to say "Lower Hand" while your hand is raised. Use of profanity, threatening language, slanderous remarks or threats of harm are not allowed and will result in you being immediately removed from the meeting.

Regular Agenda

- A Call to Order - Louise Epstein, Chair
- B Review and approval of the minutes from April 20, 2021 Charter Review Committee - Louise Epstein, Chair
- C Discussion of possible amendment of City Charter, Section 2.09. – Rules of Procedure related to voting requirements – Skye Masson, City Attorney
- D Discussion of possible amendment of City Charter, Section 2.10. – Procedure to enact legislation – Skye Masson, City Attorney
- E Discussion of possible amendment of City Charter, Section 8.03. - Franchise; power of the City Council – Skye Masson, City Attorney
- F Discussion regarding Article VI of the City Charter related to Finance including budget preparation and amendments, appropriations, borrowing, obligation and revenue bonds, purchase procedure and independent audit. - Skye Masson, City Attorney

Certificate of Posting

I, Robyn Densmore, City Secretary for the City of Georgetown, Texas, do hereby certify that this Notice of Meeting was posted at City Hall, 808 Martin Luther King Jr. Street, Georgetown, TX 78626, a place readily accessible to the general public as required by law, on the _____ day of _____, 2021, at _____, and remained so posted for at least 72 continuous hours preceding the scheduled time of said meeting.

Robyn Densmore, City Secretary

City of Georgetown, Texas
Charter Review Committee
May 4, 2021

SUBJECT:

Review and approval of the minutes from April 20, 2021 Charter Review Committee - Louise Epstein, Chair

ITEM SUMMARY:

FINANCIAL IMPACT:

SUBMITTED BY:

Mayra Cantu, Assistant to the City Manager

ATTACHMENTS:

Description	Type
 Minutes from 4.20.2021 Meeting	Backup Material

**Minutes of Meeting of the
CHARTER REVIEW COMMITTEE (CRC)
City of Georgetown, Texas
April 20, 2021**

The Charter Review Committee met on Tuesday, April 20, 2021 at 3:00 PM via Zoom virtual meeting.

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The meeting was held with the Governor's Order, all City Buildings are following these procedures:

- Masks are recommended
- Physical distancing; 6 feet between you and anyone not in your household
- Practice good hygiene and wash your hands

Committee Members Present:

**John Hesser
Louise Epstein
Bob Glandt
Joseph Burke
Troy Hellman
John Marler
Rick Vasquez
Ben Stewart, Joined at 3:10 PM**

City Staff Present:

**Skye Masson, City Attorney
Mayra Cantu, Management Analyst and
Board Liaison
Karen Frost, Assistant City Secretary
Rachel Saucier, Executive Assistant**

Board Members Absent:

Others present:

Legislative Regular Agenda

Louise Epstein called the meeting to order at 3:01 p.m.

A. Review and approval of the minutes from April 6, 2021 Charter Review Committee - Louise Epstein, Chair

Committee gave staff direction on preference for minutes in the future.

Motion to approve by John Marler; Second by Joseph Burke. Approved 8-0.

B. Discussion of possible amendment of City Charter, Section 2.01, Number, Selection, and Term of Office relating to length of terms and term limits – Skye Masson, City Attorney

Chair opened discussion on term limits and terms of office.

Committee began discussion on length of terms, currently 3 years. Term limits could impact opinions on length of terms between 3 and 4 years. Committee discussed accountability to the electorate and how 3-years allows for that, with 2 years possibly being too short to be effective.

Motion to recommend maintaining 3-year length of term by John Marler; Second by Joseph Burke. Approved 6-2. Opposed Glandt and Hesser.

Committee began discussion on term limits including the benefits and disadvantages of term limits in relation to the term length.

Motion to oppose term limits on current 3-year council member or Mayor terms made by Marler, Second by Stewart. Motion dies 4-4.

Committee members expressed favor for term limits to hold members accountable to the electorate while increasing participation, and some committee members expressed the benefits of the counter in not having term limits.

Staff recommended capturing the majority and minority opinion on this topic to present to Council.

Motion made by Hesser recommend implementing a 4-year council member term, with a limit to 2 consecutive terms; Second by Glandt. Motion dies 2-6. Glandt and Hesser vote in favor of the motion.

Motion made by Hellman to recommend having council members serve 3 3-year terms for a total lifetime limit of 9 years as a council member, and as mayor for 3 3-year terms for a total lifetime limit of 9 years as Mayor, Second by Vasquez. Motion passes 5-3.

C. Discussion of possible amendment of City Charter, Section 2.02, Qualifications - Skye Masson, City Attorney

Chair opened discussion. Committee discussed the language of limiting a council members employment with the City.

Motion made by Glandt to adopt language as amended by staff; Second by Hellmann. Approved 8-0.

D. Discussion of possible amendment of City Charter, Section 2.03, Vacancies - Skye Masson, City Attorney

Chair opened discussion. Staff provided background on the topic and how Mayor Pro Tem gets appointed by the Council. The Committee discussed the selection and role of the Mayor Pro Tem. Discussion continued regarding selection and role of Mayor Pro Tem as well as state law requirements and election options.

Discussion confirmed that if less than 12 months remain City Council will elect, from the currently serving City Council body within 45 days, a Mayor by majority vote. If no one wants to serve as Mayor, then a special election will be held on the next uniform election date.

Motion by Hellmann, Second by Marler to adopt Option B and the additional language as shown to be approved as the new section 2.03. Approved 8-0.

E. Discussion of possible amendment of City Charter Section 2.06, Mayor and Mayor Pro Tem – Skye Masson City Attorney

Staff introduced the item. This language clarifies if the Mayor votes on agenda items.

Committee discussed amended language. Support for reflecting the role and responsibilities of Mayor when Mayor Pro Tem fills in. Discussion regarding opposition to Mayor's vote in regards to breaking ties and benefits to ceremonial role of Mayor versus responsibility to city-wide electorate. Discussion regarding the position of at-large Mayor as voting member would be a reflection of city as a whole.

Motion made by Hellmann to have the Mayor be a voting member of the City Council. Second by Marler. Approved 5-3. Opposed Stewart, Vasquez, and Glandt.

Vasquez departed the meeting at 4:18pm

F. Discussion of possible amendment of City Charter provisions in Article IV related to petition requirements for Section 4.01, power of initiative; Section 4.02, power of referendum; and Section 4.07, Recall of City Officials; and Section 4.08, Recall Petition - Skye Masson, City Attorney

Staff introduced the item and the drafted language for the Committee's review. Staff requested more guidance on recall language. The Chair opened discussion regarding petitions and current charter language. The Committee discussed cap on requirement and noted that 15% can increase exponentially with population increase. Discussion continued regarding section 4.01 power of initiative. The Committee noted 15,000 individuals versus 15% as more accessible to simply cap the number of citizens required to request an initiative be placed on the ballot. Committee discussed option A. Committee confirmed that registered voters as the designation to use.

Motion made by Marler to accept option A; Second by Stewart. All in favor include Marler, Hellmann, Stewart. Opposed Epstein, Hesser, Burke, and Glandt. Approved 3-4.

The Committee confirmed that the language would be mirrored for initiative and referendum for option A with ceiling of 15,000.

Motion by Burke to match language proposed by Staff without 15,000 cap, just as written in option B for the initiative and referendum; Second by Hellmann. Approved 5-2. Stewart and Marler opposed.

The Committee asked and Staff discussed the recall language with cleanup noting registered voters. The Committee confirmed no cap and the language should mirror initiative wording.

G. Discussion of possible amendment of City Charter to appoint a City Auditor – Skye Masson, City Attorney

Chair introduced item and discussed role of auditor. Committee discussed staffing and budget implications.

Motion made by Epstein that Council create a position of City Auditor reporting to Council; Second by Hellmann. Motion tied 3-3. Voting in favor included Epstein, Burke, and Hellmann. Voting in opposition include Hesser, Glandt, and Stewart.

Discussion regarding adding another staff position requirement and mandate on the budget. Further discussion examined the City's needs based on population and management oversight needs.

Staff will confirm about creating position reporting to City Manager and a Charter amendment is required for adding a direct report to Council.

Motion by Hesser to recommend to City Council that a city auditor be created and filled as a report to the City Manager; Second by Glandt. Approved 5-1. Voting in favor included Hellmann, Burke, Hesser, Glandt, and Epstein. Stewart registered opposition.

Discussion regarding opposition to city manager direct report and added position to city budget.

H. Discussion of possible amendment of City Charter regarding the organizational reporting structure of the City Attorney, City Secretary, and Municipal Judge – Skye Masson, City Attorney

Staff discussed background research. Discussion noted that it seemed awkward to have these direct reports to City Council, but this item is not necessary especially if there are many amendments being put forth for the voters. Staff said language could be more clear regarding the municipal judge direct

report since it is distinctly different than other direct reports. A short discussion was had regarding the City Attorney serving the entire City as a whole. Discussion on the merits of reporting to a single city manager versus a group of council members.

Chair asked for a motion and none made. Consensus from committee was to leave this item alone.

I. Discussion of next steps and agenda items for May 4, 2021 and additional charter amendments for consideration at a future meeting – Louise Epstein, Chair

Remaining items include voting requirements and clear definition of city council and majority vote, and the ordinance requirements for adoption including voting and procedures, first and second reading, and caption publication. Staff also noted reviewing the franchise publication requirements.

Chair asked for any other considerations. Hesser would like to review the charter regarding finance, article 6 specifically regarding the budget. Chair asked to include item on Article 6 on the upcoming agenda.

Chair would like to wrap up by May 18th with all initial discussions and ready for staff to present to Council at May 25th Council meeting.

Motion by Hesser to adjourn meeting; Second by Glandt, Approved 6-0.

Meeting adjourned at 5:15 pm.

Louise Epstein
Committee Chair

Date

John Hesser
Committee Vice Chair

Date

Mayra Cantu
Board Liaison

Date

City of Georgetown, Texas
Charter Review Committee
May 4, 2021

SUBJECT:

Discussion of possible amendment of City Charter, Section 2.09. – Rules of Procedure related to voting requirements – Skye Masson, City Attorney

ITEM SUMMARY:

FINANCIAL IMPACT:

SUBMITTED BY:

Mayra Cantu, Assistant to the City Manager

ATTACHMENTS:

Description		Type
<input type="checkbox"/>	Item C. Voting Requirements	Backup Material
<input type="checkbox"/>	TML Survey - Voting Requirements	Backup Material

2021 Charter Review Committee Amendment Review Coversheet

Item C.

Discussion of possible amendment of City Charter, Section 2.09. – Rules of Procedure related to voting requirements – Skye Masson, City Attorney

1. Current charter language

Sec. 2.09. - Rules of procedure.

The Council shall by ordinance determine its own rules and order of business. The Mayor and a majority of the members of Council shall constitute a quorum, and in the Mayor's absence, a majority plus one of the members of Council shall constitute a quorum. **Legislation may not be enacted unless it is adopted by a vote of not less than a majority of the members of the Council.** Should the Council be reduced to less than a majority plus one of the members of Council by death, resignation, nonresidence or for any other reason, the remaining members of the Council shall constitute a quorum for the purpose of filling vacancies. Should the Council be reduced to less than a majority plus one of the members of Council by death, resignation, nonresidence, or for any other reason, the remaining members of the Council shall constitute a quorum for the purpose of filling vacancies and for the purpose of taking an emergency action to protect the life, health, safety, property and welfare of the public. Such emergency action shall take effect only upon the unanimous approval of the then remaining members of the Council. The Council may adopt such rules, and prescribe such penalties as it may see fit to enforce the attendance of its members at all regular and called meetings of the Council or its committees. Minutes of all meetings of the Council shall be taken and recorded in the form and manner required by state law, and such minutes shall constitute a public record.

2. Summary of legal issues if any

The bolded language above provides that all legislation requires a vote of not less than a majority of the members of Council. Two issues have arisen over time with this language:

- a. First, under the current Charter language, the definition of the City Council could arguably include the Mayor. As a result, does this language require a majority of eight or a majority of seven?
**If the Council adopts the Committees recommendation regarding the Mayor voting, the first issue would be resolved.
- b. Second, does this language require a majority of a City Council members or only those present?

Council has requested that the Committee discuss these issues and determine if any clarification or changes to the language are needed.

3. Excerpts from benchmark cities with sample language to the extent they have it (bold relevant language)

El Paso

Section 3.5 - CITY COUNCIL PROCEDURES AND RULES.

- A. Meetings. Regular meetings of the Council shall be held in Council chambers no less than once every other week at such times as may be prescribed by resolution. Special meetings and informal work sessions of the Council shall be called by the Mayor or a majority of the entire Council by giving written notice to the City Clerk. All meetings of the Council and of any committees thereof shall be held as permitted by the Texas Open Meetings Act.
- B. Parliamentary Procedure. At the beginning of each term the Council shall adopt rules of order, and should the Council fail to do this, then Roberts Rules of Order, Revised, shall control until such time as the Council adopts some other rules of order. In any event, copies of rules of order employed by the Council shall be available, in the office of the City Clerk, for examination by interested persons. The Mayor, with the advice and consent of the Representatives, shall designate a Municipal Parliamentarian and Alternate Municipal Parliamentarians, but no members of the Council may hold those offices. The Council must keep minutes of its open proceedings, and these shall be a public record. It shall also have power to compel the attendance of absent members and, by the favorable vote of a majority of the entire Council, may expel a member from a Council meeting for disorderly conduct or serious violation of its rules and may order that member to be physically removed from the meeting.
- C. Quorum. Except as otherwise provided in this Charter, a quorum to do business shall consist in more than one-half of the number of members of the Council, including the Mayor; provided, however, that a lesser number may adjourn until a specific time and compel the attendance of absent members, in the manner prescribed by ordinance.
- D. Voting. No action of the Council, except as otherwise provided in this Charter, shall be valid or binding unless adopted by the affirmative vote of a majority of the members present and voting. Ordinances or resolutions that impose taxes, grant franchises or leases, or authorize conveyances shall not be valid unless adopted by a majority of the entire Council.
- E. Veto. Ordinances and resolutions finally adopted by the Council shall be filed in the office of the City Clerk and signed by the Mayor before they take effect. If the Mayor vetoes the ordinance or resolution, reasons shall be set forth by the Mayor in writing, and the ordinance or resolution with those reasons shall be returned to the Council. However, the Mayor shall not have any veto power over any City Council action which removes the City Manager or the City Attorney. To override the Mayor's veto, three fourths of all of the Representatives must vote in favor of the returned ordinance or resolution, in which event the adopted ordinance or resolution shall become law. If the Mayor shall either fail to approve or object in writing to any adopted ordinance or resolution within five days after it has been filed with the City Clerk, exclusive of the day of filing, it shall become law.

(Ord. No. 18401, Amds. Nos. 3, 4, 5, 8-11-2015, Election of 11-3-2015)

Round Rock

Sec. 3.11. - Rules of procedure.

The City Council shall, by ordinance, determine its own rules and order of business and the rules shall provide that citizens of the City shall have a reasonable opportunity to be heard at any meeting in regard to any matter under consideration.

(Charter amendment approved by voters January 20, 1996)

Sec. 3.12. - Voting.

The City Council shall provide for minutes being taken and recorded of all meetings, and such minutes shall be a public record. Except as required by state law, there shall be no requirement for the taking and recording of minutes of meetings held in executive or closed session in accordance with V.T.C.A., Government Code ch. 551. Voting, except on procedural motions, shall be by roll call and the ayes and nays shall be recorded in the minutes.

All members of the City Council present, including the Mayor, shall vote upon every resolution or ordinance, except where there is a conflict of interest, the reason for which shall be stated concisely in the records.

(Charter amendment approved by voters November 6, 1979; January 20, 1996)

Cedar Park

Section 3.11 Rules of Procedure

The Council shall, by resolution, determine, adopt and amend its own rules, procedures and order of business. The rules shall provide that citizens of the City shall have a reasonable opportunity to be heard at any meeting in regard to any matter under consideration.

(Amended May 12, 2012)

Section 3.12 Voting

The Council shall provide for minutes to be taken and recorded of all meetings, except those meetings held in executive session. Such minutes shall be a public record. The Council may determine its own rules for voting not inconsistent with State law. Any Councilmember may require a roll call vote before a vote is taken.

(Amended May 8, 2010)

New Braunfels

Sec. 3.09. City Council meetings and procedure.

- (a) *Meetings.* City Council meetings shall be held at the city hall, or at any other public place designated by the City Council, and the City Council shall meet regularly at least once in every month at such time as the City Council may prescribe by rule. Special meetings may be held on the call of the Mayor or four (4) members and, whenever practicable, upon not less than twelve (12) hours notice to each member; provided, however, that all meetings shall be open to the public except for closed and/or executive meetings and sessions as provided and authorized by the statutes of the State of Texas, as now or hereafter amended, and written public notice thereof of all meetings shall be given as required by the statutes of Texas, as now or hereafter amended.

- (b) *Minutes and rules.* The City Council shall determine its own rules and order of business and shall provide for keeping minutes of its proceedings. These minutes shall be a public record.
 - (c) *Voting.* Voting on final readings of ordinances shall be by roll call and the ayes and nays shall be recorded in the minutes. All other voting may be by voice without the need for a roll call. Five (5) members of the City Council shall constitute a quorum, but a smaller number may adjourn from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the City Council. No action of the City Council, except as otherwise provided in the preceding sentence and in Section 3.02, shall be valid or binding unless adopted by the affirmative vote of a majority of the entire City Council.
- (Amdt. 5, Ord. No. 71-19, § 1, 10-4-71, approved 11-9-71; Amdt. 5, Ord. No. 74-17, § 1, 5-28-74, approved 7-9-74; Amdt. 8, Ord. No. 2005-45, § 1, 5-7-05, approved 5-16-05)

Sugar Land

Sec. 2.09. - Council meetings.

- (a) The council shall hold two (2) regular meetings each month on the first and third Tuesdays of the month. If a designated Tuesday is a legal holiday, the city council may hold the meeting on another day. All meetings of the council shall be held at the city hall unless the council designates another place after giving due notice thereof. The mayor, any four (4) council members, or the city manager may call special meetings of the council.
- (b) The council shall determine its own procedures for council meetings and may compel the attendance of its members. Four (4) members of council shall constitute a quorum and an affirmative vote of at least four (4) members of council shall be necessary for the council to take any action related to public business, unless state law requires a supermajority of council to approve an item. Each member of council must vote on every matter that comes before the council, unless required to abstain from voting on a matter under the provisions of state law or the Rules of Ethical Conduct. The vote on all ordinances and resolutions shall be taken by the "ayes" and "nays" and entered upon the minutes, and every ordinance or resolution, upon its final passage, shall be recorded.
- (c) If, because of the death, incapacitation, disqualification, resignation or recall of members of council, there are an insufficient number of members of council for a quorum for two or more consecutive council meetings that are required to be held under the Charter, the remaining member or members are sufficient in number to act as a quorum until the next required council meeting is held at which four or more members of council are in attendance.

(Ord. No. 1178, § 1, 6-15-99; Ord. No. 1448, 5-25-04; Ord. No. 2219, § 1(Exh. A, §§ 4, 8), 12-15-2020)

Editor's note— Ord. No. 2219, § 1(Exh. A, § 4), adopted Dec. 15, 2020, renumbered the former § 2.09, which pertains legislation, as § 2.10.

Fort Worth

§ 5 MEETINGS OF COUNCIL AND COMMITTEES OPEN TO PUBLIC; QUORUM; REGULATIONS OF PROCEEDINGS; COUNCIL TO PROVIDE RULES OF PROCEDURE.

The City Council shall hold a meeting within the city limits of Fort Worth for the purpose of canvassing the election results. The elected members of the new Council may take the oath of office at the same City Council meeting where the election results are canvassed, but all elected members shall take the oath of office no later than the next City Council meeting after the results are canvassed. Special meetings may be called by the Mayor or by any three (3) Councilmembers.

Such call shall be in writing and shall state the object of the meeting, and no business shall be transacted at such meeting other than that specified in the call. The Council shall meet at such times and places as may be prescribed by ordinance or resolution but not less than forty-four (44) regular and special meetings shall be held each calendar year.

A quorum shall consist of two-thirds (2/3) of the members. All official meetings of the Council and all sessions of the Committees of the Council shall be public except as authorized by law. The ayes and nos shall be taken upon the passage of all ordinances or resolutions and entered upon the minutes of the proceedings of the Council, and every ordinance or resolution shall require on final passage the affirmative vote of a majority of all of the remaining members.

No member shall be excused from voting except on matters involving the consideration of his own official conduct, or where his financial interests are involved, or unless excused by the Council for other valid reasons by majority vote. The Council shall determine its own rules of procedure, and may punish its members for misconduct, and may compel the attendance of absent members.

(Ord. 16797, § 1(II), (V), 1-24-2006, approved 5-13-2006; Ord. 22081-02-2016, § 2(II), (V), 2-2-2016, approved 5-7-2016)

Editor's Note:

Proposition 2 of Ord. 22081-02-2016, adopted 5-7- 2016 increased the number of Councilmembers from nine (9) to eleven (11). This increase will not go into effect until after the 2020 census.

Richardson

Section 3.12. - Voting and rules of procedure.

The yes and no votes shall be taken on the passage of all ordinances or resolutions and entered in the minutes of the proceedings of the council, and every ordinance or resolution shall require for final passage the affirmative vote of a majority of the members of the council present. No member of the council shall be excused from voting except on matters involving the consideration of such member's own official conduct, or where such member's financial interests are involved, unless otherwise required by law. The council shall determine its own rules of procedure, may punish members of the council for misconduct, and may compel the attendance of absent members of the council.

(Ord. No. 4144, § 2(exh. A, 11-16-15)

Carrollton

Sec. 2.16. - Rules of procedure; minutes.

The council shall determine its own rules and order of business. It shall keep the minutes of its proceedings, and the minutes shall be open to public inspection. Minutes of all meetings of the council shall be promptly entered in the minute book of the council, and city secretary shall at the same time provide a permanent and adequate index showing the action of the council in regard to all matters submitted to it at both regular and special meetings.

(Adopted by electorate, 9-19-61; Am. Ord. 1361 passed 4-7-87)

Count of Question 6: Total on council	
Question 6: Total on council	Total
4	4
5	79
6	47
7	106
8	12
9	9
(blank)	

Count of Question 7: Number of members for regular meeting quorum	
Question 7: Number of members for regular meeting quorum	Total
3	89
4	128
5	31
6	2
3 + Mayor	1
3 not including Mayor	1
3 plus mayor	1
4 not including Mayor	2
5 (mayor does not count toward quorum)	1
(blank)	

Count of Question 8: Number of members for special meeting quorum	
Question 8: Number of members for special meeting quorum	Total
2	1
3	86
4	127
5	31
6	2
7	1
3 + Mayor	1
3 not including Mayor	1
3 plus mayor	1
4 not including Mayor	1
5 (mayor does not count toward quorum)	1
NA	1
(blank)	

Count of Question 9: Number of votes for council to take action on ordinary matters	
Question 9: Number of votes for council to take action on ordinary matters	Total
Majority of quorum	79
Majority of those present	131
Majority of total council	40
(blank)	

City of Georgetown, Texas
Charter Review Committee
May 4, 2021

SUBJECT:

Discussion of possible amendment of City Charter, Section 2.10. – Procedure to enact legislation – Skye Masson, City Attorney

ITEM SUMMARY:

FINANCIAL IMPACT:

SUBMITTED BY:

Mayra Cantu, Assistant to the City Manager

ATTACHMENTS:

Description		Type
<input type="checkbox"/>	Item D. Sec. 2.10	Backup Material
<input type="checkbox"/>	TML - Enacting Legislation	Backup Material

2021 Charter Review Committee Amendment Review Coversheet

Item. D.

Discussion of possible amendment of City Charter, Section 2.10. – Procedure to enact legislation
– Skye Masson, City Attorney

1. Current charter language

Sec. 2.10. - Procedure to enact legislation.

The Council shall legislate by ordinance, and the enacting clause of every ordinance shall be: "Be it ordained by the City Council of the City of Georgetown." The City Attorney shall approve all ordinances adopted by the Council, as to the legality thereof, or shall file with the City Secretary written legal objections thereto. Evidence of approval of an ordinance by the City Attorney may be by notation on the ordinance itself, or by separate paper or instrument. Every ordinance enacted by the Council shall be signed by the Mayor, Mayor Pro Tem, or by two (2) Councilmembers and shall be filed with and recorded by the City Secretary. **All ordinances shall be read in open meeting of the Council at two (2) open meetings of the Council on two (2) separate days; the second such reading shall occur not less than ten (10) days following the first such reading; provided, that the secondary reading required herein shall be sufficient if read by descriptive caption only. The actual reading of the ordinance on first reading may be handled by the reading of the caption if the following provisions of the Charter have preceded the first reading.**

1. The caption of the proposed ordinance has been published in a newspaper of general circulation within the City for a minimum of seventy-two (72) hours prior to the meeting; and

2. The proposed ordinance is filed with the City Secretary at least seven (7) days prior to the meeting.

The City Council may require a full reading of the proposed ordinance prior to adoption by a vote of the majority of the Councilmembers present at the meeting. All ordinances, unless otherwise provided by law or by the terms of such ordinance, shall take effect immediately upon final passage thereof. **The requirements for reading ordinances on two separate days may be dispensed with where an ordinance relating to the immediate preservation of the public peace, health, safety or welfare is adopted by the favorable vote of not less than a majority, plus one, of all the Councilmembers qualified and serving, and contains a statement of the nature of the emergency.**

2. Summary of issues for discussion

Council has asked for Committee input on the issues outlined below. As additional background for the Committee, the Charter does require the publication of ordinance captions after passage of any ordinance that imposes a penalty, fine or forfeiture for violation of its provisions.

- a. Should there be two readings of all ordinances?
- b. If so, does the caption need to be read for both readings of this ordinance?
 ***Current requirement keeps all second reading of ordinances on the legislative agenda
 Options to consider:
 - i. No requirement of reading of caption for second readings.
 - ii. Only require reading of caption of ordinance did not receive unanimous support at first reading.
- c. Should the publication and filing of ordinance with City Secretary requirements remain?
 ***Currently publication schedule means that all ordinance captions are sent to the Sun for publication the Wednesday prior to the next Tuesday meeting (must be at least 72 hours prior to meeting). At times due to missing a publication deadline with the newspaper entire ordinances have to be read at City Council Meetings.
 Options to consider:
 - i. Removal of any publication or filing requirement
 - ii. Modification of requirement to provide for other notice—website, etc.
- d. Should the emergency ordinance language be adjust to waive publication and filing requirements?
 ***During the recent emergencies it came to our attention that while the requirement for two reading is waived for emergency ordinance the publication and filing requirements are not. As a result, any proposed ordinance would have to be read in its entirety at a council meeting. In the case of an emergency budget amendment for example, reading an entire ordinance would be a lengthy process and time-consuming process.

3. Excerpts from benchmark cities with sample language to the extent they have it (bold relevant language)

El Paso

Section 3.9 - ORDINANCES IN GENERAL.

- A. Form and Introduction. Ordinances and resolutions shall be introduced at Council meetings only in written form; but amendments to ordinances and resolutions may be made orally at the same meetings. No ordinance shall concern more than one subject, and that shall be expressed clearly in the title. The enacting clause of all ordinances shall read: "Be it ordained by the City Council of the City of El Paso." Any ordinance which repeals or amends an existing ordinance or other part of the City Code shall summarize the ordinance, sections or subsections to be repealed or amended.
- B. Legislative Procedure. Except as provided in Section 3.13, an ordinance may be introduced by any Council member at any meeting of the Council. **A proposed ordinance must be filed with the City Clerk in sufficient time for inclusion on the agenda for the Council meeting at which it is to be introduced.** Upon such filing the City Clerk shall distribute copies to each member of the Council and to the City Manager. A reasonable number of copies shall be available in the office of the City Clerk, and at such other public places as the Council may designate, for examination by interested persons.

No ordinance shall be adopted finally except at a regular open meeting of the Council following notice, publication, and a public hearing. **The notice shall contain:**

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

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

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

[Section 3.10 - EMERGENCY ORDINANCES.](#)

- A. Limitation. To meet a public emergency affecting life, health, property, or the public peace, the Council may adopt one or more emergency ordinances, but such ordinances may not levy taxes, grant, renew or extend a franchise, authorize a conveyance of real property, or authorize the borrowing of money.
- B. Procedures. An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, **except that it may be introduced on two hours' public notice**, and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing the emergency in clear and specific terms. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced, but the unanimous vote of the Representatives present, and the consent of the Mayor, shall be required for adoption.
- C. Adoption, Re-enactment, Repeal. After its adoption the ordinance shall be published and printed as prescribed for other adopted ordinances. It shall become effective upon adoption or at such later time as the ordinance may specify. Every emergency ordinance shall stand repealed automatically as of the 31st day following the date on which it was adopted, but this shall not prevent the re-enactment of the ordinance, in the manner specified in this section, if the emergency still exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance, in the same manner specified in this section for adoption of emergency ordinances.

Round Rock

[Sec. 3.13. - Ordinances in general.](#)

Ordinances and resolutions shall be introduced in the City Council only in written or printed form. Ordinances making appropriations shall be confined to the subject of appropriations.

Any ordinance which levies a fine or penalty and those dealing with budget and/or tax, franchises, public utilities or the setting of their rates, shall be read at two regular meetings before the same shall become effective.

All other ordinances shall not be finally passed until they have been read on two separate days not less than twelve (12) hours apart; provided however if an ordinance has been introduced at a regular meeting of the City Council, the requirements for reading on two separate days may be dispensed with by an affirmative vote of all the City Council members present.

Any ordinance introduced pursuant to Section 9.01(e)(2) may be adopted and finally passed at the meeting at which it is introduced.

The final reading of each ordinance shall be read in full unless a written or printed copy thereof shall have been furnished to each member of the City Council prior to such meeting. The enacting clause of all ordinances shall be: "Be it ordained by the City Council of the City of Round Rock, Texas."

Sec. 3.14. - Emergency ordinances.

To meet a public emergency affecting life, property, or the public peace, the City Council may adopt emergency ordinances. Such ordinances shall not levy taxes, grant or renew or extend a franchise, or regulate the rate charged by any public utility for its services. Neither shall they authorize the borrowing of money, except as provided in Article 8, Section 8.05. An emergency ordinance shall be introduced in the form and manner generally prescribed for ordinances, except that it shall be plainly designated in the title as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms. Such emergency clause shall require the affirmative vote of five members of the City Council. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced. The affirmative vote of five members of the City Council shall be required for adoption. After adoption, the ordinance shall be published as required for other adopted ordinances and shall become effective in the same manner. Every emergency ordinance so adopted, except one authorizing the borrowing of money as described herein, shall automatically stand repealed as of the sixty-first day following the day on which it became effective, but this shall not prevent re-enactment of the ordinance.

Cedar Park

Section 3.13 Ordinances in General

No ordinances except emergency ordinances shall be finally passed until they have been read on two (2) separate days not less than 72 hours apart. The final reading of each ordinance shall be in full unless a written or printed copy thereof shall have been furnished to each member of the Council prior to such meeting

The enacting clause of all ordinances shall be:

"Be it ordained by the City Council of the City of Cedar Park, Texas."

All ordinances which levy a fine or penalty and those which deal with the budget, taxes, franchises, public utilities or the setting of their rates shall be read at two (2) regular meetings followed by publication in full or by caption in at least one (1) issue of the official newspaper of the City before the same shall become effective.

Section 3.14 Emergency Ordinances

To meet a public emergency affecting life, property, or the public peace, the Council may adopt emergency ordinances. Such ordinances shall not levy taxes, grant or renew or extend a franchise, or regulate the rate charged by any public utility for its services. The Council shall not authorize the borrowing of money, except as provided in Article VIII, Section 8.06. An emergency ordinance shall be introduced in the form and manner generally prescribed for ordinances, except that it shall

be plainly designated in the title as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms. Such emergency clause shall require the affirmative vote of four (4) members of the Council. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced. The affirmative vote of four (4) members of the Council shall be required for adoption. After adoption, the ordinance shall be published as required for other adopted ordinances and shall become effective in the same manner. Every emergency ordinance so adopted, except one authorizing the borrowing of money as described herein, shall automatically stand repealed as of the sixty-first (61st) day following the day on which it became effective, but this shall not prevent re-enactment of the ordinance.

New Braunfels

Sec. 3.10. - Ordinances in general.

The City Council shall legislate by ordinance only, and the enacting clause of every ordinance shall be, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, before any ordinance shall be adopted.

Each proposed ordinance or resolution shall be introduced in written or printed form and shall not contain more than one subject, but general appropriation ordinances may contain various subjects and accounts for which monies are to be appropriated. **All ordinances shall be read in open meeting of the City Council on two (2) separate days provided that all readings of any ordinance may be by descriptive caption** only except that one (1) member of the council may require a complete reading of any ordinance upon first reading thereof. **Any ordinance necessary to protect the public's peace, health, safety and general welfare, may be passed as an emergency and become effective at once upon one (1) reading of the City Council, upon the approval of a majority vote of the City Council members at said reading.**

The City Attorney shall approve each ordinance in writing or shall file with the City Secretary his written legal objections thereto. Every ordinance enacted by the City Council shall be signed by the Mayor, Mayor Pro Tem, or by two (2) council members, and shall be filed with and recorded by the City Secretary before the same shall become effective.

Except as otherwise provided by law or this Charter, the City Secretary shall give notice of the enactment of every penal ordinance and of every other ordinance required by law or this Charter to be published, by causing the descriptive title or caption of the same to be published at least one time within ten (10) days after final passage thereof in some newspaper of general circulation in the City. The City Secretary shall note on every ordinance and on the record thereof, the dates and medium of its publication, and such notation shall be prima facie evidence of compliance with the requirements of this section.

Sugar Land

Sec. 2.10. - Legislation.

- (a) An ordinance shall not be adopted until it has been considered and favorably acted on by the council at two (2) separate council meetings. However, ordinances relating**

to the following matters may be adopted by the council after consideration at only one meeting:

- (1) The adoption or amendment of a budget or the assessment or levy of taxes;
 - (2) The calling of an election or the canvassing of the returns and declaring the results of an election;
 - (3) The issuance or sale of bonds; certificates of obligations, or other debt instruments; and
 - (4) Where the city council, by the affirmative vote of five (5) or more members, adopts an ordinance declaring that an emergency exists because there is an immediate need to preserve and protect the peace, health, safety, or welfare of the community.
- (b) The caption of a proposed ordinance shall be read once in full at a council meeting prior to its adoption by the council.
- (c) Notice of the enactment of every ordinance imposing any penalty shall be given by publishing the ordinance or its descriptive caption and penalty in the city's official newspaper one (1) time within thirty (30) days of passage. The failure to comply with this section shall not affect the validity of the ordinance adopted.

Fort Worth

§ 2 ORDINANCES-PASSAGE AND PUBLICATION; PROCEDURE; DIGEST AND REVISION; FRANCHISES AND EASEMENTS; PUBLICATION OF.

It shall not be necessary to the validity of any ordinance that it be read more than one (1) time or considered at more than one (1) session of the Council; but this provision shall not apply to the appropriation and budget ordinance, which shall be controlled by the provisions relative thereto in other portions of this Charter. Every ordinance imposing a fine, penalty or forfeiture for the violation of its provisions shall, after the passage thereof, be published twice in the official newspaper of the City or in lieu thereof a descriptive caption or title stating in summary the purpose of the ordinance and the penalty for violation thereof may be published twice in the official newspaper of the City, before such ordinance shall take effect. All ordinances granting or confirming a franchise or easement over, across or upon the streets, highways or public places of the City, shall be accepted in writing by the grantees, and before taking effect a summary shall be published once a week for four (4) consecutive weeks within a period of thirty (30) days after its passage in the official newspaper of the City. But the time for publication of any ordinance of the City may be extended beyond the period herein provided by express provision to that effect, in which event such ordinance shall not take effect until after the time therein expressly prescribed. Ordinances not requiring publication shall take effect from and after their passage, unless otherwise therein expressly provided. No publication of any ordinance shall be required excepting those imposing a fine, penalty or forfeiture, or those granting a public easement or franchise, or the general appropriation ordinance, as provided for in the Chapter of this Charter dealing with the appropriation ordinance.

Revised or digested ordinances published in pamphlet form by authority of the City Council shall not be required to be published in any newspaper, and the publication in pamphlet form of such ordinance shall be held and taken as sufficient publication, notwithstanding such ordinance may impose a fine, penalty or forfeiture, or should contain a grant of easement or public franchise.

(Ord. 16797, § 1(XV), 1-24-2006, approved 5-13-2006)

Carrollton

Sec. 2.17. - Ordinances.

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 penalty or providing for expenditure of funds or for contracting of indebtedness, shall be by ordinance. The enacting clause of all ordinances shall be "Be it ordained by the council of the City of Carrollton."

Sec. 2.18. - Publication of ordinances.

A full text of all penal ordinances shall be published at least once in the official newspaper of the city, or in lieu thereof a descriptive caption or title stating in summary the purpose of the ordinance and penalty for violation thereof shall be published. All other ordinances, except those ordinances specifically required by the provisions of this Charter to be published, are not required to be published in either the official newspaper of the city or in any other publication. All ordinances shall become effective as of the date stated therein, and in the event no particular date is stated said ordinances shall become effective from and after passage and adoption by the council.

Richardson

ARTICLE 13. ORDINANCES

Section 13.01. Rules and regulations validated.

All ordinances, resolutions, rules and regulations of the City of Richardson heretofore ordained, passed or enacted that are in force at the time this charter or any amendment thereto becomes effective, and which are not in conflict with such charter, shall remain in full force and effect until altered, amended or repealed by the city council after such charter or any amendment thereto takes effect.

Section 13.02. Action requiring an ordinance.

Acts of the city council shall be by adoption of an ordinance when state law or other provisions of this charter require such acts to be approved by ordinance.

Section 13.03. Ordinance authentication, recordation and publication.

All measures of the city council shall be authenticated and recorded as established by this charter or by such means as may otherwise be allowed by state law, or as the city council may provide by ordinance from time to time. Every ordinance imposing any penalty, fine, imprisonment or forfeiture for a violation of its provisions shall, after passage thereof, be published by publishing the caption thereof at least once in a local newspaper or by such other means as may be allowed by state law.

Section 13.04. Style.

The style of ordinances shall be "Be It Ordained by the City Council of the City of Richardson," but such caption may be omitted when said ordinances are published in book form or are revised and digested under the order of the council.

Section 13.05. Codification.

The city council shall have power to cause the ordinances of the city to be printed in code form, and shall have the same arranged and digested as often as the council may deem advisable.

Section 13.06. Valid and effective.

The final passage of an ordinance by the city council and the publication of the same when so required shall be all that is necessary to make such ordinances valid and effective. The signature of the mayor and city secretary shall be affixed to each ordinance.

Section 13.07. Enrollment.

Each ordinance passed by the city council shall be enrolled by the city secretary within five (5) days after its passage, or as soon thereafter as is practicable.

The city council as a legislative body

The majority of cities, 52 percent, allow for action with only a “majority of those present.” For a seven-member council with a five-member quorum, that could be as few as three persons. Some charter observers insist it should take a majority of the total council to bind the city to an action. Others have no problem with three persons, using the example of a seven-member council, taking action on the part of the city.

Agenda – Very few charters address agenda preparation for council meetings. In council-manager cities, it is generally considered the responsibility of the manager, who honors requests for items from the mayor and council. Similarly, in a mayor-council city, the agenda subjects are usually considered to be those first listed by the mayor.

The City of Webster council-manager charter has a simple and common paragraph on the council agenda. It states:

Agenda - Items may be placed on the agenda by the mayor or by consensus of three councilmembers prior to the next agenda to be posted.

Citizens to be heard – A minority of charters have specific provisions for hearing from citizens during council meetings. Such time is provided by most cities, however; although neither stated nor guided by the charter. Typically, a city council will adopt rules regarding citizens to be heard. There are many issues to consider when developing this policy including whether a citizen will be required to sign-in prior to the meeting and indicate which topic they would like to speak about, when the citizen may speak, the length of time he may speak, etc. There are many more issues that councilmembers should review in developing the city’s policy and should consult with the city attorney to assure proper procedures are adopted.

Rules of procedure generally – Charters usually do not contain detailed council procedures. They are considered subject to change from council to council and thus are most likely found in a handbook of procedures adopted by resolution of the council.

Consideration and passage of ordinances

Action by the city council on important policy or contractual issues is generally accomplished by ordinances or resolution. Some Texas city charters spell out in great detail the various requirements and procedures for adoption of ordinances; others have brief paragraphs referring to applicable state laws. Few charters address the purpose of resolutions or the procedures for adoption. It is important to understand

the distinction between ordinances and resolutions. The distinction is in subject matter, not terminology. An *ordinance* is more formal and authoritative than a resolution; it is a local law that usually regulates persons or property and usually relates to a matter of general and permanent nature. On the other hand, a *resolution* authorizes action on an accompanying document; for example, it is used to authorize the mayor or city manager to sign a contract for supplies or building construction. There are certain state statutes that prescribe subjects which must be enacted by ordinance.

The NCL model city charter has five sections within the article on the city council that discuss the passage and recording of ordinances. They are:

- action requiring an ordinance;
- ordinances in general (discusses form and procedures);
- emergency ordinances;
- codes of technical regulations; and
- authentication and recording, codification, and printing of ordinances.

Many Texas charters contain section titles similar to the model charter.

Action requiring an ordinance

In addition to actions required by state law to be enacted by ordinance, many Texas charters require any basic changes in the administrative structure of the city, regulation of land use or development, and all matters relating to franchises to be enacted by ordinance. As in most matters regarding formal action by the council, the city attorney should be utilized by the council to guide the appropriate action.

Form of the ordinance

State law does not prescribe the form of an ordinance, except to require an ordaining clause (Section 52.002 Local Government Code) and authorization for publication of either the complete text or the caption of every ordinance that establishes penalties for violations (Section 52.013 Local Government Code). A form has evolved through the years and is now used by most cities. This and other information regarding ordinances is in the Handbook for Mayors and Councilmembers, a publication of the Texas Municipal League.

Some charters have gone beyond state law in their requirement for publication, multiple readings, and other procedures designed to assure adequate notice to the citizens of key matters covered by ordinances.

Emergency ordinances

A number of Texas charters contain procedures for the enactment of emergency ordinances. Such charters frequently follow the language in the NCL model charter; although in some instances, that wording is shortened.

Figure 10-2: Emergency ordinances

To meet a public emergency affecting life, health, property, or the public peace, the city council may adopt one or more emergency ordinances, but such ordinances may not levy taxes, grant, renew or extend a franchise, regulate the rate charged by any public utility for its services or authorize the borrowing of money except as provided in 5.07(b)*. An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced, but the affirmative vote of at least ____ members shall be required for adoption. After its adoption, the ordinance shall be published and printed as prescribed for other adopted ordinances. It shall become effective upon adoption or at such later time as it may specify. Every emergency ordinance except one made pursuant to 5.07(b)* shall automatically stand repealed as of the 61st day following the date on which it was adopted, but this shall not prevent reenactment of the ordinance in the manner specified in this section if the emergency still exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.

*Section 5.07(b) is a section in the model dealing with emergency appropriation of money. Texas state law does not address the passage of emergency ordinances.

If the charter drafters in a particular city determine that one reading of an ordinance should be sufficient to enact it into law, then no provision for an emergency ordinance is necessary.

Codes of technical regulations

A number of charters establish procedures to absolve the city from having to reprint, as part of an ordinance,

the voluminous technical regulations issued by recognized national or international professional organizations and instead adopt the codes by reference. Commentary from the National Civic League on home rule charters notes that codes, such as building and sanitary codes, are often detailed and lengthy, and that the NCL charter provision allows a city to simply adopt the code by reference in an ordinance. The NCL, as well as numerous cities across the country, recognize this charter provision minimizes burden and expense while at the same time preserves the essential safeguards required for adopting an ordinance. The San Juan charter contains a typical provision in this regard:

SECTION 2.14 CODES OF TECHNICAL REGULATIONS:

The City Commission may adopt any standard code of technical regulations by reference thereto in an adopting ordinance and as provided elsewhere by this charter. The procedure and requirements governing such an ordinance shall be as prescribed for ordinances generally except that:

- (1) The requirements of governing law for distribution and filing of copies of the ordinance shall be construed to include copies of the code of technical regulations as well as of the adopting ordinance, and
- (2) a copy of each adopted code of technical regulations as well as of the adopting ordinance shall be authenticated and recorded by the city secretary pursuant to subsection 2.15 (A).

Copies of any adopted code of technical regulations shall be made available by the city secretary for distribution or for purchase at a reasonable price.

Authentication and recording, codification, and printing of ordinances

Charters generally instruct the city secretary to authenticate a properly enacted ordinance by signing and recording such ordinance in full in a properly indexed book reserved for this purpose. Many charters call for the mayor to sign all ordinances, but most also have a clause prohibiting invalidation for lack of a signature.

Chapter 53 of the Local Government Code authorizes codification of a city's ordinances, including the statement in Section 53.005 that a municipal code of ordinances has the force and effect of an ordinance regularly adopted in accordance with law.

Summary statement regarding ordinances

Because of the wide variation in charter provisions regulating adoption of ordinances, this publication makes no attempt to conduct a physical count of each specific section in each charter. The use of the descriptive words “many charters” or “some charters” is admittedly very general but is an attempt to give some estimate of the occurrences of specific requirements found in Texas charters.

The complex nature of ordinances necessitates a very brief treatment here. Councilmembers and charter commission appointees can gain a deeper understanding and knowledge from the Handbook for Mayors and Councilmembers and from their city attorney.

Prohibitions

This succinct heading, a common one in Texas charters, lists actions that the city council cannot take. Subsections B and C, quoted here from the Missouri City charter, are recognized as essential charter provisions to undergird a sound council-manager relationship. Councils are required in these subsections to deal with department heads and other employees solely through the city manager, except for information inquiries. If a councilmember is not satisfied with the manager’s response to an expressed concern about an employee, the next step is another conference with the manager, not contact with the employee behind the manager’s back. The Missouri City charter section on “Prohibitions” is specific and typical of other such charter statements.

Figure 10-3: Prohibitions

- A. *Holding Other Office:* Except where authorized by law, no Mayor or Councilmember shall hold any other City office or City employment during his term as Mayor or Councilmember, and no former Mayor or Councilmember shall hold any compensated appointive City office or City employment until the passage of one (1) year after the expiration of his term as Mayor or Councilmember.
- B. *Appointments and Removals:* Neither the Council nor any of its members shall in any manner dictate the appointment or removal of any City administrative officer or employee whom the City Manager or any of his subordinates are empowered to appoint, but the Council may express its views and fully and freely discuss with the City Manager anything pertaining to any such officer or employee.

- C. *Interference with Administration:* Except for the purpose of inquiries and investigations under Section 3.17, the Council or its members shall deal with City officers and employees who are subject to the direction and supervision of the City Manager solely through the City Manager, and neither the Mayor nor a Councilmember may give orders publicly or privately to any such officer or employee.

The prohibition language quoted above is from a council-manager charter. Some mayor-council charters contain these same prohibitions against council interference with the mayoral appointments of department heads, but the section is not found nearly as frequently in mayor-council charters as in council-manager charters.

A few cities place language regarding political activities, acceptance of gifts, and other prohibitions in this section of the city council article, but most charters utilize the “General Provisions” article at the end of the charter to cover these and other miscellaneous topics (See Chapter 17).

Investigations

A section on council investigations is found in virtually every charter regardless of form of government. This provision is not in conflict with the previous prohibitions, but is designed to give the council authority to make investigations into city operations when such action is necessary. This section is—and should be—used very sparingly. When it is necessary to invoke this section, it generally means there is something amiss in city operations. The Rosenberg charter contains a rather typical paragraph on this power:

Sec. 3.13. Investigation by the city council.

The city council shall have power to inquire into the conduct of any office, department, agency, officer, or employee of the city and 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.

Annual audit

Under Sections 103.001-103.004 of the Local Government Code, every city is required to have an annual audit of its financial records and accounts. The audit can be performed either by a certified public accountant or a quali-

City of Georgetown, Texas
Charter Review Committee
May 4, 2021

SUBJECT:

Discussion of possible amendment of City Charter, Section 8.03. - Franchise; power of the City Council
– Skye Masson, City Attorney


ITEM SUMMARY:

FINANCIAL IMPACT:

SUBMITTED BY:

Mayra Cantu, Assistant to the City Manager

ATTACHMENTS:

Description		Type
	Item E. Sec. 8.03	Exhibit
	TML - Franchises	Backup Material

2021 Charter Review Committee Amendment Review Coversheet

Item E.

Discussion of possible amendment of City Charter, Section 8.03. - Franchise; power of the City Council – Skye Masson, City Attorney

1. Current charter language

Sec. 8.03. - Franchise; power of the City Council.

The City Council shall have the power by ordinance to grant, amend, renew and extend, all franchises of all public utilities of every character operating within the City of Georgetown. All ordinances granting, amending, renewing, or extending franchises for public utilities shall be read at two (2) separate regular meetings of the City Council, and shall not be finally passed until thirty (30) days after the first reading; and no such ordinance shall take effect until thirty (30) days after its final passage; and pending such time, the full text of such ordinances shall be published once each week for four (4) consecutive weeks in a newspaper of general circulation published in the City of Georgetown, and the expense of such publication shall be borne by the proponent of the franchise. No public utility franchise shall be granted for a term of more than twenty (20) years; no public utility franchise shall be transferable except with the approval of the City Council expressed by ordinance.

2. Issue for review:

The current language requires publication in the newspaper of the full text of any franchise agreement for four weeks to be paid by the franchisee. This results in costs in excess of three to four thousand dollars. Staff suggested a review by the Committee to determine if this requirement is still necessary.

3. Excerpts from benchmark cities with sample language to the extent they have it (bold relevant language)

El Paso

Section 3.18 - LEASE; FRANCHISE; AND CONVEYANCE.

The right of control, ownership and use of streets, alleys, parks and public places of the City is declared to be inalienable except as provided by ordinance passed by the Council and except for uses of less than thirty days which may have a separate approval process as established by ordinance.

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

1. At the termination of the lease or franchise, the property involved, together with any improvements thereto, made or erected during the term of the lease or franchise, shall (either

without further compensation or upon payment of a fair valuation therefore as determined by the terms of the ordinance), become the property of the City; and 2. Every lease or franchise may be revoked by the City if necessary to secure efficiency of public service at a reasonable rate, or to assure that the property is maintained in good order throughout the life of the grant.

Round Rock

Sec. 11.02. - Franchise; power of City Council.

The City Council shall have power to grant, amend, renew or extend by ordinance all franchises of all public utilities of every character including any person, business or corporation providing cable television or community antenna television service, operating within the City, and for such purposes is granted full power. No public utility franchise shall be transferable except to persons, firms or corporations taking all or substantially all of the holder's business in the City and except with the approval of the City Council expressed by ordinance. No franchise shall be granted for an indeterminate term. No exclusive franchise shall ever be granted.

(Charter amendment approved by voters January 20, 1996)

Cedar Park

Section 10.02 Power to Grant Franchises

The Council shall have the power by ordinance to grant, renew and extend franchises of public utilities operating in the City. With consent of the franchise holder, the Council may by ordinance amend franchises of public utilities, but no franchise may be granted for an indefinite term and no franchise may be granted for a term of more than twenty (20) years.

New Braunfels

Sec. 11.02. - Franchise, power of council.

The City Council shall have power by ordinance to grant, amend, renew and extend, all franchise of all public utilities of every character operating within the City of New Braunfels. All ordinances granting, amending, renewing, or extending franchises for public utilities shall be read at two (2) separate regular meetings of the City Council, and shall not be finally passed until thirty (30) days after the first reading; and no such ordinance shall take effect until thirty (30) days after its final passage; and pending such time, the full text of such ordinance shall be published once each week for four (4) consecutive weeks in a newspaper in the City of New Braunfels, and the expense of such publication shall be borne [borne] by the proponent of the franchise. No public utility franchise shall be granted for a term of more than twenty (20) years nor be transferable except with the approval of the City Council expressed by ordinance.

Sugar Land

Sec. 1.03. - General Powers.

The City shall have all powers possible for a home-rule city to have under the Texas Constitution, the laws of the State of Texas, and this Charter, as fully and completely as though they were specifically enumerated in this Charter, including the power:

(a) To annex an area for full or limited purposes as provided in this Charter and to disannex land. (b) To borrow money on the faith and credit of the City by the issuance and sale of bonds, notes, or other debt instruments; (c) To enact ordinances for the safety, health, and general welfare of the citizens; (d) To assess the owners of real property abutting upon a public highway or street

for street improvements made thereon, in accordance with State law;(e)To the full extent allowed by law, to require that any person, utility, or company making use of the city's streets or property to provide any service to the public first obtain the written consent of the city by license, permit, franchise, ordinance or otherwise. A franchise shall not be valid for more than fifty (50) years; and(f)To the full extent allowed by law, to regulate the rates, charges, fees, operations, and services of any person, utility, or entity providing water, wastewater, electricity, natural gas, telephone, telecommunications, cable television, taxicab, bus, solid waste, transportation, or similar service to the public within the city.

(Ord. No. 1178, § 1, 6-15-99; Ord. No. 1190, § 1, 8-3-99; Ord. No. 1448, 5-25-04)

Fort Worth

§ 1 POWER OF CITY COUNCIL TO FIX AND REGULATE THE RATES, TOLLS AND CHARGES OF ALL PUBLIC UTILITIES IN THE CITY.

The City Council shall have the power by ordinance to fix and regulate the price of water, gas, electric lights, electric power and steam heat, and to regulate and fix the fares, tolls and charges of local telephone service and charges of street railways and of all public buses, carriages, hacks and vehicles of every kind, whether transporting passengers, freight or baggage, and generally to fix and regulate the rates, tolls and charges of all public utilities of every kind operating within the corporate limits of the City of Fort Worth.

Richardson

Section 12.03. - Power to grant a franchise.

Except as otherwise provided by state or federal law, the City of Richardson shall have the full power as now or hereafter granted under the Constitution and laws of the State of Texas by ordinance to grant, renew, amend and extend a franchise for public or private utilities of every character and consents and agreements as to all other users of public property, including, but not limited to users of the public rights-of-way, streets and utility easements, operating within the city.

(Ord. No. 4144, § 2(exh. A, 11-16-15)

Carrollton

Sec. 8.01. - Powers of the city.

In addition to the city's power to buy, own, construct, maintain, and operate utilities, within or without the city limits, and to manufacture and distribute electricity, gas or anything else that may be needed or used by the public, the city shall have further powers as may now or hereafter be granted under the Constitution and laws of the State of Texas. As the trustee of the public properties within the city, the city shall have full power to manage the use and occupancy of public properties and to require the payment to the city of just and reasonable compensation for the use or occupancy of public property, including rights-of-way, by all persons, including public utilities and other providers of utility services. "Persons" as used in this Article VIII shall include governmental entities. "Utility services" and "public utility" as used in this Article VIII shall include providers of all electric, gas, water, wastewater, telecommunications, cable television, video programming and information services.

(Adopted by electorate, 9-19-61; Am. Ord. 2364 passed 8-11-98; Am. Ord. 2627 passed 8-14-01)

Regulation of utilities is the subject of a separate article in almost every charter in the state. Texas court cases indicate that a city's authority to require a franchise from a public utility operating inside municipal boundaries is derived from the statute that grants the city exclusive control of the public streets. In the case of a home rule city, such power is derived from Article 1175, Vernon's Annotated Civil Statutes. All three of the regulatory acts discussed below preserve the authority of a city to require franchise from public utilities. It should be remembered, however, that the right to operate a business in the nature of a public utility cannot be prohibited by a city; the city has only the power to regulate the use of its streets and alleys in the operation of such a business.

The overall regulation of utilities, formerly the responsibility solely of the city, has changed in the past 30 years. Three different state agencies are involved now in utility regulation—the Public Utility Commission (PUC) for electricity and telephone, the Railroad Commission (RRC) for gas utilities, and the Texas Commission on Environmental Quality (TCEQ) for water and sewer utilities. This chapter reviews the general regulatory environment for utilities and then examines some appropriate charter language.

Early history of utilities in Texas

The cities' relationship with utility services is referred to several times in Dick Smith's dissertation, "The Development of Local Government Units in Texas." Smith points out that as far back as the days of the Republic, cities were beginning to levy license fees on businesses of various types. Houston's special legislative charter issued by the Republic authorized "lighting of the streets" as one of its powers of the city. In the 1870s, cities were authorized to regulate railroads coming through town, including their speed and the construction and lighting of crossings. Cities originally built small lighting plants to light the city; these were steadily bought by private operators who then dominated the marketplace from the 1800s to the present time.

Franchises and rate regulation prior to 1975

From the beginning of regulation, cities were authorized to require companies to obtain permission to use the public streets and right-of-way to conduct their businesses. Although exclusive franchises could not be granted, one electric and one gas company (public or private) was usually the sole source of supply in any given city. With this privilege, the companies then agreed to regulation of rates, annual payments of "street rental" charges, submission of annual reports

to the city, and other regulatory restrictions. Lengthy provisions were placed in most early charters addressing every aspect of these arrangements between the city and companies concerned.

In rate regulation, cities were considered generally to be in a better position prior to state law changes made in the 1970's and 1980's. Before passage of the Public Utility Regulatory Act (PURA) in 1975, the Gas Utility Regulatory Act (GURA) in 1983, and amendments to the Texas Water Code (1989), companies had to go to district court if they were displeased with a decision of the city council on rate requests. Under the new legislation, appeals are directed to the Public Utility Commission (PUC), to the Railroad Commission (RRC), or to the Texas Commission on Environmental Quality (TCEQ).

Public Utility Regulatory Act (PURA) of 1975

The first comprehensive state regulatory act, the Public Utility Regulatory Act (PURA), was passed in 1975. Article IV of PURA is devoted entirely to cities. The first statement emphasizes that no provision of PURA shall be construed as limiting the right of a city to grant or refuse franchises to use the streets and alleys within the city limits and to make charges for such use.

Secondly, PURA continues the right of a city to engage rate consultants and other professionals to assist the city council in ratemaking proceedings. It also provides that the utility shall be required to reimburse the city for reasonable costs incurred for consulting any experts.

Appeals from the ratemaking decision may be taken to the PUC (not district court) and may come from the company, the city council, or citizens if the latter can secure a petition.

In actual practice, there is not much difference between the actions of most cities that have retained original jurisdiction and those that have ceded it to the PUC. In both cases, cities are joining with other cities in the same geographical area of the state, and sometimes statewide, to employ expert counsel to oppose rate and/or service requests that they feel are not in the best interests of their ratepayers in the city. This challenge to rate increases is now being mounted by cities before the PUC in virtually every case, instead of trying to defeat the utility in hearings at city hall.

Gas Utility Regulatory Act (GURA)

In 1983, the Texas Legislature enacted the Gas Utility Regulatory Act. GURA was enacted "to protect the public interest in the rates and services of gas utilities." Article III of that act is entitled "Municipalities" and sets out the rights

and responsibilities of cities in their relationship with gas companies serving their communities.

GURA begins, as does PURA, with the statement that the act does not limit the rights and powers of cities to grant or refuse franchises to use the streets and alleys within its city limits. The act then declares that cities may require gas companies to furnish all necessary data in order for the city council to make a reasonable determination of rate base within the city. Further, the city may employ rate consultants, attorneys, auditors, and others necessary to conduct investigations and advise the governing body in its consideration of any matter brought before the council by the gas company, and the company shall pay any reasonable costs of these services.

Finally, the appeal procedure is like that under PURA. The appeal to the Railroad Commission may be made by the city, the gas company, or the citizenry upon the presentation of a petition.

Other utility operations

Telephone

All telecommunication regulation is now under the PUC. Cities no longer have the right to regulate these rates, but are entitled to right-of-way compensation under Chapter 283 of the Local Government Code.

Cable television

In the past, regulation of cable TV and video providers has moved back and forth between Washington and individual cities; the PUC never had any authority in this arena. Cable and video operations are now under Federal Communications Commission (FCC) regulation, with the PUC granting the authority to provide service in the state. As with telephones, cities are entitled to right-of-way compensation under Chapter 66 of the Utilities Code.

Taxicabs/limousines

These companies are subject to local regulation by the city council.

Municipal utilities

Electric

The PUC has no control over rates charged customers inside city limits by municipally owned electric utilities. Article IV of PURA states that ratepayers of a municipally owned electric utility outside the city limits may appeal any action of the governing body affecting the rates of the municipally owned electric utility by filing with the PUC a petition for review signed by the lesser of 10,000 or five percent of the ratepayers served by such utility outside the municipal limits.

The remainder of Article IV sets forth the procedures to be followed by the ratepayers and the city in the appeal of such rates.

Gas

GURA has a provision almost identical to PURA in regard to ratepayers of a municipally owned gas utility outside the city limits.

Water and wastewater

The Water Code has, in Section 13.082, provisions similar to PURA. Rates of municipally owned water and wastewater utilities are exempt from regulation by the TCEQ except for service furnished outside the city limits.

The franchise article in a home rule charter

In our survey and review of city charters, we found that 52 percent of the cities require a majority of the total council to award a franchise. The serious deliberation that one would expect of a decision of this consequence is channeled by the majority of cities through two, and in many cases, three required separate readings of the ordinance granting the franchise, with the last reading being at least 15, or more often, 30 days after the first reading. In addition to these procedures, many cities require either the entire ordinance or a summary of the ordinance to be published in the official newspaper, one time a week, anywhere from one to four weeks.

We did find a few charter provisions requiring a franchise to be submitted to a referendum of the voters if a petition is presented by a certain number of signers. And the survey found a number of charter provisions that the city "shall have the right to buy, construct, lease, and maintain, operate and regulate public utilities." Several charters specifically provided that:

No franchise shall be granted, renewed, extended or amended, except on condition that the city shall have the right at any time within five (5) years of the expiration of the term thereof to purchase the property of the franchise holder at a price to be determined according to the method agreed upon in the ordinance granting, renewing, extending, or amending the franchise.

Our analysis of street rental fees revealed most city charters provide for collection of this fee but do not specify a rate. Most cities now collect two percent of gross receipts, but some cities collect as high as four percent per year. Keep in mind that cable/video, telephone, and electric franchise fees are now governed by state law. Thus, much of this information is based on older, preempted charter provisions. Water

and/or gas franchises may be the most prominent exceptions. The original version of this book quoted extensively from example, perhaps outdated, charter language regarding franchises. Because of recent state law changes in this area, a city planning to adopt or amend a charter should visit with local legal counsel regarding franchises.

A tally of the figures in number of years for which for which a franchise could be awarded gave these results:

Figure 16-1: Maximum franchise term		
	1998	2008
10 years	1%	1%
15 years	2%	1%
20 years	25%	21%
25 years	17%	13%
30 years	15%	10%
31 plus years	10%	6%
Not specified in charter	30%	48%
TOTAL CITIES	100%	100%

publish, a report showing the financial condition of said public utility and the financial result of such city ownership and operations, giving the information specified in this section and such additional data as the council shall deem expedient.

Summary

Franchises are like long-term general obligation bonds—the city has made a commitment binding the current city council and councils for years to come. Common sense and public duty dictate prudent action on franchises only after getting the best advice available. Such action should result in the best possible decision for the present and the future.

Municipally owned utilities

Several charters contain an article or, sometimes, just one section on the city's own utilities. The most common section is one regarding financial statements for municipally owned utilities. The provision below is found in quite a few charters:

Sec. 10.10. Accounts of municipal owned utilities.

Accounts shall be kept for each public utility owned or operated by the city, in such manner as to show the true and complete financial results of such city ownership and operation, including assets, appropriately subdivided into different classes, all liability subdivided by classes, depreciation reserve, other reserves, and surplus; also revenues; operating expenses including depreciation, interest payments, rental, and other disposition of annual income. The accounts shall show the actual capital cost to the city of each public utility owned, also the cost of all extensions, additions, and improvements, and the source of the funds expended for such capital purposes. They shall show as nearly as possible the cost of any service furnished to or rendered by any such utility to any other city or governmental department. The council shall annually cause to be made by a certified public accountant, and shall

City of Georgetown, Texas
Charter Review Committee
May 4, 2021

SUBJECT:

Discussion regarding Article VI of the City Charter related to Finance including budget preparation and amendments, appropriations, borrowing, obligation and revenue bonds, purchase procedure and independent audit. - Skye Masson, City Attorney


ITEM SUMMARY:

FINANCIAL IMPACT:

SUBMITTED BY:

Mayra Cantu, Assistant to the City Manager

ATTACHMENTS:

Description		Type
	Item F. Article VI	Backup Material
	TML - Financial Administration	Backup Material

2021 Charter Review Committee

Item F.

Discussion regarding Article VI of the City Charter related to Finance including budget preparation and amendments, appropriations, borrowing, obligation and revenue bonds, purchase procedure and independent audit.

1. Current charter language

ARTICLE VI. - FINANCE

Sec. 6.01. - Fiscal year.

The fiscal year of the City shall begin on the first day of each October and end on the last day of September of the succeeding year. All fiscal transactions of the City shall be accounted for in accordance with generally accepted governmental accounting principles.

(Ord. No. 880170, Amend. No. 6, 5-10-88)

Sec. 6.02. - Budget preparation and adoption.

Budget Workshop(s) shall be held within the City limits of Georgetown in meeting(s) open to the public prior to the adoption of the Budget. At least thirty (30) days prior to the end of each fiscal year the City Manager shall submit to the Council a proposed budget presenting a complete financial plan for the ensuing fiscal year. The budget shall be finally adopted not later than the twenty-seventh day of the last month of the fiscal year. Should the Council take no final action on or prior to such day the budget, as submitted, shall be deemed to have been finally adopted by the Council. No budget shall be adopted or appropriations made unless the total of estimated revenues, income and funds available shall be equal to or in excess of such budget or appropriations, except as otherwise provided in this Article.

(Res. No. 050603-B, 5-3-03)

Sec. 6.03. - Appropriations.

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 named therein. Except as provided in this Article no funds of the City shall be expended nor shall any obligation for the expenditure of money be incurred, except pursuant to the annual budget as adopted and as provided by this Article. At the close of each fiscal year, any unencumbered balance of an appropriation shall revert to the fund from which appropriated and become available for reappropriation for the next fiscal year. The Council may transfer any unencumbered appropriation balance or portion thereof from one division, office, department, or agency to another at any time. The City Manager shall have authority, without Council approval, to transfer appropriation balances from one expenditure account to another within a single division, office, department, or agency of the City.

(Ord. No. 86-12, Amend. No. 7, 2-25-86)

Sec. 6.04. - Budget amendments and emergency appropriations.

The Council may authorize a vote by a majority plus one on an emergency expenditure as an amendment to the original budget only in a case of grave public necessity to meet an unusual and unforeseen condition that could not have been included in the original budget through the use of reasonable diligent thought and attention. Such amendments shall be made by the Council after giving legal notice as specified in Texas State law. If the Council amends the original budget to meet an emergency, the Council shall file a copy of its order or resolution amending the budget with the City Secretary and the Secretary shall attach the copy to the original budget. After the adoption of the budget or a budget amendment, the budget officer shall provide for the filing of a true copy of the approved budget or amendment in the office of the County Clerk of Williamson County.

Should the unappropriated and unencumbered revenues, income and available funds of the City for such fiscal year not be sufficient to meet the expenditures under the appropriations authorized by this section, thereby creating a deficit, it shall be the duty of the Council to include the amount of such deficit in its budget for the following fiscal year, and said deficit shall be paid off and discharged during the said following fiscal year.

(Ord. No. 880170, Amend. No. 7, 5-10-88; Ord. No. 86-12, Amend. No. 21, 2-25-86)

Sec. 6.05. - Borrowing to meet emergency appropriations.

In the absence of unappropriated available revenues or other funds to meet emergency appropriations under the provisions of the next preceding section [6.04], the Council may by resolution, authorize the borrowing of money to meet such deficit by the issuance of notes, each of which shall be designated "Emergency Note" and may be renewed from time to time, but all such notes of any fiscal year and any renewals thereof shall mature and be payable not later than the last day of the current fiscal year in which the emergency appropriation was made, as provided in the last preceding section [6.04].

Sec. 6.06. - Borrowing in anticipation of property taxes.

In any fiscal year, in anticipation of the collection of the ad valorem property tax for such year, whether levied or to be levied in such year, the Council may by resolution authorize the borrowing of money, not to exceed in any fiscal year an amount equal to ten (10) percent of the budget for that fiscal year. Such borrowing shall be by the issuance of negotiable notes of the City, each of which shall be designated, "Tax Anticipation Note for the Year 19" (stating the tax year). Such notes shall mature and be payable not later than the end of the fiscal year in which issued.

Sec. 6.07. - Depository.

All moneys received by any person, department or agency of the City for or in connection with affairs of the City shall be deposited promptly in the City depository or depositories, which shall be designated by the Council in accordance with such regulations and subject to such requirements as to security for deposits and interest thereon as may be established by ordinance. All checks, vouchers, or warrants for the withdrawal of money from the City depositories shall be signed by the Mayor and countersigned by the City Manager. Provided, that the Council, under such regulations and limitations as it may prescribe, may by ordinance authorize the use of machine-imprinted facsimile signatures of said Mayor and City Manager on such checks, vouchers and warrants.

Sec. 6.08. - General obligation bonds.

The City shall have the power to borrow money on the credit of the City and to issue general obligation bonds for permanent public improvements or for any other public purpose not prohibited by the Constitution and laws of the State of Texas, and to issue refunding bonds to refund outstanding bonds of the City previously issued. All such bonds shall be issued in conformity with the laws of the State of Texas.

Sec. 6.09. - Revenue bonds and Obligations.

The City shall have power to borrow money for the purpose of constructing, purchasing, improving, extending or repairing of public utilities, recreational facilities or any other self-liquidating municipal function not prohibited by the Constitution and laws of the State of Texas, and to issue revenue bonds and obligations in accordance with State law. Such bonds and obligations shall be a charge upon and payable solely from the properties, or interest therein, pledged, or the income therefrom, or both, and shall never be a debt of the City. All such debts shall be issued in conformity with the laws of the State of Texas.

(Res. No. 050603-B, 5-3-03)

Editor's note— An amendment of May 3, 2003, amended § 6.09 in its entirety to read as herein set out. Formerly, § 6.09 pertained to revenue bonds and derived from original codification.

Sec. 6.10. - Sale of bonds and Obligations.

All bonds and obligations of the City having been issued and sold in accordance with the terms of this section, and having been delivered to the purchasers thereof, shall thereafter be incontestable, and all bonds issued to refund and in exchange for outstanding bonds previously issued shall, after said exchange, be incontestable.

(Res. No. 050603-B, 5-3-03)

Sec. 6.11. - Purchase procedure.

The Council may, by ordinance, confer upon the City Manager general authority to contract for expenditures without further approval of the Council for all budgeted items that do not exceed the amount which requires compliance with the State competitive bidding/purchasing laws. All contracts for expenditures involving more than the amounts which require compliance with the State competitive bidding/purchasing laws must be expressly approved in advance by the Council.

The Council shall develop and adopt purchasing policies to encourage and utilize local business and service providers insofar as such policies are consistent with state law and prudent expenditures of public funds.

(Res. No. 050603-B, 5-3-03; Amended by voters in the May 1994 General Election: Ord. No. 86-12, Amend. No. 22, 2-25-86)

Sec. 6.12. - Independent audit.

At the close of each fiscal year, and at such other times as it may be deemed necessary, the Council shall cause an independent audit to be made of all accounts of the City by a certified public accountant. The certified public accountant(s) shall be selected by and shall report directly to the Council. Further, the certified public accountant(s) so selected shall have no personal or business interest, directly or indirectly, in the financial affairs of the City or any of its officers or officials, nor shall the selected accountant(s) have any business interest with the City, other than the provision of independent auditing services related to the accounts of the City. Upon completion of the audit, and upon presentation to and acceptance by the Council of the final audit report, the results shall be published as soon as possible in a newspaper of general circulation within the City of Georgetown and copies placed on file in the City Secretary's office as public record.

(Res. No. 050603-B, 5-3-03; Ord. No. 86-12, Amend. No. 23, 2-25-86)

2. Benchmark cities

El Paso

Article VII - PUBLIC FINANCE.

Section 7.1 - FISCAL YEAR.

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

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

(Ord. No. [18401](#), Amd. No. 7, 8-11-2015, Election of 11-3-2015)

Section 7.2 - BUDGET.

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

(Ord. No. [18401](#), Amd. No. 8, 8-11-2015, Election of 11-3-2015)

Section 7.3 - BUDGET PROCEDURES.

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

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

- B. Public Hearing. After its presentation to the Council, at least one public hearing on the budget shall be held prior to its adoption; and notice of that public hearing shall be published in accordance with state law. The proposed budget shall be made available for examination at the office of the City Clerk, in accordance with State law.
- C. Changes. After the required public hearing, the governing body may make any changes to the budget in accordance with and/or permitted by State law.
- D. Adoption. The budget shall be adopted by resolution, subject to the Mayor's veto, not later than the day before the first day of the City's fiscal and budget year; but, in the event the budget is not adopted, the appropriation for personnel and essential operating supplies made in the previous year shall be extended until the new budget is adopted.
- E. Filing. A copy of the budget, as finally approved, shall be filed with the El Paso City and County Clerks' offices.
- F. Tax Levy. As soon as possible after the completion of the tax roll, the Council shall pass the tax levy ordinance in accordance with the laws of Texas.
- G. Balanced Budget. If at any time during the fiscal year, the City Manager ascertains that available income for the year, including fund balances, will be less than total appropriations, the Council shall reduce those appropriations so that expenditures will not exceed income. Expenditures in excess of gross revenues during the fiscal year are prohibited.
- H. Availability. The final budget shall be available for use by City departments and for examination in the City Clerk's office by any interested persons.

(Ord. No. [18401](#), Amd. No. 8, 8-11-2015, Election of 11-3-2015)

Section 7.4 - CASH RESERVE FUND.

A cash reserve fund in the general operating fund of the City shall be maintained in an amount no less than five percent (5%) of the prior year's adopted general fund operating expenditure budget. The cash reserve fund shall be maintained and reported as restricted under applicable Governmental Accounting Standards Board rules and must be invested in accordance with the laws of Texas. Short term borrowing from the cash reserve fund shall be for a period of no more than one calendar year and must be approved by the Council. Annual income from the cash reserve fund may be used only for capital improvements. "Capital improvements" shall be construed to include acquisition, construction, reconstruction, or improvement of facilities, equipment, or land for use by the City and all expense incidental thereto.

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

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

Section 7.6 - SALE OF CAPITAL ASSETS.

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

Section 7.7 - DEPOSITORIES.

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

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

Section 7.18 - REVENUE BONDS.

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

Section 7.19 - DEBT SERVICE FUND.

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

Section 7.20 - DISBURSEMENT OF CITY FUNDS.

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

Section 7.21 - INDEPENDENT AUDIT.

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

Section 7.22 - PUBLISHING OF FINANCIAL POSITION OF THE CITY.

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

Section 7.23 - LEASE AND LEASE PURCHASE.

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

Round Rock

[ARTICLE 8. - FINANCIAL ADMINISTRATION^{\[5\]}](#)

Footnotes:

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State Law reference— Finances, V.T.C.A., Local Government Code ch. 101 et seq.; local taxation, V.T.C.A., Tax Code ch. 301 et seq.

Sec. 8.01. - Fiscal year.

The fiscal year of the City shall begin on the first day of each October and end on the last day of September of the succeeding year. All funds collected by the City during any fiscal year, including both current and delinquent revenues, shall belong to such fiscal year and, except for funds derived to pay interest and create a sinking fund on the bonded indebtedness of the City, may be applied to the payment

of expenses incurred during such fiscal year, except as provided in this Charter. Any revenues uncollected at the end of any fiscal year, and any unencumbered funds actually on hand, shall become resources of the next succeeding fiscal year.

State Law reference— City fiscal year, V.T.C.A., Local Government Code § 101.022, V.T.C.A., Tax Code § 1.05.

Sec. 8.02. - Public record.

Copies of the budget adopted shall be public records and shall be made available to the public for inspection upon request.

State Law reference— Local Government Records Act, V.T.C.A., Local Government Code ch. 201.

Sec. 8.03. - Annual budget.

(a) Content. The budget shall provide a complete financial plan of all City funds and activities and, except as required by law or this Charter, shall be in such form as the City Manager deems desirable or the City Council may require. A budget message explaining the budget both in fiscal terms and in terms of the work programs shall be submitted with the budget. It shall outline the proposed financial policies of the City for the ensuing fiscal year, describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures, and revenues, with reasons for such changes. It shall also summarize the City's debt position and include such other material as the City Manager deems desirable. The budget shall begin with a clear general summary of its contents and shall show in detail all estimated income, indicating the proposed property tax levy, and all proposed expenditures, including debt service, for the ensuing fiscal year. The proposed budget expenditures shall not exceed the total of estimated income. The budget shall be so arranged as to show comparative figures for actual and estimated income and expenditures of the current fiscal year and actual income and expenditures of the preceding fiscal year, compared to the estimate for the budgeted year. It shall include in separate sections:

- (1) an itemized estimate of the expense of conducting each department, division, and office;
- (2) reasons for proposed increases or decreases of such items of expenditure compared with the current fiscal year;
- (3) a separate schedule for each department, indicating tasks to be accomplished by the department during the year, and additional desirable tasks to be accomplished, if possible;
- (4) a statement of the total probable income of the City from taxes for the period covered by the estimate;
- (5) tax levies, rates, and collections for the preceding five years;
- (6) an itemization of all anticipated revenue from sources other than the tax levy;
- (7) the amount required for interest on the City's debts, for sinking fund and for maturing serial bonds;
- (8) the total amount of outstanding City debts, with a schedule of maturities on bond issue;
- (9) anticipated net surplus or deficit for the ensuing fiscal year of each utility owned or operated by the City and the proposed method of its disposition (subsidiary budgets for each such utility giving detailed income and expenditure information shall be attached as appendices to the budget);
- (10) a Capital Improvement Program, which may be revised and extended each year to indicate capital improvements pending or in process of construction or acquisition, and shall include the following items:
 - i. a summary of proposed programs;

- ii. a list of all capital improvements which are proposed to be undertaken during the five (5) fiscal years next ensuing, with appropriate supporting information as to the necessity for such improvements;
 - iii. cost estimates, method of financing and recommended time schedules for each such improvement; and
 - iv. the estimated annual cost of operating and maintaining the facilities to be constructed or acquired; and
- (11) such other information as may be required by the City Council.
- (b) Submission. On or before the first day of August of each year, the City Manager shall submit to the City Council a proposed budget and an accompanying message. The City Council shall review the proposed budget and revise same as deemed appropriate prior to general circulation for public hearing.
- (c) Public Notice and Hearing. The City Council shall post in the City Hall a general summary of the proposed budget and a notice stating:
 - (1) the times and places where copies of the message and budget are available for inspection by the public; and
 - (2) the time and place, not less than two (2) weeks after such publication, for a public hearing on the budget.
- (d) Amendment Before Adoption. After the hearing, the City Council may adopt the budget with or without amendment. In amending the budget, it may add or increase programs or amounts and may delete or decrease any programs or amounts, except expenditures required by law or for debt service or for estimated cash deficit, provided that no amendment to the budget shall increase the authorized expenditures to an amount greater than the total of estimated income plus funds available from prior years.
- (e) Adoption. The budget shall be finally adopted not later than the final day of the last month of the fiscal year. Adoption of the budget shall constitute a levy of the property tax therein proposed. Should the City Council take no final action on or prior to such day the budget, as submitted, together with its proposed tax levy, shall be deemed to have been finally adopted by the City Council. No budget shall be adopted or appropriations made unless the total of estimated revenues, income and funds available shall be equal to or in excess of such budget or appropriations, except as otherwise provided in this Article.

(Charter amendment approved by voters January 20, 1996; May 10, 2008)

State Law reference— Municipal budget, V.T.C.A., Local Government Code ch. 102; when charter provisions control, V.T.C.A., Local Government Code § 102.011.

Sec. 8.04. - Administration of budget.

- (a) Payments and Obligations Prohibited. No payment shall be made or obligation incurred against any allotment or appropriation except in accordance with appropriations duly made and unless the City Manager or designee first certifies that there is a sufficient unencumbered balance in such allotment or appropriations and that sufficient funds therefrom are or will be available to cover the claim or meet the obligation when it becomes due and payable. Any authorization of payment or incurring of obligation in violation of the provisions of this Charter shall be void and any payment so made illegal. Such action shall be the cause for removal of any employee who knowingly authorized or made such payment or incurred such obligations, and such employee shall also be liable to the City for any amount so paid. However, this prohibition shall not be construed to prevent the making or authorizing of payments or making of contracts for capital improvements to be financed wholly or partly by the issuance of bonds, time warrants, certificates of indebtedness, or certificates of obligation, or to

prevent the making of any contract or lease providing for payments beyond the end of the fiscal year, provided that such action is made or approved by ordinance.

- (b) Financial Reports. The City Manager shall submit to the City Council at least quarterly the financial condition of the City by budget item, and budget estimate versus accruals for the fiscal year to date. The financial records of the City will be maintained on an accrual basis to support this type of financial management.

(Charter amendment approved by voters January 20, 1996; May 6, 2000; May 6, 2017)

Sec. 8.05. - Emergency appropriations.

At any time in any fiscal year, the City Council may, pursuant to this section, make emergency appropriations to meet a pressing need for public expenditure, for other than regular or recurring requirements, to protect the public health, safety or welfare. Such appropriation shall be by ordinance adopted by the favorable votes of five (5) or more of the City Council members qualified and serving, and shall be made only upon recommendation of the City Manager. The total amount of all emergency appropriations made in any fiscal year shall not exceed the amount allowed by state law.

(Charter amendment approved by voters January 20, 1996)

Sec. 8.06. - Borrowing to meet emergency appropriations.

In the absence of unappropriated available revenues or other funds to meet emergency appropriations provided for under the preceding Section 8.05, the City Council may by resolution authorize the borrowing of money to meet such deficit as provided by law.

(Charter amendment approved by voters January 20, 1996)

Sec. 8.07. - Borrowing in anticipation of property taxes.

In any fiscal year, in anticipation of the collection of the ad valorem property tax for such year, whether levied or to be levied in such year, the City Council may by resolution authorize the borrowing of money, not to exceed in any fiscal year an amount equal to ten percent (10%) of the budget for that fiscal year. Such borrowing shall be by the issuance of negotiable notes of the City, each of which shall be designated, "Tax Anticipation Note for the Year ____" (stating the tax year). Such notes shall mature and be payable not later than the end of the fiscal year in which issued.

(Charter amendment approved by voters January 20, 1996)

Sec. 8.08. - Depository.

All monies received by any person, department or agency of the City for or in connection with affairs of the City shall be deposited promptly in the City depository or depositories, which shall be designated by the City Council in accordance with such regulations and subject to such requirements as to security for deposits and interest thereon as may be established by ordinance. All checks, vouchers, or warrants for the withdrawal of money from the City depositories shall be signed by the Mayor or City Manager and countersigned by an authorized designee, as approved by City Council ordinance. Provided, that the City Council, under such regulations and limitations as it may prescribe, may by ordinance authorize the use of machine-imprinted facsimile signatures of said Mayor and City Manager and authorized designee on such checks, vouchers and warrants.

(Charter amendment approved by voters January 20, 1996; May 15, 2004)

State Law reference— Depositories for municipal funds, V.T.C.A., Local Government Code ch. 105.

Sec. 8.09. - Purchase procedure.

All purchases made and contracts executed by the City shall be pursuant to a requisition from the head of the office, department or agency whose appropriation will be charged and no contract order shall be binding upon the City unless the City Manager certifies that there is to the credit of such office, department or agency a sufficient unencumbered appropriation and allotment balance to pay for the supplies, materials, equipment or contractual services for which the contract or order is to be issued.

(Charter amendment approved by voters November 6, 1979, as amended by Charter amendment approved by voters April 5, 1986)

State Law reference— Competitive bidding, V.T.C.A., Local Government Code § 252.021 et seq.; exemptions, V.T.C.A., Local Government Code §§ 252.022, 252.023.

Sec. 8.10. - Independent audit.

At the close of each fiscal year, and at such other times as it may be deemed necessary, the Council shall cause an independent audit to be made of all accounts of the City by a certified public accountant. The certified public accountant so selected shall have no personal interest, directly or indirectly, in the financial affairs of the City or any of its elected officials. Upon completion of the audit, a copy of the audited annual financial report shall be placed in the public library and placed on file in the City Clerk's office as public record.

(Charter amendment approved by voters January 20, 1996; May 15, 2004; May 10, 2008; November 8, 2011; May 6, 2017)

State Law reference— Audit of municipal finances, V.T.C.A., Local Government Code ch. 103.

Cedar Park

ARTICLE VIII. FINANCE ADMINISTRATION

Section 8.01 Finance Department

- (a) A Finance Department is established and shall be maintained to manage the finances of the City.
- (b) The Finance Department shall be directed by an experienced financial manager who shall be appointed Finance Director for an indefinite term by the City Manager after approval of the Council. The Finance Director may be removed from office by the City Manager after consultation with the Council.
- (c) The Finance Director shall have custody of all public moneys, funds, notes, bonds, and other securities belonging to the City. The Finance Director shall make payments out of the City funds upon order signed by City Officers as designated by the Council. The Finance Director shall make to the City Manager and the Council a full and accurate statement of receipts and payments, as directed by the City Manager. The Finance Director shall perform other duties as directed by ordinance or the City Manager.
- (d) The Finance Director shall be bonded for no less than one hundred thousand dollars (\$100,000.00) and the cost thereof shall be borne by the City.

Section 8.02 Fiscal Year

The Fiscal Year of the City shall begin October 1 and end the following September 30.

Section 8.03 Annual Budget

- (a) Scope: The annual budget must specify appropriations for capital expenditures and for expenditures directed by the Council for the operation of City departments, offices, and agencies. It must comply with fund requirements of bond covenants.
- (b) Preparation: City department heads and officers shall submit budget requests for the next fiscal year to and as directed by the City Manager for review and consolidation. The City Manager shall submit a proposed annual budget to the Council in sufficient time to permit the Council to review and revise it.
- (c) Adoption: Before taxes are levied but after a minimum of two (2) public hearings the Council shall adopt the annual budget. The Council may amend the proposed budget, but shall not delete or decrease appropriations required for debt service, estimated cash deficit, or by law, and shall not authorize expenditures in excess of the total of estimated income plus funds available from earlier years.
- (d) Failure to Adopt: If the Council fails to adopt the annual budget before the start of the Fiscal Year to which it applies, appropriations of the last budget adopted shall be

considered as adopted for the current fiscal year on a month-to-month, pro-rata basis until the next budget is adopted.

Section 8.04 Budget is a Public Record

All proposed and adopted budgets shall be treated as a public record.

Section 8.05 Transfer of Funds

During the Fiscal Year, the Council shall have the power to transfer, by resolution, in accordance with the laws of the State of Texas, funds within the budget, but only after a public hearing.

Section 8.06 Emergency Appropriations

The Council may make emergency appropriations at any time to meet a pressing need for public expenditures in order to protect the public health, safety, or welfare.

Section 8.07 Issuance of Bonds and Other Obligations of City

The City shall have the right and power to borrow money on the credit of the City for permanent public improvements or for other public purposes as determined by the Council, and the power to issue bonds, certificates of obligation, warrants, or other evidences of indebtedness of the City as authorized by the laws of the State of Texas. The total general obligation debt of the City shall never exceed ten percent (10%) of the net taxable value of property on the tax rolls of the City, and any issue of bonds in excess of said sum shall be void as to such excess. Notwithstanding any other provisions of this Charter to the contrary, ordinances authorizing the issuance of bonds, certificates of obligation, warrants or other evidences of indebtedness, or ordinances authorizing the levy of taxes or the pledge of revenues to secure payment of indebtedness shall require only one reading, shall become effective immediately, and shall not be subject to referendum. Nothing in this Section excuses compliance with Section 8.08 of this Charter.

Section 8.08 Election to Authorize Bonds

Bonds payable from ad valorem taxes, other than refunding bonds, shall not be issued unless the bonds have been authorized by a majority vote at a City election held for that purpose as prescribed by the laws of the State of Texas.

Section 8.09 Lapse of Appropriations

Appropriations shall lapse at the close of the Fiscal Year if not spent or encumbered.

Section 8.10 Payment and Obligation

No payment shall be made nor obligation incurred unless it complies with a budget appropriation and unless the Finance Director first certifies that there is or will be enough unencumbered money in that account to meet the obligation when it is due.

Section 8.11 Financial Records and Reports

The Finance Director shall report to the Council each month the financial condition of the City. For each budget item, the monthly report will show the annual amount budgeted, the amount expended the preceding month, and the amount expended in the fiscal year to the report date. Financial records and reports of the City shall be prepared and maintained in accordance with general accepted accounting principles.

Section 8.12 Independent Audit

At the close of each Fiscal Year, and at other times as necessary, the Council shall have a certified public accountant conduct an independent audit of all accounts of the City. The certified public accountant shall have no direct or indirect personal interest in the financial affairs of the City or of its officers and in any event shall not perform the audit for more than five (5) consecutive years. A summary of the results of the completed audit shall be on file in the City Secretary's office as a public record.

(Amended May 8, 2010)

Section 8.13 Purchases and Contracts

The City shall make purchases and execute contracts only in accordance with the Constitution and laws of the State of Texas.

Section 8.14 Contingent Appropriation

Provisions shall be made in the annual budget and in the appropriation ordinance for a contingent appropriation in any amount no more than three percent (3%) of the total budget, to be used in case of unforeseen items of expenditure. Such expenditure shall be under the control of the City Manager. A detailed account of such expenditures shall be recorded and reported with the City Secretary with a copy to Council.

(Amended May 12, 2012)

New Braunfels

ARTICLE IX. MUNICIPAL FINANCE

Sec. 9.01. Fiscal year.

The fiscal year of the City of New Braunfels shall begin on the first 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.

(Amdt. 24, Ord. No. 2005-45, § I, 5-7-05, approved 5-16-05)

Sec. 9.02. Preparation and submission of budget.

The City Manager, at least forty-five (45) days prior to the beginning of each fiscal year, shall submit to the City Council a proposed budget, which budget shall provide a complete financial plan for the fiscal year and shall contain the following:

- (a) 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 expenditure and revenue items, and shall explain any major changes in financial policy.
- (b) A consolidated statement of anticipated receipts and proposed expenditures for all funds.
- (c) An analysis of property valuations.
- (d) An analysis of property tax rate.
- (e) Tax levies and tax collections by years for the last five (5) years.

- (f) General fund resources in detail.
 - (g) Special fund resources in detail.
 - (h) Summary of proposed expenditures by fund, function, department, and activity.
 - (i) Detailed estimates of expenditures shown separately for each activity to support summary (h) above.
 - (j) A statement of expenditures of the proceeds of all bond issues.
 - (k) A description of all bond issues outstanding, showing rate of interest[,], date of issue, maturity date, amount authorized, amount issued, and the amount outstanding.
 - (l) A schedule of requirements for the principal and interest of each issue of bonds.
 - (m) The appropriate ordinance.
 - (n) The tax levying ordinance.
 - (o) A provision for financing the current capital improvement program.
- (Amdt. 12, Ord. No. 74-17, § 1, 5-28-74, approved 7-9-74)

Sec. 9.03. Anticipated revenues compared with other years in budget.

In preparing the budget, the City Manager shall 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.

Sec. 9.04. Proposed expenditures compared with other years.

The City Manager in the preparation of the budget shall place in parallel columns opposite the various items of expenditures: 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.

Sec. 9.05. Budget a public record.

The budget and all supporting schedules shall be filed with the person performing the duties of City Secretary, submitted to the City Council and shall be a public record. The City Manager shall provide copies for distribution to all interested persons requesting same.

Sec. 9.06. Notice of public hearing on budget.

At the meeting of the City Council at which the budget is submitted, the City Council shall fix the time and place of a public hearing on the budget and shall cause to be published in a newspaper in the City of New Braunfels a summary of the proposed budget and a notice of the hearing setting forth the time and place thereof at least ten (10) days before the date of such hearing, which hearing shall be set not later than thirty (30) days prior to the beginning of the next fiscal year.

(Amdt. 13, Ord. No. 74-17, § 1, 5-28-74, approved 7-9-74)

Sec. 9.07. Public hearing on budget.

At any time and place set forth in the notice required by Section 9.06, or any time and place to which such public hearing shall from time to time be adjourned, the City 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.

Sec. 9.08. Proceedings on budget after public hearing.

After the conclusion of such public hearing, the City Council may increase or decrease the items of the budget as a result of such hearings, except items in proposed expenditures fixed by law. If the City Council increases the total proposed expenditures, it shall also provide for an increase in the total anticipated revenue to at least equal such proposed expenditures.

Sec. 9.09. Adoption of budget.

The budget shall be adopted by the favorable vote of a majority of all the members of the City Council.

Sec. 9.10. Date of final adoption [of budget].

The budget shall be finally adopted not later than ten (10) days prior to the beginning of the fiscal year, and should the City Council fail to so adopt a budget, the then existing budget together with its tax levying ordinance and its appropriation ordinance, shall be deemed adopted for the ensuing fiscal year.

(Amdt. 14, Ord. No. 74-17, § 1, 5-28-74, approved 7-9-74)

Sec. 9.11. Effective date of budget, certification, copies made available.

Upon final adoption, the budget shall be in effect for the next ensuing fiscal year. 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. A copy of the budget, as finally adopted, shall be filed with the person performing the duties of City Secretary and the County Clerk of Comal County. The final budget shall be reproduced so that such copies shall be permanent copies, and the copies shall be made available for the use of all offices, departments and agencies and for the use of interested persons and civic organizations.

(Amdt. 15, Ord. No. 93-22, approved 5-3-93)

Sec. 9.12. Budget establishes amount to be raised by taxation.

From the effective date of the budget, the amount stated therein as the amount to be raised by taxation shall constitute a determination of the amount of levy for the purposes of the City in the corresponding tax year; provided, however, that in no event shall such levy exceed the legal limit provided by the laws and constitution of the State of Texas.

Sec. 9.13. Reserved.

Editor's note(s)—Amendment 25 of Ord. No. 2005-45, § I, adopted May 7, 2005 and approved May 16, 2005, repealed § 9.13 Editor's note(s)— in its entirety, which pertained to contingent appropriation and derived from original codification.

Sec. 9.14. Emergency appropriations.

In the event it is necessary to meet a public emergency affecting life, health, property or the public peace, the City Council may make emergency appropriations by emergency ordinance in accordance with the provisions hereinafter provided. To the extent that there are no available unappropriated revenues to meet such appropriations, the City Council may by such emergency ordinance authorize the issuance of emergency notes, which may be renewed from time to time, but the emergency notes and renewals of any fiscal year shall be paid not later than the last day of the next fiscal year after the emergency appropriation was made.

Sec. 9.15. Estimated expenditures shall not exceed estimated resources.

The total estimated expenditures of the general fund and debt service fund shall not exceed the total estimated resources of each fund (prospective revenue 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 American Institute of Certified Public Accountants.

Sec. 9.16. Budget amendments.

The City budget may be amended and appropriations altered in accordance therewith in cases of public necessity, the actual fact of which shall have been declared by the City Council. Funds within a given department may be reallocated within that department by the City Manager.

Sec. 9.17. Purchases, Sales and Contracts.

All purchases made, and contracts entered into, by the City, and all sales, exchanges or other dispositions of property of any kind or character owned by the City, shall be accomplished pursuant to the requirements and procedures of the constitution and laws of the State of Texas, and any ordinance, resolution or motion by the City Council not inconsistent with such constitution and laws. The City Manager shall have the authority to contract for expenditures without further approval of the City Council for all budgeted items not exceeding twenty-five thousand dollars (\$25,000.00).

(Amdt. 26, Ord. No. 2005-45, § I, 5-7-05, approved 5-16-05)

Editor's note(s)—Amendment 26Editor's note(s)— of Ord. No. 2005-45, § I, adopted May 7, 2005 and approved May 16, 2005, amended § 9.17Editor's note(s)— in its entirety to read as herein set out. Formerly, § 9.17Editor's note(s)— pertained to the purchase procedure and derived from Amendment 8 of Ord. No. 71-19, § 1, adopted October 4, 1971 and approved November 9, 1971; Amendment 15 of Ord. No. 74-17, § 1, adopted May 28, 1974 and approved July 9, 1974; Amendment 3 of Ord. No. 83-4, adopted February 14, 1983 and approved April 2, 1983.

Sec. 9.18. Department of Taxation.

There shall be established a Department of Taxation to assess and collect taxes, the head of which shall be the City Tax Assessor-Collector, which office shall be filled by appointment by the City Manager with concurrence of the City Council.

The City Tax Assessor-Collector shall give a surety bond for faithful performance of his duties, including compliance with all controlling provisions of the State Law bearing upon the functions of his office, in a sum which shall be fixed by the City Council at not less than fifty thousand dollars (\$50,000.00).

The City Council may, in the interest of economy and efficiency, contract with another political subdivision to handle the assessment and/or collection of taxes.

The City Tax Assessor-Collector may be removed from office by the City Manager with the concurrence of the City Council.

Sec. 9.19. Power to tax.

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, and to establish a tax on sales within the City, to the maximum extent provided by the Constitution and general laws of the State of Texas.

(Amdt. 27, Ord. No. 2005-45, § I, 5-7-05, approved 5-16-05)

Sec. 9.20. Implementation of Power to Tax.

The City Council shall prescribe by ordinance the methods, procedures, rules and regulations by which its power to tax may be implemented, and by which any taxes thereby imposed may be enforced and collected.

(Amdt. 28, Ord. No. 2005-45, § I, 5-7-05, approved 5-16-05)

Editor's note(s)—Amendment 28 of Ord. No. 2005-45, § I, adopted May 7, 2005 and approved May 16, 2005, amended § 9.20 Editor's note(s)— in its entirety to read as herein set out. Formerly, § 9.20 Editor's note(s)— pertained to property subject to tax, method of assessment, and derived from Amendment 3 of Ord. No. 95-6, adopted February 13, 1995 and approved May 6, 1995.

Secs. 9.21—9.24. Reserved.

Editor's note(s)—Ord. No. 93-22, approved May 3, 1993, Amdt. 16, amended the Charter by deleting provisions contained in §§ 9.21—9.24. Said provisions pertained to the Board of Equalization.

Sec. 9.25. Taxes, when due and payable.

All taxes due to the City of New Braunfels shall be payable at a location designated by the City Council of the City of New Braunfels. Taxes shall be due and shall become delinquent as provided in the Texas Tax Code, as amended, which code further provides for delinquent taxes, interest, penalty and procedures for the collection of taxes.

(Amdt. 29, Ord. No. 2005-45, § I, 5-7-05, approved 5-16-05)

Sec. 9.26. Tax liens.

The City shall have all the rights granted by State Law to collect taxes and to enforce collection by lien foreclosures and other procedures set forth by State Law pertaining to Real and Personal property.

(Amdt. 30, Ord. No. 2005-45, § I, 5-7-05, approved 5-16-05)

Sec. 9.27. General obligation bonds.

The City shall have the power to borrow money on the credit of the City and to issue general obligation bonds for permanent public improvements or for any other public purpose not prohibited by the Constitution and Laws of the State of Texas, and to issue refunding bonds to refund outstanding bonds of the City previously issued. All such bonds shall be issued in conformity with the Laws of the State of Texas.

Sec. 9.28. Revenue bonds.

The City shall have power to borrow money for the purpose of constructing, purchasing, improving, extending or repairing of public utilities, recreational facilities or any other self-liquidating municipal function not prohibited by the constitution and laws of the State of Texas, and to issue revenue bonds to evidence the obligation created thereby. Such bonds shall be a charge upon and payable solely from the properties, or interest therein pledged, or the income therefrom, or both, and shall never be a debt of the City. All such bonds shall be issued in conformity with the laws of the State of Texas.

Sec. 9.29. [Reserved.]

Editor's note(s)—Ord. No. 93-22, approved May 3, 1993, amended the Charter by deleting provisions contained in § 9.29Editor's note(s)—. Said provisions pertained to municipal bonds.

Sugar Land

ARTICLE VI. - MUNICIPAL FINANCE

Sec. 6.01. - Fiscal Year.

The fiscal year shall begin on October 1 each year and end on the following September 30. The city council may by ordinance change the fiscal year, but the change shall not be effective until six (6) months after adoption of the ordinance.

(Ord. No. 1178, § 1, 6-15-99)

Sec. 6.02. - Fiscal Plan.

Each year the city council shall adopt a fiscal plan providing for a complete program of action for the fiscal year. The plan shall contain:

- (1) The goals established by the city council; and
- (2) The city manager's program to meet the goals of the city council.

(Ord. No. 1178, § 1, 6-15-99)

Sec. 6.03. - Budget.

- (a) The city manager shall prepare an annual budget for the ensuing fiscal year. The city manager shall submit to the council, for its review, consideration and revision, both a letter describing the proposed new budget, as well as a balanced budget for the forthcoming fiscal year, not later than sixty (60) days prior to the end of the current fiscal year. The budget, as adopted, must set forth the funding for services, programs and activities of the various city departments, and shall meet all fund requirements provided by law and required by bond covenants. It shall also include a multi-year capital improvement program and a current year capital budget.
- (b) The budget shall be adopted by ordinance by one reading not later than the twenty-fifth (25th) day of the last month of the fiscal year. No budget shall be adopted or appropriations made unless the total of estimated revenues, income and funds available shall be equal to or in excess of such budget or appropriations, except as otherwise provided in this article.

(Ord. No. 1178, § 1, 6-15-99)

Sec. 6.04. - Monthly Financial Statement.

Prior to the end of each month, the city manager shall provide the city council with an interim financial statement for the prior month.

(Ord. No. 1178, § 1, 6-15-99)

Sec. 6.05. - City Tax Assessor and Collector.

The city manager shall, if required by law, designate a person to serve as city tax assessor and collector to perform the duties thereof.

(Ord. No. 1178, § 1, 6-15-99)

Fort Worth

CHAPTER X: THE BUDGET AND FINANCIAL PROCEDURE RELATING THERETO

Section

- 1 Fiscal year and annual budget estimate; budget message and budget format
- 2 Annual budget
- 3 Transfer of appropriations
- 4 Appropriation of excess revenue
- 4a Reduction of Expenditures
- 5 Expenditures only pursuant to appropriations
- 6 Accounts of appropriations
- 7 Payment of claims
- 8 Money Certified in Treasury
- 9 Money deemed in treasury
- 10 Obligations; when void
- 11 Independent audit

12 Sinking fund commission

§ 1 FISCAL YEAR AND ANNUAL BUDGET ESTIMATE; BUDGET MESSAGE AND BUDGET FORMAT.

(a) The fiscal year of the city shall begin on the first day of October and end on the last day of September. On or before the fifteenth day of August of each year, the manager shall submit to the council a proposed budget for the ensuing fiscal year and an accompanying message.

(b) The manager's budget message shall explain the budget both in fiscal terms and in terms of the work programs. It shall outline the proposed financial policies of the city for the ensuing fiscal year, describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures, and revenues together with the reasons for such changes, and include such other material as the manager deems desirable.

(c) The budget shall provide a complete financial plan of all city funds and activities for the ensuing fiscal year and, except as required by law or this charter, shall be in such form as the manager deems desirable or the council may require. In organizing the budget the manager shall utilize the most feasible combination of expenditure classification by fund, organization unit, program, purpose or activity, and object. It shall begin with a clear general summary of its contents; shall show in detail all estimated income, indicating the proposed property tax levy, and all proposed expenditures, including debt service, for the ensuing fiscal year; and shall be so arranged as to show comparative figures for actual and estimated income and expenditures of the current fiscal year and actual income and expenditures of the preceding fiscal year. It shall indicate in separate sections:

(1) Proposed expenditures for current operations during the ensuing fiscal year, detailed by departments, in terms of their respective work programs, and the method of financing such expenditures;

(2) Proposed capital improvement expenditures during the ensuing fiscal year, detailed by purpose and the proposed method of financing each such capital expenditure;

(3) Anticipated net surplus or deficit for the ensuing fiscal year of each utility owned or enterprise fund operated by the city and the proposed method of its disposition; budgets for each utility or enterprise fund giving detailed income and expenditure information shall be included; and

(4) Detailed schedules indicating the City's debt position and debt service requirements.

The total of proposed expenditures shall not exceed the total of estimated income.

§ 2 ANNUAL BUDGET.

Public hearings on the manager's proposed budget shall be held and notice of such hearings shall be provided in accordance with applicable state law; however, no less than one (1) public hearing shall be held on the budget following notice of such hearing. The budget shall not be adopted at the same meeting as the public hearing. The annual appropriations ordinance providing funding for the proposed budget, along with a corresponding ad valorem tax levy ordinance shall be considered by the City Council at the same meeting the City Council considers approving the budget. Upon approval of the budget, the caption of the appropriations ordinance shall be published once, and the caption and penalty of the ad valorem tax levy ordinance shall

be published twice in the City's official newspaper. The final approved budget and the full text of each ordinance shall be posted on the city's website and filed in the city secretary's office and made available for public inspection. The budget will become effective upon approval by City Council. The appropriations ordinance and ad valorem tax levy ordinance shall become effective upon publication in accordance with this section.

(Ord. 22081-02-2016, § 2(VIII), 2-2-2016, approved 5-7-2016)

§ 3 TRANSFER OF APPROPRIATIONS.

At any time during the fiscal year the manager may transfer part or all of any unencumbered appropriation balance among programs within a department, division or section upon compliance with such conditions as the City Council may establish by ordinance.

Upon written request by the manager, the council may by ordinance transfer part or all of any unencumbered appropriation balance from one department to another. No such transfers shall be made of revenues or earnings of any non-tax supported public utility to any other purpose. The provisions of this section, as amended, shall take effect on January 1, 1984.

§ 4 APPROPRIATION OF EXCESS REVENUE.

If at any time during the fiscal year the manager certifies that there are available for appropriation revenues in excess of those estimated in the budget, the council by ordinance may make supplemental appropriations for the year up to the amount of the excess.

§ 4a REDUCTION OF EXPENDITURES.

If at any time during the fiscal year it appears probable to the manager that revenues available will be insufficient to meet the amount appropriated, he shall so report to the council without delay. The report shall indicate the estimated amount of the deficit, any remedial action already taken by the manager, and any recommendations as to other steps to be taken. The council shall then take such action as it deems necessary.

§ 5 EXPENDITURES ONLY PURSUANT TO APPROPRIATIONS.

No expenditure shall be made from the city treasury, nor shall any obligation for the expenditure of city funds be incurred, except in pursuance of appropriations made by the council. At the close of each fiscal year the unencumbered balance of each appropriation shall revert to the fund from which it was appropriated and shall be subject to future appropriations.

§ 6 ACCOUNTS OF APPROPRIATIONS.

Accounts shall be kept for each item of appropriation made by the council, and every warrant on the city treasury shall state specifically against which of such items the warrant is drawn. Each such account shall show in detail the appropriations made thereto by the council, the amount drawn thereon, the unpaid obligations charged against it, and the unencumbered balance to the credit thereof.

§ 7 PAYMENT OF CLAIMS.

No claim against the city shall be paid, unless it is evidenced by a purchase order approved by the head of the department or office for which the indebtedness was incurred; and each director or officer and his surety shall be liable to the city for all loss or damage sustained by the city by reason of his negligent or corrupt approval of any such claim. The controller of accounts shall examine all payrolls, bills and other claims and demands against the city, and shall issue no warrant for payment unless he finds that the claim is in proper form, correctly computed and duly approved; that it is justly and legally due and payable; that an appropriation has been made therefor which has not been exhausted, or that the payment has been otherwise legally authorized; and that there is money in the city treasury to make payment. He may investigate any claim and for that purpose may summon before him any officer, agent or person, and examine him upon oath or affirmation relative thereto, which oath or affirmation he may administer. If the controller of accounts issues a warrant on the treasury authorizing payment of any item for which no appropriation has been made, or for the payment of which there is not a sufficient balance in the proper appropriation, or which is otherwise contrary to law or ordinance, he and his sureties shall be individually liable to the city for the amount thereof.

§ 8 MONEY CERTIFIED IN TREASURY.

No contract, agreement or other obligation involving the expenditure of money shall be entered into, nor shall any ordinance, resolution or order for the expenditure of money, be passed by the Council, or be authorized by any officer of the City, except in the cases hereinafter specified, unless the Director of Finance first certifies to the Council, or to the proper officer as the case may be, that the money required for such contract, agreement, obligation or expenditure is in the Treasury and not appropriated for any other purpose, which certificate shall be filed and immediately recorded. The sum so certified shall not thereafter be considered unappropriated until the City is discharged from the contract, agreement or obligation.

§ 9 MONEY DEEMED IN TREASURY.

All monies actually in the treasury to the credit of the fund from which they are to be drawn, all monies credited to the fund from pooled cash in the treasurer's group of accounts, and all monies applicable to the payment of the obligation and appropriation involved that are anticipated to come in the treasury before the maturity of such contract, agreement or obligation, from taxes or assessments, or from sales of service products, or by-products, or from any city undertaking, fees, charges, accounts and bills receivable, or other credits in process of collection, and all monies applicable to the payment of such obligation or appropriation, which are to be paid into the city treasury prior to the maturity thereof, arising from the sale or lease of lands or other property, and monies to be derived from lawfully authorized bonds sold and in the process of delivery, shall, for the purpose of such certificate, be deemed in the treasury to the credit of the appropriate fund and subject to such certification.

§ 10 OBLIGATIONS; WHEN VOID.

All contracts, agreements or other obligations entered into, all ordinances passed, and resolutions and orders adopted, contrary to the preceding sections, shall be void, and no person

whatever shall have any claim or demand against the city thereunder, nor shall the council, or any officer of the city, waive or qualify the limits fixed by any ordinance, resolution or order, as provided in section 9 of this chapter of the Charter, or fasten upon the city any liability whatever, in excess of such limits, or relive any party from an exact compliance with his contract under such ordinance, resolution or order; provided, that this section shall not apply in case of public disaster calling for extraordinary emergency expenditure.

§ 11 INDEPENDENT AUDIT.

The council shall cause an independent audit to be made of the books of account, records and transactions of all the administrative departments of the city at least once yearly. Such audits, during such fiscal year, shall be made by one or more certified public accountants who, for the three (3) years next preceding, having held a certificate issued by the state board of accountancy of the State of Texas, or by a state maintaining an equal standard of professional requirements, which entitles the holder of such certificate to a Texas certificate. The auditor or auditors to make the said audit shall be selected by the council, and shall be responsible to the council. The duties of the auditor or auditors so appointed shall include the certification of all statements required under section 2 of this chapter of the Charter. Such statements shall include a balance sheet, exhibiting the assets and liabilities of the City, supported by departmental schedules, and schedules for each utility publicly owned or operated; summaries of income and expenditures, supported by detailed schedules; and also comparisons, in proper classification, with the last previous year. The report of such auditor or auditors for the fiscal year shall be printed and a copy thereof shall be furnished to each member of the council, the city manager and to each citizen who may apply therefor. The original report of the said auditors shall be kept among the permanent records of the city.

§ 12 SINKING FUND COMMISSION.

[Repealed]

Richardson

[ARTICLE 11. BUDGET AND FINANCIAL PROCEDURE](#)

Section 11.01. Fiscal year.

The fiscal year of the City of Richardson shall begin on October 1 of each calendar year and will end on September 30 of the following calendar year. The fiscal year will also be established as the accounting and budget year.

Section 11.02. Preparation and submission of budget.

The city manager, on or before August 15 of each year, shall prepare and submit to the council a budget for the ensuing fiscal year. In preparing this budget, each employee, officer, board and department shall assist the city manager by furnishing all necessary information. The budget shall comply with and contain such information and itemization, as may be required by state law.

(Ord. No. 4144, § 2(exh. A, 11-16-15)

Section 11.03. Proposed budget a public record.

The proposed budget and all supporting schedules shall be filed with the city secretary when submitted to the council and shall be open to public inspection.

(Ord. No. 4144, § 2(exh. A, 11-16-15)

Section 11.04. Public hearing.

At the council meeting when the budget is submitted, the council shall name the date and place of a public hearing. The hearing shall be no less than fifteen (15) days after the budget is filed. Public notice of the hour, date and place of such hearing shall be published in a newspaper of the city not less than ten (10) nor more than thirty (30) days before the hearing. At this hearing, citizens of the city may be present and express their opinions concerning items of expenditures and revenue.

(Ord. No. 4144, § 2(exh. A, 11-16-15)

Section 11.05. Proceeding on adoption.

After public hearing, the council shall analyze the budget, making any additions or deletions which they feel appropriate, and shall, by ordinance, adopt the budget by a majority vote of all members of the council.

(Ord. No. 4144, § 2(exh. A, 11-16-15)

Section 11.06. Budget appropriation; tax levy.

On final adoption, the budget shall be in effect for the budget year. Final adoption of the budget by the council shall constitute the official appropriations for the current year and shall constitute the basis of the official levy of the property tax as the amount of tax to be assessed and collected for the corresponding tax year. Estimated expenditures for operating purposes will in no case exceed proposed revenue, plus unallocated fund balance, and other financing sources. Unused appropriations may be transferred to any item required for the same general purpose.

(Ord. No. 4144, § 2(exh. A, 11-16-15)

Section 11.07. Transfer of appropriations.

The council may at any time transfer an unencumbered balance of an appropriation made for the use of one department, division, or purpose but no such transfer shall be made of revenues or earnings of any nontax supported public utility for any other purpose. This prohibition does not apply to the transfer of budgeted funds of any nontax supported public utility or other enterprise fund for the purposes of reimbursing the general fund for providing administrative services to such operations.

(Ord. No. 4144, § 2(exh. A, 11-16-15)

Section 11.08. Unallocated fund balance.

When recommended by the city manager and at the discretion of the council, the budget may contain a reasonable sum set aside as an unallocated fund balance to meet unexpected and unforeseen contingencies in current operating costs of each fund.

(Ord. No. 4144, § 2(exh. A, 11-16-15)

Section 11.09. Amending the budget.

Expenditures to meet unusual and unforeseen conditions, which were not included in the original budget, may from time to time be authorized as amendments to the original budget. Any amendment providing for additional expenditure shall also provide for reductions in other expenditures or supplemental revenues to fund such amendments, or an amount from the unallocated fund balance as a supplement. These amendments shall be ratified by ordinance at the end of the fiscal year.

(Ord. No. 4144, § 2(exh. A, 11-16-15)

Section 11.10. Adopted budget made available.

A copy of the budget, as adopted, shall be filed with the city secretary, the Richardson Public Library, and such other places as may be required by state law. The adopted budget shall be printed or otherwise reproduced and sufficient copies shall be made available for the use of all offices, agencies and for the use of interested persons and civic organizations.

(Ord. No. 4144, § 2(exh. A, 11-16-15)

Section 11.11. Independent audit.

At the close of each fiscal year, and at such other times as it may deem necessary, the council shall cause an independent annual audit to be made of accounts of the city in accordance with applicable auditing standards by a certified public accountant or firm of such accountants who have no personal interest, direct or indirect, in the financial affairs of the city or of any of its officers. The council may, without requiring competitive bids, designate such certified public accountant or firm annually or for a period not to exceed five (5) years. The annual audit, including all reports and management letters, shall be submitted and reported to the council. A copy of the annual audit, after acceptance by the council, will be filed with the city secretary and shall be available for public inspection.

(Ord. No. 4144, § 2(exh. A, 11-16-15)

Section 11.12. Defect shall not invalidate tax levy.

Errors or defects in the form or preparation of the budget or the failure to perform any procedural requirements shall not nullify the tax levy or the tax rate.

Carrollton

ARTICLE IV. - BUDGET

Sec. 4.01. - Fiscal year.

The fiscal year of the City of Carrollton shall begin on October 1 of each calendar year and will end on September 30 of the following calendar year. The fiscal year will also be established as the accounting and budget year.

(Adopted by electorate, 9-19-61; Am. Ord. 1361 passed 4-7-87)

Sec. 4.02. - Preparation and submission of budget.

The city manager, prior to August 1 of each year, shall prepare and submit the budget, covering the next fiscal year, to the council, which shall contain the following information. In preparing this budget, each employee, officer, board and department shall assist the city manager by furnishing all necessary information.

- (1) The city manager's budget message shall outline the proposed financial policies for the next fiscal year with explanations of any major changes from previous years in expenditures and any major changes of policy and a complete statement regarding the financial condition of the city.

- (2) An estimate of all revenue from taxes and other sources, including the present tax structure rates and property evaluations for the ensuing year.
- (3) A carefully itemized list of proposed expenditures by fund and service type and project for the budget year, as compared to actual expenditures of the last ended fiscal year, and an estimate of final expenditures for the current fiscal year.
- (4) A description of all outstanding bond indebtedness, showing amount, date of issue, rate of interest and maturity date, as well as any other indebtedness referred to in Article V, which the city has incurred and which has not been paid.
- (5) A statement proposing any capital expenditures deemed necessary for undertaking during the next budget year and recommended provision for financing.
- (6) A list of capital projects which should be undertaken within the five (5) next succeeding years.

(Adopted by electorate, 9-19-61; Am. Ord. 1361 passed 4-7-87; Am. Ord. 2364 passed 8-11-98)

Sec. 4.03. - Budget a public record.

The budget and all supporting schedules shall be filed with the city secretary when submitted to the council and shall be open to public inspection by anyone interested.

(Adopted by electorate, 9-19-61; Am. Ord. 1361 passed 4-7-87)

Sec. 4.04. - Public hearing on budget.

The council shall name the date and place of a public hearing. The hearing shall be no less than fifteen (15) days subsequent to the date the budget is filed as provided in section 4.02. Public notice of the hour, date and place of such hearing shall be published in the official newspaper of the city not less than five (5) nor more than fifteen (15) days before the hearing. At this hearing, interested citizens of the city may be present and express their opinions concerning items of expenditures and revenue, giving their reasons for wishing to increase or decrease any item.

(Adopted by electorate, 9-19-61; Am. Ord. 1361 passed 4-7-87; Am. Ord. 2364 passed 8-11-98)

Sec. 4.05. - Proceeding on adoption of budget.

After public hearing, the council shall analyze the budget, making any additions or deletions which they feel appropriate, and shall, at least ten (10) days prior to the beginning of the next fiscal year, adopt the budget by a favorable majority vote of all members of the council.

(Adopted by electorate, 9-19-61; Am. Ord. 1361 passed 4-7-87)

Sec. 4.06. - Budget, appropriations and amount to be raised by taxation.

On final adoption, the budget shall be in effect for the budget year. Final adoption of the budget by the council shall constitute the official appropriations as proposed expenditures for the current year and shall constitute the basis of the official levy of the property tax as the amount of tax to be assessed and collected for the corresponding tax year. Estimated expenditures will in no case exceed proposed revenue plus fund balance. The city manager may transfer unused appropriations between any appropriation category within a fund.

(Adopted by electorate, 9-19-61; Am. Ord. 2364 passed 8-11-98)

Sec. 4.07. - Unallocated reserve fund.

When recommended by the city manager and in the discretion of the council, the budget may contain a reasonable sum set aside as an unallocated reserve fund to meet unexpected and unforeseen contingencies in current operating costs of any budget service type or project.

(Adopted by electorate, 9-19-61; Am. Ord. 1361 passed 4-7-87)

Sec. 4.08. - Amending the budget.

In case of grave public necessity, emergency expenditures to meet unusual and unforeseen conditions, which could not by reasonable diligent thought and attention, have been included in the original budget, may from time to time be authorized by the council as amendments to the original budget. This shall not prevent the council from making changes in the budget for municipal purposes. Any amendment providing for additional expenditure shall also provide for reductions in other expenditures, supplemental revenues or reduction in fund balance to fund such amendments. These amendments shall be by ordinance, and shall become an attachment to the original budget.

(Adopted by electorate, 9-19-61; Am. Ord. 1361 passed 4-7-87; Am. Ord. 2364 passed 8-11-98)

Sec. 4.09. - Certification; copies made available.

A copy of the budget, as finally adopted, shall be filed with the city secretary, the county clerk of Dallas, Denton and Collin Counties and the Carrollton Public Library. Sufficient copies of the final budget shall be made available for the use of all offices, agencies and for the use of interested persons and civic organizations.

(Adopted by electorate, 9-19-61; Am. Ord. 1361 passed 4-7-87; Am. Ord. 2364 passed 8-11-98)

Sec. 4.10. - Defect shall not invalidate the tax levy.

Errors or defects in the form or preparation of the budget or the failure to perform any procedural requirements shall not nullify the tax levy or the tax rate.

(Adopted by electorate, 9-19-61; Am. Ord. 1361 passed 4-7-87)

This chapter is about how charters address financial administration—revenues, budgets, taxes, bonds, purchasing—and how these matters are treated in city charters. Financial administration begins with collecting money to operate a city—from property taxes, utility charges, user fees, sales tax, and numerous other less important sources. It includes annual and capital budgeting to allocate these revenues, monitoring expenditures throughout the year, and accounting for them at the end of the year in a financial statement. Financial administration is also issuing bonds to pay for long-term improvements and purchasing day-to-day supplies. The subjects will be discussed in this order:

- Organization for financial administration
- Designation of the fiscal year
- The property tax
- Other revenues
- Operating budget, preparation and adoption
- Operating budget, execution and monitoring
- Capital budget
- Purchasing and contracts
- Municipal debt, short and long-term

All these subjects are addressed in virtually every city charter in the state, some at great length. State law has preempted some of them, particularly property tax administration, but by and large, cities have substantial, and in some cases, complete freedom to adopt charter provisions to fit their individual needs.

Organization for financial administration

One of the most important duties for any municipal chief executive is maintaining fiscal responsibility. In a mayor-council city, it is the job of the mayor as the chief executive. In a council-manager city, it is the city manager's job.

It is the mayor or manager who holds the fiscal reins. Charters in both forms of government are very specific in their statements of these powers and duties. In Houston, the article on the mayor includes, in addition to the power of appointment and other powers:

- (4) It shall be the duty of the mayor from time to time to make such recommendations to the council as he may deem to be for the welfare of the city, and each year to submit to the council the annual budget of the current expenses of the city.

- (5) To keep the council at all times fully advised as to the financial condition and needs of the city.

A typical council-manager charter has almost identical language. This excerpt is from the Orange charter on duties of the city manager:

2. Prepare the budget annually and submit it to the City Council and be responsible for its administration after adoption.
4. Keep the City Council advised of the financial condition and future needs of the City and make such recommendations as may seem to him desirable.

Mayors and city managers in the two forms of government have considerable freedom in how they accomplish these mandates. As a rule, the city's internal organization is not addressed in the charter. In Houston, for example, the city traditionally has housed many of the financial functions in the Department of Finance and Administration. There is a limit to that, however, for the charter provides for an elected City Controller who has wide-ranging responsibilities in the area of accounting and certifying that money is available for purposes needed by the mayor and council. Pasadena, the second largest mayor-council city, gives the mayor overall fiscal responsibility. But that power is constrained by an independent city controller who is appointed by the city council. The charter states "and the Mayor shall have neither voice nor vote in the employment or removal and discharge of the City Controller nor of any personnel in the Department of Finance, it being the intent of this Charter to divest the Mayor of any authority, control, or direction over the Department of Finance, its officers and employees, except where specifically authorized herein." The mayor does have a budget and financial planning officer who prepares the annual budget and multi-year plan. Smaller mayor-council cities omit such constraints in their charters.

The NCL model charter and the typical council-manager charter give the manager full responsibility for the financial function. The director of finance reports directly to and can be removed by the manager. There are very few exceptions to these clean lines of authority. We have mentioned earlier the independent director of finance in Temple and the comptroller in Sweetwater. Raymondville actually provides for an elected director of finance, but the city has never exercised

that option. There are no more than six other cities that blunt the city manager's authority in this area. Some two dozen city charters provide for a director of finance and list that person's many functions. There is no harm or gain in this recitation of duties in the charter, but an ordinance would suffice.

Some larger council-manager cities separate the finance function from the budget function, giving the former all financially related activities except the budget. This is not charter material, and we know of no city that has placed this detail in their charter.

Finally, property tax administration is no longer the major assignment it once was. The state has preempted most responsibilities in this area except the actual rate-setting and collection of taxes. The department head, who was separate from the finance director, is now most likely a position under finance, handling all revenue collections.

Designation of the fiscal year

A total of 95 percent of Texas charters have a charter-designated fiscal year of October 1 - September 30. No fiscal year is mentioned in only 1 percent of charters. The other beginning dates and the actual number of charters mandating them are:

January – 4	June–1
April– 2	July–3
May– 1	August–1
September–1	

There is good reason for the widespread designation of October 1 as the beginning of the fiscal year. Property taxes are levied as of January 1, are due the following fall, and delinquent beginning March 1 of the following year. The great majority of city elections – 96 percent of the cities – are held in May. Given that calendar, policymakers and managers figured out long ago that an October 1 budget year would enable new councilmembers elected in the spring at least a couple of months to get acquainted with the city operations.

In contrast, if the budget year were April 1, the incoming council would be living under a previous council's budget for almost an entire year. Another good reason for the October 1 date is property tax receipts. They begin to arrive in October, with sizable payments in December and January. This is early in the fiscal year and means, in many cases, that the city does not have to borrow for operations early in its fiscal year. A few of the very large cities have given consideration recently to a different fiscal year or election date. The reasoning: these large and complex operations have to start their budget planning well ahead of May when new councilmembers are elected. Therefore, the council's goals and budget objectives are already set when any new councilmember is elected.

There is sound argument for establishing the fiscal year in the charter. By leaving it to ordinance, the city runs the risk of some future council changing the date without

adequate forethought. Any change of date will cause either a short fiscal year for the first year or an unusually long one. Either way, the change of a fiscal year is a confusing and traumatic experience, not just for the citizenry, but for policymakers and administrators alike, and should be undertaken only after serious deliberation.

The property tax

Since there have been major changes in the statutes pertaining to the property tax and since it is still a major source of revenue for the cities, we discuss it first and separately.

In 1979, the Texas Legislature adopted a new property tax code that established uniform appraisal policies and procedures. Now appraisals are conducted and appeals from those appraisals are all handled by central appraisal districts. Cities can control only their own tax rate and the collection of the taxes owed to them, both current and delinquent.

Long and detailed charter articles on property tax administration were superseded, and some cities are now rescinding (by charter amendment, of course) the entire tax article. The city does not lose its right to collect the tax by wiping out the entire article. It is probably preferable, however, to retain provisions setting the tax rate and collecting the taxes, current and delinquent, as well as a few other legal provisions.

The Addison charter is typical of one amended after passage of the 1979 changes to state law. Its section on property taxes consists of nine brief subsections, titled as follows:

- power to tax (including setting tax rate limitation if the council desires to set one in the charter)
- where payable;
- no demand necessary (states where taxes shall be paid; non-receipt of a tax bill does not relieve the property owner of paying the tax);
- removing property from Addison (see seizure and sale of personal property below);
- inadequate description (protects city in case it cannot completely identify a piece of property);
- power to correct errors (allows city to cancel any non-collectable taxes on the tax rolls);
- payment, delinquency, penalties (sets up due date and date taxes are delinquent);
- provides for penalties when not paid by delinquent date);
- tax levy and lien (creates lien on all property in favor of Town of Addison for all taxes due);
- seizure and sale of personal property (more complete section on this general subject); and
- general powers (summary statement of powers section).

Our survey asked whether the charter required a vote of a majority of the “full” council or just a majority of a council quorum to adopt the annual tax rate. We found only a handful of charters that require a vote of the entire council. The reasoning is sound; to require the higher vote could prevent the city from adopting a timely tax rate if one or two councilmembers decided to absent themselves from the meeting to keep their “no new taxes” pledge.

Taxes may be paid in installments in several cities; discounts on early payments are provided only in a couple of cities. Although these incentives are thought by some to encourage payment of property taxes, the great majority of Texas cities do not believe either of these incentives are necessary.

Other revenues

Since property taxes now bring in a smaller percentage of total city revenues, there are obviously a substantial number of other revenue sources utilized by cities. Most of these are not addressed in the city charters. Only street rental charges to utility companies, occupation tax levies on certain businesses and occupations, and special assessments levied against abutting property owners have generally been found in Texas charters. Most other sources—city sales taxes, the hotel-motel taxes, alcoholic beverage taxes, and federal grants—are largely controlled by state or federal law. Texas charters as a rule have not tried to address any of these sources of revenue.

For a discussion of these latter sources of revenue, the reader is referred to the Revenue Manual for Texas Cities, published by TML.

Preparation and adoption of annual operating budget

The Texas Legislature passed the first uniform budget law in 1931. This act was amended in 1981 and 1985 and codified into the Local Government Code in 1987 as Chapter 102. The statute prescribes basic requirements that most cities exceed by terms of their own charters or practices. Examples from specific charters that show how cities have extended the scope of policy and management follow the highlights of the law listed below:

- (1) The city council must adopt an annual budget and conduct the financial affairs of the city in strict conformance with the budget. The budget must contain a complete financial statement of the municipality that shows:(1) the outstanding obligations of the municipality;(2) the cash on hand to the credit of each fund;(3) the funds received from all sources during the preceding year;(4) the funds available from all sources dur-

ing the ensuing year;(5) the estimated revenue available to cover the proposed budget; and (6) the estimated tax rate required to cover the proposed budget.

- (2) The budget for each fiscal year must be adopted prior to adoption of the tax levy for the new fiscal year. In most Texas cities, the fiscal year begins October 1 and the levy should be adopted by the last week of the old fiscal year. Therefore, the budget should be adopted by September 30 or earlier.
- (3) A proposed budget that will require raising more revenue from property taxes than in the previous year must contain a cover page with the following statement in 18-point or larger type: “This budget will raise more total property taxes than last year’s budget by (insert total dollar amount of increase and percentage increase), and of that amount (insert amount computed by multiplying the proposed tax rate by the value of new property added to the roll) is tax revenue to be raised from new property added to the tax roll this year.”
- (4) The city’s budget officer must prepare a proposed budget for the consideration of the city council. In mayor-council cities, the law requires that the mayor serve as budget officer; in council-manager cities, the city manager is the budget officer.
- (5) Copies of the proposed budget compiled by the budget officer must be filed with the city clerk/secretary and made available for public inspection and posted on the city Web site, if the city has a Web site. The initially proposed budget must be filed no later than 30 days prior to the date upon which the city council sets the property tax rate for the next fiscal year.
- (6) The city council must hold a public hearing on the budget after the 15th day that the budget has been filed with the city clerk or secretary. Notice of the public hearing must be given in a newspaper of general circulation in the county not less than 10 nor more than 30 days prior to the adoption of the budget.
- (7) Upon adoption of the final budget by majority vote of the council, copies must be filed with the county clerk and city clerk/secretary, made available for public inspection and posted on the city Web site, if the city has a Web site.
- (8) After the new fiscal year has begun and the budget has been put into effect, no expenditure “shall thereafter be made except in strict compliance with such adopted

budget,” nor may the council amend the budget except for reasons of “grave public necessity” requiring “emergency expenditures to meet unusual and unforeseen conditions, which could not, by reasonable diligent thought and attention have been included in the original budget...”

- (9) The budget and any amendments to it must be filed with the county clerk.
- (10) The governing body may levy taxes only in accordance with the budget. The procedures for levying taxes are prescribed in the Texas Property Tax Code.

The budget (fiscal plan)–the annual work plan of the city

The annual operating budget is perhaps the most crucial single document debated each year by a governing body. A more expressive title for the budget – “Fiscal Plan” – is used in the Denver City 1985 charter and Seminole’s 1991 charter. Here is the language used in both:

Figure 14-1: Article VII – Fiscal Plan

The plan shall provide a complete program of action for the fiscal year. It shall contain the following:

A. OBJECTIVES – Established by the City Council.

B. GOALS – City Manager’s program to meet the objectives of the Council.

C. BUDGETS – Financial plan to meet the administrative needs of the City for the fiscal year consistent with the Objectives and Goals set by the City Council and City Manager.

D. STAFF PLAN – A summary of the personnel requirements required to provide the services of the City. Additions or deletions of personnel must be specifically identified and justified.

(Note: In mayor-council cities, “city manager” above would read “mayor.”)

Both cities have subsequent provisions, the only two in the state, that budgets shall be prepared using the principle of “zero budgeting.” The budget is projected from zero base, not factored from a prior year budget or from prior year expenditures.

Aransas Pass, in its budget article, has a similarly unique provision, but not quite as strong or as dramatic as in the other two charters. Aransas Pass, as part of its “contents of the budget” section, closes with:

- (18) (proposed budget shall contain)...a suggested legislative program and the highlights of the proposed administrative program.

These three cities and others in the state illustrate the initiative and forethought that have been given budget preparation in Texas. Although no city has placed language in its charter on “performance budgeting” (adopted by the legislature for state agencies in 1993), a number of Texas cities were ahead of the state in relating dollars to program accomplishments.

Budget calendar

City managers and budget officers, as a rule, develop a calendar for preparation and adoption of a budget. It coordinates dates, required action, and responsible individuals. Most of the dates are for internal purposes and are not mandated by the charter. The first key date considered a necessary part of the charter is the latest date (or range of dates) the budget is to be submitted to the city council before the beginning of the next fiscal year. This will vary depending on the size of the city. Some small cities require only 30-45 days; larger cities may require 60-90 days. The second key date in a charter is the proposed date(s) or public hearings by the council; the third is the date by which the budget is to be adopted. (See state law highlights for required dates.) The dates referred to above are all in terms of “x days before the beginning of the fiscal year” or a similar phrase. This calendar will contain many more dates, but those are internal dates to be observed by the department heads, the budget office, and the city manager.

Budget contents

The state law (Chapter 102 - Municipal Budget, LGC) regarding budget contents is reproduced to show the exact language. Virtually all city charter requirements exceed these basic requirements.

102.003. Itemized Budget; Contents.

- (a) The budget officer shall itemize the budget to allow as clear a comparison as practicable between expenditures included in the proposed budget and actual expenditures for the same or similar purposes made for the preceding year. The budget must show as definitely as possible each of the projects for which expenditures are set up in the budget and the estimated amount of money carried in the budget for each project.

(b) The budget must contain a complete financial statement of the municipality that shows:

(1) the outstanding obligations of the municipality; (2) the cash on hand to the credit of each fund; (3) the funds received from all sources during the preceding year; (4) the funds available from all sources during the ensuing year; (5) the estimated revenue available to cover the proposed budget; and (6) the estimated tax rate required to cover the proposed budget.

(5) A statement proposing any capital expenditures deemed necessary for undertaking during the next budget year and recommended provision for funding.

(6) A list of capital project which should be undertaken within the five (5) next succeeding years.

Public hearing and adoption

The law requires only the “preceding year” and the “proposed year” figures to be shown. Standard budget practice followed by many cities calls for the budget to have three expenditure columns: (1) for the last completed fiscal year, (2) for the current year (this will consist of 6-9 months of actual expenditures plus an estimate for the last 3-6 months), and (3) the proposed figures for the new year. The Carrollton language is fairly typical of many Texas charters:

Public hearing requirements are covered in state law. Cities have long provided for public hearings; one city charter specifically provides citizens be given five minutes each to speak about the budget. Other charters demand a second public hearing if the council amends the budget after a first public hearing.

Adoption of the budget requires a majority vote of the total council in 61 percent of city charters. In the remaining 39 percent of cities, it can be by majority of a quorum. Because the budget vote is such a crucial decision, many experts prefer the requirement for a majority of the total. It is not a requirement of state law. State law does mandate action in another crucial area: the budget must be adopted before the tax levy is approved by the council and should be adopted before the beginning of the new fiscal year. With one exception, every city charter in the state repeats this requirement.

State law does not address the circumstance of a budget adopted after the beginning of the fiscal year, apparently presuming that everyone will obey the law. Occasionally some cities do not make the deadline. Charters deal with this potential problem in many cities. If the deadline is not met, 26 percent of charters call for the mayor/manager’s proposed budget to become effective. In 36 percent of cities, the charter calls for the current budget to remain in effect until a new budget is adopted. The matter is not addressed in 36 percent of the cities, with the remaining three percent having alternative provisions.

Figure 14-2: Preparation and Submission of Budget

Section 4.02 Preparation and Submission of Budget

The city manager, prior to August 1 of each year, shall prepare and submit the budget, covering the next fiscal year, to the council, which shall contain the following information. In preparing the budget, each employee, officer, board, and department shall assist the city manager by furnishing all necessary information.

(1) The city manager’s budget message shall outline the proposed financial policies for the next fiscal year with explanations of any changes from previous years in expenditures and any major changes of policy and a complete statement regarding the financial condition of the city.

(2) An estimate of all revenue from taxes and other sources, including the present tax structure rates and property evaluations for the ensuing year.

(3) A carefully itemized list of proposed expenditures by fund and service type and project for the budget year, as compared to actual expenditures of the last ended fiscal year, and an estimate of final expenditures for the current fiscal year.

(4) A description of all outstanding bond indebtedness, showing amount, date of issue, rate of interest and maturity date, as well as any other indebtedness referred to in Article V, which the city has incurred and which has not been paid.

Operating budget - execution and monitoring

Once the budget is adopted, monitoring of expenditures begins. A few cities mandate the establishment of budget allotments by month and by department. This procedure was used originally to bring budget discipline to departments and avoid overruns and is used by some cities today. It is not controlled or required in most charters.

The city manager/mayor is frequently required to submit monthly or, as a minimum, quarterly reports to the city council to keep them updated on the city’s financial condition.

In the budget law, the Legislature first prohibits amendment of the budget except for emergency purposes (Section 102.009 LGC). But Section 102.010 states that

this chapter does not prevent the governing body of the municipality from making changes in the budget for municipal purposes.” “Municipal purposes” is not defined, but it apparently gives the governing body some discretionary authority. This is contemplated in the NCL model city charter in its section on budget amendments. That language has been adopted verbatim by a number of Texas charters and is quoted below:

Figure 14-3: Amendments after adoption of budget

- a. **Supplemental Appropriations**
If during or before the fiscal year the City Manager certifies that there are available for appropriation revenues in excess of those estimated in the budget, the City Council by ordinance may make supplemental appropriations for the year up to the amount of such excess.
- b. **Emergency Appropriations**
To address a public emergency affecting life, health, property, or the public peace, the City Council may make emergency appropriations. Such appropriations may be made by emergency ordinance in accordance with the provisions of § 2.14.* To the extent that there are no available unappropriated revenues or a sufficient fund balance to meet such appropriations, the Council may by such emergency ordinance authorize the issuance of emergency notes, which may be renewed from time to time, but the emergency notes and renewals of any fiscal year shall be paid or refinanced as long term debt not later than the last day of the fiscal year next succeeding that in which the emergency appropriation was made.
- c. **Reduction of Appropriations**
If at any time during the fiscal year it appears probable to the City Manager that the revenues or fund balances available will be insufficient to finance the expenditure for which appropriations have been authorized, the Manager shall report to the City Council without delay, indicating the estimated amount of the deficit, any remedial action taken by the manager and recommendations as to any other steps to be taken. The Council shall then take such further action as it deems necessary to prevent or reduce any deficit and for that purpose it may by ordinance reduce or eliminate one or more appropriations.

- d. **Transfer of Appropriations**
At any time during or before the fiscal year the City Council may by resolution transfer part or all of any unencumbered appropriation balance from one department, fund, service, strategy or organizational unit to the appropriation for other departments or organizational units or a new appropriation. The manager may transfer funds among programs within a department, fund, service, strategy or organizational unit and shall report such transfers to the council in writing in a timely manner.
- e. **Limitations; Effective Date**
No appropriation for debt service may be reduced or transferred, except to the extent that the debt is refinanced and less debt service is required, and no appropriation may be reduced below any amount required by law to be appropriated or by more than the amount of the unencumbered balance thereof. The supplemental and emergency appropriations and reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption.

The Colony is the only city known to require a “fiscal note” on ordinances or resolutions introduced in the middle of the fiscal year. A “fiscal note,” as defined in the charter quote that follows, clearly states the financial impact of the measure proposed. This type of cost analysis and disclosure has been an accepted part of the Texas state legislative process for several years, but evidently has not been considered by cities with this one exception. The Colony’s paragraph reads:

SECTION 3.10 METHOD OF ADOPTION; GENERAL ORDINANCES

Any ordinance or resolution (other than an emergency measure, the budget, or routine expenditures of budgeted funds) which authorizes or requires the expenditure or diversion of any city funds for any purpose or proposed any new tax or increased or decreased tax, fee, license, charge, or penalty shall have a separate statement signed by the city manager outlining the fiscal impact and probable gain or loss in income or cost of the measure each year for the first (3) years after its passage and a statement as to whether or not there will be cost involved thereafter. Such separate statement shall not be a part

of the ordinance or resolution but shall remain with the ordinance or resolution throughout the entire legislative process, including submission to the mayor.

Finally, most city charters contain a short section on “Lapse of Appropriations” which provides that every appropriation, except an appropriation for a capital expenditure, shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered.

Capital budget

Nearly all mayors, councilmembers, and city managers agree that planning ahead for major city construction projects is essential, and 76 percent of charters actually mandate the preparation of a capital program or capital budget. The term that most city councils recognize is capital improvements program – CIP. Many cities boast of an annual CIP that is required by ordinance or, in some cases, dictated by tradition. Cities have wide discretion in preparation and adoption of a CIP because state law does not address this subject.

Just what is a CIP, and how does it differ from a capital budget, and how much of either or both should be the subject of a section in the charter?

A capital improvements program (CIP) is a long-term plan, usually spanning five or six years, for financing major cost items that have a long, useful life: such items as buildings, streets, major utility lines, and expensive equipment.

The CIP itself is a listing of those major projects scheduled for construction or acquisition during the next five or six years. The listing projects the date and total annual amount the city expects to spend on a capital project; the source of funding; and finally, and very importantly, the future operating and maintenance cost. Policymakers and administrators are well aware that the construction funding of such items as fire stations and branch libraries is only the beginning of the outlay. The real cost is in staffing and maintenance.

A CIP should be prepared each year, adopting Year 1 prior to, or in conjunction with, the annual operating budget and carrying forward the subsequent years. The following year, Year 2 (perhaps with revisions) becomes Year 1 and the plan is extended out to another year to keep the five or six years continually out into the future.

Suggestions for projects in the CIP come from varied sources—the citizenry, neighborhood groups, city staff, and the council itself. The designated operating department has the first responsibility for putting these ideas together into a priority schedule. The planning office or the budget/finance office usually compiles the CIP suggestions. Public hearings may be held at this point prior to adoption of the CIP by the council.

Up to this point, the council has adopted a “program of good works to be done,” but has not committed itself

to use current funds in the budget, to the issuance of bonds, or to the use of federal or state grant money.

The program becomes a capital budget when the council commits itself to funding the first year of the program (or such portion of it with which they agree and can find the funds to commit). Some cities adopt the capital budget ahead of the operating budget. They argue that the staff and the council must know before the operating budget decision is made which capital projects the city will undertake. Other cities call for adoption of the capital budget on the same day the operating budget is approved.

Beaumont has very clear language on the capital budget in Article VI. The section is reasonably short, leaving the details discussed above to ordinance or administrative order:

Figure 14-4: Capital Program

Section 19 - CAPITOL PROGRAM

(a) **Submission to Council:** The Manager shall prepare and submit to the Council a five (5) year Capital Program at least three (3) months prior to the final date for submission of the budget.

(b) **Contents:** The Capital Program shall include:

(1) A clear general summary of its contents; and (2) A list of all capital improvements which are proposed to be undertaken during the five (5) fiscal years next ensuing, with appropriate supporting information as to the necessity of such improvements; and (3) Cost estimates, method of financing, and recommended time schedules for each such improvement.

Section 20 – COUNCIL ACTION ON CAPITAL PROGRAM

The Council shall give notice of a public hearing on the proposed Capital Program and shall hold said hearing in the same manner as provided in this Chapter for the annual budget. The hearing for the proposed Capital Program and the notice of same may be in conjunction with the annual budget. The Council shall, by resolution, adopt the Capital Program with or without amendment after the public hearing and on or before the 27th day of the last month of the current fiscal year.

Purchasing and contracts

A typical Texas charter contains three provisions regarding purchasing and contracts: (1) a paragraph or more on competitive bidding for supplies and materials; (2) a statement on purchases the city manager can make (mayor in mayor-council city) without approval by the city council; and (3) a section on construction contract bids. A few charters also address limitations on the sale of city land.

Supplies, materials, and construction

THOSE DAYS ARE GONE FOREVER!

“Section 29. All contracts for public printing, public improvement, and public works of every kind and character, and the purchase of supplies for use in any department of the city exceeding an expenditure of Two Hundred and Fifty (\$250) Dollars shall be let on sealed competitive bids.” (Emphasis supplied.)

State law permits a number of exceptions to the \$50,000 competitive procurement threshold. They are listed in Local Government Code, Section 252.022.

One sub-function of purchasing in many cities is the responsibility for inventory control, particularly of such items as water and wastewater pipe and fittings, as well as the materials and supplies. Only a handful of cities have deemed it necessary to address this activity in the city charter; however, one city may have been having some difficulties in this area. By terms of a charter amendment adopted May 1994, the city manager is mandated “to develop an event-oriented inventory management system for city-owned property and required to present the council with an inventory of all city-owned property at the time of presentation of the annual budget message.” The Public Property Finance Act (Sections 271.001-271.009, Local Government Code) also speaks to the purchase and/or acquisition of personal property by cities.

The charter section quoted to the left is from a 1918 Texas city charter. The \$250 figure requiring competitive procurement is now \$50,000 by state statute. Another major change is the choice now available to cities.

Until 1993, state law regarding competitive bidding mandated that if charter limits were lower than the state figure, the charter figure prevailed. In 1993, however, the law was changed, and a city may adopt the state figure even though its charter sets a lower limit. The result of this recent law is that a number of cities have the authority to preempt their charter limits without an amendment changing the limits. The difference between response to this state law and others is that cities are allowed to choose whether they will adhere to their charter provision or

to state law when they differ. Most other state laws supersede charter provisions.

Construction contracts

In 2001, Subchapter H of Chapter 271 was added to the Texas Local Government Code and extended the authority to use alternative delivery systems, including best-value competitive bidding, competitive sealed proposals, design-build, construction management, and job order contracting, to Texas cities. Detailed information on these procurement methods are available from TML or the Texas attorney general’s office in the publication known as “Texas Municipal Procurement Laws Made Easy.”

Accepting state law

The City of Pflugerville adopted its first charter in November 1993 and abdicated the entire area of purchasing and sale of city property and assets to the state. That charter’s brief Section 9.09 simply reads: “All sales of city property, purchases made, and contracts executed by the city shall be made in accordance with the requirements of the constitution and laws of the State of Texas.”

When this verbiage is included in a city charter, the city council may, by ordinance, prescribe the sales, purchase, and contract limits the city manager may execute without reference to the council, and require transactions over that set amount to come before the council. This ordinance route offers the advantage of flexible response to changes in the dollar value.

Municipal debt - short and long-term

Cities borrow money for the same two reasons as individuals—to cover an emergency on a short-term basis and to acquire a major piece of equipment or property using long-term financing.

Short-term loans to a city usually are made by local banks. The purpose is to provide temporary funds with the expectation of repayment within the current fiscal year. Our review of the charters revealed that 74 percent of them provide specifically for borrowing in anticipation of tax collections or other revenues. A city’s short-term loans must mature in the current fiscal year and do not require a voter referendum. Such loans should be used sparingly; excessive use can adversely affect a city’s bond rating.

The city of Denton has a fairly standard section on tax anticipation notes:

Sec. 7.07. Borrowing in anticipation of property taxes.

In any budget year, in anticipation of the collection of the property tax for such year, whether levied

or to be levied in such year, the council may be resolution authorize the borrowing of money by the issuance of negotiable notes of the city, each of which shall be designed "Tax Anticipation Note for the year 19__" (stating the budget year). Such notes shall be renewable, shall mature and be paid not later than the end of the fiscal year in which the original notes have been issued.

Long-term loans are of two kinds – "general obligations" and revenue bonds. "General obligations" are secured by a pledge of property taxes and include time warrants, certificates of obligation and ad valorem tax bonds (G.O. bonds). Revenue bonds are long-term loans secured by a pledge of revenue from an income-producing facility such as the city water system.

Time warrants

Time warrants are one form of general obligation debt payable from ad valorem taxes. Unlike G.O. bonds, which are sold for cash, time warrants are issued directly to vendors to pay for construction, equipment, and services. Also unlike G.O. bonds, time warrants do not require voter approval; although, the law does require that the city council publish notice of its intent to issue them and that the council call a referendum election upon presentation of a petition signed by 10 percent of the voters.

The procedures for issuing time warrants are cumbersome and expensive and may result in the city paying a higher rate of interest than if the borrowing were accomplished with bonds. Nevertheless, time warrants can occasionally be advantageous—for example, to complete the construction of a public works project where there has been a cost overrun and bond funds have been exhausted.

Certificates of obligation (COs)

COs are the second form of general obligation debt payment from ad valorem taxes. Like time warrants, they can be issued without voter approval except that upon notice of the city's intent to issue certificates, five percent of the qualified voters can force an election on the issue by submission of a petition.

No charter provision is necessary to utilize the state law. (Subchapter C, Certificate of Obligation Act, Sections 271.041 - 271.063, Local Government Code.) In addition, if a city charter has a provision contrary to the CO law, the charter provision is overridden by law.

The original CO law, enacted by the Legislature in 1971, was sought by cities primarily to provide a funding mechanism for overruns of GO bond projects. While the law even then allowed COs to be paid for materials and supplies and to mature over a period of as much as 40 years, cities

used this new authority very carefully. To their credit, Texas cities have not misused this law and precipitated major citizen backlash. There is a temptation to: (1) buy materials, supplies, and small pieces of equipment with COs that could be purchased out of current operating funds, and (2) carelessly issue obligations of up to 40 years, avoiding voter approval. At least one urban Texas county has been criticized for having a "permanent" program of issuing COs each year for any equipment costing over \$500.

Ad valorem tax bonds

Ad valorem tax bonds are commonly referred to as general obligation, or G.O. bonds. They are issued pursuant to an ordinance adopted by the city council typically following approval of the bonds at a referendum election. The bonds are examined as to legality by the Attorney General of Texas and then delivered by the city to the successful purchaser or bidder for payment in cash. This cash is then used by the city to pay for libraries, police buildings, city halls, and other public facilities with a long useful life. General obligation bonds have the highest degree of investor acceptance of any type of municipal indebtedness and command the lowest interest rates. Therefore, unless exceptional circumstances dictate otherwise, G.O. bonds are the preferred means of borrowing against a pledge of tax revenues.

Charter provisions for issuance of G.O. bonds vary widely in detail. Some cities extensively detail the purpose for which these bonds may be issued, the conditions of sale, the initiation of a register to keep records, the establishment of a sinking fund to record annual bond payments, and the penalties for misuses of this fund.

Conversely, the only provisions that a number of cities have are the following:

- (1) Recite that the city has the power to issue all types of debt instruments.
- (2) Provide for the passage of a bond ordinance. Several cities provide that bonds may be authorized only with a majority vote of the entire council.
- (3) State the maximum term of the bonds and other conditions of issuance.
- (4) Recite the conditions of sale—public sale, sealed proposals, note of sale to be published, authority of council to refuse all bids.
- (5) Provide for the register and set of books showing all the pertinent details concerning each type of debt issued.

Spending/taxation limitations

At least one home rule charter directly limits the ability of the city to increase taxes or expenditures from one year to the next. While tax and expenditure limits have been avoided as a matter of State law, a city's charter may be stricter.

Summary

When writing a new charter or amending an existing one, cities should not hesitate to obtain the counsel of bond attorneys to guide charter writers in the intricacies of state and federal law pertaining to debt insurance and management.