

CITY OF MONT BELVIEU
APRIL 2, 2022 - 9:00 AM
CHARTER REVIEW COMMITTEE
MEETING AGENDA
SPECIAL SESSION

Mike Pomykal, Mayor Pro Tem
Laurie Guidry, Position 2
Arnold Peters, Position 3

Scott E. Swigert, Interim City Manager



Nick Dixon
Mayor

COUNCIL CHAMBERS
11607 EAGLE DRIVE
MONT BELVIEU, TX 77523

Tim Duree, Position 4
Joey McWilliams, Position 5
Danny Campbell, Position 6

Kori Schweinle, City Secretary
J. Grady Randle, City Attorney

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- A. Call to order and announcement of a quorum.
 - B. Special Session.
 - B.1 Review of city charter and take appropriate action.
 - [MONT BELVIEU CHARTER.pdf](#)
 - [Survey.pdf](#)
 - [Blodgett.pdf](#)
 - [Fort Bend County Charters.pdf](#)
 - [CHARTER - Bell County Cities.pdf](#)

- C. Adjournment.

Kori Schweinle, City Secretary

Posted this 30th day of March 2022 at 9:00 a.m.

City of Mont Belvieu Council Chambers is wheelchair accessible and accessible parking spaces are available. Hearing assistance devices are available. Requests for accommodation services must be made 72 hours prior to any meeting. Please contact the City Secretary's office at 281-576-2213 for further information.

CHARTER

FOOTNOTE(S):

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Editor's note—This Home Rule Charter was approved by the voters at an election held on Nov. 5, 2013, and adopted by the City on November 13, 2013.

I. - FORM OF GOVERNMENT AND POWERS

Section 1.01 - Establishment.

- A. The City of Mont Belvieu shall have a "Council-Manager" form of government.
- B. All powers of the City shall be vested in the Council, hereinafter referred to as the "City Council," which shall enact local legislation, adopt budgets, determine policies and appoint the City Manager. The City Manager shall answer to the City Council for the execution of the laws and the administration of the government of the City.

Section 1.02 - General Powers.

- A. Mont Belvieu shall have the power of local self government to the fullest extent permitted by law.
- B. The City shall have all the powers granted to cities by the Constitution and Laws of the State of Texas or other law together with all of the implied powers necessary to carry into execution those powers and those express and implied powers necessary for the government, interests, health, welfare and good order of the City and its inhabitants.
- C. All powers shall be exercised and enforced in the manner prescribed by the laws of the State of Texas, in this Charter and action of City Council.

Section 1.03 - Intergovernmental Relations.

The City of Mont Belvieu may exercise any of its powers or perform any of its functions, and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise with the Government of Texas or any agency thereof, or with the Federal Government or any agency thereof, or with the government of any county, city or political subdivision to accomplish any lawful municipal purpose.

II. - BOUNDARIES

Section 2.01 - Boundaries.

The boundaries of the City of Mont Belvieu shall be the same as existed prior to the adoption and ratification of this Charter and as are more fully set out and described by the official city map of the City of Mont Belvieu.

Section 2.02 - Extension of Boundaries—Annexation.

The City Council shall have the full power to annex territory, to extend and enlarge the city boundaries and exchange areas with other municipalities.

Section 2.3 - Contraction of Boundaries—Disannexation.

Any area of the City may be disannexed pursuant to any procedure allowed under state law and whenever, in the opinion of the City Council, there exists within the corporate limits of the City a territory not suitable or necessary for City purposes, the City Council may discontinue said territory as part of the City by ordinance after conducting a public hearing on the matter.

III. - THE CITY COUNCIL AND MAYOR

Section 3.01 - General Powers and Duties.

All powers of the City shall be vested in the City Council, except as otherwise provided by law or this Charter and the City Council shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the City by law.

Section 3.02 - Number, Selection, and Term.

The membership of City Council (members of City Council) shall be composed of the Mayor and six (6) Council Members. The Mayor and Council Members shall be elected from the City at large for three (3) year terms. Each Council Member shall occupy a place on the Council, such places being numbered 1 through 6. Each year two Council places shall be elected for their respective terms except as set forth in the transitional provisions hereinafter set forth.

Section 3.03 - Qualifications.

The Mayor and each Council Member shall meet the following:

- A. Be a qualified voter in the City and State at the time of taking office;
- B. Be a resident of the City;
- C. Have resided continuously in the corporate limits of the City for 12 months immediately preceding the date of the election;
- D. Not be in violation of any provision in this Charter;
- E. Be 21 years of age or older on the first day of the term to be filled at the election;
- F. Satisfy any other eligibility requirements prescribed by law for the office for which they are a candidate.

Section 3.04 - Judge of Qualifications.

The City Council is the final judge of all elections and the qualifications of its members and of any other elected officials of the City.

Section 3.05 - Compensation.

- A. City Council shall not receive any compensation unless determined by vote as provided for herein.
 - 1. Compensation of the City Council, and any subsequent increases, shall be determined and approved by a vote of the citizens at a regular election.
 - 2. No increase in such compensation shall take effect until the next fiscal year following the election.
- B. The City Council may be reimbursed for expenses incurred in performance of official duty. The policy regulating payment of expenses incurred in performance of official duty shall be determined by the City Council.

Section 3.06 - Mayor.

- A. The Mayor shall be the presiding officer of the City Council and shall be recognized as the head of the City government for all ceremonial purposes, for emergency management purposes, and by the governor for purposes of military law.
- B. The Mayor may debate and discuss any matters before the City Council and shall vote on all issues with the City Council.
- C. The Mayor shall, when authorized as necessary by the City Council, sign all official documents.
- D. The Mayor shall appoint, with the advice and consent of the City Council, the members of citizen advisory boards and commissions, whose conditions of membership shall have been set previously by ordinance.

Section 3.07 - Mayor Pro-Tem.

- A. The Mayor Pro-Tem shall be a Council Member elected by the City Council at the first regular City Council meeting following each regular City election.
- B. The Mayor Pro-Tem shall act as Mayor during the absence or disability of the Mayor.

Section 3.08 - Vacancies; Forfeiture of Office; Filling of Vacancies.

- A. Vacancies. The office of a Council Member or office of the Mayor shall become vacant upon death, resignation, removal from office by recall, or forfeiture of his/her office.
- B. Forfeiture. A Council Member or the Mayor shall forfeit his/her office if he/she:
 1. Fails to maintain at any time during the term of office any qualification for the office prescribed by this Charter or by law;
 2. Is convicted of a misdemeanor involving moral turpitude, a violation of any state laws regulating conflicts of interest of municipal officers, a felony, or is assessed a deferred adjudication or probation for a felony or any state laws regulating conflicts of interest of municipal officers;
 3. Failure to regularly attend City Council meetings without an approved absence obtained by a majority vote by City Council either before or after the absence. There shall be a presumption of failure to regularly attend when three (3) regular meetings are missed during a term year without obtaining an approved absence from City Council.
- C. If a member of City Council violates any provision of this section and does not immediately resign, the City Council may conduct an investigation and hearing pursuant to Section 3.12 of this Charter to determine if the office holder is in violation of this section. The hearing shall be held within 60 days of the City Council, as a body, learning of the alleged forfeiture.
- D. All vacancies shall be filled pursuant to state law.

Section 3.09 - Prohibitions.

- A. No member of City Council shall accept or admit liability or pay any claim for damages asserted against the City. City Council shall not accept or admit liability without first obtaining a written opinion from the City Attorney regarding the City's liability therein and only then upon a majority vote of the City Council.
- B. No member of City Council shall be employed in or appointed to the positions of City Manager, City Attorney, or Department Head until three (3) years after the expiration of the term for which he/she was elected to the City Council and for any other compensated City position until one (1) year after the expiration of the term for which he/she was elected to the City Council. This subsection shall not apply to a volunteer who receives a stipend that is the same as the stipend received by other similarly situated volunteers.
- C. Except for the purpose of inquiries and investigations, unless otherwise provided in this Charter, the City Council as whole and its individual 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 City Council nor its individual members shall give orders to any such officer or employee, either publicly or privately.

- D. It shall be unlawful for the City Council or any of its members to dictate to the City Manager the appointment of any person to office or employment. The City Council or its members will not interfere in any manner with the City Manager in the performance of the duties of that office or prevent the City Manager from exercising the City Manager's own judgment in the appointment of officers and employees whose employment, appointment, and supervision are reserved by this Charter for the City Manager. Except for the purpose of inquiry and investigations, the City Council and its members shall deal with the City Staff solely through the City Manager, and neither the City Council, as a body or any individual member, nor any individual not having administrative or executive functions under this Charter shall give orders to any of the subordinates of the City Manager, either publicly or privately.

Section 3.10 - Meetings and Procedures.

- A. Agendas. A member of City Council may place an item on an agenda by agreement of two additional members of City Council. The member of City Council desiring to place an item on an agenda shall submit in writing the request to place the item on an agenda to the City Secretary who shall inquire with members of City Council as to their agreement. The item shall be placed on the next City Council meeting occurring on or after the 5th calendar day after obtaining the agreement of the second member of City Council.

At a meeting of City Council a member of City Council may place an item on an agenda by making a motion to place the item on a future agenda and receiving a second. No discussion shall occur at the meeting regarding the placement of the item on a future agenda.

The City Manager may place any item on any City Council agenda.

- B. Procedures. City Council shall, except as otherwise provided for in this Charter, create rules of procedure for all City Council workshops, regular and special meetings and public hearings by ordinance.

Section 3.11 - Ordinances.

- A. Passage. Except as may otherwise be prescribed in this Charter or other law, all ordinances adopted by the City Council shall take effect at the time indicated therein.
- B. Enacting Clauses; Signature and Authentication. The enacting clause of all ordinances shall be "BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MONT BELVIEU, TEXAS;" and every ordinance shall be signed by the Mayor or the Mayor pro-tem and authenticated by seal and signature of the City Secretary.
- C. Publication. The caption or title and penalties of every ordinance imposing any penalty, fine, or forfeiture shall, as soon as practical after passage thereof, be published one (1) time in the official newspaper(s) of the City of Mont Belvieu. An ordinance required to be published under this section shall take effect the day after publication unless otherwise provided in the ordinance.
- D. Codification of Ordinances.
1. The City Council shall have the power to cause the ordinances of the City to be corrected, amended, revised, codified and printed in code form as often as the City Council deems advisable, and such printed code, when adopted by the Council, shall have full force and effect without the necessity of publishing the same or any part thereof in a newspaper.
 2. All printed ordinances or codes of ordinances shall be admitted as evidence in all courts without proof, and shall have the same force and effect as did the original ordinance.

Section 3.12 - Council Investigations; Hearings; Process.

- A. General. In addition to any other specific authority of investigation and hearing provided for in this Charter, the City Council shall have the power to inquire into the official conduct of any department, agency, appointed boards, office, officers, employees or appointed board members of the City. For the purpose of investigations and hearings, the City Council shall have the power to administer oaths, subpoena witnesses, compel the production of books, papers, and other evidence material to the inquiry. The City Council shall provide, by ordinance, penalties for contempt in failing or refusing to obey any such subpoena or to produce any such books, papers or other evidence. The City Council shall have the power to punish any such contempt in the manner provided by such ordinance.
- B. Hearings Process for Forfeitures of Office and Prohibitions.
1. All hearings held under this subsection shall be conducted in open session, except that the City Council may conduct a closed session to get advice from its attorney pursuant to the Texas Open Meetings Act;
 2. The officer holder subject to any investigation and/or hearing under this section shall be entitled to written notice of the allegations of forfeiture and/or the alleged violation of this Charter as applicable;
 3. A special meeting shall be called to hold the hearing;
 4. A member of City Council who initiated or is the subject of the investigation or hearing shall not sit at the dais and shall not participate in deliberation or vote;
 5. City Council shall adopt by ordinance rules of procedures to be followed;
 6. The City Council shall state the nature of the hearing and the allegations to be considered, shall be provided the results of any investigation and a presentation of the evidence against the office holder including, but not limited to testimony from individuals;
 7. The individual who is subject to the hearing shall be provided an opportunity to respond to the allegations and present any relevant evidence including, but not limited to, testimony from individuals;
 8. City Council may ask questions of any individual;
 9. No public comment shall be allowed unless agreed to by a majority vote of the members of City Council present. Rules for public comment shall be set by City Council;
 10. In the case of a violation of Section 3.08 of this Charter City Council shall vote on the forfeiture and on the affirmative vote of two-thirds of City Council declare the office of said office holder to be forfeited and vacant;
 11. In the case of a violation of Section 3.09 of this Charter City Council may on the affirmative vote of a majority of the City Council take any action it determines to be appropriate including, but not limited to, directing further investigation, requesting further information, vote to enforce a penalty pursuant to section 7.18 B. of this Charter, vote to bring an action in municipal court, take a vote of censure; or, upon the affirmative vote of two-thirds of City Council, declare the office of said office holder to be forfeited and vacant; and
 12. In the case of a violation of Section 7.01 or 7.02 of this Charter by a member of City Council or a City Official, City Council may, on the affirmative vote of a majority of the City Council, take any action it determines to be appropriate including, but not limited to, directing further investigation, requesting further information, vote to enforce a penalty pursuant to section 7.18 B. of this Charter, vote to bring an action in municipal court, take a vote of censure; or, upon the affirmative vote of two-thirds of City Council, declare the office of said office holder to be forfeited and vacant.

IV. - ELECTIONS

Section 4.01 - Elections.

- A. The regular City election shall be held annually on the uniform election date in May, or at such other times as may be specified by State Law, at which time officers will be elected to fill those offices which become vacant that year.
- B. The City Council shall fix the place for holding such election.
- C. The City Council may, by ordinance or resolution, order a special election, fix the date and place for holding same, and provide all means for holding such special election.
- D. Notice of elections shall be published in a newspaper of general circulation of the City of Mont Belvieu, such publication to follow the requirements of the Election Code and any applicable law.
- E. Early voting shall be governed by the general election laws of the State of Texas.

Section 4.02 - Regulation of Elections.

- A. All elections shall be held in accordance with the laws of the State of Texas regulating the holding of municipal elections and in accordance with the ordinances adopted by the City Council for the conduct of elections.
- B. The City Council shall appoint the election judges and other election officials.

Section 4.03 - Filing for Office.

- A. Any person having the qualifications set forth under Section 3.03 of this Charter shall have the right to file an application to have their name placed on the official ballot as a candidate for any elective office.
 - 1. Any such application shall be in writing, signed by such candidate, and filed with the City Secretary in accordance with the Texas Election Code and this Charter.
 - 2. An application filed in accordance herewith shall entitle such applicant to a place on the official ballot.
- B. A candidate of City Council shall specify the place number or position the candidate is seeking.

Section 4.04 - Official Ballot.

- A. The names of all candidates for office, except such as may have withdrawn, died or become ineligible, shall be placed on official ballots without party designations specifying the council place for which each is seeking election.

Section 4.05 - Run-Off Election.

In the event no candidate for an elective office receives a majority of the votes cast for that place in the general or special election or there is a tie, a run-off election shall be held between the two (2) candidates who received the greater number of votes.

Section 4.06 - Taking of Office.

Each newly elected person to the City Council shall be inducted into office at the first regular City Council meeting following the canvass of the votes.

V. - ADMINISTRATIVE ORGANIZATION

Section 5.01 - City Manager.

- A. Appointment and Qualifications. The City Council shall appoint a City Manager who shall be the chief administrative and executive officer of the City and shall be responsible to the City Council for the administration of all the affairs of the City. The City Manager shall be chosen by the City Council solely on the basis of the City Manager's executive and administrative training, experience and ability.
- B. Term and Compensation. The City Manager shall be appointed for an indefinite term upon the affirmative vote of two-thirds (2/3's) of the City Council, and may be removed at the discretion of the City Council by an affirmative vote of two-thirds (2/3's) of the City Council. The action of the City Council in suspending or removing the City Manager shall be final, it being the intention of this Charter to vest all authority and fix all responsibility of such suspension or removal in the City Council. The City Manager shall receive compensation as may be fixed by the City Council.
- C. Powers and Duties. The City Manager shall have the following powers and duties:
1. The City Manager shall appoint and, when the City Manager deems it necessary for the good of the City, may suspend or remove any City employee except as otherwise provided by law, this Charter, or personnel rules adopted pursuant to this Charter. The City Manager may authorize any employee who is subject to the City Manager's direction and supervision to exercise these powers with respect to subordinates in that officer's department, office or agency.
 2. The City Manager shall direct and supervise the administration of all departments, officers, and agencies of the City, except as otherwise provided by this Charter or by law.
 3. The City Manager shall attend all City Council meetings, except when excused by the Mayor or Mayor Pro-Tem, and shall have the right to take part in discussion but may not vote.
 4. The City Manager shall see that all laws, provisions of this Charter and acts of the City Council, subject to enforcement by the City Manager or by those subject to the City Manager's direction and supervision, are faithfully executed.
 5. The City Manager shall make such reports as the City Council may require concerning the operations of the City departments, offices and agencies subject to the City Manager's direction and supervision.
 6. The City Manager shall keep the City Council fully advised as to the financial condition and future needs of the City and make such recommendations to the City Council concerning the affairs of the City as the City Manager deems desirable.
 7. The City Manager shall have the authority to execute on behalf of the City, standard form documents, including but not limited to deeds, releases of liens, rental agreements, easements, right-of-way agreements, joint use agreements, and other similar documents, under the following conditions:
 - a. The execution of the document is necessary to carry out a public works project; utilize, maintain or improve a City facility, street, right-of-way, easement, park or other City property, or to implement other City policies; provided that such project, program or policy has been approved by the City Council;
 - b. That all blanks are filled in on any document correctly and that such document is consistent with the objectives approved by the City Council; and
 - c. That the form of such document shall be approved by the City Attorney.
 8. The City Manager shall perform such other duties as are specified in this Charter or may be required by the City Council.
- D. Review. The City Council shall perform a review of the City Manager's performance at least annually, but no more than twice in any fiscal year.
- E. Acting City Manager. By letter filed with the City Secretary the City Manager shall designate, subject to approval of the City Council, a qualified employee to exercise the powers and perform the duties of City Manager during the City Manager's temporary absence or disability. The City Council may

revoke such designation at any time and appoint another individual to serve until the City Manager shall return or his disability shall cease.

Section 5.02 - Other Departments, Offices, and Agencies.

A. General Provisions.

1. Creation of Departments. The City Council may continue or establish City departments, offices or agencies in addition to those created by this Charter and may prescribe the functions of all departments, offices and agencies, except that no function assigned by this Charter to a particular department, office or agency may be discontinued or, unless this Charter specifically so provides, assigned to another department.
2. Direction by City Manager. All departments, offices and agencies under the direction and supervision of the City Manager shall be administered by an employee appointed by and subject to the direction and supervision of the City Manager.

B. City Attorney. The City Council shall appoint a licensed attorney of the State of Texas to be the City Attorney. The City Attorney shall receive for services such compensation as may be fixed by the City Council for regular and special duties and shall hold office at the pleasure of the City Council. The City Attorney or such other attorney's selected by the City Attorney with the approval of the City Council shall represent the City in all legal matters.

C. Municipal Court; Judge(s). The City Council shall establish a municipal court and shall appoint a presiding judge(s) and any such other associate judge(s) as are deemed necessary and fix the compensation therefore. The judge(s) of the municipal court shall serve at the will and pleasure of the City Council, unless otherwise provided by law.

D. City Secretary. The City Manager shall appoint, and may remove without cause, a City Secretary whose duties and obligations shall be determined and supervised by the City Manager.

Section 5.03 - Personnel Rules.

The City Manager shall be responsible for the preparation of personnel rules, which rules shall be submitted by the City Manager to the City Council. The City Council may accept and adopt such rules as proposed or may adopt them with amendments.

VI. - INITIATIVE, REFERENDUM AND RECALL

Section 6.01 - General Authority.

- A. Initiative. The qualified voters of the City shall have power to propose ordinances to the Council. Such power shall not extend to the granting of franchises, budget or any capital program, or relating to appropriation of money, issuing of bonds, setting of utility rates and levy of taxes or salaries of City officers or employees, or any other ordinance not subject to initiative as provided by state statute or common law.
- B. Referendum. The qualified voters of the City shall have power to require reconsideration by the Council of any adopted ordinance. Such power shall not extend to the granting of franchises, budget or any capital program, or relating to appropriation of money, issuing of bonds, setting of utility rates and levy of taxes or salaries of City officers or employees, or any other ordinance not subject to referendum as provided by state statute or common law.
- C. Recall. The qualified voters of the City shall have the power to petition for recall of the Mayor or any Council Member.

Section 6.02 - Commencement of Initiative, Referendum and Recall Petitions; Petitioners' Committee; Affidavit.

- A. Any five (5) qualified voters may commence initiative, referendum, or recall proceedings by filing with the City Secretary an affidavit stating they will constitute the petitioners' committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses and specifying the address to which all notices to the committee are to be sent and setting out in full the proposed initiative ordinance or citing the ordinances sought to be reconsidered, or the name of the individual to be recalled.
- B. All papers of a petition shall be uniform in size and style and shall be assembled as one instrument for filing. Each signature shall comply with Chapter 277 of the Texas Election Code as it may be amended from time to time.
- C. Petitions shall be returned to the Office of the City Secretary for filing within sixty (60) days after filing of the affidavit of petitioners committee and no signature on said petition shall have been affixed prior to the filing of the affidavit of petitioners committee.
- D. Each signer of such recall petition shall personally sign their name thereto in ink or indelible pencil and shall write after their name their place of residence, giving the name of the street and the number, and shall also write thereon the day, the month and the year their signature was affixed. The signatures on petitions shall be verified by oath in the following form:

STATE OF TEXAS

COUNTY OF [petition circulator's county of residence]

I, _____, being first duly sworn, on oath depose and say that I am one of the signers of the above petition, and that the statements made therein are true, and that each signature appearing thereto was made in my presence on the day and date it purports to have been made, and I solemnly swear that the same is the genuine signature of the person it purports to be.

Signature _____

Sworn and subscribed before me this _____ day of _____ / _____ / _____
20 _____ .

NOTARY PUBLIC, STATE OF TEXAS

My commission expires: _____ / _____ / _____

Section 6.03 - Initiative, Referendum and Recall Petitions; Certificate of City Secretary; Supplementation; Presentation to Council; Council Review.

- A. Certificate of City Secretary. Within 30 working days after the petition (the "Original Petition") is filed, the City Secretary shall complete a certificate as to its sufficiency or insufficiency as mandated herein, specifying, if it is insufficient, the particulars wherein it is defective and shall within that 30 working day period send a copy of the certificate to the petitioners' committee by certified mail return receipt requested or by hand delivery to a committee member.
- B. A petition certified insufficient for lack of the required number of valid signatures may be supplemented once if the petitioners' committee files a notice of intention to supplement with the City Secretary within three working days after receiving the copy of the Certificate of the City Secretary. The supplementary petition shall be filed within the time specified in Subsection 6.03.C. Such supplementary petition shall comply with the requirements of Subsections 6.02.B and D, and within ten (10) working days after the supplementary petition is filed, the secretary shall complete a certificate as to the sufficiency of the petition as supplemented and send a copy of such certificate to the petitioners' committee by registered mail as in the case of an original petition.

- C. Upon the submission of the Original Petition to the City Secretary the 60 day time line for submission as provided for in Section 6.02.C shall be tolled. The petitioners committee shall submit the supplementary petition to the City Secretary within the remaining tolled 60 day deadline, said remaining time to be calculated from receipt of the certificate of insufficiency by the petitioner's committee or committee member as applicable. No signature on said supplementary petition shall have been affixed prior to the receipt by the petitioners committee of the certificate of insufficiency.
- D. Presentation to Council. The City Secretary shall, at the next regular Council meeting in compliance with the Texas Open Meetings Act after completion of certification of the petition or supplementary petition, present such certificate to the Council and the certificate shall then be a final determination as to the sufficiency of the petition.

Section 6.04 - Requirements specific to Petitions for Recall.

Before the question of a recall shall be submitted to the qualified voters of the City a petition, containing at least 30 percent of the number of qualified voters registered to vote at the last general City election, demanding such question to be so submitted shall first be filed with the Office of the City Secretary pursuant to this Article. The petition shall be addressed to the City Council of the City and shall state distinctly and specifically the alleged action(s) and the factual circumstance(s) surrounding such action(s) taken by the individual that warrant the reason for the recall as to give the individual sought to be removed notice of the matter(s) and thing(s) with which the individual's recall is predicated. If there be more than one reason, said petition shall distinctly and specifically state each reason upon which such petition for removal is predicated and shall distinctly and specifically state the alleged action(s) and the factual circumstance(s) surrounding such action(s) taken by the individual that warrant the recall as to give the individual sought to be removed notice of the matter(s) and thing(s) on which the recall is predicated.

Section 6.05 - Public Hearing to be Held on Recall Petition.

The individual whose removal is sought may, within five (5) working days after such recall petition has been presented to the City Council, request that a special meeting be held to permit him/her to present a response to the reasons for recall specified in the recall petition. In this event, the City Council shall order such special meeting to be held, no more than thirty (30) and no less than fifteen (15) days before early voting.

At any special meeting held under this Section the individual whose removal is sought shall have a thirty (30) minute period to state their response to the recall petition. There shall be no public participation in the special meeting and no other items of business shall be a part of the special meeting.

Section 6.06 - Calling of Recall Election.

If the individual whose removal is sought does not resign, then the City Council shall for the next available uniform election date, order an election for holding such recall election. If, after the recall election date is established, the officer vacates his/her position, the election shall be cancelled, in accordance with State Law.

Section 6.07 - Ballots in Recall Election.

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

- A. With respect to each individual whose removal is sought, the question shall be submitted: "Shall _____ be removed from the office of _____ by recall?"
- B. Immediately below each such question, there shall be printed the following words, one above the other, in the order indicated:
 - "Yes"
 - "No"

Section 6.08 - Result of Recall Election.

If a majority of the votes cast at a recall election shall be "No", that is against the recall of the individual named on the ballot, the individual shall continue in office for the remainder of his/her unexpired term, subject to recall as provided herein. If a majority of the votes cast at such election be "Yes", that is for the recall of the individual named on the ballot, the individual shall, regardless of any technical defects in the recall petition, be deemed removed from office upon passing of the resolution canvassing the election, and the vacancy shall be filled by the City Council as provided for in State law.

Section 6.09 - Recall Restrictions.

No petition shall be filed for the recall of an individual within 365 days of the date of the individual's election to City Council or within 180 days before the end of the individual's term on City Council.

Section 6.10 - Initiative; Requirements specific to Petition for Initiative; Procedure.

- A. A petition for initiative must contain the number of valid signatures totaling at least 20 percent of the total number of registered voters registered to vote at the last general City election and shall otherwise comply with the requirements for petitions in this Article. Each copy of the petition shall have attached to it a copy of the full text of the proposed ordinance.
- B. Upon presentation to the City Council, it shall become the duty of the City Council, within sixty (30) days after the date the petition was finally determined sufficient, to pass and adopt such ordinance without alteration as to meaning or effect, or to call for an election, to be held on the soonest date allowed under the Texas Election Code, at which the qualified voters of the City shall vote on the question of adopting or rejecting the proposed ordinance.
- C. If a majority of the qualified electors voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon the canvassing of the election results and shall be treated in all respects in the same manner as ordinances of the same kind adopted by the Council. If conflicting ordinances are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

Section 6.11 - Referendum; Requirements specific to Petition for Referendum; Procedure; Effect Prior to Election.

- A. A petition for referendum must contain the number of valid signatures totaling at least 20 percent of the total number of registered voters registered to vote at the last general City election and shall otherwise comply with the requirements for petitions in this Article.
- B. Within 45 days after final sufficiency of the petition City Council shall either repeal the referred ordinance or order an election to submit the referred ordinance to the qualified voters of the City said election to be held on the first available uniform election date authorized by law.
- C. If a majority of the qualified electors voting on a referred ordinance vote against the ordinance, it shall be considered repealed upon certification of the election results.
- D. A petition for referendum on the same subject matter may only be submitted once every three (3) years.

Section 6.12 - Initiative and Referendum; Form of Ballots.

The ballots used when voting upon initiative or referendum shall set forth their nature sufficiently to identify them and shall also set forth, upon separate lines, the words:

"For the Ordinance"

or

"Against the Ordinance"

Section 6.13 - Ordinances Passed by Popular Vote, Repeal or Amendment.

No ordinance which may have been passed by the City Council upon a petition or adopted by popular vote under the provisions of this Article may be repealed or amended by the City Council for a period of three years from the date said ordinance became effective and then only upon by an affirmative vote of two-thirds of the City Council.

VII. - GENERAL PROVISIONS

Section 7.01 - Conflict of Interest Prohibition.

For purposes of this Section term "City Official" means any individual subject to the requirements of Texas Local Government Code, Chapter 171.

It is hereby prohibited for City Council members or a City Official to violate the rules and regulations regarding conflicts of interests as set out in the Texas Local Government Code, Chapter 171.

Section 7.02 - General Prohibitions.

A. Activities Prohibited:

1. No person shall be appointed to or removed from or in any way favored or discriminated against with respect to any City position or appointive City administrative office because of race, national origin, sex, political or religious opinions or affiliations.
2. No person who seeks appointment or promotion with respect to any City position or appointive City administrative office shall directly or indirectly give, render or pay any money, service or other valuable thing to any person for or in connection with his test, appointment, proposed appointment, promotion or proposed promotion.
3. No employee of the city shall continue in such position after becoming a candidate for City Council.

Section 7.03 - City Comprehensive Year Plan.

- A. It is the purpose and intent of this section that the city council establish comprehensive planning as a continuous and ongoing government function in order to promote and strengthen the existing role, processes and powers of the City to prepare, adopt and implement a City Comprehensive Plan to guide, regulate, and manage the future development within the corporate limits and the extraterritorial jurisdiction of the city to assure the most appropriate and beneficial use of land, water, and other natural resources, consistent with the public interest.
- B. The City Comprehensive Plan shall be reviewed and adopted no less than every two years.

Section 7.04 - Regulation of Alcohol.

The City Council may enact any and all other regulations regarding the sale, consumption, distribution, etc. of alcoholic beverages, as permitted by law, including but not limited to the regulation of the sale of liquor in residential sections or areas of the City.

Section 7.05 - Official Newspaper.

The City Council shall declare annually an official newspaper of general circulation in the City. All ordinances, notices and other matters required by this Charter, City ordinance, or the Constitution and laws of the State of Texas shall be published in the official newspaper.

Section 7.06 - Oaths.

All elected and appointed officers of the City shall take and sign an oath of office based on those prescribed for state elective and appointive offices, respectively, in the Constitution of the State of Texas.

Section 7.07 - Disaster Clause.

In case of disaster when a legal quorum of the City Council cannot otherwise be assembled due to multiple deaths or injuries, the surviving persons of the City Council, or highest surviving City official, if no elected official remains, shall, within 24 hours of such disaster, request the highest surviving officers of the Chambers County Commissioners Court to appoint a number of residents of Mont Belvieu equal to the number necessary to make a quorum to act during the emergency as the City Council. The newly appointed City Council shall call a City election within 15 days of their appointment, or as provided in the Texas Election Code, for election of the vacant offices, if for good reasons it is known a quorum of the present City Council will never again meet. If it is determined that a quorum of the present City Council will meet again, the appointed Council Members shall serve in their position until such time as the present Council Members may begin serving.

Section 7.08 - Charter Review Committee.

- (1) The City Council shall appoint a Charter Review Committee in the third (3) year after this Charter is adopted and every sixth (6th) year thereafter. The Charter Review Commission shall consist of ten (10) citizens of the City who shall:
 - a. Inquire into the operation of the City government under the Charter and determine whether any provision requires revision. To this end public hearings may be held. The Commission may request the attendance of any officer or employee of the City the production of any City records that may be needed;
 - b. Propose any recommendations it deems desirable to insure compliance with the Charter; and
 - c. Report its findings and present its recommendations to the City Council in the form of a report; and
 - d. File a copy of its report with the office of the City Secretary where it shall be a public record.
- (2) The term of office of the Charter Review Commission shall be for not more than nine months.
- (3) Upon finalization of the Charter Review Committee's report the City Council shall receive the report and have published in the official newspaper of the City public notice that a copy of the report is available in office of the City Secretary.
- (4) City Council shall consider any recommendations made and may order any recommendations be submitted to the voters of the City in the manner provided by state law.
- (5) Nothing in this section prohibits the City Council from forming a Charter Review Committee at any time or from submitting any amendments to the Charter to election on its own initiative at any time in compliance with state law.

Section 7.09 - Amendment.

Amendments to this Charter may be framed, proposed, and adopted in the manner provided herein by the laws of the State of Texas.

Section 7.10 - Security and Bond.

It shall not be necessary in any action, suit or proceeding in which the City is a party for any bond, undertaking or security to be demanded or executed by or on behalf of the City. All such actions shall be conducted in the same manner as if such bond, undertaking or security had been given as required by law.

Section 7.11 - Notice of Claim.

The City shall not be held liable on account of any claim for the death of any person or injuries to any person or damage to any property unless the person making such complaint or claiming such damages shall, within 120 days after the time at which it is claimed such damages were inflicted upon such person or property, file with the City a written statement, under oath, stating the nature and character of such damages or injuries, the extent of the same, the place where same happened, the circumstances under which same happened and the condition causing same, with a detailed statement of each item of damages and the amount thereof, giving a list of any witnesses known by affiant to have seen the accident.

Section 7.12 - Power to Settle Claims.

The City Council shall have the power to compromise and settle any and all claims and lawsuits of every kind and character, in favor of, or against, the City, including suits by the City to recover delinquent taxes after consulting with the City Attorney.

Section 7.13 - Service of Process Against the City.

All legal process against the City shall be served upon the City Manager.

Section 7.14 - Judicial Notice.

This Charter shall be deemed a public act, may be read in evidence without pleading or proof, and judicial notice shall be taken thereof in all courts and places provided that the City Secretary certifies the most current City Charter with any amendments.

Section 7.15 - Property Not Exempt From Special Assessments.

No property of any kind, by whomsoever owned or held or by whatsoever institution, agency, political subdivision or organization, owned or held, whether in trust or by non-profit organization, or corporation, or by foundation, or otherwise, (except property of the City), shall be exempt in any way from any of the special taxes, charges, levies and assessments except where required by state law.

Section 7.16 - City Council May Require Bonds.

In addition to any provisions contained herein, the City Council may require any City official, department director, or City employee, before entering upon his/her duties, to execute a good and sufficient bond with a surety company doing business in the State of Texas and approved by the City Council. The premium of such bond shall be paid by the City.

Section 7.17 - Construction of Charter.

The Charter shall not be construed as a mere grant of enumerated powers, but shall be construed as a general grant of power and as a limitation of power on the government of the City of Mont Belvieu in the same manner as the Constitution of Texas is construed as a limitation on the powers of the Legislature. Except where expressly prohibited by this Charter, each and every power under Article XI, Section 5 of the Constitution of Texas, which it would be competent for the people of the City of Mont Belvieu to expressly grant to the City, shall be construed to be granted to the City by this Charter.

Section 7.18 - Penalty Clause.

- A. Criminal Penalty. Any person who by himself or with others violates any provision of this charter shall, in addition to any other penalty, be guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine of not more \$500.00. City Council shall enact an ordinance enforcing this section.

- B. Civil Penalty. Upon the affirmative vote of two-thirds of the City Council any person who by himself or with others violates any provision of this charter shall be, in addition to any other penalty provided for herein, subject to a civil fine of not more than \$500.00.

VIII. - TRANSITIONAL PROVISIONS

Section 8.01 - Existing Ordinances and Resolutions.

At the time of initial adoption of this Charter, all existing ordinances, resolutions, regulations, and other prior actions of the City Council, not in conflict with this Charter, shall remain in effect without being subject to the provisions of this Charter for referendum.

Section 8.02 - Officers and Employees.

- A. Rights and Privileges Preserved. Nothing in this Charter except as otherwise specifically provided shall affect or impair the rights or privileges of persons who are City officers or employees at the time of its adoption.
- B. Continuance of Office or Employment. Except as specifically provided by this Charter, if at the time this Charter takes full effect, a City administrative officer or employee holds any office or position which is or can be abolished by or under this Charter, he shall continue in such position or office until the taking effect of some specific provision under this Charter directing that he vacate the office or position.

Section 8.03 - Pending Matters.

All rights, claims, actions, orders, contracts and legal administrative proceedings shall continue except as modified pursuant to the provisions of this Charter and in each case shall be maintained, carried on or dealt with by the City department, office, or agency appropriate under this Charter.

Section 8.04 - Manner of Submission to Electors.

In preparing this Charter, the Charter Commission finds and decides that it is impractical to segregate each subject so as to permit a vote of "yes" or "no" on the same, for the reason that the Charter is so constructed that in order to enable it to work and function, it is necessary that it should be adopted in its entirety.

Section 8.05 - Staggered Elections.

In order to provide for a smooth transition between a five-member council elected for two-year terms and a seven-member council elected for three-year terms, the following election schedule shall be followed until such time as all council members are elected to three-year staggered terms:

2014

Mayor shall be elected to a three-year term to expire	2017
Place 1 shall be elected to a three-year term to expire	2017
Place 2 shall be elected to a three-year term to expire	2017
Place 6 shall elected to a two-year term to expire	2016

2015

Place 3 shall be elected to a three-year term to expire	2018
Place 4 shall be elected to a three-year term to expire	2018
Place 5 shall be elected to a one-year term to expire	2016

2016

Place 5 shall be elected to a three year term to expire	2019
Place 6 shall be elected to a three year term to expire	2019

2017

Mayor shall be elected to a three-year term to expire	2020
Place 1 shall be elected to a three-year term to expire	2020
Place 2 shall be elected to a three-year term to expire	2020

2018

Place 3 shall elected to a three-year term to expire	2021
Place 4 shall be elected to a three-year term to expire	2021

2019

Place 5 shall be elected to a three-year term to expire	2022
---	------

Place 6 shall be elected to a three year term to expire

2022

Charter Survey

**TEXAS MUNICIPAL LEAGUE
HOME RULE CHARTER SURVEY**

City: _____ Date: _____

Completed by: _____ E-mail: _____

Title: _____ Phone: _____

Note: Unless otherwise indicated, the answers below should be based on current charter provisions. Please enter all of the information below even if some of it may be spelled out in your charter. If you have questions regarding this survey, please contact Scott Houston with the TML legal department at (512) 231-7400.

Form of Government

1. a) Council-Manager b) Mayor-Council c) Commission d) Other

Mayor

2. Is mayor member of gov. body? a) Yes b) No
3. Selection of mayor a) Elected b) By council c) Other

Authority of Mayor

4. Appoints boards and commissions a) Yes b) No
5. --w/approval of council a) Yes b) No
6. Regular vote a) Yes b) No
7. Vote only in tie a) Yes b) No
8. No vote a) Yes b) No
9. Enumerated ceremonial duties a) Yes b) No
10. Martial law a) Yes b) No
11. Enumerated emergency powers a) Yes b) No
12. Appoint CAO a) Yes b) No
13. Appoint department heads a) Yes b) No
14. -- w/approval of council a) Yes b) No
15. Prepare budget a) Yes b) No
16. Mayor veto a) Yes b) No

Council

17. Total on council _____
18. Number of members for regular meeting quorum _____
19. Number of members for special meeting quorum _____
20. Number of votes for council to take action on ordinary matters
a) Majority of those present b) Majority of quorum c) Majority of total council
21. Residency length requirement a) Yes b) No
22. If yes to previous question a) 6 mo b) 1 yr c) 2 yrs
d) Other e) Not specific
23. Reside in district a) Yes b) No

- 24. Owner of property a) Yes b) No
- 25. Minimum age _____
- 26. Registered/qualified voter a) Yes b) No
- 27. Barred if tax delinquent a) Yes b) No
- 28. Other qualifications a) Yes b) No
- 29. Missed meetings vacancy a) Yes b) No
- 30. Council votes to impeach a) Yes _____# b) No
- 31. Council votes to override mayoral veto a) Yes _____# b) No

Elections

- 32. In some cities, a federal court or the U.S. Department of Justice has mandated a new way of electing city council members, BUT the charter has not been changed to reflect this new method. If your city council is NOT elected the way your charter currently reads, please check here _____.
- 33. Uniform election date to hold regular city election a) May b) November c) Other
- 34. Filling one vacancy a) Appointment b) Election c) Either
- 35. Filling two vacancies a) Appointment b) Election c) Either
- 36. Term limit applies a) council and mayor b) Separately c) n/a
- 37. Terms staggered a) Yes b) No c) n/a
- 38. Elections by a) Majority b) Plurality
- 39. Name on ballot a) Fill out form b) Petition c) Other
- 40. If petition, number of names _____
- 41. Fee for name on ballot a) Yes \$_____ b) No

Election Turnout

- 42. Date of most recent mayor/city council election _____ (MM/DD/YY)
- 43. Contested? a) Yes b) No
- 44. If yes, number voting in election _____
- 45. Total registered at time of election _____
- 46. Population at time of election _____
- 47. Date of next most recent mayor/city council election _____ (MM/DD/YY)
- 48. Contested? a) Yes b) No
- 49. If yes, number voting in election _____
- 50. Total registered at time of election _____
- 51. Population at time of election _____

Council Meetings

- 52. Required a) Weekly b) Twice/mo c) Once/mo d) Not specific
- 53. Actual a) Weekly b) Twice/mo c) Once/mo d) Not specific
- 54. Mayor Term a) 1 yr b) 2 yrs c) 3 yrs d) 4 yrs
- 55. Council Term a) 1 yr b) 2 yrs c) 3 yrs d) 4 yrs
- 56. Term limits a) Two b) Three c) Four d) Four+ e) n/a

Mayor Salary

- 57. Salary a) Yes b) No
- 58. \$ _____ Per: a) Mtg b) Wk c) Mo d) Yr e) Other
- 59. Salary set by Council a) Yes b) No
- 60. Expenses: a) Yes b) No
- 61. \$ _____ Per: a) Mtg b) Wk c) Mo d) Yr e) Other
- 62. Expenses set by council a) Yes b) No

Mayor Pro Tem Salary

- 63. Salary a) Yes b) No
- 64. \$ _____ Per: a) Mtg b) Wk c) Mo d) Yr e) Other
- 65. Salary set by Council a) Yes b) No
- 66. Expenses a) Yes b) No
- 67. \$ _____ Per: a) Mtg b) Wk c) Mo d) Yr e) Other
- 68. Expenses set by council a) Yes b) No

Council Salary

- 69. Salary a) Yes b) No
- 70. \$ _____ Per: a) Mtg b) Wk c) Mo d) Yr e) Other
- 71. Salary set by Council a) Yes b) No
- 72. Expenses a) Yes b) No
- 73. \$ _____ Per: a) Mtg b) Wk c) Mo d) Yr e) Other
- 74. Expenses set by council a) Yes b) No

City Manager

- 75. City manager established by charter a) Yes b) No
- 76. City manager established by ordinance a) Yes b) No
- *If yes, please enclose a copy of the ordinance.
- 77. Former member of CC not eligible for a) 1 yr b) 2 yrs c) n/a
- 78. Manager participates in CC mtgs a) Yes b) No
- 79. Vote required to hire manager a) Majority b) Majority of CC c) Other
- 80. Hearing provided to discharge manager a) Yes b) No
- 81. Council prohibited from interference in personnel matters a) Yes b) No c) n/a
- 82. All department head appointments require confirmation by council a) Yes b) No
- 83. If not all dept heads, which of the following require confirmation?
 - Finance Director a) Yes b) No
 - Police Chief a) Yes b) No
 - Other _____ a) Yes b) No
- 84. Vote required to discharge manager a) Majority b) Maj of CC c) Other

City Clerk/Secretary

- 85. Title a) City Clerk b) City Secretary
- 86. Appointed by a) Manager b) Mgr w/CC approval c) Council
d) CC on rec of Mgr e) Mayor f) Mayor on rec of mgr

87. Term g) Mayor w/CC approval
 a) 1 yr b) 2 yrs c) 3 yrs d) 4 yrs
 e) Pleasure of CC f) Other g) n/a

City Attorney

88. Appointed by a) Manager b) Mgr w/CC approval c) Council
 d) CC on rec of Mgr e) Mayor f) Mayor on rec of mgr
 g) Mayor w/CC approval

Municipal Judge

89. Appointed by a) Manager b) Mgr w/CC approval c) Council
 d) CC on rec of Mgr e) Mayor f) Mayor on rec of mgr
 g) Mayor w/CC approval h) Elected
90. Term a) 1 yr b) 2 yrs c) 3 yrs d) 4 yrs
 e) Pleasure of CC f) Other g) n/a

Municipal Court Clerk

91. Appointed by a) Manager b) Mgr w/CC approval c) Council
 d) CC on rec of Mgr e) Mayor f) Mayor on rec of mgr
 g) Mayor w/CC approval
92. Term a) 1 yr b) 2 yrs c) 3 yrs d) 4 yrs
 e) Pleasure of CC f) Other g) n/a

Financial Administration

93. Outside audit required a) Yes b) No
94. Fiscal year begins (month) 1 2 3 4 5 6
 7 8 9 10 11 12
95. FY may be changed by ordinance a) Yes b) No
96. Borrowing auth in anticipation of revenue a) Yes b) No c) n/a
97. Limits set on sale of real property a) Yes b) No c) n/a
98. Limits set on sale of personal property a) Yes b) No c) n/a
99. Vote required for adoption of budget a) Simple Majority b) Maj of CC
100. If no vote by EOFY a) Mgr/Mayor's budget effective
 b) Continuation of last yr c) No provision d) Other
101. Detailed budget requirements a) Yes b) No c) n/a
102. Revenues must equal expenditures a) Yes b) No c) n/a
103. Transfer of appropriations a) Mgr btwn depts
 b) w/approval of CC c) Council
104. Capital budget or program a) Yes b) No c) n/a
105. Vote required to set tax rate a) Yes b) No c) n/a
106. Vote required to submit bond election a) Yes b) No c) n/a
107. Purchase limit before CC must act \$ _____
108. Purchase limit before written bids required \$ _____
109. Charter maximum tax rate: a) Yes b) No c) n/a
110. If, yes: Operating \$ _____ Debt Service \$ _____ Total \$ _____

Initiative, referendum, recall

111. Charter provides for initiative a) Yes b) No c) n/a
 112. If yes, _____% of a) Registered b) Last vote c) Minimum names _____

113. If yes, how many times during the past five years has this provision been used by the citizenry and what were the results:

<u>Year</u>	<u>Subject</u>	<u>Resulting Action</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

114. Charter provides for referendum a) Yes b) No c) n/a
 115. If yes, _____% of a) Registered b) Last vote c) Minimum names _____

116. If yes, how many times during the past five years has this provision been used by the citizenry and what were the results:

<u>Year</u>	<u>Subject</u>	<u>Resulting Action</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

117. Voluntary referendum a) Yes b) No c) n/a
 118. Charter provides for recall a) Yes b) No c) n/a
 119. If yes, _____% of a) Registered b) Last vote c) Minimum names _____

120. If yes, how many times during the past five years has this provision been used by the citizenry and what were the results:

<u>Year</u>	<u>Position (Mayor/Councilmember)</u>	<u>Result</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

121. Limits on recall a) Yes b) No c) n/a
 122. If yes, not before 6 months a) Yes b) No c) n/a
 123. If yes, after unsuccessful election a) Yes b) No c) n/a
 124. If yes, before election a) Yes b) No c) n/a

Charter and Amendments

125. Year of adoption of first charter _____
 126. Year of latest amendment _____
 127. Charter revision commission required every
 a) 5 yrs b) 10 yrs c) 15 yrs d) Other e) State Law f) Not addressed
 128. Charter revision commission presently underway? a) Yes b) No
 129. Charter revision commission presently contemplated? a) Yes b) No

130. If so, what is expected date of charter election _____ (MM/YY)

Charter Amendment Election Voter Turnout

131. Date of most recent charter amendment election _____ (MM/DD/YY)

132. Number voting in election _____

133. Total registered at time of election _____

134. Population at time of election _____

135. Number of propositions on ballot _____

Departments established by charter

- | | | |
|--------------------------|---------------|-------------|
| 136. Finance | a) Authorized | b) Mandated |
| 137. Personnel | a) Authorized | b) Mandated |
| 138. Legal | a) Authorized | b) Mandated |
| 139. Planning | a) Authorized | b) Mandated |
| 140. Police | a) Authorized | b) Mandated |
| 141. Fire | a) Authorized | b) Mandated |
| 142. Recreation | a) Authorized | b) Mandated |
| 143. Park and Recreation | a) Authorized | b) Mandated |
| 144. Library | a) Authorized | b) Mandated |
| 145. Health | a) Authorized | b) Mandated |
| 146. Health Officer | a) Authorized | b) Mandated |
| 147. Aviation | a) Authorized | b) Mandated |
| 148. Hospital | a) Authorized | b) Mandated |
| 149. Other _____ | a) Authorized | b) Mandated |

Boards established by charter

	<u>Board Name</u>	<u>Authorized</u>	<u>Mandated</u>
150.	_____	Y / N	Y / N
151.	_____	Y / N	Y / N
152.	_____	Y / N	Y / N
153.	_____	Y / N	Y / N
154.	_____	Y / N	Y / N
155.	_____	Y / N	Y / N
156.	_____	Y / N	Y / N
157.	_____	Y / N	Y / N
158.	_____	Y / N	Y / N
159.	_____	Y / N	Y / N
160.	_____	Y / N	Y / N
161.	_____	Y / N	Y / N

Personnel/Officers

- | | | | |
|--|---------------|-------------|--------|
| 162. Charter establishes civil service | a) Yes | b) No | c) n/a |
| 163. Charter establishes CS commission | a) Yes | b) No | c) n/a |
| 164. Charter establishes merit system | a) Yes | b) No | c) n/a |
| 165. Personnel department | a) Authorized | b) Required | |
| 166. Personnel rules | a) Authorized | b) Required | |

- | | | | | |
|------|---|--------|-------|--------|
| 167. | Own retirement system | a) Yes | b) No | c) n/a |
| 168. | Authorized to participate
in retirement/pension system | a) Yes | b) No | c) n/a |
| 169. | Political activity prohibited | a) Yes | b) No | c) n/a |
| 170. | Acceptance of gifts prohibited | a) Yes | b) No | c) n/a |
| 171. | Nepotism prohibited | a) Yes | b) No | c) n/a |
| 172. | Personal interest in contracts prohibited | a) Yes | b) No | c) n/a |

Miscellaneous

- | | | | |
|------|--------------------------------------|-------------------|------------------------|
| 173. | Vote required to grant franchise | a) Majority | b) Maj of CC |
| 174. | Gross receipts | a) 1% b) 2% c) 3% | d) 4% e) Not specified |
| 175. | Franchise subject to referendum | a) Yes | b) No c) n/a |
| 176. | Maximum franchise (yrs) specified | a) 10 b) 15 c) 20 | d) 25 e) 30 f) Not |
| 177. | Council required to adopt comp plan | a) Yes | b) No c) n/a |
| 178. | Redistricting commission established | a) Yes | b) No c) n/a |
| 179. | Eminent domain restrictions | a) Yes | b) No c) n/a |
| 180. | Revenue cap | a) Yes | b) No c) n/a |
| 181. | Annexation authorized | a) Yes | b) No c) n/a |
| 182. | Disannexation authorized | a) Yes | b) No c) n/a |

Texas Home Rule Charters

Terrell Blodgett



Second Edition (2010)

Updated by

Kelly McBride and Scott Houston

Published by the Texas Municipal League

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About the author

Terrell Blodgett, in more than six decades of public service, has been a city manager, administrative assistant to a Texas governor, a private consultant to state and local officials nationwide, and an endowed professor in urban management.

After receiving his master's degree in public administration from Syracuse University in Syracuse, New York, his first job was as a research assistant in the Bureau of Municipal Research at The University of Texas at Austin. He began his local government career as personnel director and later assistant city manager for the City of Austin. He served as city manager of Waco and Garland, Texas before returning to Austin as an administrative assistant for urban affairs to Governor John Connally for whom he coordinated the activation in Texas of such new federal government programs as the "War on Poverty," law enforcement assistance, and highway safety.

For 13 years, Blodgett directed governmental consulting in a nine-state southwest area for Peat, Marwick (now KPMG). He organized and directed management studies at local and state levels, including organizational analyses of several governors' and mayors' offices.

Upon his early retirement from Peat, Marwick in 1982, he was appointed as the first Mike Hogg Professor in Urban Management at the Lyndon B. Johnson School of Public Affairs at the University of Texas at Austin. His course topics included

both local and state government administration. He organized the school's first course in the management of nonprofit organizations, which is attended by graduate students and executives in nonprofits.

While at the LBJ School, he also conducted more than a dozen studies and assignments for the State of Texas, including a 1983 study for then Governor William Clements which called attention to the safety and fire hazard conditions in the 100-year-old state capitol. His recommendations were among the factors that led to the \$185-million restoration and expansion of the capitol, which was completed in 1994. In 1991, he served as Executive Director of Governor Ann Richards' Task Force on Revenue.

Blodgett's honors for his public service include a Distinguished Service Award from the International City/County Management Association and serving as chairman of the National Civic League in 1986 and 1987. The League is the home of the 60-year-old All America Cities competition and publisher of the widely used model city charter. He is an Honorary Life Director of the League, and a Fellow of the National Academy of Public Administration.



Local self-government is the cornerstone of democratic government.

Texas leads the nation in adherence to the concept and practice of local self-government. Credit for this is shared by the Texas Legislature and the 351 cities guided by a local constitution, identified nationwide as a home rule charter.

Broadly speaking, “home rule” is a grant of a degree of local autonomy to local governments by constitution or statute. Nationwide, 48 states have granted their cities such status by one of these methods. Texas cities have enjoyed the privileges of constitutional home rule (preferred over statutory home rule) since 1912.

Although adoption of home rule charters has been one of the most important developments in Texas municipal government in the twentieth century, only five comprehensive reports had addressed the subject until the original version of this book was published in 1994.

Interest in adoption of new charters and the revision of older documents appear now to be at an unprecedented high. Only 24 of the 375 Texas cities over 5,000 in population have not adopted home rule status. First-time charters have been approved in Horseshoe Bay, Iowa Park, Lucas, Pittsburg, and Willis in just the past eighteen months.

In response to this interest, the Texas Municipal League (TML), the professional and educational organization representing Texas cities for nearly a century, offers this in-depth review of the status of home rule charters in Texas today.

The first edition of this document was written in 1994 by a nationally known expert in home rule charters, Professor Terrell Blodgett, the Mike Hogg Professor in Urban Management at the Lyndon B. Johnson School of Public Affairs at The University of Texas at Austin. Professor Blodgett served as chairman of the Model City Charter Revision Committee for the National Civic League (formerly the National Municipal League) when it published the seventh edition of the Model City Charter in 1989. He has consulted with numerous charter commissions and civic groups interested in charter reform in Texas, Ohio, and New York. Texas cities have no greater friend than Terrell Blodgett.

It was a distinct honor and pleasure for the TML staff to update his original report. This updated version of Professor Blodgett’s original work is largely a product of the TML legal staff led by Mr. Scott Houston, the League’s director of legal services. We are proud of this document’s significant content. Through the efforts of TML and the gracious assistance of city officials, the information in this report is based on a 73 percent response rate to our 2008 survey.

The TML legal department is contacted frequently by charter commissions looking for guidance. We hope this document will enable us to be of even more assistance to our member cities as they draft new home rule charters or undertake periodic reviews of their basic constitutional document.

Frank Sturzl
Executive Director
Texas Municipal League
January 2010

(Editor's Note - The following is Terrell Blodgett's original preface to the 1994 version of the book.)

The production of this monograph has been a labor of love for me. I have had a long-time interest in the structure of government, particularly at the local level. It was my privilege to author the second of the five reports referred to in the Foreword by Mr. Sturzl. The first three of those reports all came from the Bureau of Municipal Research/Institute of Public Affairs at the University of Texas at Austin. Dr. Wilfred Webb wrote the first report, Municipal Home Rule Charters in Texas, in 1947. My monograph, Municipal Home Rule Charter Elections in Texas, in 1950, examined charter activity covering only a three-year period, 1947-50. The most comprehensive of the reports was City and County Home Rule in Texas, written by Dr. John P. Keith in 1951.

Nothing else was published for over 25 years; thus, the 1978 report, Home Rule Charters in Texas Cities, written by Dr. Del Taebel and Bruce Stapleton, Institute of Urban Studies, The University of Texas at Arlington, filled a significant void. Dr. Taebel expanded and updated that report entitled A Citizen's Guide to Home Rule Charters in Texas Cities.

We have used information from all five of these earlier reports and express our appreciation to the other four authors for their significant contributions to the history and practice of municipal home rule in Texas.

This current effort retraces the highlights of that history, but concentrates on reporting the current practices of the 290 home rule cities — such matters as length of city council terms; term limits; appointment powers of city managers; fiscal year provisions; and actual use of initiative, referendum, and recall provisions in city charters.

We also, for the first time in one place, list all of the major statutory provisions that limit home rule. Although the Texas Legislature has not imposed major restrictions on the home rule authority of Texas cities, it has nevertheless enacted a number of laws that limit authority formerly residing in the cities.

This report originated with a request from the Texas Municipal League to the state's 290 home rule cities. (Editor's note: 351 in 2008). TML asked those cities to send a copy of their charters and to complete and return a two-page questionnaire relating to charter provisions. Upon receipt of the material from the cities, I reviewed each charter and completed a three-page worksheet that covered virtually every subject found in any charter. I then contacted each city, by telephone or facsimile, to obtain additional information I needed. The League data processing staff entered the information from

both the two-page and the three-page questionnaires and summarized the figures.

No attempt has been made in this monograph to set forth a model Texas city charter or to discuss extensively the duties and responsibilities of charter commissions—for new or amended charters. Those are subjects of separate publications.

I hope the discussion and tabulation of existing provisions in the charters will be useful to city councils and charter commissions as they consider the necessity and desirability of making basic changes in their constitutional authority.

Although there were hundreds of laws — state, local, and national — that govern the conduct of city officials, they have by no means resulted in 290 city charters that read exactly alike. There is a freedom of spirit and unique character in each city that makes it different from the others. Maybe it is a heritage of the pioneer spirit that brought early Texans to the frontier. Whatever its source, it is reflected so obviously in charters that we are sharing samples of it with you in the boxed quotes scattered through this publication. All but two are from charters and usually it is the only one of its kind in all of the charters. All these quotes remind us that a city is a group of human beings: funny, serious, opinionated, optimistic, apathetic, perplexed, jointly struggling to understand their personal problems and those of their immediate environment—the city. That reminder saves scholars and the pontificators from viewing the city only as a cold and rigidly structured “entity” that is more responsive to the law, the courts, and the federal bureaucracy than to the people.

I wish to express my deep appreciation to Frank Sturzl, Executive Director of the League, and to his staff for their tremendous assistance and for all the courtesies they extended. I am particularly beholden to Ms. Susan Horton, General Counsel, and her staff for carefully reviewing the legal aspects of this monograph. Without their highly competent legal advice, this document would not have been possible. Mr. Richard Cantrell and his staff, Randy Overman and Anita Brown, patiently and accurately took the three-page worksheet and input the data so that the mass might be handled more quickly. I also wish to thank Mr. Ben Torres and his highly capable printing team that turned the final copy into the printed monograph. I am indebted to Ms. Barbara Ray for the overall appearance of the publication. I also wish to express special appreciation to Ms. Rose Hurst and Mr. Harold Sostand of the League staff with whom we worked more closely and whose courtesies and un-failing help are gratefully acknowledged. Ms. Debbie Warden entered the first draft in her computer and Ms. Gail Bunce then later skillfully converted the manuscript and graphics to clean, camera-ready copy for the League printing department.

Preface

My research was assisted considerably by the helpfulness of Ms. Linda Stout of the Texas Secretary of State's Office and by the staffs of the State Legislative Reference Library and the Archives Division of the Texas State Library. My thanks go to all of these individuals.

I also express a deep sense of gratitude to William N. Cassella, Jr., Executive Director of the National Municipal League for 16 years, who was the "author" of the latest edition of the Model City Charter, who is the "supreme authority" on city charters, and who has taught me the beauty of structure and process.

Finally, I thank my wife, Dorothy—communications consultant, writer and lecturer, and co-author with Jean Daniel and the late former governor, Price Daniel, Sr., of *The Texas Governor's Mansion: A History of the House and Its Occupants*—for her personal support and professional assistance.

2010 Preface

(Editor's note: the following was prepared by Kelly McBride and Scott Houston)

The 1994 version of this document served as an outstanding guide to home rule in Texas for more than a decade. It is often referred to as the "go-to" publication for information about home rule. Because of Terrell Blodgett's outstanding work on the original, our task was simply to update the data and various substantive sections of the document to ensure that it remains up-to-date.

This second version provides cities that are contemplating home rule, and cities that are considering changes to their existing charter, a fresh look at what other cities are doing, and why. Mr. Blodgett's attention to detail has provided a solid foundation from which we built the second edition. Three hundred fifty-one cities were surveyed for this update, with an astounding 73 percent response rate.

The second edition was prepared by Kelly McBride and Scott Houston, with the support of the Texas Municipal League's (TML) legal department staff. Mrs. McBride served as a legal intern with TML while pursuing her Juris Doctorate from St. Mary's University School of Law. She earned her Bachelor's of Arts in 1989 and her Master's of Public Administration in 1991, both from the University of Dayton, Ohio. She brought over 10 years of municipal management experience to this project, serving as assistant city manager, economic develop-

ment director, and city manager for three Ohio cities. Scott Houston graduated from Texas A&M University with a degree in political science. After studying law in Austria and Argentina, he received his law degree from St. Mary's University School of Law in San Antonio. Scott is presently serving as director of legal services with TML and general counsel to the Texas City Attorneys Association. In addition, he has served as an adjunct professor of political science at Texas State University, and recently received the American Bar Association's "Up and Coming Young Lawyer Award." Other members of the TML legal department staff, including Tiffany Ducummon, Laura Mueller, Katie Fleming, Bill Longley and Lauren Crawford deserve special kudos for their outstanding support.

In addition, Charlie Zech with the municipal law firm of Denton, Navarro, Rocha & Bernal, P.C. provided research support for this project. Mr. Zech did so through his applied research project for the department of political science at Texas State University as a part of the requirements for the completion of his M.P.A. in 2008. John McDonald, currently serving as the director of community development for the City of Bellaire, Texas, also provided valuable research support for a similar M.P.A. project for Texas State University.

A special thank you should go to the law firm of Denton, Navarro, Rocha & Bernal, P.C. for their countless hours of donated staff support for this project.

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1 Concept and history of local self-government

Legal status of municipal corporations

“The word municipal is derived from the Roman *municipium*, which means a free city capable of governing its local affairs, even though subordinate to the sovereignty of Rome. In early England, the term was applied to self-governing cities and towns; hence, from its origin, the word municipal connoted local self-government.” So begins the book **The Law of Local Government Operations** by the renowned authority on municipal government, Charles S. Rhyne.¹

In colonial America, a number of municipal corporations originated in a grant of power from the King of England. Following the American Revolution, this power of the crown passed to state legislatures. “In three instances, New York, Pennsylvania and Maryland, the first constitutions expressly recognized the transfer of power to the legislature. The inevitable result was that democratic principle and legal theory disagree on the issue of self-rule. Democratic doctrine says the government closest to the people governs best. The prevailing legal theory has been that in the absence of constitutional protection, municipal governments are totally dependent upon, and subservient to, the will of the legislature.”² That view was expressed by Judge J. F. Dillon in 1886 in a case before the Iowa Supreme Court: “The true view is this: Municipal corporations owe their origin to, and derive their powers and rights wholly from, the legislature.”³ This doctrine was affirmed by the U.S. Supreme Court in a later case.⁴ Since the early 1900’s, the Texas courts have followed the rule set by Judge Dillon. The rule was clarified by the Texas Supreme Court in 1926 when it stated, “Municipal Corporations (including home rule cities) are created for the exercise of certain functions of government in so far as their character is governmental, they are agencies of the state and subject to state control.” *Yett v. Cook*, 115 Tex. 205 (Tex. 1926). This idea, that cities are subdivisions of the state, has been reaffirmed throughout the twentieth century and most recently by the Texas Supreme Court in 2004. *Texas Dept. of Trans. v. City of Sunset Valley*, 146 S.W.3d 637 (Tex. 2004). Texas cities exist to perform duties for the state as well as to fulfill needs and desires of local residents, but always at the will of the state. This doctrine has restricted local powers rather severely as we will see in greater detail in chapter three.

Such complete legislative supremacy caused no real harm when cities were small and their needs limited, but as cities grew, the rurally-dominated legislative bodies were increasingly unable to cope with city problems.

To trace how the state of Texas has dealt with these questions, we now turn to a brief review of the development of home rule in Texas.

Origin of city government in Texas

The history of Texas municipalities as corporate entities begins with the establishment of the Republic of Texas in 1836. While Texas was under the jurisdiction of Spain and Mexico, the term “municipality” was applied to a local government unit that included the surrounding rural regions as well as the town proper. There never was any distinction between the government of the town and the outlying districts. With the birth of the Republic, this changed, and the territory of the municipality became the county, and the urban regions began to be incorporated. The first congress incorporated some eighteen cities and towns, and before the end of the Republic, there were 53 municipal corporations.⁵

All of them were established by special congressional acts; in several cases, multiple communities were incorporated by one act. These early special acts were articles of incorporation and municipal charters rolled into one document; some were very brief and merely stated that a certain community was being incorporated by the special act. Gradually, they began to resemble more closely charters as we know them, with provisions for the governing body, qualifications for office, powers of the city council, and—occasionally—fire and street duty and taxation. Some even reflected the beginning glimmer of home rule. For example, the charter granted by the congress in 1837 to San Augustine provided that the board of aldermen could pass any ordinance for the benefit of its inhabitants, as long as it did not conflict with the laws or constitution of the Republic.⁶

Special legislative charters and general law

The two most important developments during statehood and prior to Civil War (1845-61) were the passage of a law in 1858 that provided general rules for the incorporation of small cities and towns and the first provision for local ratification in a charter written by the legislature. In 1846, the legislature granted a special charter to New Braunfels, subject to that charter being ratified by the local voters at a special election.⁷ During this sixteen-year period (1845-61), terms of office longer than one year began to be written into the legislative charters and some cities were given responsibility for local education. Although school districts were made separate entities later, the charters of such cities as Temple, Bryan, and others continued to have provisions for city hall control of local schools for several years after the change. Some charters still have this obsolete provision.

Civil War and Reconstruction chaos wiped out all the local government gains. There were no municipal incorporations from 1862 to 1866. An 1870 legislative act provided that the governor appoint the mayor and board of aldermen of each incorporated city in the state. After the citizenry regained control of state government in 1874, this act was rescinded, and in 1874 cities were allowed to amend their legislative charters by action of the board of aldermen and their citizens.⁸

The Constitution of 1876 provided that cities under 10,000 population could be chartered only under general laws; cities over 10,000 would continue to be subject to the special laws of the legislature. This seemed to work for a few years. But cities over 10,000, most in need of self-government because of individual requirements, chafed under the special law provisions. This situation worsened when the constitution was amended in 1909 to lower the population requirement to 5,000 population.

The legislature finally realized its capacity to debate and resolve issues of statewide importance was being usurped disproportionately by the attention it gave to city charters. One legislative official complained in 1911 that these local bills made up more than one-half of the legislative workload. A count revealed this estimate was high. Actually, about 25 percent of all bills applied to municipal charters, but the point was made. When there were only a few cities over 5,000 in population, the legislature could afford to take the time to pass special legislation just for them. But by 1910, the cities were growing and each one presented unique circumstances.

By 1910, San Antonio and Dallas were near 100,000 in population; Houston and Fort Worth were well over 50,000; and a total of 40 cities in the state each had more than 5,000 population. "It was in a mood of reform that the Legislature listened to a few advocates of home rule expound the virtues of that method of handling the relations between the state and its subunits."⁹

Home rule charters

The time to act in Texas had finally arrived. Other states had already crossed that threshold. In 1875, Missouri was the first state to grant its cities home rule powers by constitutional amendment. Texas had struggled through an attempt to make special legislative charters work; it also tried to formulate general laws that would apply to both small and large cities. Neither was successful. The state finally embraced the third method of municipal governance, home rule.

Texas voters in 1912 adopted the Home Rule Amendment to the state constitution and the legislature followed in the regular session in 1913 with the necessary enabling act. The constitutional amendment, Article XI, Section 5, provides that any city over 5,000 may adopt a home rule charter, subject to the requirements that the legislature might establish. Such a charter may not contain any provision that is inconsistent with the state constitution or the statutes. Further, home rule cities are limited to a property tax rate of \$2.50 per \$100 valuation and their charters cannot be amended

more often than every two years. The Home Rule Enabling Act is no longer in the statutes. The powers listed in that Act have been relocated in other laws and codes as the legislature has codified the laws relating to local government.

Like the home rule provisions in other state constitutions and statutes, Texas' Home Rule Amendment is generally considered to have three major objectives:

- (1) to create a favorable climate for more direct governing of cities by their citizens,
- (2) to secure adequate powers so that municipalities could meet increased demands for services, and
- (3) to avoid interference in local government by the state legislature.¹⁰

These are noteworthy goals, but early writers were not sure they would ever be accomplished. John Keith felt compelled to take one full chapter of his monograph to review extensively the criticisms of public officials and others that the wording of almost every phrase and sentence in the amendment is ambiguous.¹¹ Constitutional authority George D. Braden, however, feels that the section is one of the more intelligibly drafted of any in the constitution¹² and there is no talk today of trying to improve on the wording of the amendment.

What Braden does point out, however is that "home rule is not unconditionally and fully guaranteed to Texas cities."¹³ Braden argues the position generally taken by municipal attorneys today that the section as interpreted by the courts guarantees only that cities may act without affirmative permission of the legislature.

Cities are resigned to the fact that charters must not conflict with the state constitution or statutes enacted prior to adoption of a charter, and that a state general law affecting cities passed tomorrow supersedes a city charter provision enacted today or yesterday. Similarly, cities also realize that although Article III, Section 56, of the state constitution forbids local laws regulating the affairs of cities, such laws are passed occasionally by using the device of population-bracket bills. These are laws with provisions that are applicable only to certain cities based on population. For home rule to be effective, cities must zealously guard concepts of the amendment and the court cases that keep it viable.

Developments in charter adoptions since 1912

All the criticisms and concerns enumerated above were unknown to city officials in 1912. They just knew that the citizens of Texas had spoken and had told the legislature that they wanted their cities to have more freedom and local autonomy. "Before the Legislature passed an enabling act on the home rule amendment, twenty-four cities had drafted their own charters or amendments to their special legislative char-

Concept and history of local self-government

ters.”¹⁴ By 1920, sixty-five cities had taken advantage of the home rule privilege. And except for the depression era of the 1930s, the movement has steadily continued.

A Model Charter for Texas Cities was prepared by Dr. Herman G. James, Director of the Bureau of Municipal Research and Reference of The University of Texas, in February 1914. Its provision for a competent chief administrator selected by and responsible to the city governing body foreshadowed an increasing interest in a form of government new to the state: the council-manager plan.¹⁵ Other influences on early charters were those of cities that had reacted quickly to the home rule provision. The adoption by Amarillo in 1913 of a charter provided a model for other cities in the state. At one time, at least one-fourth of the charters then being written reflected both the arrangement and language of the Amarillo Charter.

The home rule amendment did not immediately stop the legislature from granting charters and amendments by special law. The same legislature that passed the Home Rule Enabling Act amended three charters.¹⁶ Other charters were amended or granted from then until a court decision in 1920 held such action unconstitutional.¹⁷ Special law cities have since completely disappeared.

Home rule charter cities today

Today, 351 Texas cities have home rule charters. The Texas Municipal League directory lists only 24 cities with populations over 5,000 that have not adopted charters—about seven percent. Of the 351 home rule cities, 21 cities have now dropped below 5,000 population but retain their charter. A constitutional amendment, actively sought by TML and adopted by voters in 1991, assures those cities that they have retained full home rule powers and may amend their charters although their populations may not now meet the minimum set out in the original Home Rule Amendment to the Texas Constitution.

Charter adoptions, 1836-2009

Appendix C is an alphabetical listing of all 351 home rule charter cities. The chart provides special dates regarding each city including:

- date of first special legislative charter,
- date of first home rule charter,
- date of current home rule charter, and
- date of latest charter amendment.

This information was obtained from the Texas Secretary of State's records, the archives of the Texas State Library and the cities themselves.

2 Advantages of home rule status¹⁸

2

Since 1912, Texas cities have belonged to one of two categories from a legal standpoint—home rule or general law.

In brief, home rule cities are larger cities—cities over 5,000 whose citizens have adopted home rule charters. The legal position of home rule cities is the reverse of general law cities. Rather than looking to state law to determine what they may do, as general law cities must, home rule cities look to the state constitution and state statutes to determine what they may not do. Thus, if a proposed home rule city action has not been prohibited or preempted by the state, the city generally can proceed.

The second category, general law, is composed of smaller cities, most of which are less than 5,000 population. All general law cities operate according to specific state statutes prescribing their powers and duties. General law cities are restricted to doing what the state authorizes or permits them to do. If state law does not grant general law cities the express or implied power to initiate a particular action, it may not be taken.

A recent example of this distinction involves registered sex offender residency restrictions. A 2007 attorney general opinion (GA-052) addressed a fast-growing trend among cities in Texas and nationwide: ordinances that prohibit convicted sex offenders from living within a certain distance of schools, churches, or the homes of children. The opinion concluded that home rule cities' residency restriction are not preempted by state law and are thus valid. The opinion also concluded, however, that general law cities do not have express authority under current state law to adopt or enforce such an ordinance.

Throughout this publication, we will be discussing matters that have legal implications. We have written this document primarily for elected policymakers, appointed administrators, and potential charter commission members. We urge those individuals to take questions they may have to their city attorney and to consult with that individual prior to taking any action based on information in this publication. Your city attorney really can be your best friend if you are a local government official.

The home rule concept

In *Forwood v. City of Taylor*, the Texas Supreme Court summarized Texas' home rule doctrine as follows:

It was the purpose of the Home-Rule Amendment... to bestow upon accepting cities and towns of more than 5,000 population full power of self-government, that is, full authority to do anything the legislature could theretofore have authorized them to

do. The result is that now it **is necessary to look to the acts of the legislature not for grants of power to such cities but only for limitation on their powers.** (Emphasis added.)¹⁹

As a result of the *Forwood* case and other court decisions upholding their broad powers, home rule cities have the inherent authority to do just about anything that qualifies as a “public purpose” and is not contrary to the constitution or laws of the state. Of course, legislative preemption is becoming more and more commonplace.

Inherent powers of home rule cities

An “inherent power” is one that is possessed by a city without its having been specifically granted by the state. It is the right to perform an act without having received that right from the Texas Constitution or the state legislature.

Home rule cities have many inherent powers. A discussion of some of the inherent powers of major significance may explain why so many cities have chosen to adopt home rule charters.

Municipal organizations

In contrast to counties, general law cities, and special districts (whose organizations are fixed by state law), the governmental structure of a home rule city is left entirely to the discretion of local voters. Subject to compliance with the federal Voting Rights Act, the citizens of a home rule city are free to decide their form of municipal government (mayor-council, council-manager, and so on); choose between a large or small city council; provide for the election of the city council at large, by single-member districts or by place; fix the terms of office for councilmembers at two, three, or four years; or establish overlapping terms of office. Moreover, they can decide whether the mayor is to be elected directly by the voters, selected from among the members of the council, or chosen by some other method.

The citizens of a home rule city also have total discretion over the city's administrative structure. Subject only to local preferences, the charter can establish a simple administrative framework or a complex one, provide for the appointment or election of major administrative officials, and so on. And finally, the charter can provide for the creation of any boards or commissions that local voters decide are necessary to make the city function effectively.

Annexation

The inherent power to unilaterally annex adjoining areas is one of the most important home rule prerogatives. To annex “unilaterally” means that the city can bring an adjacent unincorporated area into the city without the permission of the persons residing in that area.

There is no state law prohibiting home rule cities from annexing adjoining territories; therefore, annexation can be exercised as an inherent home rule power. The only requirement is that the city charter authorize the city council to exercise such power. Of course, the Municipal Annexation Act provides complex procedures that must be followed. It also has various limitations regarding when, where, and how home rule cities annex.

The power of unilateral annexation is important for several reasons. First, it enables a city to guide the development of the city and the surrounding area. Second, it permits a city to maintain a strong economic base by extending its boundaries to bring in taxable properties and other resources required to finance essential municipal services.

Dramatic evidence of the importance of unilateral annexation exists in other states where cities do not have that power. One source summed it up as follows:

Liberal state annexation policies in certain parts of the South (e.g., Jacksonville) and West (e.g., Houston) have permitted cities in those regions to share the benefits of growth in surrounding areas. If San Antonio, Texas, for example, had the same boundaries that it had in 1945, it would contain more poverty and unemployment than Newark, New Jersey.²⁰

According to U.S. Census statistics, Texas’ larger cities are among the fastest-growing in the U.S. These same figures also show, however, that many of these same cities actually would have lost population during the past two decades if they had not expanded through annexation.

Initiative, referendum, and recall

Initiative, referendum, and recall are inherent home rule powers that are reserved for exclusive use by local voters in order to provide direct remedies in unusual situations. There is no constitutional or statutory authority for initiative, referendum, or recall. These powers are unique to home rule cities; they are not available to voters at any other level of Texas government, including the state.

Initiative is a procedure under which local voters directly propose or initiate legislation. Citizen lawmaking through the initiative process allows local voters to circumvent the city council by direct ballot box action on new ordinances that have wide support in the community, but that the council refuses to enact.

Referendum is a procedure under which local voters

can repeal unpopular existing ordinances the council refuses to rescind by its own action.

Recall is a process by which local voters can oust members of the city council before the expiration of their terms.

All three of these powers are discussed in detail in Chapter 15 of this book.

Charter amendments

In addition to initiative and referendum, direct law-making by local voters can be accomplished through amendments to the charter document itself. Under Section 9.004 of the Local Government Code, citizens can force the city council to call an election on a proposed charter amendment(s) by simply filing a petition signed by five percent of the qualified voters or 20,000 whichever is less. Voter-initiated charter amendments, if adopted, can change most aspects of the city government.

Limitations on home rule powers

Although the powers of a home rule city are extensive, they remain subject to all the limitations imposed by state and federal law. For example, the paragraph above on amending a charter is a good example. State law prescribes that five percent or 20,000 voters, whichever is less, must sign a charter amendment petition. A city could provide in its charter that a petition signed by four percent or 19,000 voters, whichever is less, would force the city council to call such an election, but a city could not make it more stringent for voters to initiate such action. A charter provision requiring six percent or more signatures would not be binding and could not be enforced by the governing body of the city. Recently, more and more legislation has passed that restricts the powers of home rule cities.

Cities over 5,000 population that have not adopted home rule charters

Despite the advantages of home rule cited above, citizens in 24 cities that meet the population criterion have elected not to adopt a home rule charter. In 1994, the League asked officials in many of those cities to comment on the reasons their city had chosen not to adopt a charter.

The responses were as follows:

- citizens are not aware of advantages of home rule;
- a charter commission had never been authorized;
- a charter had never been considered;
- city has no appreciable extra-territorial jurisdiction (ETJ);
- issue was considered, but no one ever took action;
- discussion being held now to possibly elect a commission;

Advantages of home rule status

- very conservative community, and citizens feel less government is best;
- three elections were held for charter commissions (1959, 1969, 1977), but all failed;
- a charter would give “city hall too much control.”

From the responses, it would appear that many of the 24 communities were affected by voter distrust in government. A recent example of a failed charter election took place in the City of Willis. In 2005, the election failed 33 to 69. However, in 2008, the citizens voted to approve essentially the same document in a 72 to 18 vote.

In the next chapter, we will examine in much more detail the areas in which home rule cities are free to act and those in which state law has now preempted home rule authority.

As pointed out in previous chapters, constitutional home rule in Texas gives cities opportunities to reflect their own cultures, traditions, and individual preferences. But even in 1912, there were some limitations on home rule powers; e.g., a maximum tax rate. In subsequent years, the legislature has enacted other general laws preempting such areas as methods and dates of elections, conflict of interest for city councilmembers, and others. This chapter will review, in brief, how state law circumscribes home rule authority today. Detailed discussion of state limitations can be

found in the chapters in this report that cover particular functional areas.

In the figure covering the following several pages, in the right-hand column, the notation “charter may provide...” is not meant to imply that all these options should be placed into a charter. Several subjects are certainly candidates for inclusion in an ordinance rather than the charter. Examples of this might include pay of the city council, creation of certain boards and commissions, certain procedures regarding passage of ordinances, and others.

Figure 3-1: State preemption of home rule provision July 2009

Subject Area	Applicable State Law (LGC is the Local Government Code, GC is the Government Code, Chapter or Section)	The Charter May Provide: (Chapter references are to chapters in this report)
A. Basic municipal structure		
1. Form of government	Silent	Any one of three forms of government: (1) mayor-council, which may range from strong mayor to weak mayor (2) council-manager (3) commission
B. Governing body		
1. Size of governing body	Silent	A city may have as few as three members of the governing body; there is no maximum.
2. Terms of office of governing body.	Texas Constitution provides maximum of four-year term for city officials. Article XI, Section 11.	Charter may provide for one-, two-, three-, or four-year terms. It may also provide for concurrent or staggered terms.
3. Term limits	Silent	Charter may provide for term limits.
4. Method of city council election	Silent	Subject to the federal Voting Rights Act, charter may provide for at large, at-large by place, single-member district, cumulative or a combination of the above.

Subject Area	Applicable State Law (LGC is the Local Government Code, GC is the Government Code, Chapter or Section)	The Charter May Provide: (Chapter references are to chapters in this report)
5. Election by majority or plurality	Texas Constitution (Article XI, Section 11) provides that for any term of office more than two years, vote must be by majority. Section 275.003 of the Election Code provides that in any city over 200,000 in population, members of the governing body must be elected by majority vote.	In cities of less than 200,000 population, charter may provide for either majority or plurality if council is elected for one- or two-year terms.
6. Selection of mayor	Silent	Charter may choose to elect the mayor by direct vote of the people or have the position filled by the council choosing one of its own members after all members of the governing body have first been elected as councilmembers.
7. Selection of administrative personnel	Silent	Charter may allow the voters to elect, the city council to appoint, or the city manager (if the city has one) to appoint administrative officials such as the city secretary, municipal court judge, city attorney, and others.
8. Creation of boards and commissions	Some requirements on planning and zoning commissions (See Chapter 211, LGC). State law also regulates establishment of some other boards; e.g., housing authorities, zoning boards of adjustment, and others.	Charter may establish any number of advisory boards to assist the city council in the governance of the city.
9. Compensation of the governing body	Silent, except for cities with a population greater than 1.9 million. Salary of mayor, city council, and controller is controlled by provisions Section 141.005 of LGC.	Charter may provide that the governing body shall not be paid at all, may establish any amount of salary citizens feel is appropriate, or may provide that the governing body shall set its own pay.
10. Filling vacancies on Governing body	Texas Constitution (Article XI, Section 11) provides that vacancy on council must be filled by election if term of office for that council is more than two years.	Charter may provide for filling vacancies by either appointment of governing body or election by citizens, <u>if</u> the council is elected for one- or two-year terms.

Subject Area	Applicable State Law (LGC is the Local Government Code, GC is the Government Code, Chapter or Section)	The Charter May Provide: (Chapter references are to chapters in this report)
11. Qualifications for governing body	Basic qualifications for elected public official set out in Texas Election Code, Section 141.001.	Charter can require candidates to be up to 21 years old, rather than 18, can require residence of up to 12 months rather than 6 months set out in Election Code, and can require candidate to be qualified voter (Election Code is silent). City cannot disqualify candidate for failure to pay property taxes.
12. Election dates for governing body	Elections for members of governing body must be held on one of two uniform election dates provided by Election Code, Section 41.001.	Run-off elections and elections to settle a tie vote may be held on date other than a uniform election date. Also, election to fill a vacancy required under the Constitution may be held on date other than a uniform election date.
13. Governing body as judge of the qualifications of its own members	Silent	Charter may provide that governing body may be the judge of the qualifications of its own members and may empower governing body to remove a member for lack of attendance at city council meetings or misconduct in office, defined in various ways.
14. Meetings of governing body – openness and frequency of meetings	All meetings must be open to the public except as allowed by the Texas Open Meetings Act. Silent on frequency of meetings.	Charter prevails if it has more restrictive provisions for open meetings than state law. Charter may provide for frequency of meetings.
15. Passage and publication of ordinances	For ordinances carrying a penalty, city may publish caption of ordinance in lieu of charter requirement that text of ordinance be published. If charter does not provide for method of publication, full text or caption with penalty indicated may be published at least twice in official newspaper. (See Section 52.013, LGC).	Subject to requirements in second column, charter may provide for exact procedures governing body must take for passage and publication of ordinances.

Subject Area	Applicable State Law (LGC is the Local Government Code, GC is the Government Code, Chapter of Section)	The Charter May Provide: (Chapter references are to chapters in this report)
16. Codification of ordinances	Ordinance adopting a code of municipal ordinances must be published in a newspaper (See Section 53.002, LGC).	Subject to requirement in second column, charter may provide for codification of ordinances. (See Chapter 10).
17. Emergency succession	Presiding officer of governing body, designated as the emergency management director that reports to the governor. (See Section 418.1015, GC).	Charter may provide for line of succession for governance of city in event of emergency. (See Chapter 17).
18. Staff and benefits members of governing body	Silent	Charter may provide for whatever staff and benefits citizens feel council should have.

C. Mayor

1. Powers of mayor (Mayor-council form)	Silent; see below.	Charter may provide for appointment and budgetary power to extent desired by charter drafters and voters.
2. Powers of mayor (any form of government)	Although there is no general statute setting forth power of mayor, there are some specific statutes, including the power to declare an emergency and power to appoint members of local housing authority.	Charter may provide that: –mayor does or does not have veto; –mayor has regular vote, or can vote only in case of tie; –mayor can call special meeting of council; and/or –in times of emergency, mayor can be given extraordinary powers over city government operations.

D. Expansion and contraction of city area

1. General purpose annexation	Several restrictions placed on cities by Chapter 43, LGC	Charter may provide for unilateral annexation by city
2. Limited purpose annexation	State law (Section 43.121, LGC) allows cities over 225,000 to annex land for limited purposes if such is authorized in their charter. Law has certain restrictions.	Charter may provide for limited purpose annexation.
3. Disannexation	State law provides for procedures for disannexation for failure to provide services (See Section 43.141, LGC). State law allows charter to set out procedure for voluntary disannexation by city (See Section 43.142, LGC).	Charter may provide for voluntary disannexation of territory by city.

Subject Area	Applicable State Law (LGC is the Local Government Code, GC is the Government Code, Chapter or Section)	The Charter May Provide: (Chapter references are to chapters in this report)
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E. Administrative organization

1. City manager/city administrator	Silent	Charter may provide for mandatory or optional appointment of city manager by city council; may make residence requirements, provide or not provide for public hearing for city manager on discharge; may provide that individual must post bond; may prescribe duties. (See Chapter 12).
2. Municipal court	State law establishes a municipal court in every municipality in the state. The law also establishes the specific jurisdiction for the court and provides that home rule cities in their charters may provide for the method of selection of the judge. State law now controls most of the matters establishing municipal courts of record. (See Chapters 29 and 30, GC).	State law heavily preemptive. (See Chapter 13).

F. Municipal finance

1. Ad valorem (property tax)	State Property Tax Code controls three of the four basic procedures for administering the property tax. Appraisal of property, handling protests regarding value of property, and assessment of taxes (preparation of the tax roll) are now all handled by appraisal districts.	Charters may provide for the fourth tax function, the collection of current and delinquent taxes.
2. Other revenues	State law controls all or a significant part of the following sources: city sales tax, street rentals, fines, license and permit fees, hotel-motel tax, taxes on alcoholic beverages, and occupation taxes.	Charter may provide for user fees, federal grants, special assessments, and such miscellaneous sources as income from sale of city property.
3. Annual operating budget	Uniform Budget Law (Chapter 102 LGC) sets out basic requirements city budgets must meet.	Charter may provide for additional requirements. (See Chapter 14).
4. Annual audit	Texas cities must comply with the requirements of Section 103.001 et seq., LGC, which require an annual audit of the city's financial affairs.	Charter may provide for additional requirements. (See Chapter 14).

Subject Area	Applicable State Law (LGC is the Local Government Code, GC is the Government Code, Chapter or Section)	The Charter May Provide: (Chapter references are to chapters in this report)
5. Internal auditor	Silent	Charter may address this position.
6. Depository	State law makes certain requirements regarding city depository. (See Chapter 105, LGC).	Charter may allow the governing body to select a depository for city funds.
7. Purchasing	State law requires a competitive procurement for most expenditures over \$50,000. State law allows the city council to override charter provisions of lesser amounts by adopting an ordinance. (See Chapter 252, LGC).	Charter may provide for lower limit on requiring bids. (See Chapter 14).
8. Public works contracts	LGC Chapter 252 applies to all purchases; certain provisions of LGC Chapter 271 address public works contracts. City must comply with both.	Charter may stipulate certain requirements but they must be consistent with state law.

G. Issuance of debt

1. Short-term borrowing	Silent	Charter may allow governing body to borrow money, to be repaid in the same fiscal year, without a vote of the citizenry.
2. Certificates of Obligation (C.O.)	Chapter 271, LGC regulates purposes of and length of maturity of C.O.s.	Charter may provide for governing body to issue C.O.'s for a wide variety of purposes for as long as 40 years without a vote of the citizenry.
3. General Obligation (G.O.) Tax Bonds	State law directs most of the procedures concerned with issuing G.O. bonds. (See Chapters 1501-1510, GC).	Charter may provide for governing body to issue debt to pay for facilities upon favorable vote of the citizenry.
4. Revenue bonds	These may be issued under state law, without a vote of the people. <u>Corpus Christi v. Flato</u> , 83 S.W.2d 433 (Tex. Ct. App. -San Antonio, 1935 Writ dism'd).	Charter may provide for this type of bond, secured by revenues from an income-producing facility, without a vote of the people. (See Chapter 14).

Subject Area	Applicable State Law (LGC is the Local Government Code, GC is the Government Code, Chapter of Section)	The Charter May Provide: (Chapter references are to chapters in this report)
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H. Elections other than those for governing body and charter amendments

1. In General	Chapter 41, Texas Election Code, sets forth uniform election dates.	Exceptions to the uniform election dates for run-off elections for city council.
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I. Initiative, Referendum, and Recall

1. In General	Silent	Charter may provide for all, some, or none of these direct legislation methods. (See Chapter 15).
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J. Franchises

1. In General	Several state laws set forth regulatory restrictions on utility franchises, rate, and services.	City's powers are limited by several state laws. (See Chapter 16).
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K. Personnel functions, civil service, merit system, city employees

1. Municipal fire and police	Beginning in 1947, Texas Legislature has enacted laws relating to fire and police officers.	Some cities have defeated and some have enacted optional portions of fire and police legislation.
2. Residency of city employees	Section 150.021 of LGC prohibits city from requiring city employees to live within city limits. See next column for exceptions to this law.	City, by charter or otherwise, may require members of governing body and department heads appointed by mayor or governing body to be residents. May also set reasonable time within which employees who reside outside the city must respond to a civil emergency.
3. Right of certain municipal employees to purchase continued health insurance coverage at retirement.	Chapter 174, LGC, requires some cities to provide this coverage under certain conditions.	City charter may address health insurance for retirees consistent with state law.

L. Planning and Zoning

1. Zoning	The legislature has provided detailed provisions for the exercise, by home rule cities, of the zoning power. The statutes include procedures for the zoning commission, composition and duties of the zoning board of adjustment and a wide spectrum of other requirements.	Within broad parameters, city may provide in charter for zoning commission and mandate it to recommend a ordinance to the governing body. Charter may provide for continuous update of that ordinance.
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Subject Area	Applicable State Law (LGC is the Local Government Code, GC is the Government Code, Chapter or Section)	The Charter May Provide: (Chapter references are to chapters in this report)
2. Planning	The legislature has provided detailed provisions for the exercise, by home rule cities, of the power to plan for orderly growth and development. These statutes also provide for establishment of public improvement and municipal management districts, housing finance corporations, and procedures for financing capital improvements. (See Chapters 371-380 and 391-395, LGC).	Charters may provide for the preparation and adoption of a comprehensive plan, for a capital improvements program, and budget, and procedures for control of land development.

M. Standards of conduct

1. In general	Texas Constitution and statutes address several subjects regarding standards of conduct. Chapter 9 and 17 of this report speak to these situations in some detail.	Charter can be more restrictive than Constitution or statutes; e.g., charter can contain restrictive provisions regarding personal or financial interest on part of city councilmember.
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N. Conflict of interest and ethical matters

<p>1. Dual office holding</p> <p>2. Incompatibility</p> <p>3. Separation of powers</p>	<p>Texas Constitution and state statutes govern this area.</p> <p>Texas court case ruling prohibits an individual from holding two offices where a subordinate position is subject to the supervision and control of the other position. Attorney general opinions have stated that an individual is prohibited from serving in two offices where there are potentially conflicting interests between the two positions.</p> <p>No longer a bar to dual office holding. (AG Opinion GA-0348).</p>	<p>Charters can have provisions more restrictive than Constitution or applicable statutes.</p> <p>See Chapter 9 of this report under "Qualifications for Office."</p> <p>Charter may provide for additional requirements.</p>
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Subject Area	Applicable State Law (LGC is the Local Government Code, GC is the Government Code, Chapter or Section)	The Charter May Provide: (Chapter references are to chapters in this report)
4. City actions that benefit mayors and councilmembers	Chapters 171 and 176 of the LGC requires the public disclosure of conflicts between the public interest and councilmembers' private interests.	Charter may address this area. State law provides that provisions of Chapter 171 and 176 are cumulative; that is, both state law and charter restrictions would apply.
5. Nepotism	This is addressed in Section 573.041 of the Texas Government Code.	Charter may provide for stricter bounds of nepotism than state law. Charter may also apply nepotism provision to city manager or city department heads whom state law does not address.
6. Political activities	There are constitutional, statutory, and case law restrictions on an employee's political activity, but also on the city's right to prohibit some activities. Situations must be handled on a case-by-case basis.	Cities have some authority to regulate in some manner political activities of their employees as long as it is a reasonable restriction on an employee's right to become a candidate for office. (See Chapter 17).

Charter language in cases of state preemption

There are four different ways in which a city can address the question of state preemption when drafting a new charter or charter amendments. All four of these methods are being used by city charters today with no particular consistency of approach.

The four alternatives are:

(1) Charter is silent. The charter omits any reference whatsoever to subject areas already preempted by state law. For example, a number of charters make no reference to the oath of office, incompatibility, and other similar state-preempted areas.

(2) Charter lists subject and immediately incorporates state law by reference. Examples of this include references to open meetings and open record acts, purchasing, issuance of long-term debt, and other items.

(3) Charter repeats state law. Examples of this include charters that cite the state open meetings law and list the exceptions that are allowed by that law. Other examples of this method include repeating the law of nepotism and dual office holding.

(4) Charter has even stronger or more detailed provi-

sion than state law on given subject. Two examples of this method are the following: Regarding separation of powers, it is not unusual for a charter to not only prohibit a current councilmember from serving as city manager but also to prohibit former councilmembers from serving as city manager for a period of time. In fact, two city charters prohibit former mayors and councilmembers from ever being appointed as city manager. Next, the state law regarding adoption of the annual operating budget is fairly general and many cities have much more detailed requirements than the state sets out.

What is the proper way to handle state preemption?

There is no "proper" way to treat the matter of state preemption of certain areas of concern. An argument could be made for utilizing two or more of the methods listed above, depending on the topic. Cities should always have extra copies of charters on hand so that individual citizens have access to them. We would expect that charters would be easier to access and read than state statutes. Several city officials and urban experts argue against repeating state law in the charter just to have it in there. But it might be prudent and "customer-friendly" to develop a fifth method of handling

such laws. The charter language might just have a brief statement such as:

Open Meetings. City council meetings shall be conducted in accordance with applicable state law. (See Appendix ___ for recitation of state law.)

The appendix to the charter could contain the text of all applicable state laws. Two advantages to this approach: (1) an appendix would not have to be adopted by the citizens as a charter amendment; and (2) the appendix could be printed separately as often as desired to keep up to date with changing state law. By putting the detailed state law in the appendix, a citizen is given a more complete picture of the legal environment in which the city operates.

Subjects on which state statutes and charter are both silent

A subject related to the question of state preemption is the handling of subjects when state statutes and the charter are both silent. One area, for example, is that of compensation of city councilmembers. As noted above, there is no state statute speaking to the question of the amount of compensation for the governing body in home rule cities. If a given charter is also silent on this question, municipal attorneys have generally reasoned that city councils can establish compensation for themselves by ordinance. This is an area in which prudent action by the council would seem to be advantageous. If the council gets “greedy” and establishes what the citizenry considers unreasonable compensation, the council might well be faced with a charter amendment election that would not only establish a pay level, but might also invoke a level of compensation much lower than presently enjoyed by members of the governing body.

Presumably under the theory of “home rule,” if state law and the charter are both silent, the city, by ordinance enacted by the city council, could undertake a wide range of actions.

Having discussed the concept and history of home rule and the restrictions of state law upon charters, we now turn to a brief description of procedures for adopting a new charter and amending an existing charter. This chapter content is primarily for neophytes in city government, but it seems prudent to repeat some basic information because a few Texas cities have misread some of the requirements in the Constitution and/or statutes. As an example: One city adopted charter amendments in three successive years, despite the constitutional requirement that charters be altered or amended no more often than once every two years. Another city interpreted the statute on amending the charter to permit amendment by ordinance; the councilmembers used this interpretation to give themselves a pay raise by an ordinance. A charter can be amended only by the voters, of course.

Establishing the population of the city (first charter)

Before the governing body takes any action in regard to a charter commission, it must determine that its city is over 5,000 inhabitants and hence eligible under the constitution to adopt a home rule charter. If the preceding U.S. Census recorded a population of at least 5,001, the city qualifies. The city council can state this fact in its ordinance calling for a vote on framing a new charter, in accordance with Section 9.002 (d) (discussed in more detail later). (See Appendix D, which includes Texas Local Government Code, Sections 9.002 and 9.003, spelling out requirements for adoption of a new charter).

If the last official census recorded less than 5,001 inhabitants, the city council must make a good faith finding that the city has grown to 5,001 or more. To do this, cities generally have used an unofficial census conducted by civil volunteers, or have used utility connections with a multiplier. Cities should consult with legal counsel prior to making the finding. Improper evidence has led some cities into legal trouble on the issue. For example, in *City of Granite Shoals v. Ted Winder*, 280 S.W.3d 550 (Tex. App. – Austin 2009), a city councilmember testified that the city simply multiplied the number of utility connections by three (a number allegedly selected at random). The court concluded possible bad faith because the city did not use demographics or census data to determine the multiplier. After establishing by one of these or other reasonable means that the city has more than 5,000 inhabitants, the council is ready to consider the question of electing or appointing a charter commission to frame a charter for the city.

Adopting the city's first charter

Section 9.002 of the Local Government Code provides two different methods of selecting a charter commission to draft a first-time charter. One way is for the governing body to provide for an election that gives the voters an opportunity to elect a charter commission to draft a charter, and at that same election, to choose the members of that charter commission. That same Section 9.002 provides that the charter commission may be chosen in another way. This method will be discussed later.

Elected charter commission

To begin the elected charter commission process, the governing body must adopt an ordinance by a vote of not less than two-thirds of its membership to submit this question to a vote of its citizenry: "Shall a commission be chosen to frame a new charter?" If the governing body does not pass such an ordinance voluntarily, it may be required to do so if presented with a petition signed by at least ten percent of the qualified voters of the municipality.

The elected commission approach is not the only way to choose a commission, but it may still be the best way in that it gives the voters an opportunity to indicate whether they really want to proceed with the drafting of a charter.

Section 9.002 (b) reads: "The election ordinance shall provide for the election to be held on the date of the municipality's next general election scheduled after the 30th day but on or before the 90th day after the ordinance is adopted. However, if no general election is scheduled during that period that allows sufficient time to comply with other requirements of the law, the election shall be ordered for the first authorized uniform election date prescribed by the Election Code that allows sufficient time to comply with other requirements of law and that occurs after the 30th day after the date the ordinance is adopted and published in a newspaper in the municipality."

Section (c) provides that the same election shall provide for the election from the city at large of a charter commission to draft a charter if a majority of the qualified voters voting on the question of choosing a charter commission approve the question. This sentence has generally been interpreted as requiring the two questions of framing a new charter and selecting the members of the charter commission to be asked separately, though they may be on the same ballot. The commission must consist of at least 15 members, but if it has more than 15 members, it may not have more than one member for each 3,000 residents of the city. The ballot may not contain any party designation.

Alternative to elected commission

Section 9.002 (d) provides for an alternative way of choosing a charter commission for a first-time charter. The alternative way has been used more frequently in recent years. To reduce the opportunity for misinterpretation, it is best to quote this subsection directly:

- (d) The provisions of Subsections (a), (b), and (c) regarding the selection of a charter commission to do not apply to the first charter election in a municipality if:
- (1) (a) the governing body of the municipality selects a charter commission;
 - (b) a charter commission is selected at a mass meeting; or
 - (c) the mayor of the municipality appoints a charter commission; and
 - (2) the charter commission has proceeded with the formation of a charter for the municipality.

Adoption of a new charter (not the first charter)

There is no question regarding the selection of a charter commission when a city that previously has adopted a charter decides to completely rewrite the document and adopt a new charter. The provisions of 9.002 (a) through (c) must be followed requiring an elected charter commission.

The definition of a “completely new” charter has not been litigated. Cities have adopted numerous amendments to an existing charter, including changing the form of government and/or the election of the governing body, as well as many other changes, and have done so under the statutes covering “charter amendments,” not the requirements for a new charter. The record for number of amendments at one election appears to be 81, submitted by one Texas city at a 2006 election, with 80 amendments being approved by voters. If such an election is not contested by a citizen, there appears to be no upper limit to the changes that can be made by amendment.

Preparing for the charter commission election

Several different ordinances must be passed, ballots must be prepared, and other specific steps must be taken to hold and then report the results of the charter commission election. Because these requirements can change from year to year, samples of those documents are not included here but may be obtained from the Texas Municipal League by contacting the TML Legal Department.

Guidelines for the charter commission

If a majority of those voting at the charter commission election favor creating a charter commission, the 15 or more members of that body can proceed with drafting a proposed charter. A charter commission is a very unusual governmental body. Most cities will not have such a group more than a few times in a 100-year period. Many of the individuals involved in the work will be serving on a governmental body for the only time in their lives. Because of the Commission’s unusual nature, the National Civic League has published a Guide for Charter Commissions to accompany its Model City Charter (see Bibliography). Both publications can be ordered from the National Civic League through its Web site at www.ncl.org/publications.

OVER 30 - DON'T APPLY!

We submit herewith the original copy of a proposed Home Rule Charter for the City of _____ drafted by the Charter Commission elected by the people on April 5, ____.

We urge that the Council, having taken the initiative in recommending the Charter Commission for this purpose, endorse this proposed Charter unanimously to the citizens of _____ for adoption.

We recommend the following steps for the Charter:

1. Send to City Attorney for legality.
2. Hire young lady to retype with enough copies for City Council.
3. Have Council approved printing of Charter.
4. Return to Charter Commission to take to printer in form they have planned to use for readability.
5. Mail to citizens of _____.
6. Call election for February 17, ____.

Preclearance under the Voting Rights Act of 1965

The city must obtain “preclearance” of the charter election from the U.S. Attorney General’s Office. Section 5 of the federal Voting Rights Act prohibits the enforcement of any voting qualification or procedure with respect to voting rights unless it is approved by the U.S. Department of Justice or by the U.S. District Court of the District of Columbia. The simpler process for gaining approval is to submit the proposed changes to the U.S. Attorney General’s Office. The approval process is designed to ensure that the proposed changes in the election process will not have the effect of denying or

Adoption and amendment of home rule charters

abridging the right to vote “on account of race or color or membership in a language minority group.” 42 U.S.C. Section 1973c. If you have any questions about the preclearance process, it may be helpful to visit the U.S. Department of Justice Web site at:

www.usdoj.gov/crt/voting/sec_5/guidelines.php.

Additional questions may be answered by speaking with a Civil Rights Analyst at the U.S. Attorney General’s Office by calling (202) 307-2767.

Preclearance submission may now be submitted electronically through the following Web site address:

www.usdoj.gov/crt/voting/sec_5/making.php

Preclearance submissions may be submitted by regular mail to the following address:

Chief, Voting Section
Civil Rights Division
Room 7254 - NWB
Department of Justice
950 Pennsylvania Ave., NW
Washington, D.C. 20530

Preclearance submissions may be submitted by overnight express mail to the following address:

Chief, Voting Section
Civil Rights Division
Room 7254 - NWB
Department of Justice
1800 G St., NW
Washington, D.C. 20006

Submitting the new charter to voters

At the completion of its work, the charter commission notifies the governing body and submits its proposed charter to that body and to the citizens of the city. The governing body has no authority to change any of the work of the elected commission (or the appointed commission if it is operating under the provisions of Section 9.002 (d)). To emphasize the point, we repeat that in the case of a NEW charter, the governing body has no authority to change any of the provisions of the proposed document.

Section 9.003 prescribes the election data for consideration of the charter, and the governing body must set the election in accordance with these provisions.

This same section provides that a copy of the proposed charter shall be mailed to each registered voter of the city at least 30 days before the election.

The section also states that the charter shall be prepared by the commission so that each subject within it may be voted on separately—to the extent practicable. As a matter

of practice, no charter to our memory has been submitted in any way except as a complete document with the voters asked to vote “for” or “against” the document as a whole. This requires voters to accept the parts they dislike or to oppose them along with the parts they favor.

Such a “one-vote” submission may appear to be somewhat unfair to the voters. However, it is virtually impossible to separate sections of the charter and then make provisions in the document for alternatives. Because of this difficulty, no court, to our knowledge, has ever turned down a charter adoption because the document was submitted to the citizens as “all or none.”

Charter adoption: results and voter turnout

A total of 61 cities have adopted first-time charters since the publication of this document in 1994. These 61 first-time charters adopted in the past 15 years are a reflection of the tremendous growth of the state, particularly in the metropolitan areas.

Charter amendments

Charter amendment elections are held much more frequently than elections for new charters. Some cities have had numerous amendment elections over the past 50 years while others have been content to stick with the original document. Very few communities have their original charter in place. Most have found it necessary to modify the original document with amendments to provide for the best administration of their cities. It appears the city with the oldest charter in Texas with no amendments is the City of Hearne, being adopted in 1964. Other communities have older charters and have not amended their charters for decades, including the City of Stamford which adopted its charter in 1918 with the last amendment occurring in 1955, and the City of Gorman which adopted its charter in 1920 and last amended it in 1960.

When a city holds a charter amendment election and adopts one or more amendments, it must wait a full two years before holding another such election. Section 41.0041 of the Texas Election Code allows a few days leeway in holding some elections which require a certain waiting period, but this law does not apply to charter amendment elections since they are controlled by the constitution.

Procedure for amendment election

Charter amendment elections are precipitated in one of two ways: (1) the governing body on its own motion may submit one or more amendments to the electorate, or (2) the governing body must submit a proposed charter amendment to the voters for their approval at an election if the submission is supported by a petition signed by a number of qualified vot-

Adoption and amendment of home rule charters

ers equal to at least five percent of the number of qualified voters of the municipality, or 20,000, whichever is the smaller. (See Appendix D for complete wording of statutory requirements.)*

Charter amendment elections usually result from the first procedure above. In most cases, this is preceded by a charter revision commission appointed by the governing body. State statutes do not address charter revision bodies. The commission may be any number of individuals, may meet for as short or long a time as the governing body allows, and usually is given a specific charge by the governing body to look at one or more specific charter provisions that the governing body thinks may need to be changed.

A significant difference between the elected first charter commission and the appointed charter revision commission is that in the latter case, the governing body has no obligation to accept any of the recommendations of the appointed revision commission for changes in the current charter. As a matter of practical politics, however, governing bodies generally give strong weight to the findings of the commission, even though it is not unusual to find some deviation from the recommendations when the election is actually called.

Preclearance under the Voting Rights Act of 1965

Charter amendment elections must be precleared by the U.S. Attorney General's Office. See section under Adoption of New Charters for procedure.

The charter amendment election

Requirements for ordering the amendment election and publishing required notices are all contained in Section 9.004, LGC. Although the notice in the newspaper is required to be a "substantial copy" of the proposed amendment, most cities include actual charter language to be changed in that notice, and this procedure is recommended to give voters full knowledge of what they are voting on.

Section 9.004 also states that any "amendment may not contain more than one subject." This requirement has troubled city officials through the years, but has generally been resolved through logical interpretation of the term "one subject." For example, if a city is changing the form of government to a council-manager form, most cities have included in one amendment the provisions for appointment of the manager and all related language, even though such language may appear in several different articles of the charter. Similarly, when cities have desired to eliminate sections that are in conflict with state law, the general practice has been to consider the "conflict with state law" as the one subject, and cite various sections in the charter affected, but all under one amendment to the charter. Neither of these practices has been challenged to our knowledge.

Approval of amendment(s) by the voters

If the voters of the city approve one or more amendments, the governing body must enter an order in the records of the city (minutes of a council meeting) declaring the adoption of the charter amendment(s).

In addition, as soon as practicable, the mayor or chief executive officer of the city must certify to the Secretary of State an authenticated copy of the amendment(s) under the city's seal showing the approval by the voters of the city.

The work of elected charter commissions and appointed charter revision commissions has provided some very interesting and diverse charters in Texas. Charters range from eight or ten pages to as many as 70 pages—the latter on legal size paper, incidentally. Short charters are not always the best because they may leave out provisions that should be included. It is true that short charters are preferred—simplicity and flexibility with a minimum of detail. This is the recommendation of the Model City Charter of the National Civic League (NCL), now in its eighth edition. Many Texas cities pattern their new charters at least roughly along the lines of the NCL model. A copy of this publication can be ordered from NCL at www.ncl.org/publications.

The NCL model charter has provided a degree of standardization in charter formulation and has resulted in a number of common elements among home rule charters in Texas.²¹ As the basic legal document of cities, most charters begin by specifying the corporate name, reciting the form of government under which the city intends to function, and setting forth the boundaries of the city. To establish the boundaries, some cities have utilized three or four pages to set out by metes and bounds the exact city limits even though that description probably is outdated by the time the charter is printed. Most cities now simplify with a brief paragraph that states that the boundaries shall be enacted by ordinance and may be changed as the city annexes by amendment to the basic ordinance. Usually, the charter provides that the official maps of the city shall be maintained in an office in city hall and that changes must be filed with the county clerk. The three items recited above generally constitute Article I of many charters.

Article II is most frequently a statement of the powers of the city. This can vary from a one-page statement to several pages comprising as much as one-half of the total charter. The lengthy sections on powers may be a result of the home rule amendment legislation originally enacted in 1913. The legislature at the time listed 34 different powers that home rule cities would have.

Despite the listing by the legislature in 1913, most municipal attorneys now feel that the statement of powers can and should be a brief, all-encompassing statement.

The full discussion of city powers is the subject of Chapter 7.

Following the listing of powers in Article II, many Texas charters follows the order of major subjects addressed in the NCL model charter.

This would include major articles on:

- the city council
- the city manager (in a council-manager charter)
- departments, offices, and agencies
- financial procedures
- elections

Many other Texas charters, however, include major articles on:

- initiative, referendum, and recall
- franchises
- municipal planning and zoning

The NCL model charter concludes with three final articles covering general provisions, charter amendments, and transition separability provisions. Almost all Texas charters close with the same three articles as the model charter.

The first decision most charter commissions make in developing a new charter is what form of government the fledgling home rule city will have.

Status of forms of government in the U.S. today

The International City Managers Association publishes the *Municipal Yearbook* annually with figures on the number of U.S. cities operating under each of the different forms of government. The latest survey of this type was published in 2009 and produced the following results.

Figure 6-1: Forms of government

Form of Government	All Cities	Cities Under 10,000	10,000 to 50,000	50,000 to 250,000	Over 250,000
Mayor-Council	3,145	1,967	942	197	39
Council-manager	3,534	1,661	1,463	383	27
Commission	143	72	62	7	2
Town meeting	340	233	107	0	-
Rep. Town Meeting	63	17	41	5	-
Total all cities	7,225	3,950	2,615	592	68

In the 1994 edition of this book, among all cities and towns, the mayor-council form of government was the most popular of any listed. Compared to the 2009 numbers, there has been a 37 percent increase in communities utilizing the council-manager form of government, while there has been an 18 percent decrease in those cities operating under a mayor-council system. Among cities having populations from 10,000-50,000 and 50,000-250,000, the council-manager plan is the leader.

The mayor-council form predominates among the older northeastern cities and in older cities of the Midwest and south. The council-manager plan is most popular in California, Texas, Michigan, Illinois, and Maine.

The commission plan is favored by only about two percent of the cities reporting in this survey. "The very small percentages of cities which have identified themselves as having a commission form of government in this study have, by charter, mandated the hiring of a city manager. To that extent, they are not a 'true' commission form of government but rather operate as a council-manager form of government." Zech, Charles E., "An Analysis of Texas Home Rule Charters" (2008), Texas State University *Applied Research Projects*, Paper 280, p. 44.

Brief history of forms of government in Texas

In the early days, all Texas cities were variations of the mayor-council form of government. This changed in 1900 when Galveston's mayor-council government collapsed during the disastrous storm and tidal wave. A group of citizens persuaded the legislature to grant the city a new charter, providing for a government by five commissioners, three appointed by the governor and two elected by the citizenry. Each member of the municipal governing body—the city commission—simultaneously served as commissioners and heads of the city's administrative departments, exercising day-to-day supervisory authority over a particular department. A court decision in 1903 ruled all five commissioners should be locally elected. The plan spread like wildfire. Houston adopted it in 1905, and five more cities adopted it in each of the legislative years of 1907, 1909, and 1911. By 1915, there were at least 39 home rule cities in the state, the large majority choosing the commission plan.²²

By then, however, the stage had been taken by another reform movement – the council-manager plan. Begun in Virginia, South Carolina, or California—depending on the version of the story you like—this plan was advertised as being patterned after business. Stockholders (the voters) elect a board (a city council) and that body appoints a chief executive officer (a city manager). Amarillo kept the commission plan only a few short years and in 1913 jumped to the council-manager plan, with Taylor, Terrell, and Denton following the next year. A short but steadily growing list of cities changed from commission or the mayor-council form to council-manager each year from 1913 to 1932. Today, Texas has more council-manager cities than any state in the union except California. The commission plan reached its zenith in the early 1900s and then fell rapidly out of favor. Today, Texas does not have a single city with the commission form. In the entire nation, Portland, Oregon, is the only major city with that form of government.

The mayor-council form of government, the original form in the colonies, continues to make a strong showing particularly in the largest cities of the nation and in the very small cities and towns. Forty-four percent of the 7,225 U.S. cities and towns with populations of 2,500 residents are governed by a mayor-council system; with six of the nation's ten largest cities using the mayor-council form. However, for the ten largest cities in Texas, only Houston utilizes the mayor-council form of government. In Texas, Houston and Pasadena are the major cities with this form of government. Houston, for a period of five years in the 1940s, changed to the council-manager plan, but reverted to mayor-council in 1947.

It should be noted that the mayor-council form of government is sometimes defined as two different forms: the “strong” mayor and the “weak” mayor forms. The ultimate in a “strong” mayor form would probably be Denver, Colorado, where the mayor of that city/county is authorized to:

- sign contracts up to \$500,000 without any notice to or confirmation by the city council;
- prepare the annual operating budget, which can be changed only by a two-thirds vote of the 13-member city council
- appoint and remove some 50 department heads, including county judges and board and commission members, all without approval or confirmation by the city council; and
- select the outside auditor to conduct the annual audit of city operations.

Certainly, no Texas mayor claims this level of authority. On the other hand, a “weak” mayor form usually means several of the following are in the charter:

- the mayor has no veto; the mayor’s appointments of department heads and boards and commissions must be confirmed by city council vote;
- the mayor has a vote in the council chamber only in case of a council tie vote; and
- the mayor’s budget authority is circumscribed.

Major determinants of the form of government

With these choices available, how do new charter cities in Texas make their choice? Undoubtedly, the total number of cities in the state and in the U.S. with each type of government influences the decision of charter makers. But the two most important determinants of this decision are probably: (1) the form of government of the city’s neighboring cities—particularly larger ones, and (2) the form of government the city has been operating under as a general law city.

There is no question that the form of government of neighboring cities—particularly larger cities in the area—influences the choice of form of government for new home rule cities. It is no accident that the area around Houston (mayor-council) has more cities with this form of government than might otherwise be expected. A few cities undoubtedly influenced by Houston’s choice include Pasadena, Texas City, League City, and Hitchcock. Conversely, the Dallas/Fort Worth metroplex has virtually no mayor-council cities. Here, the influence of those two large council-manager cities certainly has been felt through the years.

The second determinant—the general law plan currently operative—is also a factor in choice of the form of government for the new home rule city.

Those who write a city’s first-time charter are obviously very familiar with the current organization and practices of the city as it is then operating as a general law city.

The charter writers undoubtedly decide that they would like to duplicate some of the current practices while happily discarding other general law requirements and procedures. The two most influential practices of general law cities that appear to be carried over to home rule charters might well be: (1) the six-member city council with the mayor as the sixth member voting only in case of a tie, and (2) the position of city administrator which more than 300 general law cities have established by ordinance. Of the home rule cities governed by a six-member council, it is somewhat common for the mayor to vote only in case of a tie. This arrangement has been known to cause some problems as we shall see when we address the role of the mayor in Chapter 8. The experience of the general law city with a city administrator will likely be the factor that determines whether the charter commission recommends a council-manager or a mayor-council form for the new home rule city.

Charter revision to change the form of government

Regardless of their size, cities with existing charters may also change the form of government if they so choose. Texas cities have been extremely reluctant to exercise this option in the last 60 years; only four major cities have made such a change during that time. Houston, mentioned earlier, changed briefly and reverted back to mayor-council in 1947. San Antonio (1951), Laredo (1981), and more recently El Paso (2004), abandoned the mayor-council form for the council-manager plan.

Following the 2007 election year, charters were adopted by the cities of Buda, Celina, Hondo, Los Fresnos, Roma, and Windcrest. The 2008 election produced additional charter cities in Iowa Park, Lucas, and Willis. Horseshoe Bay, Pittsburg, and South Padre Island approved home rule charters in 2009. The count for each form of government is as follows:

	1994	2008
Council-Manager:	87%	89%
Mayor-Council:	13%	9%
Commission:	0%	2%*

The count above is accurate, but at the same time, does not tell the whole story. The council-manager plan has changed from the original structure of the plan, which called for: (1) a mayor who was selected from among the council after all winners had been seated as councilmembers, (2) a non-paid governing body, and (3) at-large elections. Although a few cities still adhere to these criteria, most council-manager cities have long ago changed to electing the mayor at-large, with some or all of the councilmembers elected by districts. Pay for the mayor and council is a significant change, and the dollar figure keeps rising every year.

The great majority of council-manager cities contain all the basic elements of the plan: selection of a profes-

Form of government

sional administrator, prohibitions against council interference with the city manager's appointments and day-to-day operations, and charging the city manager with responsibility for budget preparation. Some cities, however, have at best a weak manager plan. Evidence of this type charter is council appointment of various department heads, including at times the police chief, fire chief, city engineer, and others. The Temple charter calls for council appointment of a finance director and the Sweetwater charter for the appointment of a city comptroller.

*"The very small percentages of cities which have identified themselves as having a commission form of government in this study have, by charter, mandated the hiring of a city manager. To that extent, they are not a 'true' commission form of government but rather operate as a council-manager form of government." Zech, Charles E., "An Analysis of Texas Home Rule Charters" (2008), Texas State University *Applied Research Projects*, Paper 280, p. 44.

Introduction

The purpose of the home rule amendment to the Texas Constitution was to free cities over 5,000 inhabitants from going to the legislature each session for authorization to take care of some problem at home.

Perhaps the enabling act spelling out 34 specific powers left charter drafters unsure whether the constitutional amendment would be upheld to be as broad as intended. Whatever the reason, cities that are supposed to have any power not prohibited to them still have charters that devote 20-25 pages doing what amendment writers in 1912 were trying to avoid—spelling out powers in endless detail.

Not one but dozens of charters take from one-fourth to one-half of the total charter to spell out the powers of the city. These charters spend several pages on the details of the power of the city to maintain peace and order, to regulate streets, to levy assessments; to spell out the powers of eminent domain and annexation, the power to maintain a library, hospital, parks and playgrounds and other city facilities; and finally, to provide and supervise the municipal court.

Several of the powers spelled out in some of the more detailed sections have been preempted by the legislature. These include assessments for street improvements, much regulation of public utilities, and the basic operating practices of a municipal court.

The preemptions of these specific powers above is reason enough not to try to spell out in excruciating detail every conceivable situation that may occur to a charter drafter. In this day of rapid societal change, the old adage “to include does not intend to do so, but by its very nature excludes everything not specifically included” can come back to haunt us.

Inherent powers of a city²³

Chapter 2 discussed briefly the concept of inherent powers possessed by a city and used four examples of such powers—municipal organization; annexation; initiative, referendum, and recall; and charter amendments—to illustrate the advantages of home rule over general law. There are numerous other examples of powers that Texas home rule cities enjoy. These powers are cited in some detail here not to encourage cities to spell out these powers in a charter, but to portray the wide variety of powers possessed by a home rule city. All these can be encompassed in broad statements that the DeLeon charter, described later in this chapter, illustrates quite well.

The police power

The council has the power to regulate a wide range of local activities in order to promote the general welfare of the city’s residents. This is known as the city’s “police power,” and it encompasses all governmental powers exercised for the public good.

More particularly, the police power is defined as the city’s authority to preserve and promote the health, safety, morals, and welfare of local citizens. It is based on the premise of the supremacy of the rights of the general public over individual rights. Some of the more common methods by which municipal police powers are exercised are described below.

In order to preserve the peace, the city council has the power to create a police department to maintain order, enact ordinances controlling noise and other disturbances, and prevent animals from running at large. The council also can declare certain activities to be public nuisances and penalize persons who create them. The courts have held the city’s authority to protect the health of the public to be generally broader than other municipal police powers.

The regulation of dogs and other animals, the regulation of unwholesome business practices, and the regulation of slaughter houses are just a few of the powers the city council may exercise to protect the health of its citizens. The council also has the power to enact quarantine regulations, regulate cemeteries, and inspect and license restaurants and other food service establishments.

Additionally, the city council can enact a zoning ordinance to regulate the height and size of buildings, the size of lots and density of population, the location and use of buildings and other aspects of land and improvements thereon, and the uses to which they are put (Chapter 211, Local Government Code). The city council also has the authority to prescribe standards for the construction of buildings within the city, regulate the condition of buildings, and condemn unsafe buildings (Chapter 214, Local Government Code).

While home rule cities still have broad powers, the Texas legislature often passes laws that preempt city authority. This practice is usually directed at the activities of one or a few cities, but has become a troubling practice because it can affect all cities.

IS YOUR “VELOCPEDE” FRIGHTENING HORSES?

Sec. 7. To prohibit, restrain and regulate the rolling of hoops, the flying of kites, the use of velocipedes or other amusement or practice tending to annoy persons passing upon the streets or sidewalks, or to frighten horses or teams.

Planning and subdivision controls

The city council has the power to spend municipal funds to compile statistics, conduct studies, and make plans for the orderly growth of the city and the welfare of its residents. The council can create a planning commission to develop and maintain a city plan and can establish a planning department to implement the plan (Chapters 211, 212, 213, Local Government Code).

The council can establish rules and regulations governing the subdivision and development of land within the city. The city also can extend its subdivision controls to land located within the city’s area of extraterritorial jurisdiction in order to assure the orderly development of outlying areas.

Annexation

If permitted under the charter, the council can exercise its annexation powers to bring adjoining unincorporated areas into the city without the consent of the residents in those areas (Chapter 43, Local Government Code). Since state law controls many aspects of annexation by a home rule city, it is prudent for a city council to bring its city attorney into any discussion of annexation.

Regulation of streets and other public places

The city council has supervisory powers over all streets, alleys, sidewalks, bridges, parks, and other public ways and places within the city. The council has the power to: (1) regulate the use of streets and other public ways, provide for cleaning and lighting, prevent and remove encroachments, and direct and regulate the planting of trees; (2) regulate openings for laying out gas, water, and other mains and pipes; (3) regulate the use of sidewalks and require the owners or occupants of abutting premises to keep their sidewalks free from obstructions; (4) prevent activities that would result in damage to streets, alleys, or other public grounds; (5) regulate crosswalks, curbs, and gutters; (6) regulate the posting of signposts, handbills, and similar items on streets, sidewalks, and other grounds; (7) regulate traffic and sales on streets, sidewalks, and other public spaces; and (8) control weedy lots and junked vehicles.

Construction of public facilities

In addition to its regulatory powers, the council has the authority to erect, construct, and maintain a wide variety of facilities for public use, including water and sewage systems, airports, hospitals, parks, libraries, market houses, transit systems, electric and gas systems, streets, bridges, culverts, sidewalks, street lights, and many other kinds of facilities.

Legislative restatement of broad powers and case law

In codifying the statutes pertaining to local government in 1987, the legislature tried to restate the law to make it perfectly clear that home rule cities have “full power of local self-government.” In fact, that phrase is quoted from the Local Government Code (Section 51.072, paragraph (a)). Paragraph (b) of that same section states: “The grant of powers to the municipality by this code does not prevent, by implication or otherwise, the municipality from exercising the authority incident to local self-government.”

In addition, the cases excerpted in the LGC, following Section 5.072, reiterate over and over again the rulings of courts that have consistently upheld a city’s broad powers.

The powers article in DeLeon charter

Barney Knight, former city attorney of Temple and Austin, and now representing various small cities through his private practice, redrafted the “powers” section of the City of DeLeon’s charter several years ago. Mr. Knight spent considerable time researching and wording that statement of powers to take advantage of every power authorized by the Constitution and statutes, while still being brief. That wording in the DeLeon charter, of which Mr. Knight and the city are justly proud, is as follows:

Figure 7-1: Article III - Municipal Powers

SECTION 1. The said City of DeLeon shall have power to ordain and establish such acts, laws, rules, regulations, resolutions, and ordinances, not inconsistent with the Constitution and laws of Texas and of this Charter, as shall be needful for the government, interests, health, welfare and good order of said City and its inhabitants. Under the name of the City of DeLeon it shall be known in law and have succession and be capable of contracting and being contracted with, suing and being

sued, impleading and being impleaded, answering and being answered unto, in all courts and tribunals, and in all amounts whatsoever, subject to the laws of the State of Texas, or which shall hereafter be passed.

The City of DeLeon shall have the power to take, hold, lease, grant, purchase and convey such real property or mixed property or estate, situated within, or without, the limits thereof, as the purpose of said corporation may require and shall have and use a corporate seal, and change and renew the same at pleasure.

SECTION 2. Rights Reserved - All suits, taxes, penalties, fines, forfeiture, and all other rights, claims and demands, of every kind and character, which have accrued under the laws in favor of said city, heretofore in force governing the same, shall belong to and vest in said city and shall not abate by reason of the adoption of this Charter, and shall be prosecuted and collected for the use and benefit of said City of DeLeon and shall not be in any manner affected by the taking effect of this charter; but as to all of such rights, the laws under which they shall have accrued shall be deemed to be in full force and effect.

SECTION 3. Local Self-Government - The City of DeLeon shall possess and may exercise the full power of local self-government. It may hold, by gift, deed, devise, or otherwise, any character of property, including any charitable or trust fund, and subject to and within the limits of superior law may act in perpetual succession as a body politic.

SECTION 4. For greater certainty, the following are hereby especially enumerated and referred to as being among the other powers which are hereby conferred upon and which may be exercised by the City of DeLeon, to-wit:

A. All of the powers conferred upon cities and towns by Title 22 of the Revised Civil Statutes of Texas, 1911, except as may hereafter be denied,

limited or extended, are hereby conferred upon the City of DeLeon as fully and completely as if such powers were herein separately enumerated.

B. All powers, privileges and immunities conferred upon cities of more than five thousand inhabitants, by Section 4 of Chapter 147, Acts of the 33rd Legislature, General Laws Regular Session, at Page 310 to 316, entitled, "An Act Authorizing Cities Having More Than Five Thousand Inhabitants, by a Majority Vote of the Qualified Voters of said City, at an Election Held for the Purpose to Adopt and Amend their Charters, etc; and such powers are hereby conferred upon the City of DeLeon as fully and completely as if each of said mentioned powers were herein separately enumerated; but enumeration of special powers herein, or in the Statutes referred to, shall not be held or construed to preclude the city from exercising all powers of local government not inhibited by the Constitution and Laws of the State of Texas, or by special limitations in this Charter contained, the purpose of this Charter being to enlarge upon the power extended by the general laws of cities incorporated thereunder, and to secure to the City of DeLeon, all the powers conferred by the Constitution and Laws of this State upon cities having more than five thousand inhabitants.

The model charter

Perhaps one day in the twenty-first century case law will be so well established that a powers statement could be shortened even further to read as the NCL model city charter suggests:

Figure 7-2: Article I - Powers of the City

Section 1.01. Powers of the City.

The city shall have all powers possible for a city to have under the constitution and laws of this state as fully and completely as though they were specifically enumerated in this charter.

Section 1.02. Construction.

The powers of the city under this charter shall be construed liberally in favor of the city, and the specific mention of particular powers in the charter shall not be construed as limiting in any way the general power granted in this article.

Section 1.03. Intergovernmental Relations.

The city may participate by contract or otherwise with any governmental entity of this state or any other state or states or the United States in the performance of any activity which one or more of such entities has the authority to undertake.

Federal Voting Rights Act

There is one cautionary note in this discussion of powers. The city council needs to continually be aware of the requirements of the federal Voting Rights Act, for it not only restricts the city's freedom in city council elections, but also must be taken into account before annexing land.

Under that Act, federal approval is required for:

- the relocation of a municipal election polling place or changes in any precinct boundary line;
- the annexation of territory that affects local voting patterns to any degree whatsoever;
- a change in the method of electing city councilmembers (for example, a change from at-large elections to elections by wards, or vice versa); and
- a change in the terms of elected municipal officials or a change in the method of selecting any official (for instance, providing that an official whose office is presently appointive will in the future be elective, or vice versa).

This list is not all inclusive; rather, it offers a few examples of the kinds of election-related actions that are subject to federal approval. The scope of the Voting Rights Act is intentionally broad and, as the administrative procedures written to implement it indicate, the Act applies to any "change affecting voting," which includes any voting qualification, prerequisite to voting, standard, practice or procedure different from that in force on November 1, 1972, *however minor or indirect the difference might appear to be*.

Under the Act, prior to final implementation of any annexation, any change of polling place, change in the term of any municipal elected official, or any other "change affecting voting," the city must do one of the following: (1) obtain a declaratory judgment from the U.S. District Court for the District of Columbia that the proposed change will not result in the denial or abridgement of the right of any person to vote because of his or her race or color; or (2) submit the proposed change to the U.S. Attorney General. If, within a specified time, the Attorney General fails to object to the proposed change on the basis that it will have the effect of abridging or denying any person's voting rights on account of race or color, the change can be implemented.

Of note is the 2009 U.S. Supreme Court decision in the case of *Northwest Austin Municipal Utility District v. Holder*, 129 S.Ct. 2504 (2009), which concluded that a political subdivision may apply to federal court in Washington, D.C., to "bailout" (be exempted) from the Act's requirements. In any event, the city council should seek the counsel of an attorney whenever it contemplates any action that might result in a "change affecting voting." Failure to comply with the requirements of the Act can subject city officials to civil and criminal penalties and can mean that any "change affecting voting" will always be subject to challenge.

“The Mayor” is one of the most prestigious political positions in American politics. From that position, individuals have advanced to governor, United States senator, presidential cabinet member, and other less prominent posts. Although some would say the position does not carry the power it once did, U.S. presidents still listen to mayors.

As the political head of a city, the mayor is expected to provide the leadership necessary to keep it moving forward. Except under the council-manager form of government, the mayor is the city’s chief executive officer. Virtually all charters recognize the person in that position as the ceremonial and governmental head of the city. In addition, the mayor is usually designated the city’s chief executive in times of disaster and emergencies. Several Texas charters delegate extraordinary powers to the mayor in emergency situations. Most of the day-to-day powers and responsibilities of the mayor are spelled out in the city charter or in ordinances. Very few mayoral powers are prescribed by state law.

The mayor’s most important duty is to furnish the political and community leadership to build and maintain a healthy and viable city. This is often achieved through working with a city council and the city administration for a goal-oriented legislative and budgetary program to meet the needs of the citizenry. As presiding officer of the city council, the mayor can exercise a considerable amount of influence through the power of recognizing councilmembers for motions or statements, ruling on questions of procedure, and in some cities, vetoing actions of the city council.

Historically, the mayor’s real powers have fluctuated, depending on the form of government utilized and the complexity of problems faced.

The mayor in American history

Certainly the mayor was the key figure in early American cities. In early times in Texas, as throughout the nation, cities were governed by the mayor-council form of government, and many mayors wielded extensive powers through appointments and patronage. He—and they were all males for a long time—was the undisputed chief executive officer of the city. This did not change with the advent of the commission form of government in 1900, but did begin to change with the initiation of the council-manager movement in the early 1900s. Richard Childs, one of the founders of the council-manager plan, was adamant about calling the person in the position “chairman,” not mayor. He insisted that individuals run for the city council and then select one of their own as chairman. Childs and other early proponents of the council-manager plan believed the strength of the plan was in the policy and political leadership of the council as a whole, not in a

single individual.

But as cities throughout the country grew, many citizens felt the need for a single, strong political leader in the person of “the mayor” to keep their city in the forefront of economic development and prosperity.

Thus, the “strong” mayor plan flourished in many cities and produced such leaders as Ivan Allen, Sr., and later Ivan Allen, Jr., in Atlanta; Louie Welch in Houston; and Richard Lee in New Haven. They and others were hailed for their political and community leadership.

Those mayors “ruled” from charter strength. But a different type of mayor evolved in the larger cities under the council-manager plan – a “facilitative” mayor. With none of the appointment, budgetary, or executive power of the men mentioned above, mayors such as Eric Jonsson in Dallas and Henry Cisneros in San Antonio led their cities by sheer personal magnetism and intellect, facilitating local successes through the joint action of the total city council and professional administrators.

Today, mayors in both forms of government are relying to a great extent, not on the formal authority of the office, but on personal informal authority as the “elected spokesperson for the community. They work with all segments of the city and the region to initiate, expand, and improve governmental services.” Neal Peirce, in his book, *Citistates*, says it this way:

In virtually every city there is a cry for leadership – for someone to take a strong hand to organize the town for the future. Yet an individual who tries to take too prominent a role or steps on toes of any interest group suddenly finds himself or herself under fire, oftentimes in the local press . . . None of that means we need leaders any less . . . A central civic challenge for today’s citistates is thus to nurture, encourage, and advance a replacement generation of civic entrepreneurs. Some will surely be from businesses large and small. But others need to be from universities, citizens groups, minority communities, and especially the expanding professions of the new service economy, from law to medicine—to accounting.

Peirce acknowledges inherent problems in civic efforts: major corporate officials too occupied with global survival to participate, lack of media support, racial groups suspicious of less than a fair share, too many plans never implemented. He concludes, however, that the problems underscore the importance of the goal.

Nevertheless, the absence of effective leadership, a citistate totally adrift, is a more frightening prospect. The nurturing of new leaders and the creation of metropolitan partnerships that open a way for those leaders to play important region-wide roles are two of the most critical challenges for American citistates in the 1990s.²⁴

Distinct differences in mayors' positions

There remain, however, distinctive differences between the charter authority and duties of a mayor leading a mayor-council city and a mayor leading a council-manager city.

A comparison of key elements of the mayor's role in the three largest cities in Texas pinpoints the differences.

Figure 8-1: Differences in mayor's positions			
Factor	Houston (Mayor-Council) Pop. - 2,208,000	Dallas (Council-Manager) Pop. - 1,240,000	San Antonio (Council-Manager) Pop. - 1,328,000
Pay	\$14,583/month	\$5,000/month	\$366/month
Appointment of city's Department heads	Appoints, subject to City Council approval	No individual decision authority in this area*	No individual decision authority in this area*
Annual budget	Prepares for City Council approval	No individual decision authority in this area	No individual decision authority in this area

*The City Council, with mayor voting, does appoint the city manager, city attorney, city secretary, and city auditor.

It seems obvious from the comparison in figure 8-1 that an examination of the mayor's role demands two separate tabulations for the two forms of government. It would be useless to report that the average salary of the mayors in the three largest cities in Texas was something like \$6,649 per month. Yet, some national and state publications in the past have combined mayors of all cities into one summary tabulation.²⁵

Charter language regarding the mayor

The pay and responsibility table displays the differences between the mayor's position in Houston, Dallas, and San Antonio reflecting the content of the "Mayor" articles in their respective charters.

The Houston charter, and similarly the mayor-council charters of Pasadena, Bay City, and others, devote a specific article to the mayor. These articles cover such areas as the definition of the mayor's position, general powers of the mayor, privilege of vote and veto, authority for removal of appointive officers and employees, and compensation of the

mayor. Mayor-council charters thus address the mayor as the elected head of the city and the chief executive officer. For the latter role, the provisions are similar to the city manager sections in a council-manager charter.

The Dallas charter, and many other council-manager charters, devote one section (one paragraph) to the mayor exclusively. Other sections cover the responsibilities of the mayor as a member of the entire city council.

Selection of the mayor

Mayors of all mayor-council cities in Texas are elected at-large by the voters. Although this is the practice in the great majority of council-manager cities, mayors in six percent of council-manager cities are elected as councilmembers and then selected by their colleagues as the city's mayor.

Selection of the mayor by the council is reported in some 35 percent of council-manager cities nationwide. The Texas number at six percent is down from the nine percent of the cities in Texas reporting this method in 1994.

Compensation of the mayor

Salary of the mayor is addressed in two different ways by Texas charters. The table below shows these provisions and the number of charters, by form of government, that utilize each of these methods:

Figure 8-2: Setting the salary of the mayor				
	Mayor-Council charters		Council-Manager charters	
	1994	2008	1994	2008
Council sets pay*	46%	38%	55%	38%
Charter sets specific salary or salary range	54%	62%	45%	62%

*These figures include charters that specifically state the city council shall set its own compensation and charters that are silent on this subject. Where a charter is silent, Section 141.004 of the Local Government Code provides that a governing body of a home rule city may establish a level of compensation for itself.

Salary is an area in which the difference between the two forms of government is very apparent, particularly in the larger cities. The average pay of the mayors in mayor-council cities is \$861.68 per month. This is virtually meaningless, however, since that figure includes not only Houston and Pasadena, but also DeLeon (pop. 2,400) and Olney (pop. 3,300) as well as a host of other smaller cities. It is important to note that 45 percent of mayors in mayor-council cities receive no compensation at all. It is more enlightening to note that the salary of mayors in cities over 50,000 using the mayor-council form of government ranges from \$14,583 on the high end (Houston) to \$50 per month on the low end (San Angelo), with an average salary of \$5,277.

Overall, the average mayoral pay of the council-manager cities is \$159 per month. The average pay for the three largest council-manager cities – Dallas, San Antonio, and Austin – is \$3,677.88. If the San Antonio mayor's salary at \$4,020 per year were omitted, the average of the other two would be \$5,333 per month.

Mayors in council-manager cities not only receive less in salary, but also the difference between the mayor's salary and the councilmembers' salary is usually small.

Vote in council meetings

Mayor-council charters do not give mayors the unrestricted right to vote as those in council-manager cities generally do. Among the mayor-council cities, 40 percent allow mayors to have a regular vote in council meetings, while 55 percent allow the mayor to vote only in case of a tie by the council, and the remaining 5 percent allow for no vote at all. In council-manager cities, 65 percent have a regular vote, while 35 percent of the mayors vote only in case of tie. Again, these figures are not unlike national survey figures.

Deciding when a mayor votes has caused at least two Texas council-manager cities a lot of grief. Several cities have retained in their home rule charters a provision of the Type A general law municipality. State law provides that if a Type A city is not divided into wards (and many smaller home rule cities are not), the governing body shall always consist of a mayor and five councilmembers, and the mayor shall vote only in case of a tie. The two cities in question had retained this council number and the mayor's restricted vote provision when they adopted home rule charters. The city councils fired their city managers over the protest of the mayor in each city. Both mayors cited provisions in their charters that purported to give the mayors voting power in the event of a vote on dismissing the city manager. The district court in one county upheld one council's dismissal of the manager, ruling the mayor could not vote. A district court in an adjoining county reversed the council decision of the second city and reinstated the manager! The difficulty in both charters came from trying to delineate the cases in which the mayor might have a vote, other than on a tie vote by the council. Both cities have since gone to an odd number on the council and given the mayor a "regular" vote. Because of the problems of these two cities

and the difficulty of wording a charter clearly, several charter consultants recommend that councils be composed of an odd number of individuals and that mayors be given a "regular" vote just as any other councilmember—on all matters. Urban experts offer other reasons for allowing the mayor to vote on all issues. They concur that a mayor's leadership role can be enhanced by the power to vote, particularly on such critical policy issues as appointment and removal of a city manager or chief administrative officer and on bond issues, tax rates, and the adoption of the annual budget.

Veto

The veto power of the mayor is generally another distinguishing mark of the difference between the two forms of government. Veto provisions in mayor-council charters are much more common than in council-manager charters—nationwide and in Texas. Of those communities with mayor-council charters in Texas, 32 percent provide for a mayoral veto of council actions. Usually these vetoes can be overcome only by a two-thirds or more vote of the council. But in a few cases, the council can simply reconsider the action. If it votes the action again by a majority vote, the mayor has no authority to veto the item a second time.

Only nine percent of council-manager cities provide for a mayoral veto. The denial of the veto is a reiteration of the historic background of the council-manager plan, which saw the strength of the city in a body of policymakers, not in a single individual.

Budget role

The mayor in 25 percent of mayor-council cities prepares the budget and submits it to the city council. In some small mayor-council cities, the charter says the council shall prepare a budget.

Budget formulation and submission is one of the chief differences between the two forms of government. Only three percent of the cities under the council-manager plan provide for the mayor to prepare the budget. In the council-manager plan, the charter directs the city manager to prepare the budget for the council as a whole. Increasingly, managers are asking their city councils to give them early policy guidance on the council's priorities for the coming year. The mayor obviously can play a lead role in this priority-setting, but councilmembers are often fond of pointing out that in adoption of the final budget, the mayor has only one vote—just as the other councilmembers do. Although it is very rare, mayors are outvoted on budget matters as they are sometimes outvoted on other items in council-manager cities.

The Texas practice in both types of government parallels the national experience.

Appointment of city department heads

Mayors in mayor-council cities are generally given charter authority to appoint city department heads, subject to confirmation by the city council. No Texas mayor has the freedom of appointment possessed by the Denver, Colorado, mayor who can appoint approximately 50 department heads without approval. In Texas, the appointments by the mayor generally include the city attorney, city judge, city secretary, and such department heads as the police and fire chief, director of the departments of public works and utilities, and directors of such departments as parks and recreation and libraries. These appointments take only a majority vote of the council to approve; a handful of charters provide that the council also shall have a voice in dismissal of these same executives.

The classic council-manager charter does not provide for council confirmation of the city manager's appointments, but in 25 percent of council-manager cities in Texas, these appointments are subject to council approval. Here again, the mayor has only one vote in this process. A small number of council-manager cities provide for council confirmation of only one or two key departments heads—most often the police chief (39 percent), the finance director (20 percent), as well as the fire chief (five percent). Typically, the city attorney, city secretary, and the municipal court judge are appointed by city council. Several charters allow for the city manager to make these selections; however, they often require these appointments to be approved by city council.

Appointment of boards and commissions

The typical mayor-council charter in Texas provides for mayoral appointment of boards and commissions, subject to the approval of the governing body. These appointments are normally made by the council as a whole in council-manager cities, although there appears to be the beginning of a trend in these cities to give the mayor the lead role and allow him/her to make such appointments subject to council agreement. In some Texas cities representing both forms of government, the council, but not the mayor, may remove board members.

Mayor's staff

Mayor-council charters are more likely to discuss staff than council-manager charters. Several of those charters provide for a chief administrative officer.

No council-manager charters in Texas authorize the mayor to have any staff. The small staffs that some council-manager mayors have are simply authorized in the annual budget.

Elements of the mayor's position that are relatively the same in the two forms of government

1. Terms of office

Terms of office are generally the same in both forms of government. Some individual cases are noteworthy. Pasadena elects its mayor for four years and its council for two years, lending additional prestige and unspoken authority to the position of mayor. Dallas also adopted a four-year term for mayor and kept the council terms at two years. Lubbock, Del Rio, and Bellaire, all council-manager cities, took the opposite route – the mayor serves for two years whereas city councilmembers serve for four.

2. Filling vacancies

Methods of filling mayor vacancies are not generally determined by the form of government. The most common method of filling a mayor's vacancy created by death, resignation, or removal is council action to replace the individual from its own members. Some charters call for the mayor pro tem to automatically step into the job.

3. The mayor as member of council in mayor-council cities

A few mayors are not a part of the city council. This feature of an entirely separate executive is more often found in larger cities and in other parts of the country. Typically, the mayor is a member of the council in council-manager cities in the state; although, as pointed out earlier, the position is sometimes not given a full vote. In addition, in some of these council-manager cities, the presence of the mayor cannot be counted as part of the quorum.

Concluding thoughts on the position of mayor in the two forms of government

As pointed out in Chapter 6 and developed in more detail here, there are major charter differences in compensation, voting, veto power, budget role, and appointment powers of the mayor in the two major forms of government in Texas and nationwide. Mayors in council-manager cities have always understood their leadership must come from their powers of persuasion. Over time, mayors in mayor-council cities have seen governance, particularly in larger cities, become so complex and fragmented that they, too, no longer have the power they once did. They also must exercise the power of persuasion to move their city forward – perceptively and unstintingly promoting cooperation that minimizes debilitating conflict.²⁶

As the governing body of the city, councils are the focus of a separate article in virtually all charters. This article sets forth the basic requirements for election and organization of the council and covers a wide range of other subjects, all relating to the structure and operation of the council.

The city council is such a key ingredient of well-functioning city governments that this book devotes two chapters to it. Some of the topics could be covered in either chapter. They are divided with a goal of improving clarity.

The first chapter emphasizes the role of councilmembers as individuals: election, terms of office, term limits, compensation, benefits and staff, and personal liability.

The second chapter examines the council as a legislative body: powers and duties, conduct of council meetings, absence from those meetings, and filling vacancies.

Since the methods of electing councilmembers and setting term limits continue to be two of the most controversial subjects in city government, they are discussed first.

Council elections through the years

The governing body of towns incorporated during the Republic of Texas was the Board of Aldermen. The terminology derives from Old English, “older man,” who assisted the Anglo-Saxon king in governing a subunit of the kingdom. Colonists probably brought the term to Texas.

The term “alderman” is used today by some general law cities. Other general law cities use the term “Board of Commissioners” for the governing body. Almost all home rule cities have abandoned both terms and use “City Council.” A very few cities cling to a portion of their general law heritage and call the governing body the “City Commission” or “Board of Commissioners.”

In the Republic, aldermen were usually elected from wards. Election of aldermen by wards continued into this century until the reform movement’s advocacy of election-at-large to escape the “evils” of ward politics. Over the last quarter century, the trend has reversed somewhat to election by wards. Now, however, proponents have changed the term to “districts” to avoid the negative connotation of wards. In fact, the Austin City Council in 1994 coined the term “neighborhood election districts,” but the voters still rejected a single-member district plan for the fifth time.

Methods of council election

The two methods of electing the municipal governing body are “at-large” and by “district.” Each method has subdivisions, but they are variations of the two basic methods. The two basic methods also can be mixed to provide still another configuration—the “mixed systems” form.

Our review of the use of current election methods shows no apparent relationship between a city’s size or form of government (mayor-council or council-manager) and the election method used.

At-large and at-large-by-place

At-large – All candidates are placed on the ballot and those receiving the most votes citywide are elected to office. Generally, these individuals are elected by plurality (the largest number of votes regardless of the percentage of the total vote). A typical example: three council positions are vacant and there are five candidates. If a plurality is specified, the top three vote-getters are elected whether any one of them receives more than 50 percent of the total vote. Occasionally, a city requires a candidate under the plurality measure to receive a minimum number of votes. Corpus Christi’s charter states that “If fewer than three candidates for at large city council positions receive a plurality of at least twelve percent each of the total votes cast for all at large city council candidates, there shall be held on the second Saturday following any such election a runoff election” and provides additional details for how the runoff will be conducted. In Ennis, commissioners (city council) are elected by plurality, but an individual must get 35 percent of the votes cast or face a runoff with the next highest person on the ballot.

If a majority vote is specified, a candidate must receive more than 50 percent of the total votes cast. If vote totals do not produce a winner, the two top candidates must have a runoff election.

At-large-by-place – This does not refer to a geographical area; rather, each council seat is designated a position or a place number: Place 1, Place 2, and so on. Candidates must run for a specific place and the race is between candidates filing for that same place. The majority vote requirement has been stated in charters as a rule, but cities accused of discriminating in the election method may find they must change to a plurality requirement, since this is believed to offer minorities a better opportunity to be elected in the “place” method of election.

Minority groups have been critical of both types of at-large elections. The federal government has often agreed and mandated through the courts and the Justice Department that many cities in Texas convert from at-large to single-member district elections. The conversion began in the late 1970s and continues to spread to medium and smaller cities.

The specific arguments proponents use for single-member district systems include:

- provides direct representation by a single councilmember;
- makes voting easier and assures greater accountability from those elected;
- reduces campaign costs; and
- gives less affluent and minority areas of the city representation.

Proponents of at-large elections cite the following as advantages of this method of election:

- promotes community-wide council vision;
- fosters unity rather than divisiveness;
- provides voters a “voice” in election of all members rather than just one;
- eliminates restriction by districts, allowing election of any qualified person; and
- avoids ward politics and political machines.

Cumulative voting

Examination of another election method of at-large voting is important. This method includes cumulative, limited, and bullet voting. Cumulative voting represents an alternative to the single-member district form of representation that characterizes government on all levels in Texas and the United States. Cumulative voting systems allow voters to cast as many votes as there are seats on a particular board or commission. Candidates must run for a specific seat (e.g., seat #5) as they do in single-member district representation. However, voters can use all their votes on a single candidate or distribute their votes among the contenders for several seats. Robert Brischetto and Richard Engstrom studied cumulative voting and noted that “Cumulative voting, in short, allows voters to do more than choose among candidates, it allows them to express the intensity of their preferences as well.” Cumulative Voting and Latino Representation: Exit Surveys in Fifteen Different Communities 78 *Social Science Quarterly* 973 (1997). Cumulative voting permits the voter to cast his or her votes in the traditional way, but it also permits “intensity voting.” For this reason, it is argued that it will increase voter interest and participation in the election.²⁷

Two variations of cumulative voting are in use in some jurisdictions—limited voting and bullet voting. Under limited voting, a voter has fewer votes than the number of positions to be filled (e.g., two votes with three positions to be filled). A variant of limited voting is called bullet voting, in which voters can cast a single vote in a multiple-position election. With bullet voting, a minority candidate can be elected to office more easily than under the pure at-large system.

The recognized Texas expert on cumulative voting is Dr. Delbert Taebel, Professor of Urban Affairs and Political Science at The University of Texas at Arlington. Dr. Taebel

has written extensively on the general subject of alternative systems and is a frequent speaker to charter commissions and civic groups exploring election methods. Dr. Taebel and others argue that under any of these methods, the election outcome will more nearly reflect the major groups within a community without the rancor that sometimes accompanies single-member district systems. There is some evidence that ethnic minority groups are now supporting cumulative voting instead of suing cities to adopt single-member districts.

In May 1994, the City of Andrews, under threat of a lawsuit, adopted charter provisions to institute cumulative voting as its city council election method. The first city council election using cumulative voting occurred in May of 1995. An additional 16 small Texas communities, with populations ranging from 1,109 to 3,908, also adopted cumulative voting in response to lawsuits alleging voter dilution. Cities in Texas are not the only entities now utilizing cumulative voting. Thirty-two school districts and one hospital district have also adopted this form of voting in Texas. Cumulative voting is now used to elect local governing bodies, including cities, school boards and hospital districts, in 60 local governments in 5 states.

Prior to this, only two cities in the country experienced cumulative voting—Alamogordo, New Mexico, and Peoria, Illinois, also in response to lawsuits. Alamogordo, under a consent decree in 1987, agreed to use cumulative voting for at-large positions in elections in 1987, 1990, and 1994. In March of 1997, voters there approved an amendment to the city charter and began the process to dissolve the use of cumulative voting. The charter language provided that “For the March 1998 City election only, the Commission shall consist of three (3) Commissioners elected at-large and one Commissioner from each of four (4) districts, elected by the voters of that district in the March 1996 City election. A Commissioner representing a district shall be a resident of that district. Beginning with the March 2000 City election and continuing for all subsequent City elections, the Commission shall consist of one Commissioner from each of seven (7) districts, elected by the voters of that district. A Commissioner representing a district shall be a resident of that district.” Elections based on single member districts are still in place today.

Peoria held an election for its at-large council seats by cumulative voting in 1991. A lawsuit settlement in 1990 ordered the city to use cumulative voting. The court order is in effect permanently, so Peoria will use cumulative voting for its at-large elections every four years.

Preferential voting

One non-traditional election method appeared in two charters. Gorman, in its original charter of 1920, called for councilmembers to be elected by preferential voting. Sweetwater adopted its first charter in 1947 and followed suit. Gorman may have influenced Sweetwater since the two cities are only about 100 miles apart. Under preferential vot-

The city council - election and service

ing, a voter marks his/her first and second choices for as many candidates as there are places to be filled. If no candidate receives a majority (more than 50 percent of the vote), the election officials go back to each ballot and count second choices until enough candidates to fill the vacancies receive a majority vote. The Gorman charter states that second choices shall be counted, but does not designate a weight for them. The Sweetwater charter is more specific. It says a first choice counts as one vote, and a second choice counts as one-half vote.

The counting provision is now immaterial, because Gorman has not used the system in at least 40 years, and Sweetwater discontinued it in the early 1980s. Gorman now elects the council by majority vote; Sweetwater by plurality.

Variations of district elections

The single-member district approach is the alternative system that such groups as the National Association for the Advancement of Colored People (NAACP) and the Mexican-American Legal Defense Fund (MALDEF) have advocated since the mid-70s in Texas. They have argued, successfully in most cases, that a city council elected completely by this method provides the greatest opportunity for ethnic minority representation.

Single-member district – The single-member district system divides the city into a specific number of geographical areas (wards or districts). For convenience, these districts are usually numbered: District 1, District 2, and so on. In a “pure” single-member district configuration, a candidate for District 1 must live in that district and is voted on only by voters in that particular district. The adjective “pure” also has been used by advocates to describe the election system for the entire city when all candidates, with the exception of the mayor, are elected from single-member districts. “Pure” single-member district examples are San Antonio, Fort Worth, and Lubbock.

A few Texas cities elect all members of the governing body by the single-member district system. The council then elects a mayor from its own membership at the first council meeting after the election. This variation of the system can cause the mayor substantial problems. A former mayor of Pasadena, California, which employs these procedures, once remarked that when he was elected mayor by his colleagues, he was confused when he had to vote on an issue in a council session. He did not know whether he was supposed to represent “the city as a whole” as its mayor or the district that elected him. This problem alone would appear to be a sound reason for trying to avoid this type of election method.

Variations of single-member district – A charter can require candidates to live in a district, but be voted on city-

wide for that seat. The reverse can be stipulated in the charter: a candidate can live anywhere in the city, can run for a seat in a district outside the area in which he lives, and stand for election only by voters in the district for which he filed. Both of these variations are in effect in a small number of Texas cities, and some of these cities received Justice Department sanction of these variations in earlier years.

Mixed district – A number of Texas cities have charters allowing election of some councilmembers by district, with the mayor and one or more other councilmembers elected at-large. Advocates of this system say it combines the advantages of both at-large representation and district or geographical representation. Opponents believe it is a halfway measure to placate advocates of both systems and, as a result of the split, accomplishes neither purpose.

Mixed system and majority/plurality voting – Mixed systems (single-member and at-large) are used in a number of cities. The majority/plurality vote is used in Brownfield and El Campo. In these cities, the mayor is elected by majority vote, two at-large councilmembers by plurality, and five district councilmembers by majority vote. Except for the mayor, this is the type majority/plurality election that is many times sought by plaintiff minority groups and approved by the Justice Department. Many times, the Justice Department requires the mayor to be elected by plurality. The reasoning behind the majority/plurality preference is that it is generally considered easier for a minority candidate to be elected by plurality than by a majority. Thus, the Justice Department has several times required both the mayor and at-large candidates to be elected by plurality. In contrast, in the single-member districts, presumably drawn to allow minority candidates to be elected in a minority district, the Justice Department has agreed to a majority vote.

Unusual provisions

Several cities have unusual provisions regarding single-member districts. Port Arthur and Victoria both have single-member districts covering the whole city, but also have “super districts” that overlay on top of the basic districts. Voters have a vote for both a councilmember representing the basic district and one representing the super district.

Local landmarks are used to divide the city in a version of single-member districts by Abilene and Vernon. Abilene requires three councilmembers to live north of the Texas and Pacific Railway mainline, which cuts the city in half, and three other councilmembers to live south of the track. Gatesville uses its Main Street as the dividing line, electing three councilmembers from the area north of Main Street and three from the area south of Main Street. Vernon uses a dividing line that is described in the city charter. The citizens of Vernon elect two councilmembers from the east side of the line and two from west of the line. Both cities elect a mayor and the remaining councilmembers citywide.

Some cities allow the city council to increase the number of wards periodically, such as the City of Woodway. Others, such as the City of Sherman, provide for additional councilmembers as the population increases. Currently, Sherman's Charter provides for seven councilmembers. When the population reaches 75,000, two additional council seats will be added, bringing the total number of councilmembers to 9. The Jacksonville charter provides for a 5-member city council but authorizes future city councils to increase the number to seven and later to nine without a citizen vote of approval. Neither option has been used as of 2009.

Charters are not always clear about whether candidates must live in the district from which they are elected or whether the vote is by district or at-large for councilmembers. An example of excellent wording, which has been included in city charters is as follows: "(Council)members shall be residents of and elected by qualified voters of single-member geographical districts of the city."

Redistricting commissions

Charter experts generally recommend that city councilmembers themselves not draw district lines. This advice has fallen on deaf ears. All but Dallas and Laredo simply state that the city council shall redraw lines when necessary and usually specify a certain period of time within which they must examine the lines. These two cities each provide for appointment of a redistricting commission. The Dallas commission has 15 members, and the Laredo commission has 16. But both commissions are advisory. The city council is the final judge of the lines.

Survey results of council election methods

The at-large-by-place system is still the most popular in the Texas home rule cities, but by a significantly smaller margin than in previous years.

At-large:	13%
At-large-by-place:	45%
Single-member district:	26%
Combination at-large and single-member district:	16%

*This chart uses 1994 data, but other aspects of the recent survey indicate that the numbers are essentially the same.

Mayor and council elections

As a part of the questionnaire sent to city officials, each respondent was asked to enter the dates and voter turnout of the last two mayor and council elections. If neither

of those two were contested, the official was asked to go back to an election in which there were at least two candidates and to enter that race also. Our objective was to verify the premise that contested races have much higher turnout than uncontested races. Not all cities completed this portion of the questionnaire, but we were able to list 262 contested elections over the past two elections and 139 elections in which no one had any opponent.

Overall, voter turnout was not something to be proud of. In the 262 contested races, only 13.24 percent of the registered voters bothered to show up; that comes to 7.68 percent of the total population reported by the cities.

	Percentage of Registered Voters Voting			
	High Reported		Low Reported	
	1994	2008	1994	2008
Cities under 10,000	64.7%	80.9%	3.9%	2.45%
Cities 10,000 - 50,000	48.2%	43.3%	1.9%	2.60%
Cities over 50,000	48.2%	21.5%	7.6%	4.60%

As might be expected, the votes cast in non-contested races were abysmally low. The average for the 101 races was 10.6 percent of the registered voters, or about 5.5 percent of the reported population.

Most cities, regardless of the election system used, have tried to schedule the terms of office in order for at least one citywide race (or alternatively, all district elections) to come up each time there is an election, in order to encourage a higher turnout. This is not possible in every city; hence, the figures above are somewhat lower than they would be if we used only elections in which every voter in the city had a race in which he/she had a vote.

Terms of office

Although Texas charters overwhelmingly call for staggered two-year terms for mayors and councilmembers, it would nevertheless be pertinent to discuss, at least briefly, the generally cited advantages of two, three, and four-year terms, and of staggered versus concurrent terms.

Two-year term: The principal advantage of the two-year term is that it requires councilmembers to submit themselves frequently to the voters. It also permits citizens to serve as councilmembers for short periods of time.

The disadvantage of two-year terms is that they require an almost constant campaign readiness for those members who wish to extend their council service, or for potential opponents. For new members, two years is a short time to become acquainted with the in-

tricacies of city government and to learn about the problems of city agencies and programs or those parts of the city with which they may have had no prior experience.

Three-year term: A three-year term's principal advantage is that it lengthens the period of service before facing the voters, giving a member time to compile a record and giving a new member time to become proficient in the job. The three-year term also clearly differentiates council service from other public offices. It is a long enough time to accomplish something, but too short to feel like there is a lease on the position.

The principal disadvantage of the three-year term is that one of every two municipal elections will fall in a state or national election year. It could necessitate a separate election, producing some voter confusion. There is also some prospect that the partisanship of state and national elections would be carried over into city elections.

Four-year term: Most observers of governments tend to feel that four-year terms encourage those elected to them to invest more time in working on substantive and larger problems of government, rather than thinking about campaign strategy, and to become more proficient in policy issues.

Longer terms can, however, work to increase the insulation of elected officials from the electorate; although, the many arenas for direct contact with constituents in city government appear to make this a far less severe problem than it is for members of Congress or state legislatures.²⁸

Staggered terms: More than 95 percent of Texas charters call for staggered terms. Charter drafters in Texas have obviously felt that it is desirable to have some continuing experience on the city council and avoid a wholesale turnover of city councilmembers. Staggered terms do tend to provide some stability on the council. On the other hand, they also thwart the will of the people to make a major change of direction. For example, with a five-member council and two-year staggered terms, three members would come up for election one year and two the next. If the council had taken or failed to take a stand on a major issue before the election year when two members were running, the vote for the

two incumbents or for two newcomers would not necessarily change the stance taken by the council prior to election.

Term limits

Perhaps no legislative issue in many years has evolved with such gathering momentum as term limits. Originally proposed for members of the U.S. Congress and, in some states, for state-elected officials, term limits have now come to the local level. Actually, they may have started at the local level in Texas. The citizens of the North Texas city of Paris placed a two-term (four-year) limit on their city council when they adopted their first home rule charter in 1948. A few other cities adopted such provisions in the 1970s, but the real movement did not start until the late 1980s. Today, 41 percent of Texas home rule cities have limits on the number of consecutive years their mayors and city councilmembers may serve; the form of government or size of the city appears to have very little influence on voter adoption of term limits.

Arguments rage back and forth over the merits of the "term limits" movement. Opponents generally include political scientists and so-called "urban experts" who insist that voters have the ability to terminate any elected official's career by merely turning him/her out at the polls. Proponents of term limits maintain that advantages of incumbency, both in campaign finance and in name recognition, deter or block the termination vote. They argue that term limits are necessary to bring "government back to the people." Along with a widespread distrust, or at least suspicion of government, this "back to the people" plea accounts for term limit elections passing across the country with generally wide margins. Whatever the merits, term limits appear to be here to stay; thus, this book will examine the charter provisions in Texas cities and analyze the trend to 2008.

One of the obstacles to analyzing this movement is the wide variation in charter terminology. It is impossible to ascertain in a few cities whether the limits apply to combined service of one person as a mayor and councilmember or whether the two offices are meant to be considered separately. An equally formidable obstacle is the absence of any case law history and the resulting proliferation of different interpretations.

Term limits in charters are expressed in one of two ways. One way is to have separate limits for the mayor and members of the council. A typical charter with this type limit is Friendswood. That charter states: "The mayor and councilmembers shall be elected to serve for three-year terms as provided below, but no person shall be elected to serve in the capacity of councilmember for more than three consecutive three-year terms, nor shall any person be elected to serve in the capacity of mayor for more than three consecutive three-year terms."

The other way to express limits is to count service as mayor and service as a councilmember together. The charter of the City of Rockport is very straightforward. It states: “No person shall serve more than ten consecutive years on the City Council.” The statement to look for here to assure that the mayor is included in the definition of “City Council” is this additional statement found in the Rockport charter: “The legislative and governing body of the City shall consist of a Mayor and four Councilmen and shall be known as the City Council of Rockport.”

Separate limits on years of service

A total of 36 cities have separate limits for mayors and councilmembers. The most popular limit for these cities is six years for each of the offices. This includes cities that have a three-term limit on two-year terms, as well as cities that have a two-term limit on three-year terms. The full breakdown by limit in years is as follows:

Figure 9-3: Term limits in years when limits are separately applied*

Cities in which the mayor has separate limits	Limit in years	Cities in which councilmembers have separate limits
9 ^a	4	7
18	6	18
9	8	10 ^b
2	9	2
Total Cities: 38		37

^aJacksonville and Waco have limits on mayors, but not on the council.

^bPearland has limits on councilmembers, but not on the mayor.

*This chart uses 1994 data, but other aspects of the recent survey indicate that the numbers are essentially the same.

The chart above considers limits in one of the two positions – mayor or councilmember. In this type of language, a councilmember could serve his/her limit of, say, six years, and then run and be elected as mayor and serve another six years. Assuming both posts carry six-year limits, one individual could legally serve 12 years.

It should be noted that these limits have been constrained in six cities by imposing “combination” limits. For example, in Graham, although the mayor and councilmembers have six-years limits individually, the charter limits any combined service in those two positions to ten years, not twelve years.

The following chart portrays the maximum number of consecutive/successive years a person could serve as council member or mayor under the separate limits category:

Figure 9-4: Maximum years service when limits separately applied*

Limit on years of service	Number of cities
6	1
8	9
10	1
12	15
16	8
18	2
Total cities:	36

*This chart uses 1994 data, but other aspects of the recent survey indicate that the numbers are essentially the same.

Counting service years together

Thirty cities combine mayoral and councilmember service into a single-term limit. The Rockport charter is an example: only “ten consecutive years” on the council. When examining these charter provisions, we find the following term limits:

Figure 9-5: Term limits in years when service applied together*

Limit on years of service as member of city council, including mayor	Number of cities
4	2
6	19
8	3
9	1
10	3 (five two-year terms)
12	2
Total cities:	30

*This chart uses 1994 data, but other aspects of the recent survey indicate that the numbers are essentially the same.

Charter language on term limits

Since “model” language has not evolved on this subject, current charter language varies widely. Many charters simply place a limit on “consecutive” or “successive” terms, leaving unanswered the question whether a person appointed or elected to a partial term loses some of the time that might otherwise be allowed. Occasionally, a charter will clearly state that “a portion of a term” does not count as a term of office

The city council - election and service

for purposes of a limit. Some charters use the word “full term” or “regular term.” These are generally interpreted to mean that if a person comes into a partial term, the partial time will not count toward the limit.

Several cities require a person to “sit out” one year or one term before running for office again (one city requires that an individual must sit out 30 months). Whether this means that in the other cities a person reaching his/her maximum can never come back is unknown. Two cities do state that the term limit is for the “lifetime” of the individual.

Finally, a charter should make it clear whether the limits apply to current councilmembers. Several charters spell this out. Most do not at the present time.

In summary, the term limit movement is still relatively young. If a city does not have this kind of provision in

its charter and desires to have a charter amendment election, officials are urged to carefully review with the city attorney the language to be used in order to avoid some of the ambiguities identified. In May 1994, Austin adopted a charter amendment limiting terms of office, but did provide that if an incumbent councilmember, when his/her limit of terms have been reached, can get a petition signed by five percent of the qualified voters in the city, his/her name shall go back on the ballot. Houston adopted such an amendment in 1991, had several councilmembers qualify under the petition route in the 1993 election, and decided at a January 15, 1994 election to rescind the petition bypass. Thus, Houston’s term limits have no exception to them.

AGAINST THE GRAIN

Although the trend is strong for adopting term limits, Port Neches in 1983 and Sachse in 1990 adopted charter amendments rescinding the term limits then in existence in their charters. And Schertz, in 1994, defeated two different charter amendments that would have set limits on councilmembers.

Qualifications for office

Early Texas city charters included a detailed and lengthy list of qualifications for the prospective mayor or city councilmember. The first officeholders and voters had to be white, male, and citizens of the Republic. Several cities also had property and residence requirements. The original Galveston charter in 1840 required the mayor to own \$1,000 worth of property. A number of charters still require ownership of property within the city and no indebtedness to the city, plus three years residence in the city before filing as a candidate. Arguably unenforceable, these provisions in current charters are historical reminders of practices before state law and court cases established the controlling criteria for qualifications of all public officials.

For more than 30 years, state law has set forth requirements to run for public office in Texas and these requirements apply to candidates for the governing bodies of Texas home rule cities. In addition, federal court cases have held that a city may not require an officeholder to be an owner of property and may not refuse to seat a councilmember for being delinquent in taxes to the city.

The Election Code criteria are set out in Section 141.001. Under that section, a candidate must:

- (1) be a United States citizen,
- (2) be 18 years of age or older upon the commencement of the term to be filled at the election,
- (3) have been a resident of Texas for at least 12 months as of the deadline for filing for the office,
- (4) have resided in the city for at least six months as of the deadline for filing for the office,
- (5) not have been convicted of a felony for which he or she has not been pardoned or otherwise released from the resulting disabilities, and
- (6) not have been found mentally incompetent by a final judgment of the court.

Exceptions for home rule cities

The Election Code authorized home rule cities to make two exceptions: (1) the charter can require council candidates to be up to 21 years of age, rather than 18, upon the commencement of the term to be filled at the election; and (2) the charter can require candidates to be residents of the city for up to 12 months, rather than six months, as of the deadline for filing for office.

Virtually every charter in the state says a candidate must be a qualified voter. This is not required by state law, but a home rule city may include this requirement in its charter.

Despite the provisions in the Election Code, some cities still amend their charters to add requirements that are not enforceable. In earlier days, charter writers might have been accused of placing unenforceable qualifications in the charter in an attempt to discourage citizens who might otherwise consider filing for office. It is believed that today’s charter writers are simply not aware of the state law limitations that supersede any charter language.

One disqualification for office that some charters have addressed is dual office-holding. There are two distinct legal barriers to holding more than one public office at the same time: (1) the Texas constitutional prohibition against dual office-holding; and (2) the common law doctrine of incompatibility.

All three of these barriers are too complex to discuss in detail in this publication. Any mayor or councilmember contemplating elective or appointive office in another

governmental entity would be well advised to consult with the city attorney before making any definitive moves.

Some charters provide that city employees must resign before they can run for the city council in their own city. Provisions of this type have been struck down by the courts for city employees covered under the state fire and police civil service law.²⁹

WANTED: ONE BRAVE CITY MANAGER

“Any person having the qualifications set for councilmember under Section 4.02 in this charter shall have the right to file an application to have his name placed on the official ballot as a candidate for any one elective office. Such application shall be made in writing and shall include name, address, date of birth, and personal signature of each candidate. Such application shall be accompanied by his loyalty affidavit, as prescribed by Section 141.031(k) Texas Election Code; his signed affidavit indicating willingness to submit himself for substance abuse testing, within thirty (30) days, after elected and when randomly selected by the city manager, throughout the duration of his term of office.”

Figure 9-6: Filing requirements for city council (Section 143.005)

- (a) A city charter may prescribe requirements in connection with a candidate's application for a place on the ballot for an office of a home rule city. This section does not authorize a city charter requirement in connection with the timely filing of an application, and any charter requirement related to an application's timely filing is superseded by Section 143.007 and other applicable filing provisions prescribed by the code.

Financial disclosure

The Colleyville, Friendswood, and San Marcos charters each have provisions that candidates must file financial disclosure statements with the city secretary before any election in which they are a candidate. Chapter 145 of the Local Government Code, enacted in 2003, now mandates financial disclosure for certain candidates and officials in cities over 100,000 in population.

Filing requirements

The Election Code is very specific in regard to a candidate filing for a place on the governing body of a city.

- (b) If a city charter prescribes the requirements that a candidate's application must satisfy for the candidate's name to be placed on the ballot, Section 141.031(4)(L) also applies to the application.* The other provisions of Section 141.031 do not apply.
- (c) If a city charter requires candidates to pay a filing fee, the amount of the fee and an alternative procedure to payment of the fee shall be prescribed by the charter or by ordinance under charter authorization. However, if an ordinance prescribing an alternative procedure to payment of a filing fee is adopted before the effective date of this code without charter authorization, the ordinance, as it exists on the effective date of this code, continues in effect until the adoption of a charter provision prescribing an alternative procedure or authorizing prescription of an alternative procedure by ordinance.
- (d) For any petition required or authorized to be filed in connection with a candidate's application for a place on the ballot for an office of a home rule city, the minimum number of signatures that must appear on the petition is the greater of: (1) 25, or (2) one-half of one percent of the total vote received in the territory from which the office is elected by all candidates for mayor in the most recent mayoral general election.
- (e) If the city charter of a home rule city with a population of more than 1.8 million, that holds nonpartisan elections for its offices, requires both a petition and a \$50 fee to be filed for a candidate's name to be placed on the ballot, those requirements supersede this section.

*Section 141.031(4)(L) referred to above requires a statement that the candidate is aware of the nepotism law, Section 573.041 of the Government Code, et seq.

Compensation for city council

Salaries of city councils have received a great deal of attention, particularly in the larger Texas cities. The first question is to decide whether compensation should be established in the charter or by ordinance. Although some charters address the matter of compensation for councilmembers, there are a number of charters that are completely silent on the matter. Where this is the case, the Local Government Code, Section 141.004, authorizes councils to establish a salary for themselves by ordinance.

Fringe benefits for city council

Weatherford (a council-manager city) and Bay City (a mayor-council city) are examples of cities that give specific consideration to fringe benefits for councilmembers in their charters. The Weatherford charter says the mayor and council “shall be entitled to employee benefits, which may be paid for by the City of Weatherford.” The only fringe benefit involved currently is health insurance, and the mayor and council are covered under the same con-

tract in effect for the city’s full-time employees. The Bay City charter authorizes the council when it adopts the budget to “offer the mayor any fringe benefits available to other full-time employees including but not limited to health insurance and retirement.” In a later section, the charter says councilmembers “shall be offered any group health insurance available to full-time city employees.” Since the Bay City mayor is a full-time position, the person in that position is furnished health insurance, as are other full-time employees, and is covered under the city’s retirement system. City councilmembers are entitled to apply for the health insurance plan covering full-time city employees but must pay the premium themselves.

The Weatherford provision has been in the charter since a charter amendment was adopted in 1983. The Bay City provision is a part of the city’s first charter, adopted in 1989. Voter attitudes toward public officials today may be the reason other cities have not considered fringe benefits. Charter writers may suspect the topic would receive a cool reception. In the past, it was assumed that councilmembers had fringe benefits from their “regular jobs,” and that most would serve their city only a few years. (The movement toward

term limits in some cities could mandate a short term of service.) However, fueled by political or economic trends, the issue of fringe benefits for elected officials will continue to draw attention in the future.

Council staff

The use of council staff was not surveyed since it is not covered in any city charter. Staff members, employed and supervised solely by councilmembers, usually are authorized in annual operating budgets; many times there is no basis by ordinance or resolution for these positions.

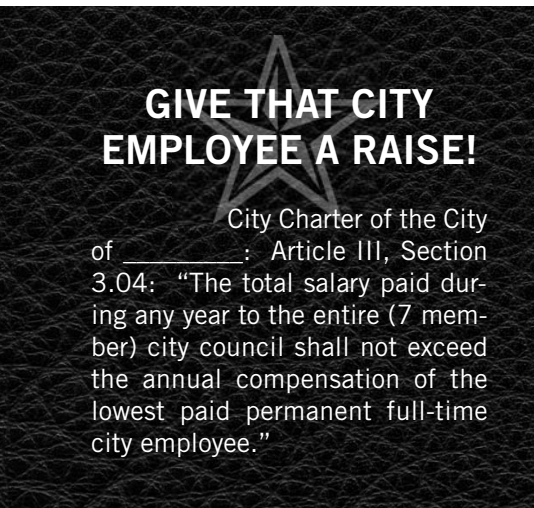
Personal liability of councilmembers

Under the Texas Tort Claims Act, city governments may be liable for damages resulting from the actions of councilmembers and other city officials. However, this Act does not speak to the issue of individual and personal liability of mayors and councilmembers. Federal courts have usually held that councilmembers are not personally liable for torts resulting from official actions, so long as they are made in good faith. However, the federal courts in the 1970s began to narrow the boundaries of immunity from personal liability of local officials for their official acts.

Generally speaking, Texas courts have held that councilmembers are not personally liable for torts resulting from “discretionary” acts, but are liable for torts resulting from “ministerial” acts. A discussion of these legal definitions and rulings is beyond the scope of this book. Their implications, however, are important now and for the future.

At least three charters in the state address this problem with an attempt to set forth “indemnification” or “hold harmless” clauses to protect their councilmembers. Longview and Missouri City have specific clauses that presumably shift the financial burden of claims from the individual councilmember to the city. Garland’s charter mandates that the city provide liability insurance coverage for its officials. Under Miscellaneous Provisions, the Charter states, “The City shall provide liability coverage to all officials and officers in a minimum of 5 million dollars to provide protection...”

Because of the complex nature of this subject, individual officeholders are encouraged to consult their city attorney about the appropriateness of a charter provision or an ordinance to address personal liability. An excellent brief discussion of this subject is contained in TML’s Handbook for Mayors and Councilmembers. (See Bibliography.)



Councilmembers are the city's legislators, and their primary duty is policymaking. This demands constant alertness to citizen needs, responsive program planning for current and changing needs, and continuing evaluation of the quality of service provided by city administrators.

A councilmember, like elected members of any policymaking body, has a number of roles—working with fellow members; voting on all issues unless there is a conflict of interest; and pursuing personal community initiatives (often enumerated during the campaign) through motions, resolutions, and ordinances.

Orientation for the job

A new councilmember must read the city charter carefully before assuming office. He or she should read it before

announcing for office. To help inform the candidates, many cities provide pre-election orientation and/or expanded post-election sessions and tours.

REQUIRED HOMEWORK FOR THE NEW COUNCIL

“Shall, within twelve (12) weeks of said councilmember's election, affirmatively swear that he has read the 'Book of City Ordinances,' 'The Constitution of the State of Texas with Amendments,' all articles pertaining to home rule cities contained in 'Title 28 of the revised Civil Statutes of the State of Texas of 1925,' as now or hereafter amended, and all of the articles, sections, and paragraphs of the "Charter of the City" as now or hereafter amended.”

council meeting: taking the oath of office.

The oath of office mandated for all public officials is in the Texas Constitution, Article XVI, § 1 (Appendix G). Elected councilmembers and appointed officials are administered the same oath.

A second item of business is often taken up at the first meeting and that is the election of a mayor pro tem. This individual performs the duties of the mayor in the mayor's absence. The mayor pro tem is selected by a majority vote of the council. The term can be for the length of the councilmember's term, or as in several cities, rotated periodically. In some larger cities, a deputy mayor pro tem is elected to distribute the ceremonial duties a little further.

Powers and duties of the council

Because the councilmember's powers and duties derived from charter provisions dictate what can and cannot be done in council meetings, powers will be reviewed before the council meeting process.

Most city charters distinguish between the powers of the city as a whole and the powers of the city council. The charters of the cities of Killeen, Muleshoe, and Richland Hills provide a fairly typical recitation of council powers in a council-manager city. The following listing is a combination of powers found in the charters of one or more of these cities.

AGE HAS ITS REWARD

“SECTION 3.05—Mayor Pro-Tem:

The City Council, at its first meeting after each annual City election, shall elect one of its members Mayor Pro-Tem, and he shall perform all the duties of the mayor in the absence or disability of the Mayor. In the event the City Council, for any reason, fails to elect a Mayor Pro-Tem at its first meeting after an annual City election, then the councilmember with the longest period of service on the City Council shall automatically become Mayor Pro-Tem. In the event two or more members of the council are tied for the longest period of service, the eldest of such members shall serve as Mayor Pro-Tem. (as amended 4-2-83)”

Organizational meeting

Only one item of business is a “must” for the first post-election council

Figure 10-1: Sample powers of the city council article

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

- (1) Appoint and remove the city manager.
- (2) Establish other administrative departments and distribute the work of divisions.
- (3) Adopt the budget of the city.
- (4) Authorize the issuance of bonds by a bond ordinance.
- (5) Inquire into the conduct of any office, department, or agency of the city and make investigation as to municipal affairs.
- (6) Appoint all commissions, boards, committees, task forces, and/or appointed groups to assist the Council in the performance of its duties and responsibilities; such powers subject to the restrictions of the Charter and the laws of the State of Texas.
- (7) Fix the salaries and compensation for the non-elective City officers and employees.
- (8) Adopt and modify the zoning plan and the building code of the city.
- (9) Compromise and settle any and all claims and lawsuits of every kind and character in favor of or against the City.
- (10) Adopt plats.
- (11) Adopt and modify the official map of the city.

Appointments

In council-manager cities, three officials, in addition to the city manager, are usually appointed by the city council: the city secretary, city attorney, and judge of the municipal court. Some charters discuss these offices in the city council article, but most either have separate articles on each of these officials or cover them, as we will, in a combined fashion in an article on “Departments, Offices, and Agencies.” (See Chapter 13.)

Several charters also have a provision in the council article for appointment of boards and commissions. In fact, a few charters employ considerable detail naming the boards and commissions that the council is authorized to appoint, listing basic procedures for board operation, and stating member qualifications and board composition. (See Chapter 13.)

Finally, in addition to the powers and duties found in this article, the city council’s authority is frequently referred to in other articles of the charter, including particular articles on franchises; issuance of debt; and initiative, referendum, and recall.

City council meetings

The setting for most of the discussing and “cussing” of a city’s problems is the council meeting. It is important, and possibly a matter of self preservation, to know the basic “ground rules” for these sessions.

Council meeting basics

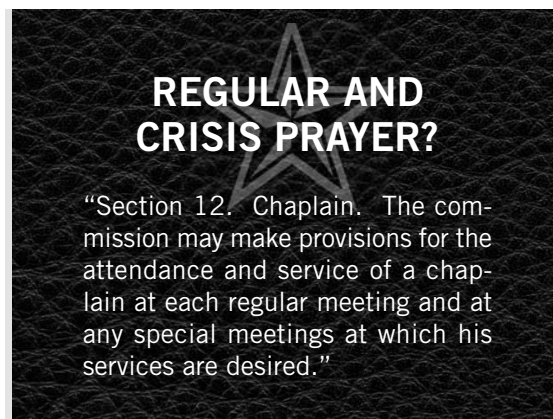
The following is a listing of how various charters treat some of the basic matters regarding council meetings:

Frequency of meetings – Virtually every charter provides for a minimum number of sessions—once or twice a month or, in the case of larger cities, perhaps weekly. This study’s comparison of charter provisions and the information in the TML membership directory reveals that most city councils meet more often than the charter requires.

Open meetings – Council meetings are covered under the state Open Meetings Act. This state law supersedes any less restrictive charter provision. The Texas Supreme Court has ruled that if a city charter is more restrictive regarding open meetings than the state law, then the charter prevails. State law allows exceptions to the Open Meetings Act for discussion of certain enumerated subjects. However, a city’s wording that: “All meetings of the council shall be open to the public,” without any qualification, means literally what it says. If a city with this wording is challenged, it has no defense in citing the exceptions to the law. A more restrictive charter rule supersedes the state act! The preferable charter wording is, “All meetings of the council shall be open to the public except as allowed by state law.”

Quorum – The minimum number of attending councilmembers required to take action is usually spelled out. For the council to take official action, the charter’s quorum provision must be followed. City charters are divided on the

portion of the city council required to be present in order to enact ordinances, resolutions, and so on. Several cities specify a quorum of five, for example, when they have seven-member councils. But how many votes are required to take an action? Of the Texas charters that address this issue, 16 percent specify that it takes a “majority of the total council to take action on any matter.” That would be four for a seven-member council. Many other communities, 32 percent, allow action by a “majority of a quorum”.



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-

fied city employee, and must be made available for public inspection no later than 120 days after the close of the city's fiscal year. Although state law allows the audit to be conducted by a city employee, virtually all cities require an outside firm or individual who has no connection with the city whatsoever.

The audit involves examination of three aspects of the city's financial operations: (1) internal controls; (2) statements, records, and accounting transactions; and (3) compliance with statutory and budgetary requirements. Properly conducted, the audit provides a double check on the city's financial status, a method for communicating with the citizenry, and a *bona fide* statement of the city's financial condition.

The provision for the audit can sometimes be found in the finance article of the charter. There are charters that have no provisions for an annual audit. It could be argued this is irrelevant because state law controls. Most charter observers suggest, however, that this is a place where state law should be repeated in the charter or listed in an appendix, providing the citizen reading the charter with a greater sense of security.

A few cities have a limit on the numbers of consecutive years that one individual or firm can audit the city. Most cities leave it up to the governing body to decide whether to employ a different firm after a period of time. The Texas City charter is representative of what charters generally contain on the audit:

Sec. 13. Annual audit.

As soon as practicable after the close of each fiscal year, an independent audit shall be made of all accounts of the city government and corporations established by the city. The certified public accountants, appointed by the commission, shall have no personal interest, directly or indirectly, in the financial affairs of the city or any of its officers. The scope of the audit shall require a limited review of city-owned property and the results shall be reported with each annual audited financial report. Upon completion of the annual audit, the combined balance sheet thereof shall be published in the official newspaper of the city within thirty (30) days of commission acceptance of such audit. Copies of all audits shall be placed on file with the city's public library, the director of finance and the city secretary.

Internal auditor

Three large cities have provisions in the charter for council appointment of an internal auditor. In Dallas, the individual is appointed by council and "shall hold the office for a two year period" at which time council can make a determination whether to renew the individual for another two year term. In Austin, the auditor is appointed directly by the city council. The charter provision is brief and utilizes an or-

dinance to clarify the auditor's duties and relationships with the council, audit committee, and city manager. In Fort Worth, the charter was recently changed from the person being recommended by the city manager and appointed by the council to the auditor "shall be selected by the Council and shall be responsible to the Council."

Absences from council meetings

Over 50 percent of charters have provisions for removing a councilmember who regularly misses council meetings. Most of them state "absence from three consecutive regular meetings" is grounds for removal. Of course, illness or other compelling reasons relieve the councilmember from this requirement, but excuses are expected to be filed ahead of time except in emergencies. The "absence" language comes from state law governing Type A general law cities.

Other charters include a variety of phrases regulating council attendance. The Alpine charter states that a member forfeits one-half monthly salary for each council meeting missed without excuse. Colleyville requires a minimum of 75 percent attendance during a year, and Mansfield requires 80 percent during a year. Others mandate a maximum number of meetings that can be missed in a six-month period.

Curious as to whether this requirement was enforced even when the charter states "the councilmember *shall* be removed from the council," (emphasis supplied), we contacted city officials of cities in which these provisions exist. Although the great majority of cities indicated councils were reluctant to enforce these provisions, even to the extent of granting excused absences "after the fact," we did find several cities that had followed through with removal action. Both Mercedes and The Colony have the "three consecutive regular meetings" phrase, and both cities have ousted councilmembers who failed to attend the requisite number of meetings. In one city, a councilmember was indicted for a felony and jailed. The member had not yet been convicted of the felony that would meet the requirements for disqualification under state law. However, the member was not able to attend meetings because of his incarceration, and the council took action under the absence phrase in the charter. The individual removed did not pursue the matter. Huntsville reported that a councilmember did resign from the council because of the same absence provision in its charter. A San Marcos official said the provision was in its charter now because of a previous problem before the provision was inserted. And finally, two other cities indicated that they had "come close" to invoking this charter provision, but had not to this date. It does appear that a statement on attendance is helpful in the charter; it gives the council some authority to urge regular attendance by members.

Vacancies on the council

Vacancies on the council can result from resignation, death, disability, recall, or failure of a councilmember to meet the requirements of the charter. In some instances, a vacancy can occur if a member of the council announces for another elective office. For example, under Article XI, § 11, of the Texas Constitution, in cities where the term of office for councilmembers is three or four years, any councilmember who announces for another elective office is automatically removed from the council if more than one year remains in his term at the time of such announcement.

Also, some city charters with two-year terms provide that any councilmember who runs for another office automatically vacates his or her seat on the council. A city charter may provide that:

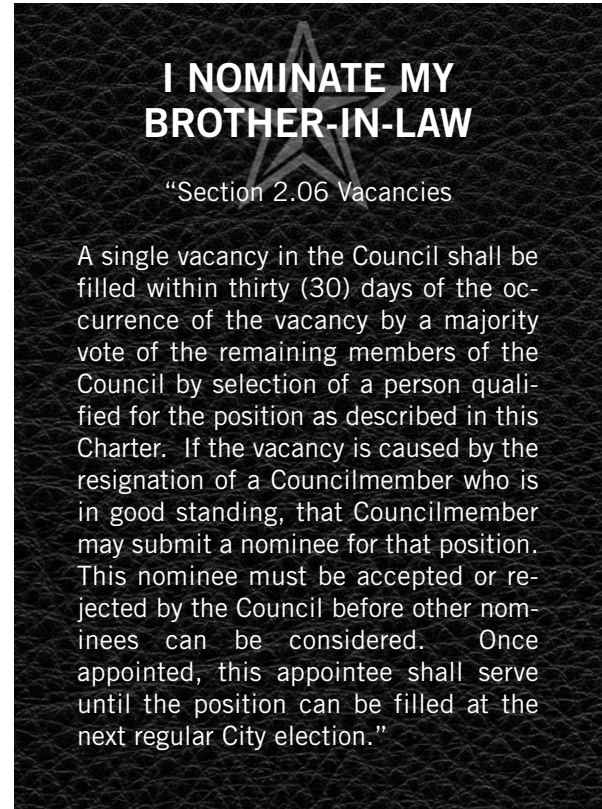
If any officer of the city shall file as a candidate for nomination or election to any public office, except to some office under this charter, he shall immediately forfeit his office.

Procedures for filling vacancies vary from charter to charter. In some instances, charters require that vacancies on the governing body be filled by appointment of the council in every case; i.e., regardless of whether a regular municipal election is imminent. The most popular provision for cities with two-year terms of office is for appointment by the council in the case of one vacancy, or special election in the case of two or more vacancies. An election to fill a vacancy must be on one of the uniform election dates specified in the Election Code, unless it is a vacancy required to be filled under the Texas Constitution.

Under Article XI, § 11, of the Texas Constitution, cities with three- or four-year terms *must* fill all vacancies by election of majority vote within 120 days of the vacancy. Finally, some cities with two-year terms require that all council vacancies must be filled by special election. Among these cities, the common practice is not to require special elections in cases where a regular municipal election is imminent; e.g., within 60 to 90 days of the time the vacancy occurred.

Figure 10-4: Charter Requirements for Fulfillment of Vacancies

	Appointed	Elected	Provides for Either
1 Vacancy	36%	39%	25%
2 Vacancies	13%	67%	20%



The city election process traditionally has been the sounding board for public opinion. With their votes, citizens choose their leaders and endorse or reject such major decisions as issuance or assumption of bonds and sale of alcohol. Because of their importance, city council elections and other elections conducted by the city are discussed in a separate article in the NCL model city charter and most Texas charters.

That article in today’s city charters is primarily a recitation of the specific requirements for municipal elections in the very detailed Texas Election Code. This code addresses voter qualifications and registration, election officers and observers, time and place of elections, supplies, the conduct of elections, absentee voting, laws pertaining to candidacy, regulation of political parties, elections to fill vacancies, recounts, election contests, and regulation of political funds and campaigns.

Although the qualifications for mayor and/or councilmember and the requirements for filing were discussed at length in Chapter 9, there are several additional areas of importance to city officials and charter commissioners that warrant special treatment here. They include:

- plurality/majority vote
- cumulative voting
- election dates (uniform and others)
- nonpartisan elections
- the elections article

Plurality/majority/cumulative voting

Section 2.001 of the Election Code is captioned Plurality Vote Required and states: “Except as otherwise provided by law, to be elected to a public office, a candidate must receive more votes than any other candidate for the office.” This is very clear – in an election for one place with three candidates, the winner need only poll more than either of the other two candidates, not more than the two of them combined (that would be a majority, of course). The key phrase above, however, is “unless otherwise provided by law.” There are two, and possibly three, situations that qualify under this phrase. First, any public official elected for a term of more than two years is required to be elected by majority vote. This is found in the Texas Constitution, Article XVI, § 11. Second, Section 2.75 of the Election Code provides that in cities of over 200,000, election of city officials shall be by majority vote. Third, home rule charters have been recognized as “law” as the term is used in Section 2.001 of the Election Code. Until 1994, no other kind of election was being conducted except by majority or plurality. As noted earlier, however, the City of Andrews adopted a charter amendment in

May 1994 calling for election of its council by cumulative voting.

Charter drafters are cautioned to be very careful in their use of the two terms—majority and plurality. Several Texas charters somehow wound up calling for election of their city officials by both majority and plurality. In one city, the title of the section is “Election by Majority,” but the text says, “The person receiving the highest vote...” In a recent court case, the district judge ruled that the majority vote language prevailed. In another city, one portion of the charter calls for “election by majority.” A few pages later, it states that “election shall be by plurality.” That city is utilizing majority vote until the charter can be corrected.

Arguments for and against majority/plurality voting

Cities under 200,000 population that have two-year terms have a choice of electing city councils by majority vote or by plurality. To assist in this decision, the following is a brief list of some of the arguments made for each method of election. Arguments in favor of plurality and against majority elections:

- (1) The election is clear and simple. Voters have to go to the polls only once, and all voters in the city vote in the same election.
- (2) When a majority is required to elect, there are usually only a few races in which no candidate receives a majority of votes at the first election. This means that when the second runoff election is held, it is for only a few positions. When candidates run from single-member districts, the runoff election will be held in only a few districts. Little public attention gets focused on the runoff elections.
- (3) The Texas majority runoff system has been accused of discrimination against women and minorities. They run and win in the first election against a wide array of other candidates, but then can be overwhelmed by a unified opposition in the low-turnout runoff election. The Justice Department, with increasing frequency, looks for alternative voting methods that tend to increase the electoral clout of minorities. Cumulative voting, bullet voting, and single-shot voting each require a plurality system as a base.

Arguments in favor of majority and against plurality elections:

- (1) Members of the city council should represent a clear majority of the voters in their constituencies. Only a majority vote gives them a clear mandate to pursue a program and speak for the interests of their district or other constituency.
- (2) When there are multiple candidates, the issues can be diffused and voters can be uncertain of the merits of the respective candidates. In such elections, the narrowing of the race to the two strongest candidates sharpens the choice and removes the ambiguity from the electoral results.
- (3) The cost of a runoff election is small in comparison with the added stature clear majorities give to those who are ultimately elected by clear majorities. Runoff elections are also important in diverse constituencies because they force the two contenders to appeal to those who supported other candidates in the first election. This contributes to building coalitions that include people whose interests might be safely ignored if a candidate could win with a plurality of votes, because each candidate must make a concerted appeal to the largest voting bloc in the constituency.

Election dates

The Texas Election Code prescribes certain days for holding municipal elections. City elections may be held only in May and November. Any municipal election held on a day other than one of those prescribed is void unless it is specifically authorized by the statute. The Texas Election Code reads as follows:

§ 41.001.UNIFORM ELECTION DATES.

(a) Except as otherwise provided by this subchapter, each general or special election in this state shall be held on one of the following dates:

- (1) the second Saturday in May; or
- (2) the first Tuesday after the first Monday

in November.

(b) Subsection (a) does not apply to:

- (1) a runoff election;
- (2) an election to resolve a tie vote;
- (3) an election held under an order of a court or other tribunal;
- (4) an emergency election ordered under

Section 41.0011;

(5) an expedited election to fill a vacancy in the legislature held under Section 203.013; or

(6) an election held under a statute that expressly provides that the requirement of Subsection (a) does not apply to the election.

(c) Except for an election under Subsection (a)

or Section 41.0011, an election may not be held within 30 days before or after the date of the general election for state and county officers, general primary election, or runoff primary election.

City council and charter amendment elections are not authorized on any day except the ones listed above.

Section 2.025 of the Election Code prescribes a time for runoff elections to help cities with majority elections where no candidate receives more than 50 percent of the vote at the first election. Section 2.025 provides home rule charter cities with some flexibility to set the runoff date later if a delay will allow a joint election to be held with another political subdivision.

Charters do not address the subject of joint elections, but cities are urged to explore this matter to save money and obtain a higher turnout of voters. Chapter 271 of the Election Code contains the basic statutory requirements concerning joint elections.

Nonpartisan elections

Nonpartisan elections are such an integral part of municipal elections in Texas that they are taken for granted by city officials and citizens. Long-time municipal observers and many former mayors and city councilmembers believe that the nonpartisan election is one of the principal reasons for the outstanding reputation that Texas cities enjoy in the country. And nonpartisanship transcends the form of government. The two largest mayor-council cities—Houston and Pasadena—have nonpartisan elections. Similarly, Dallas, San Antonio, Austin, and Fort Worth, as council-manager cities, conduct their elections accordingly. The smaller cities using both forms of government follow suit. Arguments in favor of nonpartisan elections include:

- (1) Nonpartisan elections focus candidate and voter attention on city problems and their solutions. When city elections are held on a partisan basis, they tend to be overshadowed by state and national contests, preventing the candidates and voters from focusing on city issues.
- (2) Nonpartisan elections make it easier for councilmembers from a variety of backgrounds and ideologies to cooperate in resolving critical problems. Party politics are irrelevant to most issues, which are largely concerned with means rather than ends and which are not well-served by jockeying for partisan advantage to expand the scope of control over local offices or to enhance the chances of state and national party tickets.
- (3) Competition in council elections is frustrated rather than stimulated by party politics because many areas of the city are solidly in the grip of a single party, making it infeasible for good people of the other party to even consider running for council. Nonpartisan

elections make it much easier for voters to support an able candidate without concern for party affiliation.

Arguments in favor of partisan elections include:

- (1) Partisan elections help voters identify the general governmental philosophy of candidates for council.
- (2) Partisan elections make it easier to hold councilmembers accountable for the overall performance of the government as well as for their own individual performance in office.
- (3) Partisan elections stimulate competition for council positions, enhancing voter participation and choice among candidates and programs. Parties provide mechanisms for recruiting candidates for council and mayor, and a mechanism for financing campaigns.

Municipal officials and citizens in Texas have obviously given more weight to the arguments in favor of non-partisan elections. In summary, this is one election question that appears to be settled in Texas for a long time.

The elections article

So what does the elections article in a city charter address? A representative sample of charters shows a fairly uniform coverage of certain key items in the election process. Most of the language adjusts the state law requirements to the city in question. Typical sections in the charter's election article look like this in a number of cities:

- Section 1 is titled "City elections" or "Calling and Regulating Elections." Language in this section might include authorizing the city council to call the elections, listing the date of the election, making provision for election judges, designating the hours and places of election, and stating the composition and method of election of the council.
- Section 2 relates to filing for office (covered in this document in Chapter 9).
- Section 3 relates to the official ballot and includes information on who draws up the ballot, how names are listed, and the deadline for printing the ballot.
- Section 4 relates to canvassing the results. This would contain the statements about delivering the ballot boxes to city hall, meeting of the city council to canvass the results, and other matters to complete the election process.
- Section 5 relates to runoff elections and a tie vote.
- Section 6 relates to election by plurality or majority. It includes a specific statement indicating how candidates are elected.

Summary

In Chapter 3, we emphasized that state law supersedes home rule charters, and we listed options by which cities might deal with matters that the state heavily regulates. At that time, we suggested the possibility of repeating some state law language in a charter appendix—just to give the citizen a general idea of the process and procedures in a particular function. The elections article would seem to fit this suggestion, listing enough information for citizens to get a good idea of the process, but sparing them every detail of the subject in question.

City managers are a twentieth century American invention. This new form of city government developed in the early 1900s with the goal of applying private business principles to public management. This is why early city managers came from a business background, primarily engineering. In fact, when the Professional Association of City Managers was organized in 1914, it almost adopted a requirement that members be engineers.

Through the years, emphasis on the engineering aspects of the position was superseded by emphasis on broad administrative ability. Texas managers today are attorneys, finance specialists, and educated public administrators. As early as 1923, universities began offering special graduate level programs to prepare students for a career in city management. Today, these programs are offered nationwide.

In keeping with the trend toward specialized education, it is becoming more and more common for city managers in Texas to have master's degrees in "public affairs" or "public administration." This managerial background also is evident in very small cities where complex economic, social, and environmental problems are like those in larger cities. Citizens are demanding, in addition to business-oriented operation, a social awareness of their individual struggles with crime, education, and housing. Clean water and paved streets are no longer enough.

Texas cities are embracing the city manager educated in public administration as they earlier embraced the new council-manager form of government. From the adoption of the council-manager plan by Amarillo in 1913, the plan rapidly became the most popular method of city organization in the state. Conversions from the other two forms of government occur every year. Not just in Texas, but across the country as well as indicated in the ICMA's 2009 Municipal Yearbook.

Since this book was first published in 1994, over 60 additional communities have adopted the council-manager system as their preferred choice of local self-governance. One of the biggest changes occurred in 2004 when voters in El Paso amended their city charter to move from the mayor-council to the council-manager form of government.

As of 2008, 89% percent of Texas' home rule cities operate under the council-manager form of government. Several other cities operate under an "optional city manager" charter that provides that the City Council may (emphasis supplied) appoint a city manager.

The typical council-manager charter in Texas contains a separate article on the city manager and follows the language of the NCL model city charter in many respects. That article usually contains three subsections: appointment and removal of the manager, powers and duties, and other provisions.

Appointment and removal of city manager

The charter of the City of Alpine has a clear-cut statement:

Figure 12-1: Article VI City Administration

Section 4.01 City Manager

- (A) The Council shall, upon approval of a majority of the full City Council, appoint a City Manager who shall be the chief administrative and executive officer of the City, and shall be responsible to the Council for the administration of the affairs of the City.
- (B) The City Manager shall be chosen by the Council solely on the basis of executive and administrative training, experience, and ability.
- (C) The City Manager shall be appointed for an indefinite term and receive compensation as may be fixed by the Council.
- (D) No member of the Council shall, during the time for which he or she is elected, nor for one (1) year thereafter, be appointed City Manager.
- (E) The Council may by affirmative vote of a majority of the full City Council adopt a resolution removing the Manager from office. The action of the Council in removing the Manager shall be final; it being the intention of this Charter to vest all authority and fix all responsibility for such removal in the City Council.
- (F) The City manager may, by letter filed with the City Secretary and subject to approval by the City Council, designate a qualified City administrative officer to be Acting City Manager during the temporary absence or disability of the Manager. If the City Manager fails to make such designation or if the Council chooses to revoke such designation, the Council may appoint an Acting City Manager to serve during such time. The Council may remove an Acting City Manager at any time.

Our review of council-manager charters in Texas focused on several of the individual requirements and statements above. The following is an analysis of key provisions.

Vote required for appointment

Appointment of the manager by majority vote of the entire membership of the council, not simply a majority of a quorum, assures undisputed support for the appointee. Since that wording would require four votes on a seven-member council, even if there were two vacancies on the council, some cities use the phrase: “by the vote of a majority of all Councilmembers qualified and serving.” Texas charters have not paid that much attention to the wording, as only a few of the charters require this type of “full” majority for appointment.

Education/experience required

Most charters use wording similar to that in the Alpine charter, giving the city council some discretion in evaluating the education and experience that candidates bring to the job. The Laredo charter had one of the more restrictive statements on the qualifications of the manager requiring at least three years experience as a city manager or an assistant in another city. In the late 1990’s, the charter was amended to require even more restrictive qualifications and the charter now reads:

“The City Manager shall be appointed on the basis of executive and administrative qualifications. He/she shall have a Bachelor’s Degree and no less than seven years experience in municipal government, five of which must be supervisory managerial experience. A Master’s Degree in Public Administration is preferred. The City Manager need not be a resident of the City or State at the time of appointment, but must reside inside the City while in office.”

Residence

Residence is addressed in the NCL model city charter and in the great majority of Texas charters. The Model states: “The manager need not be a resident of the city or state at the time of appointment but may reside outside the city while in office only with the approval of the council.” Texas charters generally do not include the exception quoted in the model charter above, but do allow some time for the manager to establish residence in the city after appointment. One charter states that residence must be established in four months; several others provide for six months. One charter requires residence be established within three years, prompting one cynic to remark that the city manager wouldn’t have to worry about this provision because he wouldn’t be around that long.

Term of appointment

The great majority of charters follow the language found in subparagraph (c) of the Alpine charter. Terms of one to five years for the manager are found in a small number of charters. Appointment for an indefinite term is considered preferable, because contracting for a specified term reduces the discretion of the council to remove a manager.

Most charters are quiet on the subject of contracts for the manager, but there are some exceptions. One charter states that the manager will be appointed for a definite period, not to exceed two years. One charter says a contract may be extended to the manager for a period up to four years, another allows up to five years, and yet another provides for up to six years. At least one charter limits severance pay to six months. Reports have shown that a number of cities, particularly larger ones, have some form of employment agreement with the manager. The Texas City Management Association has prepared a model agreement (available at www.tcma.org) that many cities use as a starting document. Municipal attorneys generally agree the charter does not have to specifically give the council the authority to enter into these contracts with managers.

Appointment of mayor or councilmember as manager

Tabulation was made of the charters with a provision prohibiting the appointment of the mayor or a city councilmember as city manager during their terms of office. A substantial number of charters have such language. Figures were tabulated for the question: “Former member of the city council is not eligible for appointment as city manager for (one), (two), (three) years after going off the council.”

Figure 12-2: Years Before City Councilmembers Eligible to Serve as City Manager

	1994	2008
1 Year	39%	34%
2 Years	15%	16%
3 Years	1%	1%
Not Addressed in Charter	45%	49%

Farmers Branch and San Antonio stipulate that a former mayor or councilmember shall never be eligible to serve as city manager.

Appointment of mayor or city councilmember as acting manager following death, resignation, or removal of a manager

Most charters do not address this question, but several provide that a sitting mayor or councilmember cannot be appointed as an acting manager during the time the city is “between” managers. Several other cities have charter language that an advocate of the manager plan would consider to be undesirable. For example, one charter allows a member of the city council to be appointed acting manager upon a 5/7 vote of the council. Two charters allow the mayor or a councilmember to be appointed acting manager for no more than ninety days. Two others permit the mayor to act as city manager, in case of a vacancy, until an acting city manager can be appointed. Another charter provides that

the mayor or councilmember can serve as acting manager during a vacancy.

DOES RELEASE SPELL RELIEF?

“Section 4.1 No person who has held an elective office of the City shall be eligible for appointment as city manager within one year of his release from such office.”

the mayor or councilmember can serve as acting manager during a vacancy.

Vote required for removal

The NCL model charter requires a majority vote of the “full council” to remove the manager. Many Texas cities agree with that requirement, as 64 percent of the council-manager charters have it. Thirty percent of cities require only a majority of a quorum. The remaining six percent have other specific requirements for the removal of a city manager. Exceptions include a charter that requires a 5/7 vote to fire the manager, another that requires a 4/5 vote, and another that requires a 2/3 vote unless a contract specifies otherwise. At least three charters prohibit the discharge of a city manager within 60 days after a council election if the manager has been in office for one year or longer, and then only with a 4/5 vote; another charter, in the same circumstances, requires a unanimous vote to discharge the manager.

Public hearing before removal

While the NCL model charter requires a hearing, Texas cities are of differing minds. Cities requiring a public hearing for the manager before removal total approximately 40 percent; the other 60 percent do not provide for a hearing or the charter does not address this issue. Arguments are mounted on both sides of this issue, but the fact remains that cities are not of one mind.

Acting manager

In order to remove any doubt as to the identity of the acting city manager, the manager is required, in most charters, to designate a city officer or employee to serve as acting city manager during the temporary absence or disability of the manager. The council is free, of course, to replace the acting manager if it is dissatisfied with performance, and the acting manager is not entitled to the protection of the removal procedures afforded the manager.

Duties of the city manager

The next major subjects addressed in virtually every Texas council-manager charter are the duties, sometimes called the “powers and responsibilities,” of the city manager. A great many charters have adopted all or a great deal of the language of the NCL model city charter which states:

Figure 12-3: Powers and duties of the city manager

The city manager shall be the chief executive officer of the city, responsible to the council for the management of all city affairs placed in the manager's charge by or under this charter. The city manager shall:

- (1) Appoint and suspend or remove all city employees and appointive administrative officers provided for, by, or under this charter, except as otherwise provided by law, this charter or personnel rules adopted pursuant to this charter. The city manager may authorize any administrative officer subject to the manager's direction and supervision to exercise these powers with respect to subordinates in that officer's department, office, or agency;
- (2) Direct and supervise the administration of all departments, offices, and agencies of the city, except as otherwise provided by this charter or by law;
- (3) Attend all city council meetings. The city manager shall have the right to take part in discussion but shall not vote;
- (4) See that all laws, provisions of this charter, and acts of the city council, subject to enforcement by the city manager or by officers subject to the manager's direction and supervision, are faithfully executed;
- (5) Prepare and submit the annual budget and capital program to the city council and implement the final budget approved by council to achieve the goals of the city;

- (6) Submit to the city council and make available to the public a complete report on the finances and administrative activities of the city as of the end of each fiscal year;
- (7) Make such other reports as the city council may require concerning operations;
- (8) Keep the city council fully advised as to the financial condition and future needs of the city;
- (9) Make recommendations to the city council concerning the affairs of the city and facilitate the work of the city council in developing policy;
- (10) Provide staff support services for the mayor and councilmembers; and
- (11) Assist the council to develop long term goals for the city and strategies to implement these goals;
- (12) Encourage and provide staff support for regional and intergovernmental cooperation;
- (13) Promote partnerships among council, staff, and citizens in developing public policy and building a sense of community; and
- (14) Perform such other duties as are specified in this charter or may be required by the city council.

Appointment of department heads and other employees

The major differences between Texas charters and the NCL model is that 25 percent of Texas council-manager charters require council confirmation of department head appointments. This does mean that the majority of the charters follow the model and allow the manager to appoint these key individuals without reference to the council—at least formally. A few charters require the confirmation of one or two sensitive department heads, but not every department head. The most likely department heads to require confirmation by the council are the police chief (39 percent), finance director (20 percent), and fire chief (5 percent). The city attorney, city secretary and municipal court judge often require confirmation by council when the City Manager is provided authority for these appointments (See Chapter 13).

The great majority of charters do not require consultation with the council before removal of department heads. In a select few cities, the council, however, must confirm removal of these officials; in another, the charter requires consultation with the council prior to such removal.

Preparation of budget

The NCL model charter provisions quoted above contain the standard provision found in most Texas charters. However, the Grand Prairie charter contains a more descriptive sentence in regard to the budget. Its charter mandates that the city manager shall: “prepare an annual budget designed to accomplish the goals and objectives established by the City Council, submit it to the City Council for approval and be responsible for its faithful administration after adoption.” Many charters contain more details in their articles on “finance and budget.” Those details will be covered in Chapter 14.

Other duties

The Grand Prairie charter lists two additional duties of the city manager which, although not found in a majority of the charters, nevertheless are worth mentioning. One of these duties is to “see that all terms and conditions imposed in favor of the city or its inhabitants in any public utility franchise or other franchise or contract are faithfully kept and performed; and, upon knowledge of any violation thereof, to call the same to the attention of the city attorney, whose duty it shall be to take such steps as may be necessary to enforce the same.”

The other duty says the manager shall “prepare the agenda of each meeting of the City Council in accordance with this Charter and the rules of procedure adopted by the City Council.” Agenda preparation is not mentioned in the great majority of council-manager charters; although, it is assumed by many to be the responsibility of the manager and not of the council. We did not specifically survey the location of this responsibility. In our review of the charters, we did find that a few charters make provision for consultation with the mayor on preparation of the agenda and some others that allow councilmembers to request items to be placed on the agenda. Without charter provisions, it can only be surmised that agenda preparation is worked out between the manager and the council and perhaps covered in city council procedures which can be changed from time to time.

Other provisions in the article on city manager

A minority of charters have other provisions listed under this article. They include:

Bonds – A number of charters specify that the city manager shall be bonded; some specify the amount, while others leave that decision to the council. Most charters omit this provision, presumably covering it by ordinance or resolution to the council.

Nepotism – The state law on nepotism arguably covers city managers that act as “a final hiring authority.”

Prohibitions against council interference – This matter was discussed in Chapter 10 and is an essential part of a sound council-manager charter. A few charters place this paragraph under the article on the manager.

Administrative departments and directors of departments – These provisions are more commonly found in a separate charter article on “departmental organization” (or a similar title) and will be covered in the next chapter of this book.

Investigations – A few charters authorize the city manager to investigate the conduct of any office or department and to subpoena witnesses. As discussed in the previous chapter, authorization for the city council to conduct such investigations is found in the great majority of council-manager charters. The presence of such a provision enabling the manager to conduct such inquiries is fairly rare.

“Weak” council-manager charters

A few cities in the state have council-manager charters that weaken and dilute the form of government by placing obstacles to the council and manager relationship, and confusing the lines of authority and responsibility. One council appoints a comptroller; another appoints a director of finance. These appointments, made independent of the city manager, can divide responsibility for certain functions and confuse the council about who is accountable.

One South Texas city charter states that the city council shall appoint and set the pay of the police and fire chief and the fire marshal. A central Texas city charter says if the manager and a supervisor differ over appointment of an employee, the city council shall resolve the issue. One North Texas community’s council, by a 4/5 vote, can require the city manager to remove a specified city employee. And one coastal city has a provision for councilmembers to act as liaison to certain departments of the city. None of these provisions provide for the clear line of authority necessary to create a good working relationship between the council and the manager.

Another potential problem for council-manager relations is the failure of past charter commissions and city councils to eliminate conflicting language when changing forms of government from mayor-council to council-manager. It is not unusual for a mayor-council charter to authorize the city council to remove any officer or employee of the city at its discretion. However, this provision in a council-manager charter is obviously confusing since all council-manager charters authorize the manager to hire and fire city employees. More than a dozen council-manager charters still provide that the council can fire employees, and at least two cities reported problems arising from these conflicting provisions.

Optional council-manager charters

A council-manager charter is usually defined as one that establishes the city manager provision by use of the word “shall.” The key phrase is: “The city council shall appoint a city manager who...” The legal definition of “shall” means the city council is required to appoint a person to the office. It also means that only a charter amendment vote by the people can eliminate the position, not just a vote of the council. On the other hand, the word “may” in the legal sense allows a permissive act. The council may or may not appoint a city manager. It also may appoint and later drop the position at any time without any requirement of a charter amendment election.

Texas has a few cities in which appointment of a city manager is optional; these cities either state in their charter that the council “may appoint a manager” or use other language indicating that the manager position is not a firmly fixed one, but rather exists at the whim of the council. In addition, one charter states that the city council may designate the city secretary as city manager; it can, of course, also de-designate such nomination.

Unusual council-manager charters

Four other cities with unusual charter provisions have been defined as council-manager cities. In two cities, the mayor chooses the city manager, but that individual’s appointment and removal must be approved by the council. Involvement of the council meets one of the key criteria for the form of government; the mayor cannot hire and fire the manager or administrator. Two other cities originally have optional language. Both charters have statements that the city council “may at such time as the financial condition of the City make it feasible, appoint a city manager...” This statement alone would tend to classify them as optional cities, but the charters have another provision that states that the position, once filled, can be terminated only by a petition of the voters, followed by a referendum vote to retain or abandon the system. Both cities filled these positions several years ago; thus, any abandonment can be accomplished only by a vote of the people—a charter amendment.

Summary

Texas council-manager charters have generally followed good precedents: the NCL model charter or area charters that contain sound council-manager language. The national reputations of some of the Texas council-manager cities as role models attests to the fact that: (1) Texas cities have a solid legal and structural foundation; and (2) city councils and city managers are jointly and effectively delivering quality services to their citizens.

The title of this chapter is the same as that used in a number of Texas charters as well as in the NCL model city charter. However, the predominant title in Texas charters for the subject matter covered in this chapter is either “Administration” or “Administrative Departments.” In smaller cities, this charter article typically includes the city manager as well as other departments and offices. Other charters devote separate articles to each department or officer. This chapter will discuss the following:

- Creation of departments
- City attorney
- City secretary
- Municipal court judge
- Planning function
- Personnel and civil service
- Health function
- Other departments and officers
- Boards and commissions

Creation of departments

The Marble Falls charter has a clear statement on the creation of administrative departments in a council-manager city:

Section 4.02 Administrative Departments

There shall be such administrative departments as are established by this Charter and may be established by ordinance and, excepting as otherwise provided in this Charter, these administrative departments shall be under the direction of the City Manager.

The Council shall have power by ordinance to establish administrative departments or offices not herein provided by this Charter. The Council may discontinue, redesignate, or combine any of the departments and/or administrative offices. No changes shall be made by the Council in the organization of the administrative service of the City until the recommendations of the City Manager thereon shall have been heard by the Council.

The head of each department shall be a director who shall have departmental supervision and control. Two (2) or more departments may be headed by the same individual and

the City manager may head one (1) or more departments.

In most charters, three offices are specified by name: the city attorney, the city secretary, and the municipal court judge. An administrative code adopted by the council is the appropriate place for establishing the other departments or defining their departmental organization and operating rules and regulations. In fact, many aspects of the internal organization of departments or divisions should be governed by administrative order rather than by council action.

City Attorney

Each city should have either a full-time or part-time legal officer, depending on the size of the city and the volume of legal problems. Many small towns contract with a legal firm or with an individual. Some city councils prefer to contract with a firm, while others prefer to have an attorney full-time on the city staff. Very small cities have little choice if they do not have enough work for a full-time employee. Some slightly larger cities have a full-time employee because they want their own lawyer immediately available. Other cities can afford and have enough work for a full-time employee but contract with a firm because of its variety of expertise.

Charters frequently provide that the city attorney, with council approval, can bring in special counsel when the need to do so for a particular court case or other problem arises.

The West University Place charter has a typical section on the city attorney:

The Council shall appoint an attorney, licensed by the State of Texas, to be the City Attorney. The City Attorney shall be entitled to compensation for services as established by the Council and shall serve at the pleasure of the Council. The City Attorney shall draft or approve as to legal form or file written objections to every ordinance proposed by the Council and shall review all contracts and other documents in which the City has an interest. The City Attorney, or other attorneys selected by the City Attorney with the approval of the Council, shall represent the City in all litigation. The City Attorney shall be the legal advisor to the City and counsel for the City and all its officers and departments in the conduct of City business.

Survey Results

Our survey of the state’s charters produced the following figures in regard to selection of the city attorney:

Figure 13-1: Selection of City Attorney

	1994	2008
By City Manager:	6%	2%
By City Manager with City Council Approval:	9%	8%
By City Council:	73%	72%
By City Council on recommendation of City Manager:	3%	8%
By Mayor with City Council Approval:	7%	9%
Other:	2%	1%
TOTAL	100%	100%

The large figures for “appointment by the city council” are a little misleading since they include the contracts with firms or individuals entered into by the council. For cities over 50,000, the figures look like this:

	1994	2008
Appointed by city council – manager not involved:	64%	80%
Appointed by the city manager or manager involved:	36%	20%

The six largest cities in the state have an interesting mix of appointment methods. In Houston and El Paso, the mayor appoints the city attorney with approval of the city council; in Dallas, the appointment is by the council; in Fort Worth, the attorney is appointed by the city council on recommendation of the city manager; and in San Antonio and Austin, the city manager appoints the attorney, and no council confirmation is required. Various arguments are made for and against the council appointing the attorney. Some contend that legal questions are so crucial that the city council needs to be sure that the attorney’s opinion is not “laundered” in any way by the manager before it gets to the council. On the other hand, having both the manager and the attorney report to the council can be divisive, particularly if the attorney has a disposition to mix some policy advice with legal advice. There is no single best answer to the question. Whatever the policy, the key is that all the players should be guided by an open, trusting relationship.

City Secretary

The term “city secretary” is used intentionally here. Survey results showed this title to be heavily preferred by 90 percent of Texas cities over the title “city clerk.” The city secretary, like the city attorney, is frequently the subject of a separate article in the charter. The establishment of this

position is also found in the city council article, and sometimes within the mayor or city manager section of the charter. Wherever it is, the job is a critical one.

Although a few charters do not establish this position, the overwhelming number do. Those charters also stipulate responsibilities for the city secretary. Several charters include lengthy detail, but the Hurst charter really says all that is necessary:

The city manager shall employ a city secretary and such assistant city secretaries as the city manager shall deem necessary. Such persons shall report to the city manager who shall establish their compensation and duties. The city secretary or an assistant city secretary shall give notice of the city council meetings, take the minutes of such meetings, authenticate ordinances and resolutions by his or her signature and shall index and keep such minutes, ordinances and resolutions.

Over the years, the duties of the city secretary/city clerk position have grown in scope in all cities, but particularly in small cities. In response to this expanded role, many members of the profession are members of the Texas Municipal Clerks Association (TMCA), which is a TML affiliate that is housed at The University of North Texas. To meet the professional responsibilities of the position, a certification program for city secretaries and clerks was established. According to the TMCA website, over 500 Texas Municipal Clerks have completed the extensive three-year certification program. TMCA also has several reference tools for all city officials, including the [Texas Municipal Election Law Manual](#) (4th Edition) written by Analeslie Mancy, the [Texas Municipal Law and Procedures Manual](#) (5th Edition) written by Alan Bojorquez and the [Texas Municipal Clerks Handbook](#) (8th Edition) written by the TMCA. More information on TMCA and the certification program can be found at <http://municlerks.unt.edu>.

Survey results

Our survey of the state’s charters produced the following figures in regard to selection of the city secretary:

Figure 13-2: City Secretary/Clerk

	1994	2008
By City Manager:	24%	28%
By City Manager with City Council Approval:	15%	20%
By City Council:	35%	33%
By City Council on recommendation of City Manager:	12%	11%
By Mayor with City Council Approval:	7%	6%
Other:	7%	2%
TOTAL	100%	100%

Departments, offices, agencies, and boards

The majority for council appointment of the secretary is consistent with the widespread opinion of city officials that this position is one that “belongs” to the city council.

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“Sec. 5.04 City Secretary
The council shall appoint a city secretary. The city secretary shall be provided an office in the city hall sufficient to maintain the records entrusted to the city secretary’s care and shall be entitled to a seat at the council table at all official meetings.”

Although state law has preempted the majority of matters that might otherwise be included in a city charter, a city does have some authority and flexibility remaining. The charter may:

- provide for the manner in which the judge is to be chosen—by appointment or election. If the judge is chosen by appointment, the appointing authority must be specified in the charter. If a municipal court of record is established, selection is handled differently.
- provide for the judge’s term of office. This can be for a specified number of years or “at the pleasure of the city council” or other appointing authority.
- provide for the appointment of associate judges and temporary judges.
- state whether the judge(s) must be an attorney.
- provide for a clerk of the court.

Texas charters formerly were very detailed regarding the court; today, this is unnecessary. The Mission charter as amended in 1987 contains the essence of what a charter might address. Several cities in the state devote only one paragraph to the court and the judge (see Paragraphs A and B of the Mission section below):

Section 4.05 Municipal Court

A. There shall be established and maintained a court designated as a municipal court for the trial of misdemeanor offense, with all such powers and duties as are now or hereafter may be prescribed by the laws of the State of Texas relative to municipal courts.

B. The judge or judges of said court shall be a qualified voter or voters of the City of Mission, shall be appointed by the City Council,

shall hold his office at the pleasure of the City Council, shall receive such salary as may be fixed by the City Council, shall be under the administrative direction of the City Manager, and said judge shall not be an elected official. The City Secretary or an assistant City Secretary shall be ex officio clerk of said court.

C. The Clerk of said court and his deputy shall have the power to administer oaths and affidavits, make certificates, affix the seal of said court thereto; and generally do and perform any and all acts usual and necessary by the Clerk of courts in issuing process of said courts and conducting the business thereof.

D. The City Council by ordinance may provide for the appointment of one (1) or more judges to serve if the regular judge, the presiding judge, or an associate judge is temporarily unable to act.

E. Each judge of said court shall be a duly licensed attorney if some such suitable attorney is available and provided that this shall not be a disqualification of the person serving in such capacity at the time of the adoption of this Charter.

The phrase in Paragraph B above that the judge “shall be under the administrative direction of the city manager...” is an unusual, but not rare arrangement. Cities, large and small, regardless of form of government, seem to have continual problems with the reporting relationship of the judge and the clerk of the court. Mayors, city councils, and city managers want the court to be “administratively efficient,” but must tread softly since they are dealing with a separate and independent branch of city government. Judges are concerned with the “administration of justice” and usually do not have the time nor skill to worry about the “administration of the court” as a department of the city. Cities have tried a wide range of mechanisms to meet this challenge. It would be confining and inflexible if the city tried to dictate administrative arrangements in the charter. Hence, most of these “solutions” have been left to ordinance or administrative order.

Survey results

Our survey of the state's charters produced the following figures in regard to selection of the municipal court judge:

Figure 13-3: Municipal Court Judge

	1994	2008
By City Manager with City Council Approval:	3%	6%
By City Council:	79%	74%
By City Council on recommendation of City Manager:	3%	7%
By Mayor with City Council Approval:	6%	8%
Elected:	5%	3%
Other:	4%	2%
TOTAL:	100%	100%

We tabulated the term of office for the judge. Fifty percent of the charters do not address the term of office for the judge. Of those charter that do specify the judge's term, the overwhelming choice (86 percent) was for the judge to serve at the "pleasure of the council." In the remaining cities, the judge served a specified numbers of years, anywhere from one to four years (six percent) or noted the term was stipulated in some other manner (eight percent), such as at the pleasure of the city manager.

Influence of form of government on selection of officers above

Most of the cities that call for appointment by the city council of the city attorney, city secretary, and judge are council-manager cities. Most of the cities that call for appointment by the mayor with approval of the city council are mayor-council cities.

Planning function

A number of Texas charters address the planning and zoning function. Some actually mandate a planning department and a director of planning. In the most recent survey, 34 percent of charters now require the establishment of a comprehensive master plan, up from 20 percent in 1994 that established a master planning process. Many charters do not mandate a comprehensive plan with the legal phrase, "the city council *shall* adopt a plan." Without this charge, the city council may, instead, reject all or part of the plan. Below is a typical section from one of the charters that exemplifies the loophole through which many a master plan falls:

Section 4. The Master Plan. The Master Plan for the overall physical development of the City shall contain the (Planning) commission's recommendations for growth, improvement and beautifi-

cation of the City. A copy of the Master Plan, or any part thereof, shall be forwarded to the City Manager who shall thereupon submit each plan or part thereof to the Council with the City Manager's recommendations thereon. The Council may adopt this plan as a whole or in part, and may adopt any amendment thereto, after at least one public hearing on the proposed action. The Council shall act on such plan, or part thereof, within sixty (60) days following its submission by the City Manager. If such plan, or part thereof, should be rejected by the Council, the Planning Commission may modify such plan, or part thereof, and again forward it to the City Manager for submission to the Council. All amendments to the Master Plan recommended by the Planning Commission shall be submitted in the same manner as that outlined above to the Council for approval, and all recommendations by the Council from any City Department affecting the Master Plan must be accompanied by a recommendation from the Planning Commission.

The quoted wording does not prohibit a council from adopting a master plan, generally considered a valuable asset to a city, and some of these cities have adopted a plan. No legal requirement, however, prompted their action. Under the wording above, the council could continue rejecting the plan forever. There is no clear-cut statement that "the council shall adopt a plan."

Once a master plan or comprehensive plan is adopted, a city may have language such as the following to put "teeth" into the plan. This is from the Mansfield charter:

Section 10.4 Legal Effect Of The Masterplan

Upon adoption of a Master Plan by the Council, no subdivision, street, park, or any public way, ground or space, public building or structure, or public utility, whether publicly or privately owned, which is in conflict with the Master Plan shall be constructed or authorized by the City until and unless the location and extent thereof shall have been submitted to and approved by the (Planning) Commission. In case of disapproval, the Commission shall communicate its reasons to the Council, which shall have the power to overrule such disapproval, and upon such overruling, the Council shall have power to proceed. The widening, narrowing, relocating, vacating or change in the use of any street, alley, or public way or ground, or the sale of any public building or real property shall be subject to similar submission and approval by the Planning and Zoning Commission, and failure to approve may be similarly overruled by the Council.

The preparation and adoption of such a plan has been mandated by 38 percent of home rule cities, up from ten percent reported in the 1994 survey. The strongest lan-

Departments, offices, agencies, and boards

guage is in the Georgetown charter. It not only requires adoption, but also supports adoption with specific reasons that a master plan is valuable. Excerpts from this charter include the following:

Section 1.08. Comprehensive Plan

(1) Purpose and intent. It is the purpose and intent of this Article that the City Council establish comprehensive planning as a continuous and ongoing governmental function in order to promote and strengthen the existing role, processes and powers of the City of Georgetown to prepare, adopt and implement a comprehensive plan to guide, regulate, and manage the future development within the corporate limits and the extraterritorial jurisdiction of the City to assure the most appropriate and beneficial use of land, water, and other natural resources, consistent with the public interest.

(Note: Paragraph (1) above contains more preamble leading into Paragraph (2)).

(2) The Comprehensive Plan. The Council shall adopt by ordinance a revised comprehensive plan within two (2) years from the date the amended Charter is adopted, which shall constitute the master and general plan...

Paragraph (2) goes on to detail the contents of the plan followed by Paragraph (3) entitled, "Legal Effect of Comprehensive Plan."

Planning and zoning commission

Virtually all city charters formally establish a Planning and Zoning Commission. The number of members on the Commission, their qualification and terms of office vary widely among cities, but the Corpus Christi charter is probably typical of the language on these bodies:

Figure 13-4: Typical charter provision for planning commission

Section 2. Organization of Planning Commission

A planning commission is hereby established which shall consist of nine registered voters of the city. The members of the commission shall be appointed by the city council for staggered terms of three years. The commission shall elect a chairperson from among its membership each year at the first regular meeting in August and shall meet no less than once each month. Any vacancy in an unexpired term shall be filled by the city council for the remainder of the term.

Section 3. Powers and Duties of Planning Commission

(a) The planning commission shall:

(1) Review and make recommendations to the city council regarding the adoption and implementation of a comprehensive plan, any element or portion thereof, and any amendments thereto;

(2) Review and make recommendation to the city council on all proposals to adopt or amend land development regulations for the purpose of establishing consistency with the comprehensive plan;

(3) Monitor and oversee the effectiveness of the comprehensive plan, review and make recommendations to the council on any amendments to the plan, and forward to the council comprehensive updates to the plan at least once every five years;

(4) Review and make recommendations to the city council regarding zoning or requests for zoning changes in a manner to insure the consistency of any such zoning or changes in zoning with the adopted comprehensive plan;

(5) Exercise control over platting and subdividing land within the corporate limits and the extraterritorial jurisdiction of the city in a manner to insure the consistency of any such plats with the adopted comprehensive plan; and

(6) Review and make recommendation to the city council on the city's annual capital budget and any capital improvement bond program.

(b) The departments of the city government shall cooperate with the planning commission in furnishing it such information as is necessary in relation to its work.

(c) The commission shall be responsible to and act as an advisory body to the council and shall perform such additional duties and exercise such additional powers as may be prescribed by ordinance of the council.

Personnel and civil service

City government's relationship to its own employees has undergone tremendous changes in the past half century. Emphasis formerly focused on little more than keeping employee records; that emphasis has shifted now to a broad human resources responsibility. Major activities for many cities include:

- sophisticated recruiting involving nationwide searches for some positions, including the employment of executive search firms to find not only city managers, but also department heads in medium to large cities.
- emphasis on diversifying the workforce including, in some cities, contacts with historic black colleges and working closely with such organizations as the local Urban League and other groups formed to help ethnic minorities find employment.
- risk management, including renewed emphasis on job safety and claims control.
- administration of a wide range of employee benefits, sometimes offered to employees on a “cafeteria” basis which complicates management of the package.
- employee assistance programs to assist employees.
- executive development and employee training programs offered at the work site and at distant locations.
- continued experimentation with job classification and pay plans to remain competitive in the marketplace.

Despite the major concerns of cities and employees with these and other functions of a human resources office, just 20 years ago the overwhelming number of charters were completely silent with regard to the personnel or human resources function. There has been a major shift with more and more charters addressing personnel functions. Of the Texas cities surveyed for this second edition, 35 percent of charters authorize a personnel department, while another 8 percent actually mandate this department. In addition, 43 percent of charters authorize personnel rules and another 15 percent mandate them. In light of this change, we want to review major state laws related to personnel.

Fire and police civil service

In 1947, the state legislature required that cities over 10,000 in population, when petitioned as provided by law, call an election on adopting provisions of a State Fire and Police Civil Service Law enacted by the legislature that year. When adopted by the voters, the law mandates the establishment of a fire and police civil service commission and sets up specific standards for recruitment, testing, grievance, promoting, and just about every other aspect of the personnel relationship except for salary.

Cities fit the special civil service provisions for fire and police into their overall employee policies and procedures in different ways. For example, while the state law is considered particularly generous with vacation and sick leave for fire and police, some cities have adopted those provisions for other employees. Other cities feel they cannot afford to pro-

vide “equity” for non-fire and police personnel. North Richland Hills preempts the law by putting all employees under a charter-mandated civil service program that incorporates virtually all of the state fire and police law. That city’s civil service provisions in the charter account for almost one-half of the total charter.

Charter mandated municipal civil service

Despite the drafting of a Model Civil Service Code in 1914³⁰, only a few cities in the state have followed through with a civil service system in the charter for all employees. El Paso’s charter goes into detail ordinarily found in an ordinance. The El Paso civil service provisions, in fact, occupy exactly one-half of the total El Paso charter. Mesquite established civil service for all employees by charter amendment in 1966. Amarillo adopted a formal “merit system” in 1944. Five percent of home rule cities make a provision for a city-wide civil service system in their charters.

Other fire and police charter provisions

There is a long history of cities writing sections into charters addressing fire and police protection. This practice has carried over to many of today’s charters without a compelling reason.

In addition to civil service provisions for police and fire, several city charters mandate staffing levels of these departments as well as minimum salary requirements. Mesquite in 1993 adopted a charter amendment mandating a commissioned police officer ratio of 1.5 officers per 1,000 population in the city. In 1990, Wichita Falls voters adopted a charter amendment mandating minimum police

MAKE CITIZENS FILL THOSE POTHOLES

“Section 196. All citizens subject to call.

The city council shall have the power to cause all able-bodied male inhabitants above twenty-one (21) years of age and not over sixty (60) years of age, except ministers of the gospel in the active charge of their ministerial duties, members of the state militia, members of fire departments, invalids and other persons whom the council may exempt, to work on the streets of the city ... not exceeding five (5) days in any one year or furnish a substitute or a sum of money not exceeding one dollar (\$1.00) per day for each day summoned to work, to employ such substitute, and enforce the same by appropriate ordinances, with penalty for failure to obey such summons to work or furnish substitute or pay the amount herein mentioned, and the council may further provide a method of giving notices, collections and other rules and regulations relating thereto.”

Departments, offices, agencies, and boards

levels for 1991, 1992, and 1993. The amendment stated that the city would have 180 commissioned police officers by October 1, 1993. In addition, the charter specifies the minimum wage for officers, sergeants, lieutenants and captains. In Corsicana, police officers in 1990 succeeded in securing a charter amendment that sets out seniority pay in detail. This was most recently updated when voters approved a charter amendment in 2005. Fire fighters attempted the same process in 1992, but were defeated at the polls. In 1994, Balch Springs voters approved two charter amendments: one mandating that the city maintain a police department of uniformed personnel (not counting investigative, administrative, and support personnel) at a ratio of not less than one officer per 1,000 population; and one mandating the same minimum ratio for fire personnel.

The police chief is the most likely operating department head to be directly appointed by the council and the only one who is elected in some cities. The cities of Brownwood, Coleman, and San Angelo all elect their police chiefs. The cities of Childress and Stamford amended their charters to change the position of police chief from an elected position

to an appointed one. Ennis and Groves still elect a city marshal instead of a police chief. In a select few communities, the chief is appointed by the council. In a few of these, the fire chief and fire marshal are also both appointed by the council.

Other State laws effecting Fire and Police Departments

Over the years, the legislature has defined the maximum number of hours certain cities may require fire and police personnel to work; required a minimum pay level for city fire and police personnel, based on population ranges; mandated that cities pay fire and police personnel "salaries at the higher level" when fire and police personnel fill in temporarily for persons in positions above them; and told cities they had to begin to pay seniority pay to these employees.

Health function

Health concerned the early charter writers in the Texas Legislature. The City of Houston as early as 1839 was empowered to enact ordinances and by-laws "to maintain cleanliness."³¹ Galveston's 1866 charter introduced boards of health to the state.³² That charter provided for a three-member health commission named by the council and the mayor. Along with the city physician, the commission ascertained that all public carriers entering the city reported any sick passenger. A later law made it very clear that a local health officer who did not comply with his duties could be removed by the state board of health.³³

Justified fear of contagious diseases knew no city limit boundary and spurred centralization of the health function. Thus, from the beginning of the Republic, health was seen as a joint state-local function, directed and controlled by the state. The rapid spread of diseases in the 19th century also contributed to city-county cooperation. In most other functions, they acted and continue to act separately.

Older charters frequently addressed the city's responsibility for public health. At least two dozen of the first 100 charters mandated the city council to appoint a health officer and about half that number also

authorized a board of health. Some of the cities carefully detailed the powers of the city in that regard.

In the past several years, most charters have not addressed the health function. This is undoubtedly the result of significant state legislation in public health and expanded guidelines for organizing the functions at the local level.

Today, the Texas Health and Safety Code recognizes four distinct organizational arrangements at the local level, with the flexibility in some instances to fold two of the four into one entity. The Code first addresses a "local health unit" in Section 121.004. A local health unit is defined as a "division of municipal or county government that provides public health services but does not provide each service required of a local health department..." In Section 121.021, the law establishes the second type of health organization: a "health authority" which is an individual, not an organizational unit. "A health authority is a physician appointed under the provisions of this chapter to administer state and local laws relating to public health within the appointing body's jurisdiction." Section 121.031 defines the third entity that a

YESTERDAY'S "SANITATION ENGINEER"?

"Sec. 12. To employ a City Scavenger and to prescribe his duties and compensation, and to provide that the owner, or tenant, of any property shall pay to the City, or to the City Scavenger, reasonable charges for the removal of any refuse matter from closets or premises. And the failure of the owner or tenant to pay such charges shall subject him to the penalties prescribed by ordinance."

KEEPER OF THE "CALA- BOOSE"

"Section 2. Sergeant-at-arms to the city commission.

The chief of police shall be an ex-officio Sergeant-at-arms to the city commission, and shall either in person or by deputy attend all meetings. He shall have charge of the city hall or commission chamber; and shall have same cleared, provide fuel, fire, and light at the expense of the city, for the commission when it meets, and perform such other duties in connection therewith as the commission shall direct.

He shall be the keeper of the city prison or "calaboose," shall keep the same in a clean, wholesome condition and keep all prisoners legally confined therein until discharged. He shall have charge of all prisoners while at work on the streets or other public works of the city."

county or municipality may establish to be a local health department. The following section of the law provides minimum services that the department must offer to qualify and maintain a local health department. Finally, Section 121.041 provides for a public health district when two or more cities or two or more counties desire to enter together into an arrangement of this kind.

Texas charters have unlimited freedom to establish functions or departments. Several charters provide that the city may establish a library, a hospital, a cemetery, an airport or several of the above. The chart belows provides an overview of the top departments authorized or mandated by city charters.

Figure 13-5: Departments Established by Charter

Department	Authorized	Mandated	Not Addressed
Police	41%	27%	32%
Finance	39%	27%	34%
Planning	38%	11%	51%
Parks & Recreation	38%	7%	55%
Fire	35%	24%	41%
Personnel	35%	8%	57%
Legal	34%	30%	36%
Library	33%	5%	62%
Health	27%	9%	64%
Recreation	27%	4%	69%
Aviation	19%	5%	76%
Hospital	14%	4%	82%

A number of charters also address city utilities. Some contain strong language on independence of utilities, prompted perhaps by earlier action when some city council tried to “raid” the earnings of the utility or sell it off. Cities with electric utilities are particularly sensitive to the possibility of losing that source of revenue. In the mid-90s, the voters of Georgetown overwhelmingly adopted a charter amendment stating that prior to consideration of a sale of the city’s community-owned electric utility,

“the City Council shall hold a public hearing during which the City’s financial advisor shall be required to present a report to the City Council concerning the revenue that has been earned by the City’s community-owned electric utility through the City’s ownership thereof and containing an analysis of the revenue to be lost by the City through the proposed sale of the electric utility. Any proposed sale of the City’s community-owned electric utility would require two affirmative votes of the City Council, twelve months apart, to call a referendum election concerning the sale of the electric utility. The referendum must result in a favorable vote by a majority of the voters in that election in order for the electric utility to be sold.”

Boards and commissions

According to our survey, 43 separate boards and commissions are established by Texas city charters. A significant increase from the 20 different boards and commission identified in 1994. Virtually all of those listed are advisory only, although the Board of Adjustment is a quasi-judicial board, and several utility boards are independent.

A few cities not only identify boards by name, but also set out requirements for membership, number of members, duties, and provisions for removal of a board member who does not attend or whom the council simply wants to replace because the member is not contributing to the work of the board. One city has a diversity statement in regard to appointments of boards, and several cities have specific provisions for councils to remove board members. The council can remove board members without specific authority in the charter, unless the board is established by state statute that provides for methods of removal. For example, a member of the Zoning Board of Adjustment can be removed only for cause on a written charge after a public hearing (Section 211.008, LGC). Additionally, any city policies or procedures concerning removal of board members would have to be addressed.

The charters vary significantly on the number and types of boards and commission that are provided for in the charters. Other boards and commissions identified in various charters include: Aging, Animals, Arts, Building Standards, Border Relations, Cemetery, Civic Events, Civil Service, Comprehensive Planning, Ethics, Health, Hospital, Housing, Personnel, Public Safety, Recycling, Streets, Technology, Traffic, and Veterans.

Figure 13-6: Boards & Commissions Established by Charter

Department	Authorized	Mandated
Planning & Zoning	19%	32%
Board of Adjustment	8%	19%
Parks & Recreation	8%	11%
Library	4%	3%
City Development	4%	1%
Airport	3%	0%
Equalization	2%	5%
Utilities	2%	1%

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.

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:

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.

- (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

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.

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.

The words are used so often together, one can almost see them as one word: initiativereferendumandrecall! They really are three separate facets of direct democracy or direct legislation, and you generally find provisions for all three in a charter. The citizens of California helped make initiative and recall household words. The public generally hears information regarding recalls in relationship to gubernatorial recalls. California, the most infamous of the recall states, received a great deal of attention in 2003 when Gray Davis was removed from office. This led the way for Governor Arnold Schwarzenegger to be elected to the top spot in California. In the last few years, members of local governing bodies in Texas have been the subject of recall elections as well. The trend has been for a dissatisfied public to utilize their rights as provided for in the city charter.

Introduction

All three of these actions begin with a citizen petition to the governing body, and all three can lead to a vote by the people. An initiative petition asks the city council to act on a specific issue when it has not done so previously. If the petition is valid, the council must adopt it or submit it to a vote of the people. Petitioners welcome council adoption, which is faster. A referendum petition asks the city council to reverse an action already taken or proposed. The council can rescind the ordinance or submit it to a vote of the people. A recall petition asks the city council to call an election for a vote on removal of one or more councilmembers from office. If the targeted officials resign, an election is unnecessary.

Although an election is the final possibility in all three situations, petitioners are delighted with any council or individual action that avoids an election.

Early history of initiative, referendum and recall (I R & R)

These three tools for direct citizen participation in government are residuals of prerevolutionary debates and, particularly, of the drafting of the federal constitution.³⁴ The debate participants, our founders, argued the merits of “direct” democracy with maximum citizen participation versus the merits of “representative” democracy with elected representatives of the people as the predominant decision-makers. The direct democracy proponents, led by Benjamin Franklin and Thomas Jefferson, lost the debate to James Madison and John Adams. Thus, our U.S. Constitution and our state constitutions are instruments of representative democracy with periodic elections in which the people name the leaders to represent their interests.

State constitutions were not submitted to the people for ratification until early in the nineteenth century. Texas went directly to the voters in 1845 for a pre-annexation vote on its draft constitution, and again five years later with a referendum to determine the location of the capital.

The movement toward greater use of initiative, referendum, and recall (IR&R) at the state level gained impetus in 1892 when endorsement of initiative and referendum at the state level was included in the platform of the Populist Party at its first national convention. In 1898, states began incorporating these direct methods into law. Oregon was first, followed during the next ten years by seven more states. By 1912, a total of 15 states had adopted both initiative and referendum and three more states had adopted one or the other.

The recall also appeared early in America. The 1780 Massachusetts Constitution stipulated that delegates to the Congress of the United States could be recalled at any time within their one-year terms, and others could be chosen and commissioned in their place.³⁵

In the late 1800s, recall was considered to be primarily a weapon against governors and the executive branch generally; whereas, initiative and referendum were being targeted to the legislative branch. Since governors at the turn of the century were more highly thought of than legislators, the recall movement did not have the impetus that the other two mechanisms had. Also, the states could not decide if members of the judiciary should or should not be included in the list of officials subject to recall. For these and other reasons, the move to adopt recall along with initiative and referendum did not materialize as quickly.

Texas, ironically, has no provision for any of the three citizen participation methods to be used at the state level, but about 100 years ago, shortly after the advent of commission government at the local level in Texas, the legislature began placing one or more of the three methods in the charters it issued. And to this day, the legislature has not enacted any law to block or even impede the use of the methods by home rule cities.

I R & R at the local level

The circumstances surrounding the arrival and installation in 1901 of the commission form of government in Galveston may have been the instigating factor for the addition of one or more of these three “direct” citizen processes in early Texas charters. The commission form utilized a five-member elected board that served as both legislative and executive branch and was acclaimed and embraced nationwide. The short ballot (in Galveston, it was five elected members of the governing body elected at large who replaced a mayor and 16 aldermen elected by wards) appealed to citizens. Praise

was widespread for its “businesslike” approach to city government.

To offset the criticism that the new form concentrated power in too few hands, the Texas Legislature began placing one or more of three “direct” methods in almost all of the special legislative charters issued to cities, beginning in 1907. All three features were placed in the Dallas and Fort Worth special legislative charters enacted in 1907, the Amarillo and Waco charters passed in 1909, and the Austin charter in 1911. Although all five of these cities, plus a host of others, changed from commission to council-manager forms of government in the next few years, IR&R remained in their charters.

NCL Model Charter

The eighth and latest edition of the NCL model city charter provides a comprehensive section that addresses a variety of issues regarding IR&R including: general authority, commencement of proceeding, petitions, procedures for filing, suspension of effect of ordinance, action on petitions, and the results of the election. Below is the language provided on General Authority from the NCL Model Charter:

General Authority for Initiative, Citizen Referendum, and Recall.

(1) Initiative. The registered voters of the city shall have power to propose ordinances to the council and, if the council fails to adopt an ordinance so proposed without any change in substance, to adopt or reject it at a city election, but such power shall not extend to the budget or capital program or any ordinance relating to appropriation of money, levy of taxes or salaries of city officers or employees.

(2) Citizen Referendum. The registered voters of the city shall have power to require reconsideration by the council of any adopted ordinance and, if the council fails to repeal an ordinance so reconsidered, to approve or reject it at a city election, but such power shall not extend to the budget or capital program or any emergency ordinance or ordinance relating to appropriation of money or levy of taxes.

(3) Recall. The registered voters of the city shall have power to recall elected officials of the city, but no recall petition shall be filed against any official within six months after the official takes office, nor, in case of a member subjected to a recall election and not removed, until at least six months after the election.

Charter provisions today

Today, an overwhelming number of Texas city charters call for all three, with the recall provision being the most prevalent; it is found in 93 percent of city charters. The initiative and referendum are provided for in 88 percent of charters. In virtually every charter, IR&R are the subjects of a separate article. Several cities make requirements that apply to all three items. Seguin authorizes the city secretary to use a sampling to check signatures against the voter registration list when the petition names exceed 1,000. There must be a minimum of a 25 percent sample. Several cities have provisions for a minimum turnout before the election will be declared successful, and a couple of cities require a second petition in the case of initiative and referendum. These provisions state that if the petitioners submit one petition and the city council fails to act, the petitioners must then go back and get additional signatures to force an election.

After an initiative or referendum is successful, cities provide various ways for reversing that decision. A few cities state that the council, within months, can simply reverse the decision without an extraordinary vote of any kind. But most charters provide a waiting period before the council can take any action to reverse the vote, and several charters require a majority or greater vote of the total council to reverse the action even after a waiting period. Some charters prohibit petitioners from coming forward on the same question more often than every six months.

Cities are almost evenly split over use of a petitioners’ committee (usually five or ten persons). Proponents of such a committee argue that requiring a committee places clear responsibility for the undertaking of initiative or referendum proceedings. Opponents find fault, however, in the fact that such a committee is given the authority to speak for hundreds or thousands of petitioners, and may agree to a city council compromise ordinance without consulting with the petition signers.

In some instances, charter writers have tried to save a little verbiage by combining petition percentages and other common language covering all three actions into one section, stating that it is speaking for all three mechanisms at once. This can be done if handled very carefully, but several charters trying to do this have confused the requirements. Even though it means repeating some requirements, the clearest and cleanest way to state the charter requirements is to do so one at a time for each of the three. In this way, there can be no doubt about meaning.

Finally, when reading the following charts regarding the percentage of signatures required to file a valid petition, it should be remembered that many cities, in addition to requiring a certain percentage of voter signatures, require a minimum number of signatures. The charter frequently provides that the petition must contain the greater of these two: a percentage or a minimum number.

Initiative provisions in charters

Most of the charters that provide for initiative prohibit petitions being presented to the council that address appropriating funds or authorizing the levying of taxes. Occasionally, a charter prohibits other initiated actions that the framers of the charter felt were inappropriate for citizen initiation.

Requirements on the number of required signatures vary widely. Some cities appear to purposely make it very difficult for voters to initiate ordinances; others have made it fairly easy. The actual requirements reported are:

Figure 15-1: Signature requirements for initiative*
Number of cities requiring “X” percent of all registered voters or of the number voting in the most recent election

Percent:	Registered Voters		Most Recent Election	
	1994	2008	1994	2008
3%	.5	1.0	0	0
5%	2.5	2.0	.5	1.0
10%	14.0	18.0	4.0	3.0
15%	9.0	8.0	3.5	3.0
20%	7.0	9.5	15.0	13.0
25%	6.0	2.0	19.0	20.0
30%	2.5	3.0	10.0	9.0
33/33.3%	0	.5	1.0	.5
35%	1.0	.5	0	0
40%	0	.5	1.5	1.0
50%	0	.5	2.5	2.0
51%	.5	1.0	0	.5
60%	0	.5	0	0

*Reading the chart: Using line 2 in the left-hand column, the figure means that signatures representing five percent of the voters must be secured; six cities require five percent of the registered voters; one city requires five percent of the last vote.

Referendum provisions in charters

Many cities and court decisions have declared several areas “off limits” for referendum petitions. Many charters prohibit referendum petitions on: (1) levying taxes, (2) appropriating funds, (3) ordinances fixing rates and charges for utilities, (4) annexations, and (5) ordinances authorizing the issuance of bonds that have been authorized by a vote of the people. Some cities prohibit referendum petitions relating to personnel and administrative matters. The requirements regarding the number of signatures is usually the same as for initiative petitions.

Figure 15-2: Signature requirements for referendum*
Number of cities requiring “X” percent of all registered voters or of the number voting in the most recent election

Percent:	Registered Voters		Most Recent Election	
	1994	2008	1994	2008
3%	.5	1.0	0	0
5%	2.0	1.5	.5	1.5
10%	13.5	16.0	3.0	3.0
15%	9.0	7.0	3.0	3.0
20%	6.0	11.0	16.0	12.5
25%	7.0	3.0	21.0	21.0
30%	3.0	3.0	10.0	10.5
33/33.3%	0	.5	1.0	.5
35%	1.0	.5	0	0
40%	0	0	0.5	1.0
50%	0	.5	2.5	2.0
51%	.5	1.0	0	0
60%	0	0	0	0

*See explanation under Initiative for example of using this figure.

Recall provisions in charters

The recall sections of charters have several provisions unique to that device. In less than 5 percent of charters, anywhere from one-tenth to one-half of all the petitioners must swear in the petition that they voted for the councilmember now the subject of their recall. In even fewer charters, candidates to replace the councilmember are listed on the ballot, so that if the citizens vote to recall the councilmember, the individual on the ballot with the most votes is elected at that same election to succeed the recalled individual.

Charters also vary as to whether accusations against a councilmember in a recall petition can be general or must list specific causes for action. North Richland Hills’ charter carries a notation immediately under Article XV on recall stating, “Note: Recall article of this charter has, by implication, been held to be invalid by a district court of Tarrant County in 1991.” According to the city attorney of North Richland Hills, the City of Lake Worth had copied the recall provision of North Richland Hills. This provision states:

Any city official elected by the people, shall be subject to recall and removal from office by the qualified voters of the city on grounds of incompetency, misconduct, or malfeasance in office.

A petition drive attempted to recall a councilmember in Lake Worth in 1991, and the court ruled that the provision was vague and unenforceable. This was a state district court decision that was not appealed. Therefore, the case’s value as precedent is minimal.

Most charter provisions on recall have a statement

that if the mayor or city council does not call a recall election when presented with a valid petition, the county judge shall discharge these duties. Still other charters attempt to place this duty on the district judge. These requirements also present problems because a city does not have the authority to prescribe duties for a county or district judge. The better remedy may be for the charter to provide that any citizen could file with the appropriate court for a writ of mandamus to force the city to call the election.

Finally, charters with recall provisions do have some restrictions on use. First, 55 percent of charters give a newly elected mayor or councilmember a few months on the job before they can be the subject of a recall petition. Our survey showed this grace period generally to be six months.

Similarly, 26 percent of charters provide that after having weathered a recall election, a councilmember may not be subjected to another recall election within a certain period of time. Our review of the charters showed an array of “waiting periods.” Again, six months was the norm, but the time frames ranged anywhere from one month to one year.

To save money on an election, 12 percent of charters make a specific provision that recall petitions will not be honored within a specified period before the person in question will come up for election. These times range anywhere from three months to one year, with three months being the most common, followed by six months.

Finally, there are Texas charters which provide that a councilmember will not be subject to a recall election more than once during a term of office. The survey results in this regard are:

IR & R in action

Our survey (Appendix A), which was sent to key officials in every Texas home rule city, asked how many times each of the three provisions had been used in the last five years. We chose five years because we felt institutional memory in most cities might not extend back beyond that period of time.

Initiative results from the survey

The initiative was reported to be used in 24 cities, a total of 41 propositions were presented to the voters, resulting in 31 propositions being approved by voters, seven being turned down by the voters, and three petitions being found invalid. The subject of the measures presented by the citizens varied widely—from an ethics ordinance to no smoking ordinances, as well as funding for facilities. But the largest number of petitions dealt with freezing property taxes for senior citizens and disabled veterans (authorized by separate state law), all of which were approved.

Referendum results from the survey

Eleven cities reported use of the referendum in the past five years. A total of 15 propositions were placed on the ballot with 10 being approved, three failing, and two instances where the city council took action, thereby removing the issue from the election process. We attempted to eliminate all charter and bond issue votes; our interest was in the traditional use of the referendum petition. Here again, the diversity in subject matter represented all sorts of issues, such as the sale of alcoholic beverages in city parks.

Recall results from the survey

Twelve cities reported recall elections in the past five years, with disappointing results for petitioners. Of the 28 individuals that were subject to recall, only twelve recall elections resulted in turning out the individual involved; whereas, the remaining 16 elections resulted in a failure to recall. One city reported that while the recall election may have failed, none of the candidates subject to the recall vote were elected in subsequent elections.

Summary of survey results

Clinton Rogers Woodruff wrote words in 1911 that are still being used by advocates of the three mechanisms. He said there had been too few IR&R elections up to that time to justify a sound conclusion, and then added, “it may, however, be fairly argued that their existence constitutes a substantial, and on the whole, an effective safeguard. Their value rests in their existence, rather than in their use.”³⁶ This appears to be the case in Texas today, with only 14 percent of all home rule cities being forced into IR&R elections in the last five years.

Figure 15-3: Signature requirements for referendum*
Number of cities requiring “X” percent of all registered voters or of the number voting in the most recent election

Percent:	Registered Voters		Most Recent Election	
	1994	2008	1994	2008
3%	0	1.0	0	0
5%	1.5	2.0	0	1.0
10%	9.0	18.0	1.0	3.0
15%	5.0	8.0	.5	2.5
16%	0	0	.5	.5
20%	6.0	9.5	7.5	13.0
25%	6.0	2.0	10.0	20.0
30%	8.0	3.0	20.0	9.0
33/33.3%	.5	.5	1.0	.5
35%	2.0	.5	2.0	0
40%	2.5	.5	2.5	1.0
50%	1.0	.5	5.0	2.0
51%	.5	1.0	8.0	.5
60%	0	.5	0	0

*See explanation under Initiative for example of using this figure.

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

Almost every city charter has a concluding article with contents so diverse that we found forty subjects covered in just a random look at seven charters. Altogether, the cities probably cover a 100 topics in this final article. Some of the paragraphs apply only to the particular city. Some emphasize important state laws by repeating them. We have chosen 25 subjects to highlight in this chapter. These subjects are generally the most frequently found in the General Provisions article; most of them are important, but do not fit neatly into any other article of the charter. A general summary identified five broad categories: standards of conduct, legal provisions, government operations, remainders and reminders, and continuity in change.

Standards of conduct and conflict of interest

Various provisions of the Texas Constitution and state statutes cover this general category. But many charters repeat or summarize the law to provide emphasis and easy access for charter readers.

Personal or financial interest – Over 78 percent of charters prohibit councilmembers from having any personal or financial interest in any contract with the city. Those charter provisions are more stringent than state law. Chapter 171 of the LGC allows councilmembers to vote on matters if they do not have a “substantial interest” in the business concerned; if the councilmember has a substantial interest, then he/she must declare it and refrain from voting.

The Beaumont charter speaks specifically regarding “Personal Interest” as follows:

Section 16.9 Officers or Employees Not To Have Financial Interest in Any Contract of the City.

No officer or employee of the City shall have a financial interest direct or indirect or by reason of ownership of stock in any corporation, in any contract with the City, or be financially interested directly or indirectly in the sale to the City of any land, materials, supplies, or services except on behalf of the City as an officer or employee; provided, however, that the provisions of this section shall only be applicable when the stock owned by the officer or employee exceeds one percent (1%) of the total capital stock of the corporation. Any willful violation of this section shall constitute malfeasance in office and any officer or employee guilty thereof

shall thereby forfeit the office or position. Any violation of this section with the knowledge expressed or implied of the person or corporation contracting with the governing body of the City shall render the contract voidable by the City Council.

Some cities have such stringent requirements regarding business ownership and financial disclosure that individuals with small businesses who might otherwise make excellent councilmembers choose not to run for the council because they do not want to disclose the names of their clients. In addition, financial disclosure requirements were added to state law in 2005 and 2007 (See Chapters 145 and 176, Local Government Code.)

Nepotism – Nepotism prohibitions are found in 79 percent of charters, although these prohibitions are typically not more stringent than state law, as has been done with personal and financial interest prohibitions for councilmembers. They have summarized the state nepotism law found in Section 573.041 of the Government Code. The state law, in prohibiting the city council from hiring any person who is related to a councilmember within the second degree by affinity (relationship by marriage) or within the third degree by consanguinity (relationship by blood), has three exceptions that many cities do not address. Many charters simply prohibit the potential conflict completely. The state law prohibition does not apply to relatives who were continuously employed by the city for: (1) at least 30 days, if the councilmember is appointed; (2) at least six months, if the councilmember is elected at an election other than the general election for state and county offices; or (3) at least one year, if the councilmember is elected at the general election for state and county offices. One cautious West Texas city prohibits employment within the fourth degree of affinity and consanguinity. Several charters include a nepotism provision applying to the city manager.

Acceptance of gifts – This prohibition is covered in 59 percent of charters. In many cities, the prohibition concerns only gifts received from the holder of a franchise. The Texas Penal Code has at least three sections that speak to the general question of gifts: Section 36.02 addresses bribery generally, Section 36.08 addresses bribes in return for help with bids or other financial transactions, and Section 36.09 addresses influencing a public official’s conduct or vote.

Political activity – Charters in 49 percent of cities have specific provisions outlawing or regulating political activity by city employees. Sections 150.002 and 180.001 of the LGC both prohibit fire and police personnel from taking an active part in another person’s political campaign for an elective position

in the community and prohibit an individual from coercing a fire or police officer to participate, or to refrain from participating, in a political campaign. Many charters have a general prohibition against officers or employees soliciting other employees for political purposes. La Grange has this language in its charter:

Section 11.03 Prohibitions

Activities Prohibited:

(3) No City official or employee, elected or appointed shall orally, by letter or otherwise solicit or assist in soliciting any assessment, subscription, or contribution for any political party or political purpose whatever from any subordinate City official or employee holding any compensated City position.

(4) No person who holds any compensated City position shall solicit or receive any contribution to the campaign funds of any candidate for municipal office or take any part in the management, affairs, or political campaign of any municipal candidate.

Legal provisions

Most charters have provisions that set forth certain legal precepts designed to give the city legal standing if taken to court. These include:

Construction of charter – A statement that the charter is a general grant of power and is not to be interpreted as limiting in any way.

Judicial notice – A typical statement: “This charter shall be deemed a Public Act, and shall have the force and effect of a general law, may be read in evidence without pleading or proof, and judicial notice shall be taken thereof in all courts and places without further proof.”

Separability/severability/partial invalidity – One of these terms is used to declare that the charter will remain intact even if one section, paragraph, or sentence is declared to be unconstitutional.

Publicity of records – This provision is generally a brief statement reflecting the Texas Public Information Act, which requires all city records, with a few exceptions, to be open to the public.

City required to give security or execute bond – Usually states that the city is exempt from having to post bond or security in any kind of court case.

Provision relating to assignment, execution, and garnishments – States that the city is not subject to these legal procedures.

Written notice of injury – Requires that individuals injured by reason of a city’s action or lack of action shall be required to give the city written notice of such claim within a certain number of days of the incident.

There have been several cases construing notice of claim ordinances to be in violation of the Open Courts provision of the Texas Constitution. In *Borne v. City of Garland*, 718 S.W.2d 22 (Tex. App. - Dallas, 1986), the court held that the 30-day notice of claim provision in the City of Garland’s charter was in violation of the constitution because it did not contain any exceptions such as “good cause” or “actual notice.” Also, in the case of *Fitts v. City of Beaumont*, 688 S.W.2d 182 (Tex. App. - Beaumont, 1985, writ ref’d n.r.e), the court held that the city charter provision requiring written notice within 60 days violated the Open Courts provision of the constitution.

Both cases generally discuss the statute of limitations in the Texas Tort Claims Act, which is six months, and discuss the fact that there was no exception for good cause shown. As a result of these two cases, cities have amended their charters or notice of claim ordinances to provide specifically that a six-month notice is sufficient if good cause can be shown. These changes were made to address the concern of the court in the above-cited cases. Great caution should be exercised in denying a claim based solely on the fact that notice was not given within the time allowed under the charter or the notice of claim provision; however, it is certainly within the city’s best interests to know as soon as possible about claims that may be made against it, and a charter provision or an ordinance such as this will certainly go a long way in accomplishing that purpose. The Temple charter has a detailed section on written notice:

Section 3.8. LIMITATION OF LIABILITY FOR DAMAGES

Before the City shall be liable for damages for personal injuries of any kind, or for injuries to or destruction of property of any kind, the person injured, or the owner of the property injured or destroyed, or someone on his behalf, shall give the City Manager notice in writing of such injury or destruction, duly verified, within sixty (60) days after the same has been sustained, stating in such written notice when, where, and how the injury or destruction occurred, and the apparent extent thereof, the amount of damage sustained, the amount for which claimant will settle, the actual residence of the claimant by street and number, and at the time the claim is presented, and the actual residence of such claimant for six (6) months immediately preceding the occurrence of such injuries or destruction, and the names and addresses of the witnesses upon whom he relies to establish his claim, and, further, that suit be filed thereon within six (6) months from the date such injuries were received or destruction suffered; and a failure to

notify the City Manager within the time and manner specified herein and a failure to file thereon with six (6) months from the date such injuries were received or such destruction suffered, either or both, shall exonerate, excuse and exempt the City from any liability whatsoever. Further, this section shall not apply to the taking, damaging or destruction of property as guaranteed and covered by Section 17 of Article 1 of the Constitution of Texas.

Oath of office – The oath for both elected and appointive officials is found in the Texas Constitution. This is one state requirement that does not need to be in the charter.

Contractual immunity - Section 51.074 of the Local Government Code has long provided that a home rule city may “plead and be impleaded” in court. Recently, a plaintiff sued a city, claiming that the language in Section 51.074 provides a waiver of the city’s governmental immunity. In Tooke v. City of Mexia, 197 S.W.3d 325 (Tex. 2006), the plaintiffs successfully bid on a city contract whose term was stated to be for a three-year period. Prior to the end of the three years, the city notified them that the city was “discontinuing” the contract for lack of funding. The plaintiffs sued for breach of contract, asserting that they had relied on a three-year term in purchasing equipment. The Supreme Court of Texas held that the contract covered a governmental function of the city from which it was immune from suit. That immunity was not waived by Section 51.075 of the Local Government Code, which provided simply that a home rule municipality “may plead and be impleaded in any court.” In 2005, however, the legislature provided a limited waiver of immunity for contractual disputes between vendors and cities by enacting Subchapter H of Chapter 271 of the LGC.

Government operations

A wide variety of provisions specifically addressed to city operations may be found in one or more charters. These include authority to:

- Condemn dangerous structures,
- Provide retirement and health insurance for city employees,
- Provide diversity on city boards and commissions, and
- Give citizens priority in city employment.

Reminders and reminders

Many charters have unrelated provisions that do not fit readily in other sections but generally enable actions or serve as a reminder of actions mandated, and may include:

Rearrangement and renumbering – Authorizes the city council

to rearrange and renumber articles and sections in the charter to place like content together and construct a logical ordering of the articles.

Gender – Some charters have a provision to make the charter gender neutral.

Recording of the charter – Reminds future city officials of the necessity to comply with Sections 9.005, 9.007, and 9.008 of the LGC, regarding filing the charter with the city secretary and with the Secretary of State’s office.

Official newspaper – Some charters name the official newspaper in which to publish the official city notices.

Continuity in change

Most charters have some language that addresses the question of the transition when a city adopts a new charter or makes major structural changes, such as changing the form of government. Provisions that may be found in this regard include:

Interim government/continuation of officers/transfer of power, duties, and responsibilities (charters use one of these terms) – These items are self-explanatory. Several charters might be consulted here for anyone wishing further information on any of the above.

Continuance of contracts – States that contracts already in force will not be affected by the new charter.

Effective date of charter – Self-explanatory.

Adoption of charter – Sets forth a brief report of the charter commission and the date and procedure for election.

Disaster clause – Only a few cities have any provision for emergency succession in the event all or a majority of the governing body is killed or incapacitated by some event. The City of Allen has this provision:

Section 10.09 Disaster clause.

In case of disaster when a legal quorum of elected councilmembers cannot otherwise be assembled due to multiple deaths or injuries, the surviving member or members of the elected council, or highest surviving city official, if no elected official remains, must within twenty-four (24) hours of such disaster, request the highest surviving officers of the local chamber of commerce and the board of trustees of the local school district, and the county judge of Collin County to appoint a commission to act during the

emergency and call a City election within fifteen (15) days of such disaster for election of a required quorum, if for good reasons it is known a quorum of the present Council will never again meet.

State law addresses emergency succession for the governor and the legislature and allows local governments to prepare a succession plan to be used in time of disaster. However, the State's Emergency Management Plan requires cities and counties in their local emergency plans to have a section on "continuity of government - line of succession" in which they set out how the city would be governed in the event a legal quorum of the elected councilmembers cannot be assembled due to multiple deaths or injuries.

Summary

This listing of items generally found in a city's charter under the title "General Provisions," is only a sample of the content of Texas charters in this last article.

We will repeat that some of these sections are a summary of state law and do not have to be stated in the charter. However, it may be important to repeat some of the more prominent state laws in an appendix to the charter to help individuals reading the charter become fully aware of the relationships of state law to charters and to remind them of some of the basic ground rules of city governance.

In Chapter 4, we discussed the legal requirements for adopting a new charter and amending an existing one. We will now consider some of the practical problems in deciding the subject and number of amendments for the ballot.

Charter revision commissions

Most cities address amendments near the end of their charters. Several charters mandate city council consideration of charter revisions every five or ten years; others provide for appointment of a charter revision commission periodically, but leave details to the sitting council.

A small percentage of cities provide instructions for appointment and list detailed responsibilities of a charter revision commission. The Pflugerville charter has a section that is typical of these charters:

Figure 18-1: Section 11.11 Charter Review

Section 11.11. Charter Review.

(a) Charter review commission: Two years after the adoption of this charter and every five years thereafter, the council shall appoint a Charter Review Commission composed of not fewer than thirteen nor more than twenty members who meet the requirements of section 8.02. Appointment shall be made at the first regular meeting following the anniversary date of the charter's adoption. The Charter Review Commission shall serve for six months, or a longer term if extended by the city council, and shall meet at least once each month during its term. The mayor shall appoint three members and each council member shall appoint two members to serve on the Charter Review Commission. Remaining members shall be appointed by majority vote of the city council.

(b) Rules of procedure: The commission must establish its own rules of procedure, which must require that a quorum consists of a majority of its members and that an affirmative vote of a majority of all members present is necessary to act.

(c) Powers and duties: The Charter Review Commission shall:

1. Inquire into the operations of city government and review the city charter to determine whether it requires revision. Public hearings may be held and the commission shall have the power to compel the attendance of city officers or employees and to require the submission of city records necessary to its inquiry and review.

2. Propose any recommendations it deems desirable to ensure compliance with charter provisions by city departments.

3. Propose any charter amendments it deems desirable to improve the effective application of the charter to current conditions.

4. Make a written report of its findings and recommendations to the city council.

(d) Council action: The council shall receive and have published in the city's official newspaper the Charter Review Commission's final report. It shall consider any recommendations and, if any amendments are presented, shall order the amendment or amendments submitted to the voters of the city.

There are several interesting provisions in that section. The appointment of such a commission every five years is, in our opinion, a reasonable period of time to call for a review of the charter and any problems manifested in the last five years as a result of charter provisions. Some cities mandate a review every ten years. Many charters provide for review every two years. Two years may be more frequent than necessary for review of such a basic—presumably general—document. In addition, to provide for less than two years would be time consuming and impracticable as the Texas Constitution, art. XI, § 5 provides, “Furthermore, no city charter shall be altered, amended or repealed oftener than every 2 years.”

The commission called for in the Pflugerville charter – and others like it – have the power, by some language or another, to inquire into the operations of the city. This is a fairly open-ended invitation for a citizen body and it may account for the reason that only a limited number of charters provide for this type of authority.

Several charters require the city council to publish the report of the commission in a public newspaper. In some cases, a summary of the report, including any suggested charter amendments recommended by the commission, is required. Another city requires the city council to post in three public places the findings of the commission.

Only one city charter states that after publication in a newspaper, if the commission has recommended any charter amendments, “the council shall order such (emphasis supplied) amendment or amendments to be submitted to the voters of the City.” This last particular provision could have some ramifications, particularly if the city council did not care for one or more of the amendments proposed.

Finally, of the charters with redefined charter commission responsibilities, almost all of them limit the life of the review commission to six months, at the end of which it is to file its report.

One community adopted a charter amendment extending the life of the commission for the full four years until appointment of a new commission is required. That same city also has a provision in its charter under which 100 or more citizens (qualified voters) may “require the city council to show cause as to an alleged noncompliance with the articles and sections of this charter.” These two provisions are not found in any other charter in the state. Both actions apparently would require the current city council as well as future governing bodies to live with provisions that were, in all likelihood, directed to some action(s) of a previous council.

The majority of city charters that contain such detail are found in cities with populations below 10,000. Outside of that, there is really no other identifying factor, as they are located throughout the state and are represented in both forms of government.

The great majority of charters leave consideration of amendments to the city council. If citizens believe charter revision is necessary, then can inform the city council. If nothing is done, they can replace them.

Practical consequences regarding amendment elections

Many mayors and councilmembers keep little notebooks or other records noting sections, paragraphs, and/or phrases in the charter about which they have questions. At some time during their years of service, one of their personal questions or a particular incident may prompt city councils and city administrators to begin to think about a charter amendment election.

Sometimes at a “work session” of the council, the subject is broached and some thinking begins in earnest about the possibility of considering charter amendments. One of the interesting dynamics of this process is that there may be provisions in the charter that the council would just as soon be overlooked. These provisions may include terms of office, the manner in which the council is elected, the appointment of certain officials, or many other matters. There also may be subjects not now in the charter which consideration of a charter amendment election would bring to the forefront. The best example here is probably the question of term limits, but it is only one of a number of possibilities that arise when an election is considered. The numerous possibilities and their complexity may lead some individuals to favor keeping the problems in the current charter rather than opening “Pandora’s box.” And this may explain why charters are not amended very often.

If the decision is made to go forward and consider revision, the council will want to ask the city attorney to devote a substantial amount of time to answering questions about possible amendments and to carefully reviewing the laws affecting the charter. TML also is prepared to advise on possible language and answer other types of questions. Cities should pay particular attention to eliminating conflicting language in the charter—language that may exist now or will exist if certain changes are made. Examples pointed out in previous chapters

include charters that call for both majority and plurality vote for city council, and others that provide that the city council and the city manager can both terminate employees.

A subject that always arises when deciding about an election is how to handle provisions in the charter superseded by state law. It requires serious thought. It is hoped the alternatives presented in Chapter 3 may be of some value to city council and charter commissions when reviewing such questions. One city tried to anticipate federal and state law overriding charter language and recently adopted this amendment:

Amendments to this Charter may be made in the following manner:

(A) In the event amendment is necessitated by a preemptive state or federal law, by statute, court decision, or administrative action, and such preemptive law or regulation is mandatory in its governance of this City, despite any action by the voters either for or against such a proposed amendment, then, and only in such an event, shall the City Council itself act to amend the Charter by ordinance. Upon the passage of such ordinance, a copy thereof, certified by the City Secretary and filed with a copy of this Charter, shall be forwarded to the Secretary of State for filing, as well as certified copies of such ordinance being filed with other appropriate offices.

This type of amendment has a worthy goal—to keep the charter updated at all times. Unfortunately, state law does not set out this procedure as a recognized method of amending a charter. It is thus presumed that a court would not uphold this amendment should some legal question arise.

Amendment adoption results

Our survey instrument asked cities to indicate the date of the last charter amendment election held, the number of voters, the registered voters at that time, population of the city, and the results (number of propositions submitted and number favored by the voters).

Several facts stand out as we view the tabulation of those questions.

Most charters have been amended fairly recently, more than 42 percent in the last eight years. In response to the question asking the last time the charter was amended, the following answers were given:

Figure 18-1: Most Recent Charter Amendments by Decade

No amendments	70
Between 1950 and 1959:	3
Between 1960 and 1969:	4
Between 1970 and 1979:	11
Between 1980 and 1989:	38
Between 1990 and 1999:	78
Between 2000 and 2008:	147

These figures would seem to indicate that cities—voluntarily or pushed by one or more citizens’ groups or the electorate as a whole—are responding to a variety of demands for changes in the charter. This would include: (1) allowing the city to respond to broader representation on the city council, and at the same time, term limits on city councils; (2) keeping the charter abreast of changes in state laws; and (3) streamlining administrative responsibility.

Charter amendments appear to be a constant at the ballot each year. For elections held beginning in 2000 and through 2007, 112 cities reported a total of 1,227 proposed amendments being placed on the ballot. When asked regarding the communities most recent charter amendments, the breakdown was as follows:

Figure 18-3: Number of Amendments Submitted to Voters, 2000-2007

Year	# of cities	# of amendments submitted to the voters
2000	5	17 amendments
2001	7	94 amendments
2002	7	52 amendments
2003	9	113 amendments
2004	9	106 amendments
2005	20	215 amendments
2006	32	392 amendments, 81 were for 1 city
2007	23	235 amendments, 70 were for 1 city

The most discouraging note was probably the voter turnout. It was not unusual in those amendment elections for only one or two percent of the registered voters to turn out. That means that less than 1 percent of the entire population are in some cases making amendments to the city charter. Even when there were a large number of amendments, voter turnout remained low. In 2006, one city proposed 81 amendments and only 14 percent of the registered voters participated, which was six percent of the total population approving 80 of the 81 proposed amendments. The following year, another city proposed 70 amendments, this time only 11 percent of the registered voters cast their vote in the election, again this was 6 percent of the total population. The larger cities typically report more interest and a higher turnout in amendment elections.

One amendment elections

It is interesting to note that, for elections held beginning in 2000 and continuing through 2007, 20 cities presented only one amendment to their voters. Several of the seven cities had no choice because of unique circumstances, but there are significant disadvantages to submitting one amendment: (1) whether one amendment or twenty pass, the city cannot hold another charter amendment election for two years; and (2) whether an election is held to consider one amendment or twenty, the cost would be almost the same.

Summary

Decisions on charter amendment elections, like many government decisions, evolve more from intuition and practice than rules and law. The historic infrequency (10-20 years apart) of charter amendment elections is, however, a guide: move slowly and cautiously to avoid future confusion and costs.

Editor's Note: This is the original "Afterword" from the 1994 version. It still rings just as true today as it did then.

Afterword

Before the days of copy machines and computers, the new city manager of a city with 20,000 population was interviewing the chief building inspector about the procedures used in administering the zoning ordinance and the building, plumbing, and electrical codes. When the inspector showed him his files, the manager was surprised to see originals of letters to contractors and others rather than file copies. He asked if someone had failed to mail the originals and they got back in the files by mistake.

"No," was the reply, "we always mail the carbon copy to the addressee and keep the original in our files. That way our files stay neat and clean. Carbon copies mess up our files." The manager made a note to check the legality of the action and the effect on the recipients who might think receipt of a carbon copy meant the city didn't consider them very important.³⁷ This incident assuredly later became a personnel workshop example of overemphasis on processes rather than goals!

This handbook is about structure and processes and does not directly emphasize delivering quality services in an efficient manner. However, we strongly believe that city hall's services can be delivered more effectively and efficiently if we take the time to make our structure and our processes as clean and clear as possible.

The danger is in making structure and processes an end rather than a means to an end. A well-written, coherent charter is not an end; it is a foundation on which to build an effective organization equipped to master the challenges facing cities today. Properly drawn, a charter is a legal guideline comparable to a roadmap. It is a continually available reference for principles and requirements to guide actions that avoid policy "potholes." It can be brought forward every five or six years and reviewed to see if any legal provisions need updating. In writing this handbook, we have tried to show the charter as an instrument that should set forth clear instructions on organization, duties, responsibilities, and authority in order that the maximum time and energy of city officials can be expended in "results-oriented" activities.

Three conditions of the current status of cities stood out for me as we researched and wrote this book. The first: Texas urban citizens have sharply divided opinions about the effectiveness of their city officials. The positive votes predominant in charter elections statewide and the reluctance to "fire" city officials, evident in unsuccessful recall elections,

both reflect more confidence in city government than is shown in the media. Citizen participation is also at an all-time high. On the other hand, low voter turnout, frequent defeat of incumbents, and the increasing adoption of term limits for elected officials reflect the national trend toward distrust of government.

The second condition: the council-manager plan is the number one choice as a government form. Only 13 percent (**Editor's note:** now down to nine percent) of the charters call for mayor-council form of government. If you subtract from the number reflected in this percentage the cities utilizing an optional city manager for many years, there are less than 25 charters operating under the mayor-council form of government. The council-manager plan has served the citizens of Texas well. Despite talk from time to time in some of the larger cities of changing the form of government, there doesn't appear to be any real sentiment toward change. A charter revision commission in Austin recently showed absolutely no interest in discussing the matter as a possible charter amendment. City councils apparently remain dedicated to the fact that professional administration is a strong plus for the city.

And the third condition: Texas city charters are fairly well-written, but some are sources of problems caused by a weak original draft document. Too many charters appear to have been copied from neighboring cities without considering whether the original was well written and stated correctly. Charter commissions need advice from knowledgeable city administrators and attorneys as well as other sources on specialized subjects. Lack of knowledge or carelessness have created documents with contradictions and confusing language, leading to contradictory and confusing interpretations.

The observations above come from reading Texas city charters and the survey data accumulated as part of this project. The content was a mix of initiative, innovation, borrowed ideas, and local politics. The presentation methods were a mix of bound copies (plain or with color), age-yellowed newsprint copies, stapled copies, and computer printouts with pages not yet separated. The charter language is as diverse as the cities served. Some retain the language of the days when horses and buggies were downtown traffic. Some expound endlessly on every possible legal problem that have only a remote chance of surfacing from now until eternity. Some are so succinct that not a single word is unnecessary.

Regardless of the diversity of language, the test of charter quality is whether it establishes a sound legal and procedural structure that enables elected and appointed city officials to focus their total energy on the substantive problems that plague their cities.

Challenges facing cities today

The most pervasive problems in Texas cities today are the problems of our complex society. Their severity has escalated partly because cities have traditionally focused their efforts on basic services, such as fire and police, utilities, and street maintenance, rather than personal human service problems. Almost simultaneously with a tight economy, unparalleled population growth, and cutbacks in funding from state and federal levels, cities are faced now with rising costs for traditional services, and with crime, homelessness, and mandated environmental cleanup and control. An increasing alienation of citizens disappointed with official response to problems produces the unrelenting pressure of bitter criticism, expressed individually and through special interest groups.

Sociological problems, particularly crime and drugs, unemployment, and environmental pollution, know no boundaries. They are not exclusive to large cities but have spread into the small towns as well.

Cities need the best in elected and appointed leadership to meet and overcome their challenges. Every city needs strong mayors (in both forms of government), dedicated city councilmembers and committed city managers today and for the future. We need leaders who can motivate broad participation, build teamwork, assess and redefine programs and services, develop strategies to link programs and services to citizens, evaluate and utilize community resources, explore new ways to generate revenue, encourage collaboration with other governmental agencies and in the private and nonprofit sectors, promote fiscal responsibility to pay now rather than later, and restore the community-wide view to counterbalance special interest influence.

A widely held perception of citizens today is that they are not represented in government, according to William Greider, author of Who Will Tell The People? He says citizens are alienated from government by their inability to find a place where they can make their voice heard and by their conviction that the language of the system, understood by experts but not ordinary people, also shuts them out. It is imperative, he says, for governing officials to invent new ways to get people back in touch with government.³⁸

A review of contemporary comments by experts on city problems today reveals a serious underlying weakness that impedes problem solving—the lack of a sense of common bonds and goals that unite the governing and the governed. It is not a new problem. On the contrary, it is as old as the art of governing; and many voices from the past bequeathed words of guidance.

For governing officials, the advice is embodied in the oath taken more than a thousand years ago by ancient Greeks whose culture rested on the political organization of the city-state:

WE WILL EVER STRIVE FOR IDEALS AND SACRED THINGS OF THE CITY, BOTH ALONE AND WITH MANY: WE WILL UNCEASINGLY SEEK TO QUICKEN THE SENSE OF PUBLIC DUTY; WE WILL REVERE AND OBEY THE CITY'S LAWS: WE WILL TRANSMIT THIS CITY NOT ONLY NOT LESS, BUT GREATER, BETTER, AND MORE BEAUTIFUL THAN IT WAS TRANSMITTED TO US.

For the governed, the advice is embodied in the words spoken more than three hundred years ago by John Winthrop, the first governor of Massachusetts Bay Colony: “We must delight in each other, make others’ conditions our own, rejoice together, mourn together, labor and suffer together, always having before our eyes our community as members of the same body.”³⁹

When Texas city officials and citizens restore their sense of union and commitment, they can build communities in which mutual respect will supersede charter provisions, laws, and the courts as the first consideration for policy and administrative decisions.

1 Concept and history of local Self-government

1. Charles S. Rhyne, The Law of Local Government Operations, p. 1
2. John P. Keith, City and County Home Rule in Texas, p. 9.
3. City of Clinton v. Cedar Rapids and Missouri River Railroad Co., 24 Iowa 455, 475 (1868).
4. Atkin v. Kansas and Trenton v. New Jersey, 191 U.S. 207, 220-221 (1903); 262 U.S. 182, 185-187 (1923).
5. Dick Smith, "The Development of Local Government Units in Texas," unpublished doctor's dissertation, p. 105.
6. H.P.N. Gammel, ed., Laws of Texas, 1822-1897, as quoted by Smith, p. 110.
7. Ibid, p. 114.
8. Acts 1874, 14th leg., p. 140, ch. 100; 8 Gammel's Laws 142, as quoted in Trueman O'Quinn, Title 28: Cities, Towns, and Villages, History, Status, and Function, Revised Civil Statutes of Texas, 1963.
9. Keith, op. cit., p. 24.
10. Delbert A. Taebel, A Citizen's Guide to Home-Rule Charters in Texas, p. 1.
11. Keith, op. cit., p. 29-44.
12. George D. Braden, The Constitution of the State of Texas: An Annotated and Comparative Analysis, p. 688.
13. Ibid., p. 688.
14. Bureau of Municipal Research. Units of Local Government in Texas, p. 33.
15. Wilfred D. Webb, Municipal Home Rule Charters in Texas, p. 8.
16. Smith, op. cit., p. 148.
17. State v. Vincent, 235 S.W. 1084 (Tex. 1920).

2 Advantages of home rule status

18. This chapter is lifted almost verbatim from a publication of the Texas Municipal League: They are: Handbook for Mayors and Councilmembers, September, 2009.
19. Forwood v. City of Taylor, 214 S.W. 2d 282 (1948).
20. Urban Policy Group, the White House (Washington, D.C.: 1978) Unpublished.

5 General design and format of charter

21. Taebel, op. cit. p. 29.

6 Form of government

22. Chang, Tso Shuen, History and Analysis of the Commission and City Manager Plans of Municipal Government in the United States, n.d.

7 Powers of city

23. Much of the material in this chapter is taken directly from The Handbook for Mayors and Councilmembers: Home Rule Cities, Texas Municipal League.

8 The mayor

24. Peirce, Neal, Citistates, p. 325.

25. Tari Renner and Victor S. DeSantis, "Contemporary Patterns and Trends in Municipal Government Structure, The Municipal Year Book, 1993, p. 57-69. See *also*, Taebel, op. cit., Section 5.

26. For a fuller discussion of the role of the mayor in both forms of government, see James H. Svava, Official Leadership in the City: Patterns of Conflict and Cooperation.

9 The city council

27. Delbert A. Taebel, "Alternative Remedies Under the Voting Rights Act," Public Affairs Comment, p. 5.

28. School of Social Sciences, The University of Texas at Dallas, "City of Dallas, Citizens Charter Review Committee: Decision Guide," unpagged, 1989.

29. Stone v. City of Wichita Falls, 477 F. Supp. 581 (D.C. 1979); aff'd 646 F 2d 1085; cert. den'd 102 S. Ct. 637.

13 Departments, offices, agencies and boards

30. Herman James, A Model Civil Service Code for Texas Cities.

31. Gammel's Laws, Vol. II, p. 94-99.

32. *Ibid.* Vol. V, p. 1527-1570.

33. Revised Civil Statutes, Articles 4430-4431.

15 Initiative, referendum and recall

34. For a discussion of the entire initiative, referendum and recall movement, including its historical beginnings, see Thomas E. Cronin, Direct Democracy: The Politics of Initiative, Referendum, and Recall.

35. Ibid. p. 42.

36. Clinton Rogers Woodruff, ed., City Government by Commission, p. 314. Although this book is primarily about the rise of the commission form of government in the United States between 1901 and 1911, it addresses the subject of IR&R in a substantial way as it argues that the three mechanisms were used in local government in the commission form of government as one way of assuring the citizenry that the small elected commission could be held accountable to the voters.

19 Afterword

37. LeRoy F. Harlow, Without Fear or Favor, p. 212.

38. See William Greider, Who Will Tell the People.

39. John Winthrop, "A Model of Christian Charity," Puritan Political Ideas, 1558-1794, p. 92.

APPENDIX A

Texas Municipal League home rule charter survey

City: _____ Date: _____

Completed by: _____ E-mail: _____

Title: _____ Phone: _____

Note: Unless otherwise indicated, the answers below should be based on current charter provisions. Please enter all of the information below even if some of it may be spelled out in your charter. If you have questions regarding this survey, please contact Scott Houston with the TML legal department at (512) 231-7400.

Form of Government

a) Council-Manager b) Mayor-Council c) Commission d) Other

Mayor

Is mayor member of gov. body?

a) Yes b) No

Selection of mayor

a) Elected b) By council c) Other

Authority of Mayor

Appoints boards and commissions

a) Yes b) No

—w/approval of council

a) Yes b) No

Regular vote

a) Yes b) No

Vote only in tie

a) Yes b) No

No vote

a) Yes b) No

Enumerated ceremonial duties

a) Yes b) No

Martial law

a) Yes b) No

Enumerated emergency powers

a) Yes b) No

Appoint CAO

a) Yes b) No

Appoint department heads

a) Yes b) No

— w/approval of council

a) Yes b) No

Prepare budget

a) Yes b) No

Mayor veto

a) Yes b) No

Council

Total on council

Number of members for regular meeting quorum

Number of members for special meeting quorum

Number of votes for council to take action on ordinary matters

a) Majority of those present b) Majority of quorum c) Majority of total council

Residency length requirement

a) Yes b) No

If yes to previous question

a) 6 mo b) 1 yr c) 2 yrs d) Other e) Not specific

Reside in district

a) Yes b) No

Owner of property

a) Yes b) No

Minimum age

Registered/qualified voter

a) Yes b) No

Barred if tax delinquent

a) Yes b) No

Other qualifications

a) Yes b) No

Missed meetings vacancy

a) Yes b) No

Council votes to impeach

a) Yes _____# b) No

Council votes to override mayoral veto

a) Yes _____# b) No

Elections

In some cities, a federal court or the U.S. Department of Justice has mandated a new way of electing city council members, BUT the charter has not been changed to reflect this new method. If your city council is NOT elected the way your charter currently reads, please check here _____.

Uniform election date to hold regular city election	a) May	b) November	c) Other
Filling one vacancy	a) Appointment	b) Election	c) Either
Filling two vacancies	a) Appointment	b) Election	c) Either
Term limit applies	a) council and mayor	b) Separately	c) n/a
Terms staggered	a) Yes	b) No	c) n/a
Elections by	a) Majority	b) Plurality	
Name on ballot	a) Fill out form	b) Petition	c) Other
If petition, number of names	_____		
Fee for name on ballot	a) Yes \$ _____	b) No	

Election Turnout

Date of most recent mayor/city council election	_____ (MM/DD/YY)
Contested?	a) Yes b) No
If yes, number voting in election	_____
Total registered at time of election	_____
Population at time of election	_____
Date of next most recent mayor/city council election	_____ (MM/DD/YY)
Contested?	a) Yes b) No
If yes, number voting in election	_____
Total registered at time of election	_____
Population at time of election	_____

Council Meetings

Required	a) Weekly	b) Twice/mo	c) Once/mo	d) Not specific
Actual	a) Weekly	b) Twice/mo	c) Once/mo	d) Not specific
Mayor Term	a) 1 yr	b) 2 yrs	c) 3 yrs	d) 4 yrs
Council Term	a) 1 yr	b) 2 yrs	c) 3 yrs	d) 4 yrs
Term limits	a) Two	b) Three	c) Four	d) Four+ e) n/a

Mayor Salary

Salary	a) Yes	b) No			
\$ _____ Per:	a) Mtg	b) Wk	c) Mo	d) Yr	e) Other
Salary set by Council	a) Yes	b) No			
Expenses:	a) Yes	b) No			
\$ _____ Per:	a) Mtg	b) Wk	c) Mo	d) Yr	e) Other
Expenses set by council	a) Yes	b) No			

Mayor Pro Tem Salary

Salary	a) Yes	b) No			
\$ _____ Per:	a) Mtg	b) Wk	c) Mo	d) Yr	e) Other
Salary set by Council	a) Yes	b) No			
Expenses	a) Yes	b) No			
\$ _____ Per:	a) Mtg	b) Wk	c) Mo	d) Yr	e) Other
Expenses set by council	a) Yes	b) No			

Council Salary

Salary	a) Yes	b) No			
\$ _____ Per:	a) Mtg	b) Wk	c) Mo	d) Yr	e) Other
Salary set by Council	a) Yes	b) No			
Expenses	a) Yes	b) No			
\$ _____ Per:	a) Mtg	b) Wk	c) Mo	d) Yr	e) Other
Expenses set by council	a) Yes	b) No			

Appendix A

City Manager

City manager established by charter	a) Yes	b) No	
City manager established by ordinance	a) Yes	b) No	
*If yes, please <u>enclose</u> a <u>copy</u> of the <u>ordinance</u> .			
Former member of CC not eligible for	a) 1 yr	b) 2 yrs	c) n/a
Manager participates in CC mtgs	a) Yes	b) No	
Vote required to hire manager	a) Majority	b) Majority of CC	c) Other
Hearing provided to discharge manager	a) Yes	b) No	
Council prohibited from interference in personnel matters	a) Yes	b) No	c) n/a
All department head appointments require confirmation by council	a) Yes	b) No	
If not all dept heads, which of the following require confirmation?			
Finance Director	a) Yes	b) No	
Police Chief	a) Yes	b) No	
Other _____	a) Yes	b) No	
Vote required to discharge manager	a) Majority	b) Maj of CC	c) Other

City Clerk/Secretary

Title	a) City Clerk	b) City Secretary	
Appointed by	a) Manager d) CC on rec of Mgr g) Mayor w/CC approval	b) Mgr w/CC approval e) Mayor	c) Council f) Mayor on rec of mgr
Term	a) 1 yr d) 4 yrs	b) 2 yrs e) Pleasure of CC	c) 3 yrs f) Other g) n/a

City Attorney

Appointed by	a) Manager d) CC on rec of Mgr g) Mayor w/CC approval	b) Mgr w/CC approval e) Mayor	c) Council f) Mayor on rec of mgr
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Municipal Judge

Appointed by	a) Manager d) CC on rec of Mgr g) Mayor w/CC approval	b) Mgr w/CC approval e) Mayor h) Elected	c) Council f) Mayor on rec of mgr
Term	a) 1 yr d) 4 yrs	b) 2 yrs e) Pleasure of CC	c) 3 yrs f) Other g) n/a

Municipal Court Clerk

Appointed by	a) Manager d) CC on rec of Mgr g) Mayor w/CC approval	b) Mgr w/CC approval e) Mayor f) Mayor on rec of mgr	c) Council
Term	a) 1 yr d) 4 yrs	b) 2 yrs e) Pleasure of CC	c) 3 yrs f) Other g) n/a

Financial Administration

Outside audit required	a) Yes	b) No	
Fiscal year begins (month)	1 2 3 7 8 9	4 5 6 10 11 12	
FY may be changed by ordinance	a) Yes	b) No	
Borrowing auth in anticipation of revenue	a) Yes	b) No	c) n/a
Limits set on sale of real property	a) Yes	b) No	c) n/a
Limits set on sale of personal property	a) Yes	b) No	c) n/a
Vote required for adoption of budget	a) Simple Majority	b) Maj of CC	

Texas Home Rule Charters

If no vote by EOFY	a) Mgr/Mayor's budget effective	b) Continuation of last yr		
	c) No provision	d) Other		
Detailed budget requirements	a) Yes	b) No	c) n/a	
Revenues must equal expenditures	a) Yes	b) No	c) n/a	
Transfer of appropriations	a) Mgr btwn depts	b) w/approval of CC	c) Council	
Capital budget or program	a) Yes	b) No	c) n/a	
Vote required to set tax rate	a) Yes	b) No	c) n/a	
Vote required to submit bond election	a) Yes	b) No	c) n/a	
Purchase limit before CC must act	\$ _____			
Purchase limit before written bids required	\$ _____			
Charter maximum tax rate:	a) Yes	b) No	c) n/a	
If, yes: Operating	\$ _____	Debt Service	\$ _____	Total \$ _____

Initiative, referendum, recall

Charter provides for initiative a) Yes b) No c) n/a
 If yes, _____% of a) Registered b) Last vote c) Minimum names _____
 If yes, how many times during the past five years has this provision been used by the citizenry and what were the results:

<u>Year</u>	<u>Subject</u>	<u>Resulting Action</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Charter provides for referendum a) Yes b) No c) n/a
 If yes, _____% of a) Registered b) Last vote c) Minimum names _____
 If yes, how many times during the past five years has this provision been used by the citizenry and what were the results:

<u>Year</u>	<u>Subject</u>	<u>Resulting Action</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Voluntary referendum a) Yes b) No c) n/a
 Charter provides for recall a) Yes b) No c) n/a
 If yes, _____% of a) Registered b) Last vote c) Minimum names _____
 If yes, how many times during the past five years has this provision been used by the citizenry and what were the results:

<u>Year</u>	<u>Position (Mayor/Councilmember)</u>	<u>Result</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Limits on recall a) Yes b) No c) n/a
 If yes, not before 6 months a) Yes b) No c) n/a
 If yes, after unsuccessful election a) Yes b) No c) n/a
 If yes, before election a) Yes b) No c) n/a

Charter and Amendments

Year of adoption of first charter _____
 Year of latest amendment _____
 Charter revision commission required every a) 5 yrs b) 10 yrs c) 15 yrs d) Other e) State Law f) Not addressed
 Charter revision commission presently underway? a) Yes b) No

Texas Home Rule Charters

Nepotism prohibited	a) Yes	b) No	c) n/a
Personal interest in contracts prohibited	a) Yes	b) No	c) n/a

Miscellaneous

Vote required to grant franchise	a) Majority	b) Maj of CC			
Gross receipts	a) 1%	b) 2%	c) 3%	d) 4%	e) Not specified
Franchise subject to referendum	a) Yes	b) No	c) n/a		
Maximum franchise (yrs) specified	a) 10	b) 15	c) 20	d) 25	e) 30 f) Not
Council required to adopt comp plan	a) Yes	b) No	c) n/a		
Redistricting commission established	a) Yes	b) No	c) n/a		
Eminent domain restrictions	a) Yes	b) No	c) n/a		
Revenue cap	a) Yes	b) No	c) n/a		
Annexation authorized	a) Yes	b) No	c) n/a		
Disannexation authorized	a) Yes	b) No	c) n/a		

APPENDIX B

Texas Constitution Article XI, Section 5

Home Rule Adoption and Amendments To Charter

Sec.5.CITIES OF MORE THAN 5,000 POPULATION; ADOPTION OR AMENDMENT OF CHARTERS; TAXES; DEBT RESTRICTIONS.

Cities having more than five thousand (5000) inhabitants may, by a majority vote of the qualified voters of said city, at an election held for that purpose, adopt or amend their charters. If the number of inhabitants of cities that have adopted or amended their charters under this section is reduced to five thousand (5000) or fewer, the cities still may amend their charters by a majority vote of the qualified voters of said city at an election held for that purpose. The adoption or amendment of charters is subject to such limitations as may be prescribed by the Legislature, and no charter or any ordinance passed under said charter shall contain any provision inconsistent with the Constitution of the State, or of the general laws enacted by the Legislature of this State. Said cities may levy, assess and collect such taxes as may be authorized by law or by their charters; but no tax for any purpose shall ever be lawful for any one year, which shall exceed two and one-half percent of the taxable property of such city, and no debt shall ever be created by any city, unless at the same time provision be made to assess and collect annually a sufficient sum to pay the interest thereon and creating a sinking fund of at least two per cent thereon. Furthermore, no city charter shall be altered, amended or repealed oftener than every two years.

Amended Aug. 3, 1909, Nov. 5, 1912, and Nov. 5, 1991.

APPENDIX C

Listing of Home Rule Charters in Texas

Displayed on the following pages are the key historical dates for each of the 351 home rule city governments in Texas. This table begins with the first special congressional acts of incorporation (charter) by the Republic of Texas granted on June 5, 1837, to Houston, Nacogdoches, and 16 other communities (now either nonexistent or general law cities).

Seventy-six current home rule cities began existence by passage of a special law, either by the Congress of the Republic of Texas, or the state legislature beginning in 1845. Until about the turn of the century, these acts all began: "An Act Incorporating the city of _____." However, these laws from the very beginning in 1837 were a form of charter for the community. The first act "to sue and be sued," "to hold and dispose of property," and to form a city government by the election of a mayor and eight aldermen who were authorized to levy taxes, enact ordinances for the preservation of order, and establish schools. We reviewed each of the "special legislative charters" which followed and all of them contained the same general language as above. We have therefore in this table chosen to use these earliest dates as dates of their first charter. Other than three cases in which the citation is either missing or incomplete, the dates shown below in the second column are the effective dates of the acts shown. Appreciation is expressed to the staff of the Archives Division of the Texas State Library for their assistance in locating these documents.

Dates in the other three columns were obtained primarily from city charters and city records, but a portion of these dates also were obtained from Secretary of State records, now housed in the State Library.

Cities with footnote ¹ by the date of their charter have changed the method of election and/or composition of their governing body from the way their current charter reads but have not incorporated such change in the charter yet. These changes have been made in each city as the result of an agreed settlement with an individual or organization or a federal court mandating such change.

Footnotes 2, 3, and 4 are found only in the second column "Date of First Special Legislative Charter." They are the result of one day, March 20, 1911, in the Texas Legislature when that body approved five special legislative charters, four to be effective only on acceptance by the local voters and the fifth effective without a vote of the local citizens.

Cities with footnote 2 were authorized a special legislative charter, subject to a vote of their citizenry, and such charter was accepted by citizens in the two cities in elections held on the date shown.

Cities with footnote 3 were authorized a special legislative charter, subject to acceptance by their electorate, and the charter in question was rejected by the local electorate, thus no date for such proposed charter is shown.

One City, Terrell, footnote 4, was granted a special legislative charter on the same date (March 20, 1911) as the other four cities, but no referendum of the citizens of Terrell was provided in this case.

Home Rule Charters in Texas⁵

City	Date of First Special Legislature Charter	Date of First Home Rule Charter	Date of Current Charter	Date of Last Charter Amendment
Abilene	1911 ²	1962	same	2006
Addison	-----	1978	same	1993
Alamo	-----	1979	same	1992
Alamo Heights	-----	1954	same	2007
Alice	-----	1949	same	1999
Allen	-----	1979	same	2007
Alpine	-----	1993	same	1995
Alton	----	1992	same	none
Alvin	-----	1963	same	2002
Amarillo	1909	1913	same	2000
Andrews	-----	1959	same	1994
Angleton	-----	1967	same	1991
Anna	----	2005	same	none
Anson	-----	1920	same	2006
Aransas Pass	-----	1951	same	2006
Arlington	-----	1920	same	2005
Athens	1856	1960	1966	1977
Atlanta	-----	1968	same	2005
Austin	1839	1924	1953	1998
Azle	-----	1971	same	1990
Balch Springs	-----	1990	same	2006
Ballinger	-----	1963	same	2005
Bastrop	----	2002	same	none
Bay City	-----	1989	same	1996
Baytown	-----	1948 ¹	same	2002
Beaumont	1838	1919	1947	2003
Bedford	-----	1966	same	2008
Beeville	-----	1951	same	1978
Bellaire	-----	1949	same	2006
Bellmead	-----	1955 ¹	same	1961
Belton	1852	1914	1951	2005
Benbrook	-----	1983	same	1998
Big Spring	-----	1926	same	1995
Boerne	----	1995	same	none
Bonham	1848	1947	same	2006

Home Rule Charters in Texas

City	Date of First Special Legislature Charter	Date of First Home Rule Charter	Date of Current Charter	Date of Last Charter Amendment
Borger	----	1927	1930	1998
Bowie	----	1984	same	2000
Brady	----	1982	same	2003
Breckenridge	----	1954	same	1988
Brenham	1866	1920	same	1995
Bridge City	----	1974	same	2002
Brownfield	----	1954 ¹	same	2000
Brownsville	1850	1915	same	2001
Brownwood	----	1916	same	1996
Bryan	----	1917	1941	2006
Buda	----	2007	same	none
Burkburnett	----	1923	same	2002
Burleson	----	1969	same	1998
Burnet	----	2000	same	2006
Cameron	1856	1956	same	2007
Canyon	----	1959	same	1990
Carrizo Springs	----	1959	same	1989
Carrollton	----	1961	same	2004
Carthage	1852	1948	same	1986
Cedar Hill	----	1975	same	2000
Cedar Park	----	1987	same	none
Celina	----	2007	same	none
Center	----	1984	same	none
Childress	----	1917	same	1988
Cibolo	----	2004	same	none
Cisco	----	1919	1974	none
Cleburne	1871	1914	1950	1986
Cleveland	----	1981	same	1993
Clute	----	1957	same	2001
Coleman	----	1950	same	2002
College Station	----	1952	same	2004
Colleyville	----	1977	same	2005
Colorado City	----	1948 ¹	same	1988
Commerce	----	1954	same	1995
Conroe	----	1965	same	1999
Converse	----	1991	same	2007
Coppell	----	1986	same	2006
Copperas Cove	----	1979	same	2005

Home Rule Charters in Texas

City	Date of First Special Legislature Charter	Date of First Home Rule Charter	Date of Current Charter	Date of Last Charter Amendment
Corinth	----	1999	same	none
Corpus Christi	1846	1926	same	2006
Corsicana	1854	1917	same	1997
Crockett	1837	1964	same	1996
Crowley	----	1999	same	2001
Crystal City	-----	1958	same	1983
Cuero	1873	1944	1969	2001
Daingerfield	1851	1980	same	1989
Dalhart	-----	1960	same	1979
Dallas	1856	1914	same	1997
Dayton	-----	1976	same	1992
De Leon	-----	1919	same	1992
Decatur	----	2002	same	2003
Deer Park	-----	1960	same	1981
Del Rio	-----	1918	1967	2008
Denison	1873	1956	1975	1985
Denton	1866	1914	1959	2006
Denver City	-----	1985	same	1988
DeSoto	----	1949	same	2007
Diboll	----	1962	same	2009
Dickinson	-----	1987	same	2001
Dimmitt	-----	1990	same	none
Donna	-----	1957	same	1994
Dumas	-----	1955	same	1993
Duncanville	-----	1962	same	2002
Eagle Pass	-----	1918	1964	2007
Eastland	-----	1919	same	1998
Edinburg	-----	1928	1949	1996
Edna	-----	1966	same	1884
El Campo	-----	1954	same	2007
El Paso	1873	1984	same	2004
Electra	-----	1917	same	1988
Elgin	05-31-1873	1985	same	1993
Elsa	-----	1981	same	none
Ennis	-----	1913	same	1997
Eules	-----	1962	same	1995
Everman	-----	1986	same	2004
Fairview	----	2006	same	none

Home Rule Charters in Texas

City	Date of First Special Legislature Charter	Date of First Home Rule Charter	Date of Current Charter	Date of Last Charter Amendment
Farmers Branch	-----	1956	same	1999
Fate	----	2001	same	none
Floresville	----	2004	same	none
Flower Mound	-----	1981	same	2007
Forest Hill	-----	1976	same	2007
Forney	----	1997	same	none
Fort Worth	1873	1924	same	2006
Fredericksburg	-----	1991	same	none
Freeport	-----	1949	1960	2004
Friendswood	-----	1971	same	2007
Frisco	-----	1987	same	2002
Gainesville	1873	1994	same	1996
Galena Park	-----	1946	same	1979
Galveston	1839	1960	same	1998
Garland	-----	1951	same	1994
Gatesville	-----	1966	same	1994
George West	-----	1980	same	1992
Georgetown	1866	1970	1986	2003
Giddings	1873	1982	same	1984
Gilmer	----	1996	same	2007
Gladewater	1874	1955	same	1985
Glenn Heights	-----	1987	same	none
Gonzales	1837	1957	same	2001
Gorman	-----	1920	same	1960
Graham	-----	1920	same	1991
Granbury	-----	1989	same	2006
Grand Prairie	----	1948	same	1987
Granite Shoals	----	2005	same	2008
Grapevine	----	1965	same	1992
Greenville	1852	1953	same	2005
Groves	-----	1953	same	2000
Gun Barrell City	----	1996	same	2008
Haltom City	-----	1955	same	2003
Harker Heights	-----	1971	same	1991
Harlingen	-----	1927	same	1987
Hearne	1871	1964	same	none
Heath	----	2002	same	none
Henderson	1845	1947	same	1985

Home Rule Charters in Texas

City	Date of First Special Legislature Charter	Date of First Home Rule Charter	Date of Current Charter	Date of Last Charter Amendment
Hereford	-----	1952 ¹	same	1979
Hewitt	-----	1982	same	none
Hidalgo	----	1994	same	none
Highland Park	-----	1975	same	2000
Highland Village	-----	1986	same	2006
Hillsboro	1866	1948	1981	none
Hitchcock	-----	1960	same	1975
Hondo	----	2007	same	none
Horizon City	----	1997	same	none
Horseshoe Bay		2009	same	none
Houston	1837	1913	same	2001
Humble	-----	1970	same	2000
Huntsville	1845	1968	same	2004
Hurst	-----	1956	same	2005
Hutto	----	2004	same	2006
Ingleside	-----	1979	same	none
Iowa Park	----	2008	same	none
Irving	-----	1952	same	2005
Jacinto City	-----	1981	same	1987
Jacksonville	1873	1931	same	2001
Jasper	1838	1964	same	1991
Jersey Village	-----	1986	same	1993
Joshua	----	1998	same	none
Katy	-----	1981	same	2000
Kaufman	1866	1987	same	2003
Keene	----	1999	same	none
Keller	-----	1982	same	1995
Kennedale	----	1998	same	none
Kermit	-----	1989	same	none
Kerrville	-----	1942	same	2008
Kilgore	-----	1960	same	2006
Killeen	-----	1949	same	2005
Kingsville	-----	1916	same	1994
Kirby	-----	1988	same	2000
Kyle	----	2000	same	none
La Feria	----	1989	same	none
La Grange	1837	1983	same	2001
La Marque	-----	1957 ¹	same	2004

Home Rule Charters in Texas

City	Date of First Special Legislature Charter	Date of First Home Rule Charter	Date of Current Charter	Date of Last Charter Amendment
La Porte	----	1949	1980	1990
Lacy Lakeview	----	1998	same	none
Lago Vista	----	2004	same	none
Lake Dallas	----	1998	same	2005
Lake Jackson	----	1954	same	2006
Lake Worth	----	1965	same	2002
Lakeway	----	1990	same	2006
Lamesa	----	1945	same	2007
Lampasas	----	1986	same	none
Lancaster	----	1956	same	2006
Laredo	1848	1981	same	2006
League City	----	1962	same	1998
Leander	----	1998	same	none
Levelland	----	1949	same	1992
Lewisville	----	1963	same	2001
Liberty	1837	1958	same	2006
Little Elm	----	2002	same	none
Littlefield	----	1959	same	1995
Live Oak	----	1976	same	2006
Lockhart	1852	1973	same	2007
Longview	1871	1923	1978	2001
Los Fresno	----	2007	same	none
Lubbock	----	1917	same	2004
Lucas	----	2008	same	none
Lufkin	----	1919	1966	1994
Luling	----	1977	same	1996
Lumberton	----	1999	same	none
Manor		2007	same	none
Mansfield	----	1975	same	1988
Marble Falls	----	1986	same	2002
Marlin	1866	1977	same	1993
Marshall	1844	1913	same	1962
Mathis	----	2000	same	none
McAllen	----	1927	same	2007
McGregor	----	1979	same	1989
McKinney	1854	1913	1959	1988
Mercedes	----	1971	same	2001
Mesquite	----	1953	same	1987

Home Rule Charters in Texas

City	Date of First Special Legislature Charter	Date of First Home Rule Charter	Date of Current Charter	Date of Last Charter Amendment
Mexia	1873	1924	same	1999
Midland	-----	1940 ¹	same	1996
Midlothian	-----	1980	same	none
Mineral Wells		1980	1966	1991
Mission	-----	1928	1961	1987
Missouri City	-----	1974	same	1999
Monahans	-----	1954	same	1991
Mt. Pleasant	1848	1948	same	2002
Muleshoe	-----	1960	same	1979
Murphy	----	2004	same	2004
Nacogdoches	1837	1929 ¹	same	2004
Nassau Bay	-----	1973	same	1994
Navasota	1866	1922	1947	1984
Nederland	-----	1955	same	2001
New Braunfels	1846	1944	1966	2005
North Richland Hills	-----	1964	same	2002
Odessa	-----	1945	same	2002
Olney	-----	1979	same	1990
Orange	1856	1914	1960	2005
Palacios	----	2004	same	2004
Palestine	----	1917	1983	none
Pampa	-----	1927	same	1982
Paris	1845	1948 ¹	same	2007
Pasadena	-----	1943	1964	1992
Pearland	-----	1971	same	2006
Pearsall	-----	1994	same	none
Pecos City	-----	1985	same	1989
Pflugerville	-----	1993	same	2006
Pharr	-----	1949	same	1989
Pittsburg		2009	same	none
Plainview	-----	1920	same	1997
Plano	1873	1961	same	2005
Pleasanton	-----	1982	same	1995
Port Aransas	-----	1978	same	1991
Port Arthur	1911 ²	1932	1963	1992
Port Isabel	-----	1984	same	none
Port Lavaca	-----	1956 ¹	same	1972
Port Neches	-----	1955	1967	1983

Home Rule Charters in Texas

City	Date of First Special Legislature Charter	Date of First Home Rule Charter	Date of Current Charter	Date of Last Charter Amendment
Portland	----	1967	same	1987
Prosper	----	2006	same	none
Quanah	----	1919	same	1969
Ranger	----	1919	same	1996
Raymondville	----	1955	same	1970
Red Oak	----	1997	same	none
Richardson	----	1956	1989	2007
Richland Hills	----	1986	same	1995
Rio Grand City		2006	same	none
River Oaks	----	1949	same	1957
Roanoke	----	2008	same	none
Robinson	----	1999	same	none
Robstown	----	1948	same	1985
Rockdale	----	1978	same	none
Rockport	1871	1983	same	2004
Rockwall	----	1985	same	1993
Roma		2007	same	none
Rosenberg	----	1956 ¹	same	2007
Round Rock	----	1977	same	2008
Rowlett	----	1980	same	2003
Royse City	----	2004	same	2007
Rusk	1850	1987	same	1996
Sachse	----	1986	same	2006
Saginaw	----	1988	same	none
San Angelo	---- ³	1915	same	2007
San Antonio	1837	1951	same	2004
San Benito	----	1920	same	2007
San Juan	----	1975	same	none
San Marcos	----	1967	same	2008
Sanger	----	1999	same	2006
Santa Fe	----	1981	same	none
Schertz	----	1974	same	2006
Seabrook	----	1979	same	2005
Seagoville	----	1969	same	2003
Sealy	----	1996	same	2006
Seguin	1853	1971	same	2002
Seminole	----	1991	same	1995

Home Rule Charters in Texas

City	Date of First Special Legislature Charter	Date of First Home Rule Charter	Date of Current Charter	Date of Last Charter Amendment
Sherman	1873	1915	1973	2007
Silsbee	-----	1956	same	1987
Sinton	-----	1966	same	2005
Slaton	-----	1929	same	1994
Snyder	-----	1952	same	1989
Socorro	----	2001	same	none
Southlake	-----	1987	same	2007
Stafford	----	2004	same	none
Stamford	-----	1918 ¹	same	1955
Stephenville	-----	1961	same	2001
Sugar Land	-----	1981	same	2004
Sulphur Springs	1852	1947	same	1983
Sweeny	----	2000	same	none
Sweetwater	-----	1913	1947	1983
Taylor	----- ³	1914 ¹	same	2001
Temple	1907	1922	1953	2000
Terrell	1911 ⁴	1973	same	2004
Terrell Hills	-----	1957	same	1996
Texarkana	1907	1960	same	1983
Texas City	-----	1946	same	1952
The Colony	-----	1979	same	1987
Tomball	-----	1987	same	1995
Trophy Club	----	2004	same	none
Tulia	-----	1972 ¹	same	none
Tyler	1850	1915	1937	1990
Universal City	-----	1972	same	1989
University Park	-----	1989	same	2006
Uvalde	-----	1934	same	1999
Vernon	-----	1916	same	1999
Victoria	1840	1915	1956	1994
Vidor	-----	1969	same	1998
Waco	1856	1913	1958	2005
Wake Village	----	2001	same	none
Watauga	-----	1980	same	2007
Waxahachie	1871	1916	1971	1975
Weatherford	1858	1918	same	1983
Webster	-----	1994	same	2005
Weslaco	-----	1927	same	1994

City	Date of First Special Legislature Charter	Date of First Home Rule Charter	Date of Current Charter	Date of Last Charter Amendment
West Orange	-----	1956	same	2005
West University Pl.	-----	1940	1983	2007
Wharton	1866	1970	same	2003
White Oak	-----	1994	same	none
White Settlement	-----	1954	same	2005
Whitehouse	----	1996	same	2006
Wichita Falls	-----	1913	1920	2006
Willis	----	2008	same	none
Windcrest	----	2007	same	none
Woodway	-----	1973	same	1994
Wylie	-----	1985	same	1998
Yoakum	-----	1915	1988	none

⁵ Sources:

Hans Peter Neilson Gammel, compiler, Laws of Texas, 1822-1897. Ann Arbor, MI: University Microfilms.

Session Laws, Legislature of the State of Texas.

Records, Office of the Secretary of State, Texas.

Charters, Secretary of State's Record Group (RG 307), Archives Division, Texas State Library.

Records, Offices of City Secretaries/Clerks, home rule cities, Texas.

APPENDIX D

LOCAL GOVERNMENT CODE CHAPTER 9.

HOME-RULE MUNICIPALITY

Sec. 9.001. ADOPTION OR AMENDMENT OF HOME-RULE CHARTER.

This chapter applies to the adoption or amendment of a municipal charter by a municipality authorized to do so by Article XI, Section 5, of the Texas Constitution.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 9.002. SELECTION OF CHARTER COMMISSION.

(a) The governing body of the municipality may, by an ordinance adopted by at least a two-thirds vote of its membership, order an election by the voters of the municipality on the question: "Shall a commission be chosen to frame a new charter?" The governing body shall by ordinance order the election if presented with a petition signed by at least 10 percent of the qualified voters of the municipality.

(b) The election ordinance shall provide for the election to be held on the date of the municipality's next general election scheduled after the 30th day but on or before the 90th day after the date the ordinance is adopted. However, if no general election is scheduled during that period that allows sufficient time to comply with other requirements of law, the election shall be ordered for the first authorized uniform election date prescribed by the Election Code that allows sufficient time to comply with other requirements of law and that occurs after the 30th day after the date the ordinance is adopted and published in a newspaper published in the municipality.

(c) The ballot at the election on the question prescribed by Subsection (a) shall also provide for the election from the municipality at large of a charter commission to draft a charter if a majority of the qualified voters voting on the question of choosing a charter commission approve the question. The commission must consist of at least 15 members, but if it has more than 15 members it may not have more than one member for each 3,000 inhabitants of the municipality. The ballot may not contain any party designation.

(d) The provisions of Subsections (a), (b), and (c) regarding the selection of a charter commission do not apply to the first charter election in a municipality if:

- (1) (A) the governing body of the municipality selects a charter commission;
(B) a charter commission is selected at a mass meeting; or
(C) the mayor of the municipality appoints a charter commission; and
- (2) the charter commission has proceeded with the formation of a charter for the municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 9.003. VOTE ON CHARTER.

(a) The charter prepared by the charter commission shall be submitted to the qualified voters of the municipality at an election to be held on the first authorized uniform election date prescribed by the Election Code that allows sufficient time to comply with other requirements of law and that occurs on or after the 40th day after the date the charter commission completes its work. The governing body of the municipality shall provide for the submission of the charter at the election to the extent that the provisions for submission are not prescribed by general law.

(b) Before the 30th day before the date of the election, the governing body of the municipality shall order the municipal clerk or the municipal secretary to mail a copy of the proposed charter to each registered voter of the municipality.

(c) The charter commission shall prepare the charter so that to the extent practicable each subject may be voted on separately.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 87(b), eff. Aug. 28, 1989.

Sec. 9.004. CHARTER AMENDMENTS.

(a) The governing body of a municipality on its own motion may submit a proposed charter amendment to the municipality's qualified voters for their approval at an election. The governing body shall submit a proposed charter amendment to the voters for their approval at

an election if the submission is supported by a petition signed by a number of qualified voters of the municipality equal to at least five percent of the number of qualified voters of the municipality or 20,000, whichever number is the smaller.

(b) The ordinance ordering the election shall provide for the election to be held on the first authorized uniform election date prescribed by the Election Code or on the earlier of the date of the next municipal general election or presidential general election. The election date must allow sufficient time to comply with other requirements of law and must occur on or after the 30th day after the date the ordinance is adopted.

(c) Notice of the election shall be published in a newspaper of general circulation published in the municipality. The notice must:

- (1) include a substantial copy of the proposed amendment;
- (2) include an estimate of the anticipated fiscal impact to the municipality if the proposed amendment is approved at the election; and
- (3) be published on the same day in each of two successive weeks, with the first publication occurring before the 14th day before the date of the election.

(d) An amendment may not contain more than one subject.

(e) The ballot shall be prepared so that a voter may approve or disapprove any one or more amendments without having to approve or disapprove all of the amendments.

(f) The requirement imposed by Subsection (c)(2) does not waive governmental immunity for any purpose and a person may not seek injunctive relief or any other judicial remedy to enforce the estimate of the anticipated fiscal impact on the municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 1219, Sec. 5, eff. June 20, 1997; Acts 1997, 75th Leg., ch. 1349, Sec. 76, eff. Sept. 1, 1997.

Amended by: Acts 2007, 80th Leg., R.S., Ch. 414, Sec. 1, eff. September 1, 2007.

Sec. 9.005. ADOPTION OF CHARTER OR AMENDMENT.

(a) A proposed charter for a municipality or a proposed amendment to a municipality's charter is adopted if it is approved by a majority of the qualified voters of the municipality who vote at an election held for that purpose.

(b) A charter or an amendment does not take effect until the governing body of the municipality enters an order in the records of the municipality declaring that the charter or amendment is adopted.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 9.006. CONCURRENT ELECTIONS.

This chapter does not prevent the voters at an election to adopt a charter or an amendment to a charter from electing at the same election persons to hold office under the charter or amendment.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 9.007. CERTIFICATION OF CHARTER OR AMENDMENT.

(a) As soon as practicable after a municipality adopts a charter or charter amendment, the mayor or chief executive officer of the municipality shall certify to the secretary of state an authenticated copy of the charter or amendment under the municipality's seal showing the approval by the voters of the municipality.

(b) The secretary of state shall file and record the certification in his office in a book kept for that purpose.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 9.008. REGISTRATION OF CHARTER OR AMENDMENT; EFFECT.

(a) The secretary or other officer of a municipality performing functions similar to those of a secretary shall record in the secretary's or other officer's office a charter or charter amendment adopted by the voters of the municipality. If a charter or amendment is not recorded on microfilm, as may be permitted under another law, it shall be recorded in a book kept for that purpose.

(b) Recorded charters or amendments are public acts. Courts shall take judicial notice of them, and no proof is required of their provisions.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

APPENDIX E

Texas Constitution Article XI, Section 11

Term of Office Exceeding Two Years and Vacancies

Sec.11.TERM OF OFFICE EXCEEDING TWO YEARS IN HOME RULE AND GENERAL LAW CITIES; VACANCIES.

(a) A Home Rule City may provide by charter or charter amendment, and a city, town or village operating under the general laws may provide by majority vote of the qualified voters voting at an election called for that purpose, for a longer term of office than two (2) years for its officers, either elective or appointive, or both, but not to exceed four (4) years; provided, however, that tenure under Civil Service shall not be affected hereby; provided, however, that such officers, elective or appointive, are subject to Section 65(b), Article XVI, of this Constitution, providing for automatic resignation in certain circumstances, in the same manner as a county or district officer to which that section applies.

(b) A municipality so providing a term exceeding two (2) years but not exceeding four (4) years for any of its non-civil service officers must elect all of the members of its governing body by majority vote of the qualified voters in such municipality, and any vacancy or vacancies occurring on such governing body shall not be filled by appointment but must be filled by majority vote of the qualified voters at a special election called for such purpose within one hundred and twenty (120) days after such vacancy or vacancies occur.

(Added Nov. 4, 1958; amended Nov. 6, 2001.) (TEMPORARY TRANSITION PROVISION for Sec. 11: See Appendix, Note 3.)

APPENDIX F

Texas Constitution Article XVI, Section 40

Dual Office Holding

Sec. 40. HOLDING MORE THAN ONE OFFICE; EXCEPTIONS; RIGHT TO VOTE.

(a) No person shall hold or exercise at the same time, more than one civil office of emolument, except that of Justice of the Peace, County Commissioner, Notary Public and Postmaster, Officer of the National Guard, the National Guard Reserve, and the Officers Reserve Corps of the United States and enlisted men of the National Guard, the National Guard Reserve, and the Organized Reserves of the United States, and retired officers of the United States Army, Air Force, Navy, Marine Corps, and Coast Guard, and retired warrant officers, and retired enlisted men of the United States Army, Air Force, Navy, Marine Corps, and Coast Guard, and the officers and directors of soil and water conservation districts, unless otherwise specially provided herein. Provided, that nothing in this Constitution shall be construed to prohibit an officer or enlisted man of the National Guard, and the National Guard Reserve, or an officer in the Officers Reserve Corps of the United States, or an enlisted man in the Organized Reserves of the United States, or retired officers of the United States Army, Air Force, Navy, Marine Corps, and Coast Guard, and retired warrant officers, and retired enlisted men of the United States Army, Air Force, Navy, Marine Corps, and Coast Guard, and officers of the State soil and water conservation districts, from holding at the same time any other office or position of honor, trust or profit, under this State or the United States, or from voting at any election, general, special or primary in this State when otherwise qualified.

(b) State employees or other individuals who receive all or part of their compensation either directly or indirectly from funds of the State of Texas and who are not State officers, shall not be barred from serving as members of the governing bodies of school districts, cities, towns, or other local governmental districts. Such State employees or other individuals may not receive a salary for serving as members of such governing bodies, except that:

(1) a schoolteacher, retired schoolteacher, or retired school administrator may receive compensation for serving as a member of a governing body of a school district, city, town, or local governmental district, including a water district created under Section 59, Article XVI, or Section 52, Article III; and

(2) a faculty member or retired faculty member of a public institution of higher education may receive compensation for serving as a member of a governing body of a water district created under Section 59 of this article or under Section 52, Article III, of this constitution.

(c) It is further provided that a nonelective State officer may hold other nonelective offices under the State or the United States, if the other office is of benefit to the State of Texas or is required by the State or Federal law, and there is no conflict with the original office for which he receives salary or compensation.

(d) No member of the Legislature of this State may hold any other office or position of profit under this State, or the United States, except as a notary public if qualified by law.

(Amended Nov. 2, 1926, Nov. 8, 1932, Nov. 7, 1972, Nov. 6, 2001, and Sept. 13, 2003.)

APPENDIX G

Texas Constitution Article XVI, Section 1

Official Oath

ARTICLE 16. GENERAL PROVISIONS

Sec.1.OFFICIAL OATH.

(a) All elected and appointed officers, before they enter upon the duties of their offices, shall take the following Oath or Affirmation:

"I, _____, do solemnly swear (or affirm), that I will faithfully execute the duties of the office of _____ of the State of Texas, and will to the best of my ability preserve, protect, and defend the Constitution and laws of the United States and of this State, so help me God."

(b) All elected or appointed officers, before taking the Oath or Affirmation of office prescribed by this section and entering upon the duties of office, shall subscribe to the following statement:

"I, _____, do solemnly swear (or affirm) that I have not directly or indirectly paid, offered, promised to pay, contributed, or promised to contribute any money or thing of value, or promised any public office or employment for the giving or withholding of a vote at the election at which I was elected or as a reward to secure my appointment or confirmation, whichever the case may be, so help me God."

(c) Members of the Legislature, the Secretary of State, and all other elected and appointed state officers shall file the signed statement required by Subsection (b) of this section with the Secretary of State before taking the Oath or Affirmation of office prescribed by Subsection (a) of this section. All other officers shall retain the signed statement required by Subsection (b) of this section with the official records of the office.

(Amended Nov. 8, 1938, and Nov. 6, 1956; Subsecs. (a)-(c) amended and (d)-(f) added Nov. 7, 1989; Subsecs. (a) and (b) amended, Subsecs. (c) and (d) deleted, and Subsecs. (e) and (f) amended and redesignated as Subsec. (c) Nov. 6, 2001.) (TEMPORARY TRANSITION PROVISION for Sec. 1: See Appendix, Note 3.)

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Fort Bend County City Charters

	A	B	C	D	E	F	G	H	I
1	FORT BEND HOME RULE CHARTERS								
2	PROPOSED in RED	Fulshear	Katy	Missouri City	Richmond	Rosenberg	Sugar Land	Stafford	Mont Belvieu (out of county)
3									
4	Form of Government	Section 1.01 - Council-Manager	Article I, Section 2 - The Municipal Government provided by this Charter shall be known as the Mayor-Aldermanic-Administrator Form of Government and shall be described elsewhere in this Charter.	Section 1.02 - Shall consist of a mayor and councilmembers, elected by the people and responsible to the people, and a city manager, appointed by and responsible to the Council for proper administration of the affairs of the city. The term "city council" or "the council" shall mean collectively the mayor and the councilmembers.	Section 1.01 - "Commission-Manager" form of government.	Section 1.01 - "Council-Manager" form of government.	Section 1.02 - The City government shall be known as the council-manager form of government. All City powers are vested in an elected city council. The council shall appoint a city manager, who shall execute the laws and administer City government.	Section 1.02 - "Mayor-Council" form of government.	Section 1.01 - Shall have a "Council-Manager" form of government.
5	Boundaries of City	Section 1.02	Article I, Section 1(b) - √	Section 1.03 - √	Section 1.02 - √	Section 1.02 - √	-	Section 1.03 - √	Section 2.01 - √
6	General Powers	Section 2.02 - Power of local self government to the fullest extent permitted by law, and shall have all powers possible for a city to have under the constitution and laws of the State of Texas.	Article II - May sue and be sued; may contract and be contracted with; shall have all the powers granted to cities by the Constitution and Laws of the State of Texas; implied powers.	Article II - Shall have all powers to perform and render all public services as are granted to municipal corporations and to cities by constitution and laws of Texas together with all of implied powers of local self-government necessary to execute all such powers granted.	Section 2.04 - Charter to grant full power of local government to accomplish any public purpose; all other powers necessary or useful to accomplish any public purpose.	Section 2.01 - General Section 2.02 - General Powers adopted - shall have and may exercise all power of local self-government	Section 1.03 - shall have all powers possible for a home-rule city to have under the Texas Constitution, the laws of State of Texas, and this Charter.	Section 2.01 - shall have all powers possible for a home-rule city to have under Texas Constitution, laws of the State of Texas, and this Charter.	Section 1.02 - Power of local self government; all powers granted to cities by Constitution and laws of state or other law together with all implied powers necessary to carry into execution those powers and those express and implied powers necessary for government, interests, health, welfare and good order; All powers shall be exercised and enforced in the manner prescribed by state law, in charter and action of Council.
7	Intergovernmental	Section 2.02 - City may exercise any of its powers or perform any of its functions, and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with the Government of Texas or any agency thereof, with the Federal Government or any agency thereof, or with the government of any county, city or political subdivision to accomplish any lawful municipal purpose.	Article II, Section 1 - "...may cooperate with the Government of the State of Texas or any agency thereof, the Federal Government or any agency thereof, or any political subdivision of the State of Texas;"	Article II, Section 2.01(b) - May cooperate with the government of the State of Texas or any agency or any political subdivision thereof, or with the federal government or any agency thereof, to accomplish any lawful purpose for the advancement of the interest, welfare, health, morals, comfort, safety and convenience of the city and its inhabitants.	Section 2.03 - The City may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any one or more states or any state civil division or agency, or the United States or any other county or any other political subdivisions in the State of Texas.	Article II, Section 2.01 - "...may cooperate with the government of the State of Texas or any agency thereof, the federal government or any agency thereof, or any political subdivision of the State of Texas;"	-	Article II, Section 2.01(a)(8) - To cooperate with the government of the State of Texas or any agency or political subdivision thereof, or with the federal government or agency thereof, to accomplish any lawful purpose for the advancement of the interest, welfare, health, morals, comfort, safety, and convenience of the City and its inhabitants.	Section 1.03 - May exercise any of its powers or perform any of its functions, and may participate in financing thereof, or with Federal Government or any agency thereof, or with the government of any county, city or political subdivision to accomplish any lawful municipal purpose.

	A	B	C	D	E	F	G	H	I
2	PROPOSED in RED	Fulshear	Katy	Missouri City	Richmond	Rosenberg	Sugar Land	Stafford	Mont Belvieu (out of county)
	Authority to Annex and Disannex	<p>Section 2.03 (a) City shall have the power to fix boundaries, to extend the boundaries and annex area adjacent to City, and to exchange area with other cities. (b) Any area of City may be disannexed pursuant to any procedure allowed under state law whenever, in the opinion of City Council, there exists within corporate limits a territory not suitable or necessary. City Council may discontinue said territory as part of the City by ordinance after conducting a public hearing.</p>	<p>Section 1(c) - Council shall have power by ordinance to fix boundary limits and to provide for alteration/extension of boundary limits, [and] annexation of additional territory with/without consent of owners/inhabitants of territory annexed, detached/disannexed; in any manner not inconsistent with Laws of Texas. Upon final passage of any ordinance annexing territory, corporate limits of City shall thereafter include territory so annexed; and when any additional territory has been so annexed, same shall be a part of City and property situated therein shall bear its pro rata part of taxes levied by City, and inhabitants thereof shall be entitled to all of rights and privileges of all citizens and shall be bound by acts and ordinances, resolutions and regulations of City. Upon final passage of any ordinance detaching or disannexing territory from City, Corporate limits of City shall be reduced by territory so detached or disannexed.</p>	<p>Section 2.02 - Council by ordinance to fix boundary limits of city and to provide by ordinance for annexation of additional territory lying adjacent to city with or without consent of inhabitants or owners of territory to be annexed. Council shall have power to detach by ordinance any territory with or without consent of inhabitants or owners of such area to be detached. Such annexation or detachment of any such territory shall be in accordance with provisions of chapter 160, page 447, Acts of 1963, 58th Legislature, as same is now or may hereafter be amended, such being article 970a, Revised Civil Statutes of Texas entitled the Municipal Annexation Act Legislature, page 342, chapter 231 as now or hereafter may be amended [V.T.C.A., Local Government Code § 212.001 et seq.]</p>	<p>Section 11.01 - Annexation Section 11.02 - Disannexation</p>	<p>Section 1.03 - Extension of Boundaries - in accordance with Article 974 of Revised Civil Statutes; by election; annexation of unoccupied lands on petition of owners; annexation by amendments to charter; by action of city council; by any other method provided by law.</p>	<p>Section 1.03(a) - General Powers - To annex an area for full or limited purposes as provided in this Charter and to disannex land.</p>	<p>Section 2.02 - The City Council shall have the power by ordinance to establish the boundary limits of the City and to provide by ordinance for the annexation of additional territory lying adjacent to the City, with or without the consent of the owners or inhabitants of the territory to be annexed; and upon the final passage of any such ordinance, the corporate limits of the City shall thereafter include the territory so annexed; and the inhabitants thereof shall be entitled to all the rights and privileges of all citizens, and shall be bound by the acts and ordinances, resolutions, and regulations of the City. The City Council shall have the power to detach by ordinance any territory with or without the consent of the inhabitants or owners of such area to be detached. Such annexation or detachment of any such territory shall be in accordance with the provisions of State Law, as it now exists or may be hereafter amended.</p>	<p>Section 2.02 - Annexation - The City Council shall have the full power to annex territory, to extend and enlarge the city boundaries and exchange areas with other municipalities. Section 2.03 - Disannexation - Any area of the City may be disannexed pursuant to any procedure allowed under state law and whenever, in the opinion of the City Council, there exists within the corporate limits of the City a territory not suitable or necessary for City purposes, the City Council may discontinue said territory as part of the City by ordinance after conducting a public hearing on the matter.</p>
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2	PROPOSED in RED	Fulshear	Katy	Missouri City	Richmond	Rosenberg	Sugar Land	Stafford	Mont Belvieu (out of county)
	Authority to Grant Franchises	Section 2.04 (a) right of control and use is hereby declared inalienable, except as may be provided by Charter or other law, and no act or omission by City Council/officer/agent of City shall be construed to grant, renew, extend, or amend by estoppel or indirection any right, franchise, or easement affecting. (b) To full extent allowed by law, City may require they provide any service to public first obtain written consent of City by license, permit, franchise, ordinance, or otherwise, which may be subject to certain terms and conditions at discretion of the City Council. (c) To full extent allowed by law, City may regulate rates, charges, fees, operations, and services of person, utility, or entity providing water, wastewater, electricity, natural gas, telephone, telecommunications, cable television, taxicab, bus, solid waste, transportation, or similar service to public within City.	Article XI. Franchise Section 1. Inalienability of Public Property Section 2. Power to Grant Franchise Section 3. Ordinance Granting Franchise Section 4. Transfer of Franchise Section 5. Regulation of Franchise Section 6. Regulation of Rates Section 7. Accounts of Municipally Owned Utilities Section 8. Other Conditions	Section 10.01 - Inalienability of public property Section 10.02 - Power to grant franchise Section 10.03 - Ordinance granting franchise Section 10.04 - Transfer of franchise Section 10.05 - Regulation of franchise Section 10.06 - Regulation of rates	Section 9.01 - Authority Franchise Section 9.02 - Ordinance Granting Franchise Section 9.03 - Transfer of Franchise Section 9.04 - Franchise Value Not to be Allowed Section 9.05 - Right of Regulation Section 9.06 - Regulation of Rates Section 9.07 - Licenses	Section 7.11 - Franchise ordinances - Nothing contained in this article shall be construed to be in conflict with any of the provisions of Article X of this Charter, pertaining to ordinances granting franchises when valuable rights shall have accrued thereunder. Article XII - Franchises and Public Utilities	Section 1.03(e-f) - General Powers - To full extent allowed by law, to require that any person, utility, or company making use of city's streets or property to provide any service to public first obtain written consent of city by license, permit, franchise, ordinance or otherwise. A franchise shall not be valid for more than fifty (50) years; and To full extent allowed by law, to regulate 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 public within city.	Section 7.01 - Inalienability of Control of Public Property Section 7.02 - Power to Grant Franchise Section 7.03 - Ordinance Granting Franchise Section 7.04 - Transfer of Franchise Section 7.05 - Franchise Value Not Allowed Section 7.06 - Regulation of Franchise Section 7.07 - Franchise Records Section 7.08 - Regulation of Rates	-
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10	City Council								

	A	B	C	D	E	F	G	H	I
2	PROPOSED in RED	Fulshear	Katy	Missouri City	Richmond	Rosenberg	Sugar Land	Stafford	Mont Belvieu (out of county)
11	Qualifications	Section 3.01- Mayor and each Council Member shall meet and maintain the following qualifications to be eligible for office: (a) Be a United States citizen; (b) Be twenty-one (21) years of age or older on the first day of the term to be filled; (c) Have resided continuously in the corporate limits of the City for twelve (12) months on the first day of the term to be filled at the election; (d) Not be delinquent in paying any local, state, or federal taxes; (e) Not be indebted to the City; and (f) Satisfy any other eligibility requirements prescribed by this Charter or other law for the office for which they are a candidate.	Article IV. Section 1. This Council shall consist of one Councilmember elected from at large and four Councilmembers elected from Wards established by City designated within City as Ward A., and Ward B.; Councilmembers shall be elected, two from Ward A., and two from Ward B., and one at-large. Candidate for Councilmember from a Ward shall reside in Ward for which he seeks election. Must be a citizen of United States, at least twenty-one (21) years of age, a qualified voter residing within City for at least twelve (12) months prior to his election. He shall not hold any other public office; and he shall not receive remuneration from two governmental or taxing entities.	Section 3.01(E) - No person shall be eligible to be elected to, appointed to, or to serve in office of mayor or councilmember unless that person is a resident of Missouri City, Texas, for six (6) months immediately preceding that person's appointment or election to fill such office. Additionally, no person shall be eligible to be elected to, appointed to, or to serve in office of district councilmember unless that person resides in district and has resided within district, or in an area that has been added to district, for six (6) months immediately preceding that person's appointment or election to fill such office. Section 3.01(c) - 4 districts residency	Section 3.02 - The Mayor and each Commission Member shall meet the qualifications set forth in and prescribed by the Texas Election Code.	Section 3.02 - The mayor and each other member of the city council shall have and possess the following qualifications to be a candidate for such office and shall retain such qualifications during the term of the office for which a person might be elected. Such qualifications are: Be a resident of the City of Rosenberg for six (6) months and have resided in the State of Texas for twelve (12) months, and if a candidate for a council district position, then shall have been a resident of such district for six (6) months; and (b) Be a United States citizen; and (c) Be 18 years of age or older on the first day of the term of office that the candidate is seeking; and (d) Not have been previously determined mentally incompetent by a judgment of a court of competent jurisdiction; and (e) Not finally convicted of a felony for which a pardon has not been given. Section 3.01(d) - 4 districts residency	Section 2.02 - Council members shall be twenty-one (21) years of age or older and city residents for at least one (1) year preceding their election. A district council member shall during the term of office maintain a residence in the district to which elected. No council member shall hold any other city office or city employment while serving as a council member or hold any paid city employment within two (2) years thereafter. Section 2.01(b) - 4 districts residency	Section 3.02 - Upon commencement of the term to be filled at their respective elections, each Councilmember and the Mayor shall be at least twenty-one (21) years of age, be a resident qualified voter of the City, and shall have resided continuously in the City for at least twelve (12) months immediately preceding the filing deadline for an application for a place on the ballot.	Section 3.03 - The Mayor and each Council Member shall meet the following: A. Be a qualified voter in the City and State at the time of taking office; B. Be a resident of the City; C. Have resided continuously in the corporate limits of the City for 12 months immediately preceding the date of the election; D. Not be in violation of any provision in this Charter; E. Be 21 years of age or older on the first day of the term to be filled at the election; F. Satisfy any other eligibility requirements prescribed by law for the office for which they are a candidate.
12	Barred if tax delinquent	Yes	-	-	-	Section 3.05 - Yes	-	-	-
13	Barred if indebted to City	Yes	-	-	-	Section 13.05 - Yes	-	-	-
14	Term Limit	No Yes, 3 X 2 year terms	Article IV, Section 2(a) - "Shall not exceed 3 consecutive two-year terms"	None	None	None	Section 2.03 - "Not more than 4 times in any consecutive 9 year period"	None	None
15	Vote	Plurality Majority	Article VII, Section 3 - Majority	Section 6.03 - Majority	Section 5.11 - Majority	Section 5.05 - Majority	Section 2.01(c) - Majority	Section 5.05 - Plurality	Section 4.05 - Majority
16	Public Comment Required	Yes	Article IV, Section 5(a) - No, open to public.	Section 3.09 - No, open to the public.	Section 3.12 - Yes	-	-	Section 3.10 - Open to the public.	-
17	Investigations Subpoena Power	Yes Yes	Article II, Section 6 - Yes Article III, Section 6 - Yes	Section 3.07 - Yes Section 3.17 - Yes	Section 3.16 - Yes Section 3.16 - Yes	Section 3.07 - Yes Section 3.13 - Yes	-	Section 3.09 - Yes Section 3.08 - Yes	Section 3.09(d) - Yes Section 3.12(a) - Yes
18	Judge of Qualifications	Section 3.02 - City Council	-	Section 3.03 - City Council	Section 3.05(2) - City Commission [IMPLIED] - states that the commission would be responsible for adopting and enforcing a resolution.	Section 3.03 - City Council	Section 2.01(c) - City Council	Section 3.08 - City Council	Section 3.04 - City Council

	A	B	C	D	E	F	G	H	I
2	PROPOSED in RED	Fulshear	Katy	Missouri City	Richmond	Rosenberg	Sugar Land	Stafford	Mont Belvieu (out of county)
19	Number, Selection and Term of Council Members	Section 3.03 - Seven (7) councilmembers total Two (2) at-large by majority vote Five (5) by majority vote of a single-member district in which they must reside; Two year terms	Article III/Article IV - Mayor and 5 councilmembers; 2 year term; This Council shall consist of one Councilmember elected from the City At large and four Councilmembers elected from the Wards established by the City designated within the City as Ward A., and Ward B.; the Councilmembers shall be elected, two from Ward A., and two from Ward B., and one at-large. The candidate for Councilmember from a Ward shall reside in the Ward for which he seeks election.	Article III - Mayor and 6 councilmembers Section 6.01(c) - 2 year term; The mayor and two (2) councilmembers shall be elected from the city at large. Each of said two (2) councilmembers shall occupy a position on the council, such positions being designated as councilmember-at-large, Position 1 and councilmember-at-large, Position 2. C. Four (4) councilmembers shall each be elected from within geographic districts of the city, as established elsewhere in this Charter, and shall each occupy a position on the council. One (1) councilmember shall be designated as councilmember, District A and shall be elected from District A. One (1) councilmember shall be designated as councilmember, District B and shall be elected from District B. One (1) councilmember shall be designated as councilmember, District C and shall be elected from District C. One (1) councilmember shall be designated as councilmember, District D and shall be elected	Section 3.01 - Mayor and 2 Commissioners; 3 year term; The "City Commission" shall be composed of a "Mayor" and two (2) "Commissioners." The Mayor and each Commissioner shall be elected at large, and unless sooner removed under the provisions of this Charter, shall serve for a term of three (3) years and until their successor has been elected and duly qualified. Neither the Mayor nor either Commission Member's terms of office shall expire in the same year, such that only one of them shall face election in any one year.	Section 3.01 - Mayor and 6 councilmembers; 2 year term; The legislative and governing body of the city shall consist of the mayor and six (6) council members and shall be known as the "City Council of the City of Rosenberg." (a) The mayor and two members of the city council shall be elected from the city at large. (b) The mayor shall be the presiding officer of the city council and shall be recognized as the head of city government for all ceremonial purposes and by the government [governor] for purposes of military law but shall have no regular administrative duties. The mayor shall be entitled to vote on all matters under consideration by the city council. (c) The mayor and six (6) council members, including two (2) at large council members and four (4) council members elected by districts shall be elected to two-year terms. The mayor and (2) council members shall be elected at-large in odd number years. The two (2) at-large council members positions shall be respectively designated as Position 1 and Position 2. The remaining four (4) council members shall be elected by districts, designated as Districts one (1), two (2), three (3) and four (4), in even	Section 2.01 - Mayor and 6 Councilmembers; 2 year term; (a) The council shall consist of a mayor and six (6) council members elected by the voters for a term of two (2) years, or until their successors have been elected and qualified. (b) The mayor and two (2) council members shall be elected at-large in even-numbered years. The two (2) at-large council members positions shall be respectively designated as Position 1 and Position 2. The remaining four (4) council members shall be elected by districts, designated as Districts 1, 2, 3, and 4, in odd-numbered years. The council shall modify the size, configuration, and geographic definition of the council districts as necessary to provide equal representation to all citizens of the city and to comply with state and federal law. (c) Council elections shall be held in May of each year on the date specified by state law. A candidate must be elected to office by majority vote. If no candidate for an office receives a majority vote, a run-off election shall be held as required by state law. The council shall be the judge of the election and qualifications of its own	Section 3.01 - Mayor and 6 Councilmembers; 2 year term; The governing body of the City shall be the City Council. The City Council shall be composed of a Mayor and six (6) Councilmembers. The Mayor and all Councilmembers shall be elected from the City at-large. The Mayor and the Councilmembers shall be elected in the manner provided in Article V of this Charter to serve for two-year terms, and shall hold office until their respective successors have been elected and qualified.	Section 3.02 - The membership of City Council (members of City Council) shall be composed of the Mayor and six (6) Council Members. The Mayor and Council Members shall be elected from the City at large for three (3) year terms. Each Council Member shall occupy a place on the Council, such places being numbered 1 through 6. Each year two Council places shall be elected for their respective terms except as set forth in the transitional provisions hereinafter set forth.
20	Compensation Expenses	Section 3.05 (a) - \$300 per month Section 3.05 (b) - Shall be reimbursed for travel and out-of-pocket expenses incurred in the performance of their official duties.	Article IV, Section 9(g) - Duty of City Council to fix the salaries and compensation of the City Officials and employees.	Section 3.04 - Council may provide by ordinance for compensation to its members.	Section 3.03 - City Commission compensation is \$75.00 per month. Subsequent increases to be determined & approved by vote of citizens at regular election to amend this Charter. No increase shall take effect until beginning of terms of Mayor and/or Commission Members elected at next general election. Entitled to reimbursement for actual expenses incurred in performance of official duties with approval of City Commission at public meeting.	Section 3.04 - The city council shall fix the compensation to be received by its members; provided, however, that no council member shall receive more than two hundred dollars (\$200.00) per month.	Section 2.04 - Mayor and councilmen may receive such pay or compensation, including necessary expenses incurred in performance of official duties, in amount determined from time to time by council; provided, that pay or compensation received by mayor shall not be less than that received by each councilman.	Article III, Section 3.05 - The Mayor and Councilmembers may receive such pay and compensation, including necessary expenses incurred in the performance of their official duties, as may be prescribed and set by City Council by ordinance; however, the compensation set for the Mayor or a Councilmember may not be changed during the term for which the Mayor or such Councilmember is elected or appointed.	Section 3.05 - Compensation - Shall be determined by City Council and shall take effect the next fiscal year following the election. Expenses - May be reimbursed for expenses incurred in performance of official duty.

	A	B	C	D	E	F	G	H	I
2	PROPOSED in RED	Fulshear	Katy	Missouri City	Richmond	Rosenberg	Sugar Land	Stafford	Mont Belvieu (out of county)
21	General Powers and Duties of the City Council	Section 3.06 - All powers of the City shall be vested in City Council, except as otherwise provided by law or by this Charter, and City Council shall provide for exercise thereof and for the performance of all duties and obligations imposed on City by law or by this Charter. By way of illustration but not limitation, the powers and duties of the City Council shall include the following: (a) investigations, subpoenas; (b) determine boundaries of all districts necessary for election of each Council Member required by this Charter to be elected by district, and shall revise such boundaries from time to time as may be required by law.	Section 9. Duties of the Council Section 10. Create Boards Section 11. Purchase Procedure Section 12. Emergency Powers	Section 3.07 - All powers of the city shall be vested in the council, except as otherwise provided by law or this Charter, and the council shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the city by law.	Section 3.06(1-14)	Section 3.07	Section 2.07 - All powers of city shall be vested in city council, except as otherwise provided by law or this Charter. Powers and duties of council shall include following: (a) To select, appoint, review, and dismiss city manager, with or without cause; (b) To establish boards or commissions and appoint individuals thereto as shall be required by law or deemed necessary by city council. (c) To adopt and modify yearly a plan containing goals and long range plans for city and directing city manager in meeting those goals and plans; and (d) To exercise exclusive jurisdiction upon, over and under public streets, sidewalks, alleys, and public grounds of city, including right to impose charges for use of such property.	Section 3.04 - All powers and authority which are expressly or impliedly conferred on or possessed by the City shall be vested in and exercised by the City Council; provided, that the City Council shall have no power to exercise those powers which are expressly conferred on other city officers by this Charter.	Section 3.01 - All powers of the City shall be vested in the City Council, except as otherwise provided by law or this Charter and the City Council shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the City by law.
22	Prohibition	Section 3.07 - (a) Neither Council/Council Member shall control/demand appointment/removal of administrative officer/ employee whom City Manager/subordinate is empowered to appoint, but may express its views/fully and freely discuss with City Manager anything pertaining to appointment/removal/both. (b) Except for inquiries/investigations authorized by Charter, Council and each Member deal with officers/employees subject to direction/supervision of City Manager solely through City Manager, and neither Council nor any Member shall give orders to any such officer/employee, either publicly/privately.	Section 6 - Personal interest in city contracts Section 7 - Nepotism	Section 3.08 - No holding other office. No former mayor/councilmember shall hold compensated appointive city office/city employment until passage of one year after expiration of term; Appointments/removals - shall not dictate appointment/removal of city administrative officer/employee; Interference with administration - shall deal solely through city manager. Section 3.09 - Councilmember shall vote upon all matters before council except when matter involves consideration of councilmember's own official conduct/where councilmember's financial interest is involved.	Section 3.07 - No Mayor or Commission Member shall hold any other City office/city employment/compensated appointive office until two (2) years; not in any way dictate the appointment/removal of city administrative officers/employees; deal with employees solely through City Manager. Section 4.07 - Freedom from Interference - unlawful to dictate to City Manager the appointment of any person to office or employment or interfere in any manner with City Manager.	Section 3.08 - City council not to interfere in appointments. Neither city council nor any of its members, except as herein otherwise provided, shall direct appointment of person to office by city manager or by any of his subordinates. Except for all purpose of inquiry, city council and its members shall deal with administrative services solely through city manager and neither city council nor any member thereof shall give orders to any subordinate of city manager, either publicly or privately.	-	Section 10.06 - nepotism	Section 3.09 - Not accept/admit liability/pay any claim for damages asserted against city. Not accept/admit liability without 1st obtaining written opinion from City Attorney and only then upon majority vote of Council; Not be employed in/appointed to position of City Manager, City Attorney or Department Head until 3 years after expiration of term. Other compensated positions, until 1 year after expiration of term elected to Council; Other than investigations, Council deals with city officers/employees subject to direction/supervision of City Manager solely through City Manager, and shall not give orders to any such officer/employee; Not dictate to City Manager appointment to office/employment, and shall not interfere with City Manager in his performance. Section 7.01 - Conflict of Interest Section 7.02 - Discrimination/favorable treatment because of race, national origin, sex, political or religious opinions or affiliations.
23	Mayor								

	A	B	C	D	E	F	G	H	I
2	PROPOSED in RED	Fulshear	Katy	Missouri City	Richmond	Rosenberg	Sugar Land	Stafford	Mont Belvieu (out of county)
	Qualifications	<p>Section 3.01- Mayor and each Council Member shall meet and maintain the following qualifications to be eligible for office:</p> <p>(a) Be a United States citizen;</p> <p>(b) Be twenty-one (21) years of age or older on the first day of the term to be filled;</p> <p>(c) Have resided continuously in the corporate limits of the City for twelve (12) months on the first day of the term to be filled at the election;</p> <p>(d) Not be delinquent in paying any local, state, or federal taxes;</p> <p>(e) Not be indebted to the City; and</p> <p>(f) Satisfy any other eligibility requirements prescribed by this Charter or other law for the office for which they are a candidate.</p>	Article III. Section 1. Shall be a citizen of the United States, at least twenty-one (21) years of age, a qualified voter, residing for at least twelve (12) months prior to his election within; he shall not hold any other public office. He shall not receive remuneration from two governmental or taxing entities.	Section 3.01(E) - No person shall be eligible to be elected to, appointed to, or to serve in office of mayor or councilmember unless that person is a resident of Missouri City, Texas, for six (6) months immediately preceding that person's appointment or election to fill such office. Additionally, no person shall be eligible to be elected to, appointed to, or to serve in office of district councilmember unless that person resides in district and has resided within district, or in an area that has been added to district, for six (6) months immediately preceding that person's appointment or election to fill such office.	Section 3.02 - The Mayor and each Commission Member shall meet the qualifications set forth in and prescribed by the Texas Election Code.	Section 3.02 - The mayor and each other member of the city council shall have and possess the following qualifications to be a candidate for such office and shall retain such qualifications during the term of the office for which a person might be elected. Such qualifications are: Be a resident of the City of Rosenberg for six (6) months and have resided in the State of Texas for twelve (12) months, and if a candidate for a council district position, then shall have been a resident of such district for six (6) months; and (b) Be a United States citizen; and (c) Be 18 years of age or older on the first day of the term of office that the candidate is seeking; and (d) Not have been previously determined mentally incompetent by a judgment of a court of competent jurisdiction; and (e) Not finally convicted of a felony for which a pardon has not been given.	Section 2.02 - Council members shall be twenty-one (21) years of age or older and city residents for at least one (1) year preceding their election. A district council member shall during the term of office maintain a residence in the district to which elected. No council member shall hold any other city office or city employment while serving as a council member or hold any paid city employment within two (2) years thereafter.	Section 3.02 - Upon commencement of the term to be filled at their respective elections, each Councilmember and the Mayor shall be at least twenty-one (21) years of age, be a resident qualified voter of the City, and shall have resided continuously in the City for at least twelve (12) months immediately preceding the filing deadline for an application for a place on the ballot.	Section 3.03 - The Mayor and each Council Member shall meet the following: A. Be a qualified voter in the City and State at the time of taking office; B. Be a resident of the City; C. Have resided continuously in the corporate limits of the City for 12 months immediately preceding the date of the election; D. Not be in violation of any provision in this Charter; E. Be 21 years of age or older on the first day of the term to be filled at the election; F. Satisfy any other eligibility requirements prescribed by law for the office for which they are a candidate.
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	Selection and Term of Mayor	<p>Section 3.04 - Elected at large by majority vote; Two year term; May not serve more than three (3) consecutive terms as Mayor, provided partial terms shall be excluded from such limitation</p>	Article III. Section 1. Elected from City at large; shall hold office for two years and/or until his successor is elected and qualified unless sooner removed as provided by this Article. Article III, Section 12 - Term limit: 3 X 2 year term	Section 6.01(b) - 2 year term Section 3.01(b) - at large	Section 3.01 - 3 year term; at large	Section 3.01(c) - 2 year term Section 3.01(a) - at large	Section 2.01(a) - 2 year term Section 2.01(b) - at large	Section 3.01 - 2 year term; at large	Section 3.02 - The membership of City Council (members of City Council) shall be composed of the Mayor and six (6) Council Members. The Mayor and Council Members shall be elected from the City at large for three (3) year terms. Each Council Member shall occupy a place on the Council, such places being numbered 1 through 6. Each year two Council places shall be elected for their respective terms except as set forth in the transitional provisions hereinafter set forth.
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	A	B	C	D	E	F	G	H	I
2	PROPOSED in RED	Fulshear	Katy	Missouri City	Richmond	Rosenberg	Sugar Land	Stafford	Mont Belvieu (out of county)
26	Compensation Expenses	Section 3.05 (a) - \$800 per month Section 3.05 (b) - Shall be reimbursed for travel and out-of-pocket expenses incurred in the performance of their official duties	Article II, Section 11 - Annual salary of the Mayor shall be determined by the Council.	Section 3.04 - Council may provide by ordinance for compensation to its members.	Section 3.03 - Mayor's compensation is \$75.00 per month. Subsequent increases to be determined & approved by vote of citizens at regular election to amend this Charter. No increase shall take effect until beginning of terms of Mayor and/or Commission Members elected at next general election. Entitled to reimbursement for actual expenses incurred in performance of official duties with approval of City Commission at public meeting.	Section 3.04 - The city council shall fix the compensation to be received by its members; The mayor shall not receive more than three hundred (\$300.00) per month.	Section 2.04 - Mayor and councilmen may receive such pay or compensation, including necessary expenses incurred in performance of official duties, in amount determined from time to time by council; provided, that pay or compensation received by mayor shall not be less than that received by each councilman. (Ord. No. 1178, § 1, 6-15-99)	Article III, Section 3.05 - The Mayor and Councilmembers may receive such pay and compensation, including necessary expenses incurred in the performance of their official duties, as may be prescribed and set by City Council by ordinance; however, the compensation set for the Mayor or a Councilmember may not be changed during the term for which the Mayor or such Councilmember is elected or appointed.	Section 3.05 - A. City Council shall not receive any compensation unless determined by vote as provided for herein. 1. Compensation of the City Council, and any subsequent increases, shall be determined and approved by a vote of the citizens at a regular election. 2. No increase in such compensation shall take effect until the next fiscal year following the election. B. The City Council may be reimbursed for expenses incurred in performance of official duty. The policy regulating payment of expenses incurred in performance of official duty shall be determined by the City Council.
27	Vote	In the event of a tie In the event of a tie	Article III, Section 7 - In the event of a tie	Section 3.05 - Yes	Section 3.04 - In the event of a tie	Section 3.01(b) - Yes	Section 2.05 - Yes	Section 3.03(a)(2) - Yes	-
28	Veto	Yes, LGC No	Article III, Section 7 - Yes, override by 3	Not expressly stated	Section 3.04(2) - Yes	No	No	Section 3.03(a)(2) - No	
29	Powers and Duties of Mayor	Section 3.08 (a) - Shall nominate, and by and with approval of City Council, shall appoint the members of all boards and commissions of the City, and may remove the same at any time. Section 3.08 (b) - Shall annually address the City Council as to the State of the City.	Article III, Section 1(a). Head of City Government - The Mayor shall be the Chief Administrative and Executive Officer of the City. He shall devote his best efforts to and shall be responsible for the proper administration of its affairs. The Mayor shall preside at all meetings of the Council and shall be recognized as the head of the City Government for all ceremonial purposes, for the purpose of receiving civil process, for emergency purposes, and for military purposes.	Section 3.05 - Mayor shall be official head of city government and act as chief administrative officer of city and fulfill all duties of city manager until a city manager is appointed. He shall be chairman and shall preside at all meetings of city council. Mayor shall vote upon all matters before city council except when matter involves consideration of his own official conduct or where his financial interest is involved. He shall see that all ordinances, bylaws, motions and resolutions of council are faithfully obeyed and enforced. He shall sign all ordinances and resolutions; and when authorized by council, he shall sign all official documents, such as conveyances, grant agreements, official plats, contracts and bonds. He shall appoint special committees as he deems advisable and also those special committees as instructed by council. He shall perform such other duties consistent with Charter or as may be imposed upon him by city council.	Section 3.04 - (1) Mayor occupies highest elective office in City and shall preside at meetings of City Commission. Mayor shall be recognized as head of City government for all ceremonial purposes, and by Governor for purposes of military law, but shall have no regular administrative duties. Mayor may participate in discussion of all matters coming before City Commission and may second any motion that comes before Commission. Mayor shall not be entitled to vote as a member of Commission, on legislative or other matters, except in case of a tie when Mayor shall 4 cast deciding vote or in absence of a Commissioner to meet requirement of Section 3.09. (2) Before an Ordinance or Resolution adopted by City Commission may take effect, Ordinance or Resolution must be signed by Mayor. On any Ordinance or Resolution adopted by Commission to which Mayor does not execute within one week after Commission approval, Ordinance or Resolution shall take effect. If Mayor files objections with City Secretary within one week after Commission approved Ordinance or Resolution, action by	Section 3.01(b) - The mayor shall be the presiding officer of the city council and shall be recognized as the head of city government for all ceremonial purposes and by the government [governor] for purposes of military law but shall have no regular administrative duties. The mayor shall be entitled to vote on all matters under consideration by the city council. Section 3.07(a - y) - Powers of city council	Section 2.05(a) - Head of City government. Mayor shall preside at all council meetings and be deemed a council member and be entitled to vote upon all matters considered by council. Mayor shall be recognized as head of City government for all ceremonial purposes and shall perform any additional duties as provided for by Federal or State laws or regulations. Section 2.07 - All powers of city shall be vested in city council, except as otherwise provided by law or this Charter. Powers and duties of council shall include following: (a) To select, appoint, review, and dismiss city manager, with or without cause; (b) To establish boards or commissions and appoint individuals thereto as shall be required by law or deemed necessary by city council. (c) To adopt and modify yearly a plan containing goals and long range plans for city and directing city manager in meeting those goals and plans; and (d) To exercise exclusive jurisdiction upon, over and under public streets, sidewalks, alleys, and public grounds of city, including right to impose charges for use of such	Section 3.03(a) - Mayor shall: (1) preside at all meetings of City Council, be recognized as head of City government for emergency purposes, for purpose of receiving service of process, for military purposes, and for ceremonial purposes; (2) be entitled to vote upon all matters before City Council unless prohibited by Law, but shall have no power of veto; (3) see that ordinances, regulations, and resolutions of the City Council are faithfully obeyed and enforced; (4) when authorized by City Council, sign all official documents such as ordinances, resolutions, conveyances, agreements, contracts, and bonds; (5) appoint special committees which he deems advisable or as instructed by City Council; (6) oversee preparation of each annual fiscal year budget, file it with City Secretary, and be responsible for its administration after adoption by City Council; (7) in January of each year, deliver a State of City Message to City Council and members of public; (8) perform such other duties and possess and exercise such other authority as may be prescribed and conferred by City Council when not inconsistent with this Charter.	Section 3.06 - A. The Mayor shall be the presiding officer of the City Council and shall be recognized as the head of the City government for all ceremonial purposes, for emergency management purposes, and by the governor for purposes of military law. B. The Mayor may debate and discuss any matters before the City Council and shall vote on all issues with the City Council. C. The Mayor shall, when authorized as necessary by the City Council, sign all official documents. D. The Mayor shall appoint, with the advice and consent of the City Council, the members of citizen advisory boards and commissions, whose conditions of membership shall have been set previously by ordinance.

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2	PROPOSED in RED	Fulshear	Katy	Missouri City	Richmond	Rosenberg	Sugar Land	Stafford	Mont Belvieu (out of county)
30	City Council Meetings								
31	Meeting Frequency	Section 3.09(a) - At least 1 a month	Article IV, Section 5 - At least 2 a month	Section 3.09 - At least 2 a month	Section 3.08(1) - May hold at least one regular meeting each month and as many additional meetings as it deems necessary.	Section 3.09 - At least 1 a month	Section 2.08 - At least 2 a month	Section 3.10 - At least 1 a month	-
32	Special Meetings	Section 3.09(b) - Mayor may call a special meeting on own motion and shall call a special meeting on the application of three (3) Council Members or the City Manager.	Article IV, Section 5(a) - Special meetings of the Council shall be called by the Office of the City Secretary upon written request of the Mayor or of two Councilmembers.	-	Section 3.08(2) - Special meetings of the City Commission shall be held at the call of the Mayor or a majority of the City Commission Members upon provision of public notice in accordance with Texas Open Meetings Act.	Section 3.09 - The mayor or any three members of the city council may call special meetings of the city council at any time.	Section 2.08(a) - The mayor, any four (4) council members, or the city manager may call special meetings of the council.	Section 3.10(a) - Special meetings may be held on the call of the Mayor or four (4) or more Councilmembers.	Section 3.10(B) - City Council shall, except as otherwise provided for in this Charter, create rules of procedure for all City Council workshops, regular and special meetings and public hearings by ordinance.
33	Vote, Order, Decision or Other Action	Section 3.09(c) - Unless otherwise provided by this Charter or other law, each vote, order, decision, or other action taken by the City Council shall require the affirmative vote of a majority of the full City Council, provided that any abstention not required by law shall be counted as a vote against the matter under consideration, and provided that the Mayor shall have the right to cast the deciding vote in the case of a tie, but shall not otherwise have any right, power, or authority to vote against or veto any action taken by the City Council. For purposes of this subsection, a majority shall mean an integer greater than one-half of the full City Council, provided that any one or more Council Members required by law to abstain from voting on a particular matter shall be excluded for purposes of determining the majority.	Article IV, Section 5(b) - A vote regarding adjournment or the attendance of absent members may be adopted by a majority of the members present but in all other matters upon which the Council may vote, three-fifths (3/5) vote of all members of the Council in Office shall be necessary for adoption, provided, however, in the event of a tie vote with only four Councilmembers present, then the Mayor shall be entitled to vote and break the said tie.	Section 3.11 - The council may legislate and act only by ordinance, resolution or motion; and all ordinances, resolutions or motions, except ordinances making appropriations, shall be confined to one subject, which shall be clearly expressed in the title, and ordinances making appropriations shall be confined to the subject of appropriations.	Section 3.09 - A majority of Commission Members shall constitute a quorum for the purpose of transacting business. No action of the City Commission, except as specifically provided in this Charter, shall be valid or binding unless adopted by the affirmative vote of a majority of the City Commission places occupied at the time of the vote. The presence of the Mayor at any Commission meeting shall not count toward a quorum unless a Commissioner is absent, then the Mayor does count toward a quorum and is allowed to vote on all matters during the absence of the Commissioner. No Ordinance, Resolution or action by the City Commission shall be binding unless the matter receives two (2) affirmative votes.	Section 3.10 - The affirmative vote of four (4) members of the council shall be necessary to adopt any ordinance or resolution. Every ordinance shall be in written form and upon passage shall take effect at the time indicated therein, or if no time be specified, then immediately after passage and approval; provided that any penalty, fine or forfeiture for a violation of ordinance provisions shall become effective from the date of its publication.	Section 2.01(b) - 2	Section 3.10(b) - Four (4) members of City Council shall constitute a quorum for the purpose of transaction of business at any regular or special called meeting. No action of the City Council shall be valid or binding unless approved by the affirmative vote of a majority of the members of City Council present.	

	A	B	C	D	E	F	G	H	I
2	PROPOSED in RED	Fulshear	Katy	Missouri City	Richmond	Rosenberg	Sugar Land	Stafford	Mont Belvieu (out of county)
34	Rules of Procedure required	Section 3.09(d) - The City Council shall adopt rules of procedure governing all meetings of the City Council, which shall provide for comments from the public at all regular meetings, subject to such limitations as may be imposed by the City Council.	Article IV, Section 5(c) - Yes - established by ordinance	Section 3.10 - Yes - established by ordinance	Section 3.12 - Yes - established by City Commission	Section 3.09 - Yes - established by City Council	Section 2.08 - Yes - established by City Council	Section 3.11 - Yes - established by ordinance	Section 3.10(B) - City Council shall, except as otherwise provided for in this Charter, create rules of procedure for all City Council workshops, regular and special meetings and public hearings by ordinance.
35	Agenda items	Section 3.09(e) - The City Manager shall place an item on the agenda of the next regular meeting of the City Council if requested to do so at a time other than during a City Council meeting by either the Mayor or by a concurrence of two (2) Council Members, and shall place an item on the agenda of a subsequent meeting if a motion to do so is made and seconded during any City Council meeting.	-	Section 3.11(5) - Any member of council may offer any ordinance in writing that he desires after it has been approved by the attorney for the city as to form and has been placed on the agenda of a regular council meeting.	Section 3.12(2) - The Mayor or Commission Members by motion at a Commission meeting may place items on the agenda of a future meeting prior to the agenda being posted.	-	Section 4.01(7) - City Manager "...to prepare and accept items for the agenda of the meetings of the city council in accordance with rules adopted by the city council."	Section 3.10(f) - The agenda for the meetings of City Council shall be prepared by the Mayor and posted in the manner required by State Law. Any Councilmember may request that an item be placed on the agenda; however, the Mayor is not obligated to comply unless such request is timely submitted in writing and signed by three (3) or more Councilmembers. The item shall then be included on the next regular City Council meeting agenda unless a different meeting date was specified in the request.	Section 3.10(A) - A member of City Council may place an item on an agenda by agreement of two additional members of City Council. The member of City Council desiring to place an item on an agenda shall submit in writing the request to place the item on an agenda to the City Secretary who shall inquire with members of City Council as to their agreement. The item shall be placed on the next City Council meeting occurring on or after the 5th calendar day after obtaining the agreement of the second member of City Council. At a meeting of City Council a member of City Council may place an item on an agenda by making a motion to place the item on a future agenda and receiving a second. No discussion shall occur at the meeting regarding the placement of the item on a future agenda. The City Manager may place any item on any City Council agenda.

	A	B	C	D	E	F	G	H	I
2	PROPOSED in RED	Fulshear	Katy	Missouri City	Richmond	Rosenberg	Sugar Land	Stafford	Mont Belvieu (out of county)
36	Mayor Pro Tempore	Section 3.09(f) - At the first regular meeting of the City Council after each general election, the City Council shall elect one Council Member to serve as Mayor Pro Tempore until the City's next general election. If the Mayor fails, is unable, or refuses to act, the Mayor Pro Tempore shall perform the Mayor's duties. If the Mayor and the Mayor Pro Tempore are both absent, any Council Member may be appointed to preside at the meeting.	Article III, Section 1(b) - If for any reason Mayor is absent from City, sick or unable to perform duties of office, Mayor Pro Tem shall act as Mayor, and during such absence or disability shall possess all of powers and perform all of duties of Mayor. Article III, Section 2 - Each year at first regular meeting of Council after newly-elected Officials have been inducted into office, Mayor shall nominate, subject to confirmation by Council, one of Councilmembers who shall be known and designated as "Mayor Pro Tem," and shall continue to hold title and office until his successor is appointed, but shall receive no extra pay by reason of being or acting Mayor Pro Tem.	Section 3.05 - The mayor pro tem shall be a councilmember and shall be elected by the council at the first regular council meeting following each regular city election. The councilmember elected as the mayor pro tem shall hold the title and serve in such capacity during the pleasure of the council. The mayor pro tem shall act as mayor during the absence or disability of the mayor and when so acting in this capacity shall have the authority conferred upon the mayor.	Section 3.04(4) - The Mayor Pro Tem shall be a Commission Member appointed by the Mayor at the first regular meeting after each election of Commission Members and/or Mayor. The Mayor Pro Tem shall act as Mayor during the disability or absence of the Mayor, and in this capacity shall have all the rights conferred upon the Mayor and shall still be entitled to vote as a Commission Member.	Section 3.05 - The city council, at its first meeting after election of councilmen, shall elect one of its number mayor pro-tem, and he shall perform all the duties of the mayor in the absence or disability of the mayor.	Section 3.05(b) - Following each city election in May, the council shall appoint one of its members as mayor pro tem. The mayor pro tem acts as mayor during mayor's absence and has the power to perform every act the mayor could perform if present.	Section 3.03(b) - The Mayor Pro Tem shall be a Councilmember and shall be elected by the City Council at the first regular meeting following the general municipal election each year or as soon thereafter as practicable. The Councilmember elected as the Mayor Pro Tem shall hold the title and serve in such capacity at the pleasure of the City Council. If the Mayor fails, or is unable, or refuses to act, the Mayor Pro Tem shall have power to perform the Mayor's duties. If the Mayor and the Mayor Pro Tem are absent from a meeting, the City Councilmember next in line of succession present shall preside over such meeting.	Section 3.07 - A. The Mayor Pro-Tem shall be a Council Member elected by the City Council at the first regular City Council meeting following each regular City election. B. The Mayor Pro-Tem shall act as Mayor during the absence or disability of the Mayor.
37	Vacancies								
38	Filling one vacancy	Section 3.10(a) - If for any reason a single vacancy exists among the Mayor and the members of the City Council, then a majority of the remaining Council Members may fill the vacancy by appointment. Section 3.10(c) - A person elected or appointed to fill a vacancy serves until the next regular election at which the affected office is to be elected (partial term).	Article III, Section 5 - Mayor - "Filled in the same manner as any other vacancies." Article IV, Section 4 - Councilmember - Remaining members must appoint a qualified person within 20 days to serve in that position until the next Regular City Officers' Election.	Section 3.06D - Filled within 30 days by majority vote of remaining members of council to serve until next regular city election.	Section 3.05 (4 - 6) - Mayor - Mayor Pro Tem shall serve until next election. City Commissioner - If term is less than a year, vacancy filled within 30 days by vote of remaining members. If term is more than a year, position must be filled by election.	Section 3.06 - Within 10 days, remaining members will appoint. Shall not appoint more than 1 member in 12 month period.	Section 2.06 - Mayor - More than 15 months remain, election held on next May election. Interim, council appoints one of members and council position becomes vacant. Three months or more but 15 months or less, council appoints one of members and council position becomes vacant. Less than three months, Mayor Pro Tem acts as Mayor and receives his compensation. Mayor Pro Tem's position does not become vacant. Councilmember - Within 30 days appoint. More than 15 months, election held at next May election.	Section 3.07(d)(1) - Filled by majority vote of members OR special election if sufficient time to order special election for next uniform election date. If insufficient time, Council appoints person to fill the vacancy until next regular municipal election, at which time, if unexpired term remaining, special election is ordered. If Council fails to appoint a person, special election is ordered to be held on first authorized election date as prescribed by Election Code which occurs before general election and allows enough time to hold election.	Section 3.08 - All vacancies shall be filled pursuant to state law.

	A	B	C	D	E	F	G	H	I
2	PROPOSED in RED	Fulshear	Katy	Missouri City	Richmond	Rosenberg	Sugar Land	Stafford	Mont Belvieu (out of county)
	Filling two vacancies	Section 3.10(b) - If two or more vacancies among the Mayor and the members of the City Council exist at the same time, then a special election shall be ordered to fill the vacancies. Section 3.10(c) - A person elected or appointed to fill a vacancy serves until the next regular election at which the affected office is to be elected (partial term).	Article IV, Section 4 - Remaining members appoint qualified person within 20 days to serve in position until next regular election. Shall not appoint more than one Councilmember within twelve month period. If vacancies exist within 90 days of next regular election, vacancy shall be filled by appointment as in other cases. Should Mayor and Mayor Pro Tem resign at same time, City Council shall issue legal notice of such election to be held and to elect and appoint Election Officials. Should all positions become vacant at one time, County Judge is directed to issue notice of special election and to appoint Election Officials.	Section 3.06D - special election shall be called by the council within 30 days following vacancies to fill vacancies in the same manner for regular elections. If, however, the vacancies occur with 120 days of a regular election, remaining councilmembers shall appoint to fill the vacancy until the regular election.	Section 3.05 (4 - 6) - But does not specifically address more than one vacancy.	Section 3.06 - Shall call a special election within 10 days to occur not sooner than 45 days from the date of the order calling an election.	Section 2.06 - But does not specifically address more than one vacancy.	Section 3.07(d)(2) - Special Election shall be ordered to fill two or more vacancies.	Section 3.08 - All vacancies shall be filled pursuant to state law.
39	Missed Meetings	Section 3.10(d) - If the Mayor or a Council Member is absent for three (3) consecutive regular meetings, then the Mayor's or Council Member's office, as applicable, is considered vacant unless: (1) They are sick and the absence is excused afterward; or (2) They have first obtained a leave of absence at a regular meeting.	Mayor - Article III, Section 4 - 3 consecutive meetings by a majority vote OR automatically after 6 consecutive meetings Council - Article IV, Section 3 - 3 consecutive meetings by a majority vote OR automatically after 6 consecutive meetings	-	Section 3.05(2) - 3 consecutive meetings by majority vote	-	-	Section 3.07(c) - 3 consecutive regular meetings by majority vote OR automatically after 6 consecutive regular meetings	Section 3.08(B)(3) - Failure to regularly attend City Council meetings without an approved absence obtained by a majority vote by City Council either before or after the absence. There shall be a presumption of failure to regularly attend when three (3) regular meetings are missed during a term year without obtaining an approved absence from City Council.
40									
41	City Administration								

	A	B	C	D	E	F	G	H	I
2	PROPOSED in RED	Fulshear	Katy	Missouri City	Richmond	Rosenberg	Sugar Land	Stafford	Mont Belvieu (out of county)
	City Manager Qualifications, Appointment, and Compensation	<p>Section 4.01 - (a) The City Council shall appoint, by at least a two-thirds (2/3) supermajority of the full City Council, a City Manager who shall be chosen solely on the basis of executive and administrative training, experience, and ability. The City Manager may not be required to reside within the City.</p> <p>(b) The City Manager shall have an employment contract with the City of Fulshear, which shall be approved by at least a two-thirds (2/3) supermajority of the full City Council, shall be for an indefinite term, shall fix the compensation of the City Manager, and shall provide for review of the City Manager at least once but not more than twice per year.</p> <p>(c) The City Manager may be removed only by at least a two-thirds (2/3) supermajority of the full City Council, and no hearing shall be required prior to the removal of the City Manager.</p>	"City Administrator" - Article V, Section 1 - Appointment; Qualifications; Assistants; Temporary City Administrator Section 2 - Term and Salary	Section 4.01 - A. Council by majority vote shall appoint a city manager who shall be chief administrative and executive officer of city. Method of selection shall be left to discretion of city council so long as method insures orderly, nonpartisan action toward securing a competent and qualified person to fill position. City manager shall be chosen solely upon basis of his executive and administrative training, experience and ability and need not when appointed be a resident; however, during tenure of his office he shall reside within city. B. City manager shall receive compensation as may be fixed by council. Compensation shall be agreed upon before appointment with understanding that council may change it at their discretion.	Section 4.01(1) - City Commission shall appoint and approve a written agreement for City Manager by affirmative vote of a majority of the full membership of City Commission. City Manager shall be appointed solely upon City Manager's executive, administrative and educational qualifications and shall have previous city manager or administrator or assistant city manager experience and/or a degree in a field related to city government. City Manager need not be a resident of the City when appointed, but shall, within a reasonable time (no more than one year), after such appointment, reside within a radius of ten (10) miles of Richmond City Hall during balance of tenure of his/her appointment. Section 4.01(3) - City Commission shall fix compensation of City Manager, and City Manager's compensation may be amended from time to time, in accordance with City Manager's experience, qualifications and performance.	Section 4.01 - (a) Appointment and qualifications: city council shall appoint a city manager who shall be chief administrative and executive officer and shall be responsible to city council for administration of all affairs of city under his jurisdiction. He shall be chosen by city council solely on basis of his executive and administrative training, experience and ability, and need not, when appointed, be a resident of City. No member of city council shall, during the time for which he is elected and for one year thereafter, be appointed or designated city manager. (b) Term and salary: City manager shall not be appointed for a definite term but may be removed at the will and pleasure of city council by a vote of majority of entire council. Action of city council in suspending or removing city manager shall be final, it being intention of this Charter to vest all authority and fix all responsibility for such suspension or removal in city council. City manager shall receive such compensation as may be fixed by city council.	Section 4.01(a) - The city council shall appoint and retain a city manager to serve as the chief administrative officer of the City. The council shall set the compensation to be paid to the city manager. The city manager serves at the pleasure of the city council and shall be subject to dismissal by the city council, with or without cause.	N/A - City employs a City Secretary	Section 5.01 - A. Appointment and Qualifications. The City Council shall appoint a City Manager who shall be the chief administrative and executive officer of the City and shall be responsible to the City Council for the administration of all the affairs of the City. The City Manager shall be chosen by the City Council solely on the basis of the City Manager's executive and administrative training, experience and ability. B. Term and Compensation. The City Manager shall be appointed for an indefinite term upon the affirmative vote of two-thirds (2/3's) of the City Council, and may be removed at the discretion of the City Council by an affirmative vote of two-thirds (2/3's) of the City Council. The action of the City Council in suspending or removing the City Manager shall be final, it being the intention of this Charter to vest all authority and fix all responsibility of such suspension or removal in the City Council. The City Manager shall receive compensation as may be fixed by the City Council.

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2	PROPOSED in RED	Fulshear	Katy	Missouri City	Richmond	Rosenberg	Sugar Land	Stafford	Mont Belvieu (out of county)
43	City Manager Powers and Duties	Section 4.02 - (a) Chief executive officer of the City, responsible to City Council for management of all City affairs placed in City Manager's charge by/under this Charter. (b) City Manager shall (See Section 4.02(b)(1-15))	Article V, Section 3 - Duties of the City Administrator	Section 4.01(D) - City manager shall be responsible to council for proper administration of all affairs of city and to that end shall have power and be required to: 1. See that all state laws and city ordinances are effectively enforced. 2. Except as prohibited by this Charter, city manager shall appoint, suspend or remove all or any one of directors of departments with concurrence of council; and he shall employ, suspend or discharge all other employees of city. 3. Attend all meetings of council except when excused by council. 4. Prepare budget annually and submit it to council and be responsible for its administration after its adoption. 5. Prepare and submit to council at end of the fiscal year a complete report on finances and administrative activities for preceding year. 6. Keep council advised of financial condition and future needs of city and make such recommendations as may seem to him advisable. 7. Perform such other duties as may be prescribed by this Charter or required of him by council, as consistent with this Charter.	Section 4.01(1) - City Manager shall serve as Chief Administrative Officer of City. The City Manager shall be responsible to City Commission for administration of all affairs of City, with only those exceptions that are named in this Charter. Section 4.01(6)(A - K) - Duties and Responsibilities	Section 4.01(c) - (1) Appoint, and when necessary for the welfare of the city, remove any employee of the city, except as otherwise provided by this Charter. (2) Prepare the budget annually and submit it to the city council, and be responsible for its administration after adoption. (3) Prepare and submit to the city council as of the end of the fiscal year a complete report on the finances and administrative activities of the city for the preceding year. (4) Keep the city council advised of the financial condition and future needs of the city and make such recommendations as may seem desirable. (5) Perform such duties as may be prescribed by this Charter or may be required of him by the city council not inconsistent with this Charter.	Section 4.01(b) - Shall exercise administrative powers granted herein or by ordinance. (1) To establish, organize, and abolish City departments or administrative units not otherwise provided for by Charter and to assign duties thereof; (2) To adopt, modify, and administer personnel policies for City employees; (3) To hire, promote, transfer, demote, terminate, discipline, and take other administrative actions involving employment of City employees; (4) To establish and adjust salaries and compensation for all employees not appointed by city council in accordance with a compensation plan approved by city council; (5) To annually prepare and recommend to city council a budget and to administer adopted budget; (6) To make regular reports to city council on City operations; (7) To prepare and accept items for agenda of meetings of city council in accordance with rules adopted by city council; and (8) To attend and take part in discussions of all open meetings of city council.	N/A - City employs a City Secretary	Section 5.01(c) - 1. City Manager shall appoint and, when City Manager deems it necessary for good of City, may suspend or remove any City employee except as otherwise provided by law, this Charter, or personnel rules adopted pursuant to this Charter. City Manager may authorize any employee who is subject to City Manager's direction and supervision to exercise these powers with respect to subordinates in that officer's department, office or agency. 2. City Manager shall direct and supervise administration of all departments, officers, and agencies of City, except as otherwise provided by this Charter or by law. 3. City Manager shall attend all City Council meetings, except when excused by Mayor or Mayor Pro-Tem, and shall have right to take part in discussion but may not vote. 4. City Manager shall see that all laws, provisions of this Charter and acts of City Council, subject to enforcement by City Manager or by those subject to City Manager's direction and supervision, are faithfully executed. 5. City Manager shall make such reports as City Council may require concerning operations of City departments, offices and agencies subject to City Manager's direction and supervision. 6. City Manager shall keep City Council fully advised as to financial condition and future needs of City and make such recommendations to City Council concerning affairs of City as City Manager deems desirable. 7. City Manager shall have authority to execute standard form documents...

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2	PROPOSED in RED	Fulshear	Katy	Missouri City	Richmond	Rosenberg	Sugar Land	Stafford	Mont Belvieu (out of county)
44	Acting City Manager	<p>Section 4.03 - (a) The City Manager shall designate a qualified employee or officer of the City to be the Acting City Manager, who shall act as the City Manager in the absence of the City Manager.</p> <p>(b) Neither the Mayor nor any Council Member may be designated as the Acting City Manager.</p> <p>(c) If the City Manager's absence exceeds sixty (60) days, then the City Council may remove the Acting City Manager designated by the City Manager and designate a new Acting City Manager, who shall act as City Manager until the City Council, at any time thereafter, either designates a new Acting City Manager or appoints a new City Manager.</p>	<p>Article V, Section 1(b) - Such Assistant City Administrators as may be required may be appointed by the Mayor subject to the approval of City Council. In the temporary absence of a City Administrator and Assistant City Administrator because of illness, death, resignation, termination or other cause, the Mayor may appoint a qualified person as Temporary City Administrator whose term may not exceed 90 days without Council approval.</p>	<p>Section 4.01(E) - The city manager, within sixty (60) days after taking office, shall designate by letter filed with the city secretary, a qualified administrative officer of the city to perform the duties of the city manager in his absence or disability and to then be known as "acting city manager." Such designation shall be subject to approval by council. No person while serving as a member of city council or as the city secretary shall ever serve at the same time as city manager or as acting city manager. No member of the city council shall, during the time for which he is elected or for two (2) years thereafter, be chosen as city manager or acting city manager.</p>	<p>Section 4.01(5) - (A) In case of a disability or suspension of the City Manager, the City Commission may designate a qualified administrative officer of the City to perform the duties of the office or appoint an acting City Manager. (B) By letter filed with the City Secretary and copies provided to the Mayor and City Commission, the City Manager shall designate, subject to the approval of the City Commission, a qualified administrative officer to exercise the powers and perform the duties of the City Manager during vacation or any temporary voluntary leave of the City Manager. The Commission may revoke such designation at any time and appoint another officer of the City to serve until the return of the City Manager.</p>	<p>Section 4.01(b) - In case of the absence or disability of the city manager, the city council may designate some qualified person to perform the duties of the office during such absence or disability.</p>	-	N/A - City employs a City Secretary	<p>Section 5.01(E) - By letter filed with the City Secretary the City Manager shall designate, subject to approval of the City Council, a qualified employee to exercise the powers and perform the duties of City Manager during the City Manager's temporary absence or disability. The City Council may revoke such designation at any time and appoint another individual to serve until the City Manager shall return or his disability shall cease.</p>

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2	PROPOSED in RED	Fulshear	Katy	Missouri City	Richmond	Rosenberg	Sugar Land	Stafford	Mont Belvieu (out of county)
	City Attorney	<p>Section 4.04 - (a) The City Council shall appoint, by at least a two-thirds (2/3) supermajority of the full City Council, a licensed attorney of the State of Texas to be the City Attorney, who shall be subject to the direction and supervision of the City Council.</p> <p>(b) The City Attorney may be removed only by at least a two-thirds (2/3) supermajority of the full City Council.</p>	<p>Article VI, Section 1(a) - Dept of Law, head of which shall be City Attorney, who shall be appointed by Mayor with approval of Council. City Attorney shall be a competent attorney who shall have practiced law in Texas for at least 5 years immediately preceding appointment. City Attorney shall be legal advisor of, and attorney for, all of officers/departments of City and shall represent City in all litigation and legal proceedings. City Attorney shall draft, approve, or file written legal objections to every ordinance before it is acted upon and shall pass upon all documents, contracts, and legal instruments in which City may be required to perform any act, or pay any sum of money.</p>	<p>Section 4.02 - Council shall appoint as attorney for city (referred to as city attorney) a competent and duly qualified and licensed attorney who has practiced law in Texas for at least five (5) years immediately preceding appointment. City attorney shall receive for services such compensation as may be fixed by council and shall hold office at pleasure of council. City attorney shall be legal advisor of, and attorney for, all of offices and departments of city, and shall represent city in all litigation and legal proceedings; provided, that council may retain special legal counsel for any purpose and at any time it shall deem same appropriate and necessary. City attorney shall draft, review, approve, or file written legal objections to, every ordinance before it is acted upon by council; and shall review and concur or dissent upon all documents, contracts, and legal instruments in which city may have an interest. City attorney shall perform other duties prescribed by this Charter, ordinance, or as directed by</p>	<p>Section 4.04 - City Commission shall appoint, by the affirmative vote of a majority of the City Commission, a competent, duly qualified, licensed and practicing attorney in the State of Texas for at least five (5) years who shall serve as the City Attorney. The City Commission may provide for such services by contract with a duly qualified law firm. The City Attorney designated to provide services must be a member of and be in good standing with the State Bar of Texas.</p>	<p>Section 4.05 - The city council shall appoint a competent and duly licensed attorney practicing law in Rosenberg, Texas, who shall be the city attorney. He shall receive for his services such compensation as may be fixed by the city council and shall hold his office at the pleasure of the city council. The city attorney, or such other attorneys selected by him with the approval of the city council, shall represent the city in all litigation. He shall be the legal advisor of, and attorney and counsel for, the city and all officers and departments thereof.</p>	<p>Section 4.03 - The city manager shall, with the City Council's consent, appoint a city attorney who shall serve at the pleasure of the city manager and may, with the City Council's consent, be dismissed by the city manager, with or without cause. The city attorney will exercise independent professional judgment in providing legal services to the city.</p>	<p>Section 4.01 - The City Council shall appoint as the attorney for the City (referred to as city attorney) a competent and duly qualified attorney who is licensed to practice Law in the State of Texas. The city attorney shall hold the office at the will and pleasure of the City Council. The city attorney shall be the legal advisor of, and the attorney for, all of the offices and departments of the City, and shall represent the City in litigation and legal proceedings; provided, that the City Council may retain special legal counsel for any purpose and at any time it shall deem same appropriate and necessary. The city attorney shall perform other duties prescribed by this Charter, ordinance, or as directed by City Council.</p>	<p>Section 5.02(B) - The City Council shall appoint a licensed attorney of the State of Texas to be the City Attorney. The City Attorney shall receive for services such compensation as may be fixed by the City Council for regular and special duties and shall hold office at the pleasure of the City Council. The City Attorney or such other attorney's selected by the City Attorney with the approval of the City Council shall represent the City in all legal matters.</p>
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2	PROPOSED in RED	Fulshear	Katy	Missouri City	Richmond	Rosenberg	Sugar Land	Stafford	Mont Belvieu (out of county)
	Municipal Judge	Section 4.05 - The City Council shall appoint the Municipal Judge.	Article VI, Section 2(a) - He shall be appointed by Mayor with approval of Council, for a two-year term beginning on April 15th of odd-numbered years. He shall be removed only for cause or disability as defined in State Constitution. He shall have resided in City for a period of not less than five years immediately preceding his appointment. In event Judge of the Municipal Court is unable to act for any reason, Mayor, with approval of Council, shall appoint a competent person possessing the qualifications listed above to act in his place. Municipal Judge shall receive compensation as may be set by Council.	Section 4.03(B) - The municipal court shall be presided over by a magistrate who shall be known as the "judge of the municipal court." The council may, by ordinance, divide the municipal court into two (2) or more panels or divisions, one of which shall be presided over by the presiding judge. Each additional panel or division shall be presided over by an associate judge, who is a magistrate with the same powers as the presiding judge. The judge or judges for said court shall be appointed for a term of two (2) years by the council but may be removed or replaced, at any time, at the discretion of the council, by vote of the majority of the entire council. Each judge shall be an attorney licensed and practicing in the State of Texas and shall receive such salary as may be fixed by the council.	Section 4.03(2) - City Commission shall appoint, by affirmative vote of a majority of membership of City Commission, such Municipal Judges, as may be necessary, all of whom shall be competent, duly qualified attorneys licensed and practicing for at least five (5) years in Texas. In event a duly qualified attorney is not available, City Commission shall then select a qualified person to be Municipal Judge. Municipal Judge(s) shall be appointed to a term of two (2) years and may be appointed to additional consecutive terms upon completion of his/her term(s) of office. Municipal Judge(s) shall receive compensation as may be determined by City Commission. Section 4.03(3) - In event of failure of any Municipal Judge to perform his/her duties, Mayor shall appoint a Municipal Judge for a term not to exceed three (3) continuous months. In event of a vacancy, a Municipal Judge shall be appointed by City Commission in accordance with paragraph 2 of this Section. If Mayor appoints a Municipal Judge, Judge shall be compensated at same salary, if any, as Municipal Judge for whom Judge is acting. Section 4.03(4) - Municipal Judge	Section 4.04(b) - The judge of the Municipal Court of the City of Rosenberg shall be appointed for a two-year term and shall serve such additional term or time until said judge shall be reappointed or a successor judge shall be appointed and take office.	Section 4.06(b) - The city council shall appoint a municipal court judge and one or more associate judges to serve when the presiding judge is unavailable for unable to serve. The presiding and associate judges shall serve two (2) year terms, but may be dismissed by the city council at any time, with or without cause. The judge and associate judges shall be licensed to practice law in this State.	Section 4.02(b) - The municipal court shall be presided over by a magistrate who shall be known as the "judge of the municipal court." The City Council may, by ordinance, divide the municipal court into two (2) or more panels or divisions, one of which shall be presided over by the presiding judge. Each additional panel or division shall be presided over by an associate judge, who is a magistrate with the same powers as the presiding judge. Each judge shall be a competent, duly qualified attorney; licensed and practicing for at least two (2) years in the State of Texas. The judge or judges for said court shall be appointed by the Mayor with confirmation by City Council for a term of two (2) years to run concurrent with the term of the Mayor, but any judge may be removed for cause by majority vote of the entire City Council. Each judge shall receive such salary as may be fixed by the City Council.	Section 5.02(C) - The City Council shall establish a municipal court and shall appoint a presiding judge(s) and any such other associate judge(s) as are deemed necessary and fix the compensation therefore. The judge(s) of the municipal court shall serve at the will and pleasure of the City Council, unless otherwise provided by law.

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2	PROPOSED in RED	Fulshear	Katy	Missouri City	Richmond	Rosenberg	Sugar Land	Stafford	Mont Belvieu (out of county)
	Chief of Police	Section 4.06 - The City Manager shall appoint and remove the Chief of Police with the approval of the City Council, who shall be subject to the direction and supervision of the City Manager.	Article VI, Section 3(a) - Chief of Police shall be Chief Administrative Officer of Dept of Police. He shall, with approval of Mayor, appoint and remove employees of said Department and shall perform such duties as may be required of him by City Council. Chief of Police shall be appointed by Mayor with approval of Council for an indefinite term. Chief of Police shall be responsible to Mayor for administration of his Department and carrying out of directions of City Council. He may be removed from Office by Mayor.	-	-	Section 4.02(a) - (1) Appointment. Chief of police shall be chief executive officer of police department, and he shall be appointed by city council for an indeterminate term and may be removed or discharged at any time by a majority vote of entire council. Such removal and discharge shall be solely within discretion of city council, and may be made with or without cause, and chief of police shall be directly responsible and accountable to city council for faithful discharge of responsibilities of such department. (2) Qualifications. Chief of police shall be at least thirty years of age, with prior experience in field of law enforcement, possessed of good moral character and shall have never been convicted of a felony or any crime involving moral turpitude, in this or any other state. (3) Duties. It shall be duty of chief of police to enforce laws and ordinances of City of Rosenberg and this state, and shall perform such other duties as may be required by city council, provided such duties shall not be contrary to the provisions of this Charter or in violation of laws and constitution of Texas and United States; and he	Section 4.04 - The city manager shall appoint a police chief to administer the department, who shall serve at the pleasure of the city manager and be subject to dismissal by the city manager, with or without cause.	-	-

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2	PROPOSED in RED	Fulshear	Katy	Missouri City	Richmond	Rosenberg	Sugar Land	Stafford	Mont Belvieu (out of county)
	City Secretary	Section 4.07 - The City Manager shall appoint and remove the City Secretary with the approval of the City Council, who shall be subject to the direction and supervision of the City Manager.	Article VI, Section 4 - Mayor, with approval of City Council, shall appoint a competent person as City Secretary and such assistants as City Council shall deem advisable. Office of City Secretary shall give notice of Council meetings, shall keep the minutes of proceedings of such meetings, and shall authenticate by his signature and record in full in a book kept and indexed for the purpose, all ordinances and resolutions, and shall perform such other duties as Mayor shall assign to him, and those elsewhere provided in this Charter and Laws of Texas.	Section 4.04 - Appointed by majority vote of all council. Council may, if it shall so choose, by a two-thirds majority vote of all members appoint an assistant city secretary who shall act in absence of city secretary. City secretary and assistants, if any, shall act as secretary to council and shall hold office at pleasure of council. City secretary shall be provided an office in City Hall sufficient to maintain records entrusted to care of city secretary, and shall be entitled to a seat at council table at all official meetings. A. Duties of city secretary: duties of city secretary shall be as follows: 1. Record minutes of all official meetings of council. All ordinances and resolutions shall be recorded. 2. Be custodian of all municipal records of council. 3. Recommend to council rules and regulations to be adopted by ordinances to protect safety and security of municipal records. 4. Hold and maintain City Seal and affix to all instruments requiring such seal. 5. Administer oaths in any matter pertaining to municipal affairs. 6. Perform any and all other acts	Section 4.02 - City Manager shall appoint or remove without cause, City Secretary. (2) City Manager shall fix compensation of City Secretary and City Secretary's compensation may be amended, from time to time, in accordance with City Secretary's experience, qualifications and performance. City Secretary shall report to City Manager. City Manager shall annually evaluate performance of City Secretary. Section 4.02(3)(A - J) - Duties	Section 4.03 - The city council shall appoint a city secretary and such assistant city secretaries as the city council shall deem advisable. The city secretary, or an assistant city secretary, shall give notice of council meetings, shall keep the minutes of the proceedings of such meetings, shall authenticate by his signature and record in full in a book kept and indexed for the purpose, all ordinances and resolutions, and shall perform such other duties as the city council shall assign to him, and those elsewhere provided for in this Charter.	Section 4.02 - The city manager shall, with the City Council's consent, appoint a city secretary who shall serve at the pleasure of the city manager and may, with the City Council's consent, be dismissed by the city manager, with or without cause. The city secretary shall give notice of council meetings, shall keep the minutes of the meetings, shall authenticate by signature all ordinances and resolutions, and shall keep the corporate seal and affix the same to documents and certificates as may be required.	Section 4.03 - a. There shall be a city secretary, who shall be appointed by the Mayor with confirmation by the City Council. City Council shall appoint an assistant city secretary who shall act in the absence of the city secretary. The city secretary and assistant city secretary shall hold office at the will and pleasure of the City Council. b. The city secretary shall: (1) Attend all meetings of the City Council and keep accurate records of all actions taken by the Council; (2) Maintain the official records and files of the City; (3) Administer oaths; (4) Attest contracts, certificates, and other legal instruments when executed by the authorized officers of the City; (5) Serve as the election official for all City elections; and (6) Perform such other duties as may be required of the city secretary by this Charter, the City Council or State Law.	Section 5.02(D) - The City Manager shall appoint, and may remove without cause, a City Secretary whose duties and obligations shall be determined and supervised by the City Manager.

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2	PROPOSED in RED	Fulshear	Katy	Missouri City	Richmond	Rosenberg	Sugar Land	Stafford	Mont Belvieu (out of county)
49	Chief Financial Officer	Section 4.08 - The City Manager shall appoint and remove the Chief Financial Officer of the City with the approval of the City Council, who shall be subject to the direction and supervision of the City Manager.	-	-	-	Section 11.01 - (a) There shall be a department of finance, the head of which shall be the director of finance, who may be appointed by the city manager with the approval of the city council; and he shall give a surety bond for faithful performance of his duties in a sum which shall be fixed by the city council at not less than ten thousand dollars, unless such position be filled by the city assessor-collector and then, in such event, the provisions of section 9.17 shall apply. (b) The director of finance shall have the proper knowledge of municipal accounting and taxation and sufficient experience in budgeting and financial control to properly perform the duties of the office.	-	-	-
50	Boards and Commissions: Qualification	Section 4.09 - Except as otherwise provided by this Charter or other law, each candidate for appointment as a member of a board or commission shall have resided within the corporate limits of the City, or within territory annexed prior to the appointment, for at least six (6) months preceding the appointment.	Article X, Section 4 - Board of Equalization: Appointment: Qualifications - Each year the Mayor and the City Council shall appoint, no less than three and no more than five persons, who shall be qualified voters and real property owners in the City, as the Board of Equalization. At the same meeting that the Mayor and Council appoints such Board, it shall fix the time of the first meeting of the Board, which shall be not later than the first day of June. The Tax Assessor-Collector shall act as Secretary of the Board.	-	Section 8.01(2) - Individuals who are qualified voters and residents of the City, with no more than one member from the City's Extraterritorial Jurisdiction (ETJ), may be appointed by the City Commission, if allowed by state law, to serve on one (1) or more boards, commissions or committees. Such appointees shall serve at the pleasure of the City Commission and may be removed at the discretion of the City Commission. Except as otherwise provided in this Charter members of any such board, commission or committee shall serve without compensation but may be reimbursed for actual expenses as approved by the City Commission.	Section 4.06 - Example is board of health The board of health shall be composed of two (2) or more members, one of which such member shall be a qualified physician, licensed to practice medicine in the State of Texas, and the second member shall be the city manager. The city council in its discretion may appoint a duly licensed civil or sanitary engineer as a third member. Said members shall serve for a period of two (2) years, or until their successors shall have been appointed and qualified. The first such board shall be appointed within sixty (60) days after the adoption of this Charter and each succeeding board shall be appointed or reappointed within one month after the regular city election in each even-numbered year.	-	Section 8.01(b) - The City Council shall give preference to qualified voters of the City when appointing individuals to serve on such boards, commissions, or committees where such qualification is not otherwise prescribed by Law or this Charter. Section 8.01(d) - Members of the City Council may be appointed to any board, commission, or committee created or established by the City Council, provided that such appointment is not incompatible with the office of Councilmember or prohibited by this Charter, the laws of the State of Texas, or common law conflicts of interest.	Section 3.06(D) - The Mayor shall appoint, with the advice and consent of the City Council, the members of citizen advisory boards and commissions, whose conditions of membership shall have been set previously by ordinance.

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2	PROPOSED in RED	Fulshear	Katy	Missouri City	Richmond	Rosenberg	Sugar Land	Stafford	Mont Belvieu (out of county)
51	Planning and Zoning Commissions	Section 4.10 - The City Council shall create a Planning Commission and a Zoning Commission, and may combine or, after being combined, separate the same at its discretion.	-	Section 8.01 - Organization Section 8.02 - Powers and Duties Section 8.03 - Director of planning	Section 14.01(1) - Commission shall consist of (5) members who shall be appointed by the City Commission to staggered terms of two (2) years and shall be governed in accordance with the zoning ordinance. The Commission members shall be qualified City voters and residents of the City. Any vacancy occurring during the unexpired term of a member shall be filled by the City Commission for the remainder of the unexpired term. Each January, the Commission shall elect from its members a Chairman, and Vice Chairman to serve for one (1) year. Members of the Commission may be removed, without cause, by an affirmative vote of a majority of the City Commission.	Section 8.03 - Planning Commission Section 8.04 - Zoning Commission of Adjustment	Section 5.01 - A planning and zoning commission is established. Members serve 2 year terms, staggered. Council shall by ordinance provide for # of members, which shall not be less than seven, manner of their appointment, and any other matters relating to commission as council deems necessary. Commission shall: (a) Approve or disapprove subdivision plats as provided by State law and City ordinance; (b) Recommend to the council approval or disapproval of proposed changes in the zoning regulations and zoning map as provided by State law and City ordinance; (c) Make recommendations to council on City's master plans; (d) Make recommendations to city manager and city council on City's five-year capital improvements plan; and (e) Perform any other duties as directed by council or by ordinance. Section 5.02 - A zoning board of adjustment is established. Council shall by ordinance provide for # of members, their terms, manner of appointment, and any other matters relating to board as council deems necessary. Board has powers and duties as	-	-
52	Financial Administration								
53	Fiscal Year	Section 5.1 - The Fiscal Year of the City shall be from October 1 through September 30.	Article IX, Section 1 - shall commence on the first day of October and end on the last day of September for any and all purposes including taxing and budgeting.	Section 9.01 - The fiscal year of the city shall begin on the first day of July and end on the last day of June of each calendar year. The fiscal year established by this section shall also constitute the budget and accounting year.	Section 7.01 - The fiscal year of City shall begin on the first day of October and end on the last day of September on the next succeeding year. Such fiscal year shall also constitute the budget and accounting year.	Section 9.01 - The fiscal year of the City of Rosenberg 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.	Section 6.01 - The fiscal year shall being 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.	Section 6.01 - 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 following year; provided, however, City Council may, by ordinance, establish a different fiscal year of the City after holding a public hearing on the proposed change.	-

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2	PROPOSED in RED	Fulshear	Katy	Missouri City	Richmond	Rosenberg	Sugar Land	Stafford	Mont Belvieu (out of county)
	Annual Budget	Section 5.2 - The City Manager shall submit the annual budget to the City Council no later than thirty (30) days before the beginning of the Fiscal Year.	Article III, Section 6(b)(4) - It shall be duty of Mayor from time to time to make such recommendations to Council as Mayor may deem to be for welfare of the City, and each year to submit to the Council annual budget of current expenses of City in accordance with requirements of State Budget Law applicable to cities and towns. Budget shall be finally adopted no earlier than 30th day after presentation by Mayor and no later than last day of then current fiscal year and should City Council fail to so adopt said budget, budget as proposed by Mayor shall go into effect for ensuing fiscal year.	Section 9.03(A) - Content Section 9.03(B) - Submission Section 9.03(C) - Public notice and hearing Section 9.03(D) - Amendment before adoption Section 9.03(E) - Adoption Section 9.03(F) - Failure to adopt Section 9.04(A) - Supplemental Appropriations Section 9.04(B) - Emergency appropriations Section 9.04(C) - Reduction of appropriations Section 9.04(D) - Transfer of appropriations Section 9.04(E) - Limitations Section 9.04(F) - Effective date	Section 7.02 - On or before August 15th of the fiscal year, the City Manager shall submit to the City Commission a budget for the ensuing fiscal year and an accompanying budget message. The proposed budget submitted to Commission for review will be an itemized budget in accordance with state law.	Section 9.02 - The city manager, between sixty and ninety days prior to the beginning of each fiscal year, shall submit to the council a proposed budget, which budget shall provide a complete financial plan for the fiscal year and shall contain the following: (a - n).	Section 6.03 - (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.	Section 6.02 - Annual Budget (a) - Itemized budget; Contents (b) - Authority to require information (c) - Submission (d) - Budget message (e) - Public notice and hearing (f) - Amendment before adoption (g) - adoption (h) - failure to adopt	-

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2	PROPOSED in RED	Fulshear	Katy	Missouri City	Richmond	Rosenberg	Sugar Land	Stafford	Mont Belvieu (out of county)
	Capital Program	Section 5.03 - (a) The City Manager shall prepare and submit to the City Council a five (5) year Capital Program at least three (3) months prior to the final date for submission of the budget. The Capital Program shall include:(1) A clear general summary of its contents; (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.(b) The City Council shall give notice of a public hearing on the proposed Capital Program and shall hold said hearing in the same manner as 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 City Council shall, by resolution, adopt the Capital Program with or without amendment after the public	-	Section 8.02(C) - Submit annually to the city manager, not less than ninety (90) days prior to the beginning of the budget year, a list of recommended capital improvements which in the opinion of the commission are then necessary or desirable.	Section 7.10 - City Manager shall submit a five (5) year capital program as an attachment to annual budget. Program as submitted shall include: (1) A clear general summary of its contents; (2) A list of all capital improvements which are proposed to be undertaken during five (5) fiscal years succeeding budget year, with appropriate supporting information as to necessity for such improvements; (3) Cost estimates, method of financing and recommended time schedules for each improvement, and (4) estimated annual cost of operating and maintaining facilities to be constructed or acquired. The above information may be revised and extended each year with regard to capital improvements still pending or in process of construction or acquisition.	Section 8.03(d)(7) - Planning Commission - Submit annually to the city manager, not less than ninety days prior to the beginning of the budget year, a list of recommendations for capital improvements which, in the opinion of the commission, are necessary or desirable to be constructed during the forthcoming five years. Such list shall be arranged in order of preference, with recommendations as to which projects shall be constructed in which year.	Section 6.03 - Budget - "...It shall also include a multi-year capital improvement program and a current year capital budget."	-	-

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2	PROPOSED in RED	Fulshear	Katy	Missouri City	Richmond	Rosenberg	Sugar Land	Stafford	Mont Belvieu (out of county)
	Annual Audit	Section 5.4 - As soon as practicable after the close of each Fiscal Year, an independent audit shall be made of all accounts of the City government and corporations established by the City. The certified public accountants, appointed by the City Council, shall have no personal interest, directly or indirectly, in the financial affairs of the City or any of its officers. The scope of the audit shall require a limited review of City-owned property and the results shall be reported with each annual audited financial report. Upon completion of the annual audit, the combined balance sheet thereof shall be published in the official newspaper of the City within thirty (30) days of such audit. Copies of all audits shall be placed on file with the City Secretary.	Article IX, Section 3 - At the close of each fiscal year the Council shall cause an independent audit to be made of all accounts of the City by a Certified Public Accountant.	Section 9.07(C) - At the close of each fiscal year, and at such 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 officers. Upon completion of the audit, the results thereof in a summary form shall be placed on file in the city secretary's office as a public record.	Section 7.18 - At the close of each fiscal year and in accordance with state law, and at such other times as may be deemed necessary, the City Commission shall call for an independent audit to be made of all accounts of the City by a certified public accountant. No more than five (5) consecutive annual audits shall be completed by the same firm. The certified public accountant selected shall have no personal interest, directly or indirectly in the financial affairs of the City or any of its officers. The report of audit, with the auditor's recommendations, will be made to the City Commission. Upon completion of the audit the summary shall be published immediately in the official newspaper of the City and copies of the audit placed on file in the office of the person performing the duties of City Secretary, as public record.	Section 3.14 - Not less than thirty nor more than sixty days prior to the end of each fiscal year the council shall designate a qualified public accountant who, as of the end of the fiscal year, shall make an independent audit of accounts and other evidences of financial transactions of the city government and shall submit his report to the council. Notice shall be given by publication in some newspaper of general circulation published in the City of Rosenberg that the annual audit is on file at the city hall for inspection. Such accountant shall have no personal or direct interest in the fiscal affairs of the city government. He shall not maintain any accounts or record of the city business, but, within specifications approved by the council, shall post-audit the books and documents kept by the department of finance and any separate or subordinate accounts kept by any other office, department or agency of the city government.	-	Section 6.07 - At the close of each fiscal year, the City Council shall cause an independent audit to be made of all accounts of the City by a certified public accountant. The City Council may, at such other times as it may be deemed necessary, cause an independent audit to be made of any or 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 officers. Upon completion of the audit, the results thereof shall be presented to City Council for acceptance, in a meeting open to the public, and thereafter shall be placed on file in the City Secretary's office as a public record.	-
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2	PROPOSED in RED	Fulshear	Katy	Missouri City	Richmond	Rosenberg	Sugar Land	Stafford	Mont Belvieu (out of county)
	Purchasing and Contracts	Section 5.5 - 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.	Article IV, Section 11 - Contracts for purchase or for contractual services for a sum in excess of amount authorized for expenditures by cities of size and population of City, as set out in Local Government Code, Article 252.021, and all amendments thereto or other statute into which same shall be merged or changed, shall be in writing and opportunity for competitive bidding shall be given before they are awarded, after such public notice as may be required by laws of Texas. Council shall have right to reject any and all bids. Contracts for purchase of supplies, materials, equipment, or for contractual services where such purchase requires an expenditure less than amounts above stated and item(s) is one provided for in budget, may be authorized by Council to be made by designated City Official without necessity of competitive bidding. When it becomes necessary to act at once to appropriate money for	Section 9.08 - All purchases made and contracts executed by the city shall be made in accordance with the requirements of the constitution and statutes of the state of Texas.	-	Section 11.07 - Purchasing - City of Rosenberg shall have all the powers and privileges as provided for under applicable laws of Texas and of United States. All purchases by City of Rosenberg shall be in accord with laws of Texas and United States of America. Section 11.08 - Improvements by contract - Any city improvement costing more than one thousand dollars (\$1,000.00) shall be executed by contract, except where such improvement is authorized by council to be executed directly by a city department in conformity with detailed plans, specifications and estimates. Section 11.10 - Accounting control of purchases - All purchases made shall be pursuant to a written requisition from head of office, department or agency whose appropriation will be charged, and no contract or order shall be issued to any seller unless and until director of finance certifies that there is to credit of such office, department or agency, a sufficient unencumbered appropriation balance to pay for supplies, materials, equipment or contractual	-	-	-
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2	PROPOSED in RED	Fulshear	Katy	Missouri City	Richmond	Rosenberg	Sugar Land	Stafford	Mont Belvieu (out of county)
58	Exemption from Garnishment	Section 5.6 - The City's municipal funds shall not be subject to garnishment, and the City shall not be required to answer in garnishment proceedings.	Article XII, Section 11 - The property, real and personal, belonging to the City shall not be liable for sale or appropriation under any writ of execution. The funds belonging to the City, in the hands of any person, firm, or corporation, shall not be liable to garnishment, [or] attachment on account of any debt it may owe or funds or property it may have on hand or owing to any person. Neither the City nor any of its officers or agents shall be required to answer any such writ of garnishment on any account whatever. The City shall not be obligated to recognize any assignment of wages or funds by its employees, agents or contractors.	Section 11.01 - The property, real and personal, belonging to the city shall not be liable for sale or appropriation under any writ of execution. The funds belonging to the city, in the hands of any person, firm, or corporation, shall not be liable to garnishment, attachment, or sequestration; nor shall the city be liable to garnishment on account of any debt it may owe or funds or property it may have on hand or owing to any person. Neither the city nor any of its officers or agents shall be required to answer any such writ of garnishment on any account whatever. The city shall not be obligated to recognize any assignment of wages or funds by its employees, agents or contractors.	Section 11.03 - Property, real and personal, belonging to City shall not be liable to be sold or appropriated under any writ of execution or cost bill. Funds belonging to City in hands of any person, firm or corporation, shall not be liable to garnishment, attachment or sequestration; nor shall City be liable to garnishment on account of any debt it may owe or funds or property it may have on hand owing to any person. Neither City nor any of its officers or agents shall be required to answer any such writ of garnishment on any account whatsoever. (2) City shall not be obligated to recognize any assignment of wages or funds by its employees, agents or contractors, except as provided by laws of this State or United States of America.	Section 13.11 - The property, real and personal, belonging to the city shall not be liable to be sold or appropriated under any writs of execution or cost bill. The funds belonging to the city, in the hands of any person, firm or corporation, shall not be liable to garnishment, attachment, or sequestration; nor shall the city be liable to garnishment on account of any debt it may owe or funds or property it may have on hand or owing to any person. Neither the city nor any of its officers or agents shall be required to answer any such writ of garnishment on any account whatever. The city shall not be obligated to recognize any assignment of wages or funds by its employees, agents or contractors.	Section 1.04 - (a) Except as otherwise provided for by State or Federal law, City funds are not subject to garnishment and the City is not required to answer in any garnishment proceeding. (b) City property is not subject to any kind of execution.	Section 10.04 - The property, real and personal, belonging to the City shall not be liable for sale or appropriation under any writ of execution. The funds belonging to the City, in the hands of any person, firm or corporation, shall not be liable to garnishment on account of any debt it may owe or funds or property it may have on hand or owing to any person. Neither the City nor any of its officers, employees or agents shall be required to answer any such writ of garnishment on any account whatsoever. The City shall not be obligated to recognize any assignment of wages or funds by any of its officers, employees, agents or contractors.	-
59	Exemption from Bond, Undertaking, or Security	Section 8.03 - It shall not be necessary in any action, suit, appeal, or proceeding in which the City is a party for any bond, undertaking, or security to be executed by or on behalf of the City, but all such actions, suits, appeals, or proceedings shall be conducted in the same manner as if bonds, undertaking, or security had been given.	Article XII, Section 5 - It shall not be necessary in any action, suit, or proceeding in which the City is a party for any bond, undertaking or security to be demanded or executed by or on behalf of the City. The City shall have all remedies of appeal provided by law to all courts in this State without bond or security of any kind, but shall be liable in the same manner and to the same extent as if such bond, undertaking, or security had actually been executed or given.	Section 11.02 - It shall not be necessary in any action, suit, or proceeding in which the city is a party for any bond undertaking or security to be demanded or executed by or on behalf of the city. The city shall have all remedies of appeal provided by law to all courts in this state without bond or security of any kind, but shall be liable in the same manner and to the same extent as if such bond, undertaking, or security had actually been executed or given.	Section 11.04 - It shall not be necessary in any action, suit or proceeding in which the City is a party for any bond, undertaking or security to be demanded or executed by or on behalf of the City. All such actions shall be conducted in the same manner as if such bond, undertaking or security had been given as required by law.	Section 13.09 - It shall not be necessary in any action, suit or proceeding in which the City of Rosenberg is a party, for any bond, undertaking or security to be demanded or executed by or on behalf of said city in any of the state courts, but in all such actions, suits, appeals or proceedings same shall be conducted in the same manner as if such bond, undertaking or security had been given as required by law, and said city shall be just as liable as if security or bond had been duly executed.	-	Section 10.05 - It shall not be necessary in any action, lawsuit or proceeding, in which the City shall be a party, for any bond, undertaking or security to be executed on behalf of the City; but all actions, lawsuits, and proceedings shall be conducted in the same manner as if such bond, undertaking or security had been given. The City shall have all remedies by appeal, as provided by Law, to all courts of this State without bond or security of any kind. For all the purposes of such actions, lawsuits, proceedings, and appeals, the City shall be liable in the same manner, and to the same extent, as if the bond, undertaking or security in ordinary cases had been given and executed.	Section 7.10 - It shall not be necessary in any action, suit or proceeding in which the City is a party for any bond, undertaking or security to be demanded or executed by or on behalf of the City. All such actions shall be conducted in the same manner as if such bond, undertaking or security had been given as required by law.

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2	PROPOSED in RED	Fulshear	Katy	Missouri City	Richmond	Rosenberg	Sugar Land	Stafford	Mont Belvieu (out of county)
60	Liability Coverage for City Officials	Section 8.04 - The City shall provide liability coverage to all officials and officers in an amount to be determined by the City Council to provide protection for any claim, judgment, or litigation arising out of the official's or officer's actual or alleged error or misstatement of fact or omission or neglect or breach of duty, including misfeasance, malfeasance, or nonfeasance, by the official or officer in the discharge of their duties with the City, individually or collectively, or any matter claimed against them solely by reason of their being or having been City officials or officers.	Mayor - Article III, Section 6 - Council shall require Mayor, before entering upon duties of his Office, to execute a good and sufficient bond, with a surety company business in Texas, and approved by Council, as surety thereon, said bond to be in such amount as Council may demand payable to City and conditioned for faithful performance of duties of his Office, premium for such bond to be paid by City. Tax Assessor-Collector - Article X, Section 1 - The 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 Mayor with the approval of Council.	Section 3.16 - The council shall require a bond of all municipal officers and employees who receive or pay out any monies of the city, and such bonds shall be in effect before they shall enter upon the duties of their offices. The amount of such bonds shall be determined by the council and the cost thereof shall be borne by the city.	Section 3.17 - City Commission shall require bonds of all municipal officers and employees who receive monies for or pay out any monies of City. Amount of bonds shall be determined by state law or City Commission, bonds shall be payable to City of Richmond and conditioned upon faithful discharge of duties of such persons and upon faithful accounting of all monies, credits, and things of value coming into hands of such persons, and such bonds shall be signed as surety by a corporate surety bond company authorized to do business under the laws of Texas. Premium on such bonds shall be paid by City, and such bonds must be acceptable to Commission. Commission may also require new bonds at any time, if in its opinion; existing bond on any employee is insufficient.	Section 3.12 - The city manager and the city secretary and such other city officers and employees as the city council may require, shall, before entering upon the duties of their offices, enter into a good and sufficient fidelity bond in a sum to be determined by the city council, payable to the City of Rosenberg and conditioned upon the faithful discharge of the duties of such persons and upon the faithful accounting for all monies, credits and things of value coming into the hands of such persons, and such bonds shall be signed as surety by some company authorized to do business under the laws of the State of Texas, and the premium on such bonds shall be paid by the City of Rosenberg, and such bonds must be acceptable to the city council.	-	Section 10.09 - a. City Council shall require a bond or bonds covering all municipal officers and employees who receive or pay out any monies of the City. The bond(s) must: (1) be in favor of the City; (2) be in the form and amount required by City Council; (3) have security approved as sufficient by City Council; and (4) be conditioned that the officer(s) and employee(s) covered by the bond(s) will faithfully discharge the duties of the office. b. City Council may require a bond covering any other municipal officer or employee, payable to the City, in the form and amount as determined by City Council, and conditioned that the officer or employee will faithfully perform the duties of the office or position held. c. The cost of the bonds required by this section shall be borne by the City.	Section 7.16 - In addition to any provisions contained herein, the City Council may require any City official, department director, or City employee, before entering upon his/her duties, to execute a good and sufficient bond with a surety company doing business in the State of Texas and approved by the City Council. The premium of such bond shall be paid by the City.
61	Severability	Section 8.05 - If any section or part of a section of this Charter shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this Charter nor the context in which such section or part of a section so held invalid may appear.	Article XII, Section 18 - If any Article or Section or Subsection of an Article of this Charter is held to be invalid or unconstitutional by a Court of competent jurisdiction, the same shall not invalidate or impair the validity, force or effect of any other Article or Section or Subsection of an Article of this Charter.	-	Section 10.01 - If any section or part of this Charter is held to be invalid by a court of competent jurisdiction, such holding shall not invalidate or impair the validity, force or effect of any other section or part of this Charter.	Section 13.16 - This Charter shall be liberally construed to carry out its intents and purposes. If any section or part of section of this Charter shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this Charter nor the context in which such section or part of section so held invalid may appear, except to the extent that an entire section or part of section may be inseparably connected in meaning and effect with the section or part of section to which such holding shall directly apply.	Section 1.06 - If any section or part of a section of this charter shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this charter nor the context in which such section or part of section so held invalid may appear, except to the extent that an entire section or part of section may be inseparably connected in meaning and effect with section or part of section to which such holding shall directly apply.	Section 10.11 - If any section or part of a section of this Charter is held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity shall not invalidate or impair the validity, force, or effect of any other section or part of a section of this Charter.	-

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2	PROPOSED in RED	Fulshear	Katy	Missouri City	Richmond	Rosenberg	Sugar Land	Stafford	Mont Belvieu (out of county)
62	Non-Substantive Revisions	Section 8.06 - (a) The City Council may, without approval of the voters, adopt an ordinance that makes the following types of revisions to this Charter: (1) Renumbering, revising titles, and rearranging parts thereof; (2) Correcting errors in spelling, grammar, cross-references, and punctuation; and (3) Revising language to reflect modern usage and style. (b) A revision adopted under this section is not intended to and is not to be interpreted as making any substantive change in any Charter provision.	-	-	-	-	Section 1.07 - (a) The City Council may, without approval of the voters, adopt an ordinance that makes the following types of revisions to the Charter: (1) Renumbering, revising titles, and rearranging parts thereof; (2) Correcting errors in spelling, grammar, cross-references, and punctuation; and (3) Revising language to reflect modern usage and style. (b) A revision adopted under this section is not intended to and is not to be interpreted as making any substantive change in any Charter provision.	Section 10.12 - All headings and numeration in this Charter for its respective articles, sections and subsections are provided for the sole purpose of convenient reference, and shall have no substantive legal effect.	-
63	Charter Review Commission	Section 8.07	Section 16 - Every four (4) years commencing in 1992, at the first regular meeting of the City Council in October, the Mayor, with the approval of the City Council, shall appoint a Charter Review Commission of five (5) citizens of the City of Katy Section 16(a) - duties Section 16(b) - Action by Mayor and Council Section 16(c) - term of office	Section 11.13 - The council shall appoint a charter review commission at least every four (4) years. The council shall appoint the first charter review commission after the adoption of this provision no later than July, 1981. All charter review commissions shall be appointed in July and each shall consist of five (5) citizens of the City of Missouri City.	Section 10.04	Section 13.17 - Amending the Charter Amendments to Charter may be framed and submitted to electors of city by a charter commission in manner provided by law for framing and submitting a new charter. Amendments may also be proposed and submitted by city council upon its own motion, in absence of a petition, and shall, upon petition of at least ten percent (10%) of qualified voters of said city, submit any proposed amendment or amendments to such Charter. Ordinance providing for submission of such amendment or amendments shall require submission thereof at an election to be held not less than thirty (30) days nor more than ninety (90) days after the passage of said ordinance. If next regular municipal election is to be held during said period; submission of said amendment or amendments shall be at such election. Otherwise, a special election shall be called for the purpose. Notice of the election for the submission of said amendment or amendments shall be given by publication thereof, in some newspaper of general circulation published in said city, on the same day in each of two (2)	Section 1.05 - The council shall appoint a charter commission as often as it deems necessary, but not less than every five years, to review the operations of city government under the Charter and determine whether revisions should be made. At the conclusion of its review, the commission shall make a written report of its recommendations of changes, if any, to the city council. The city council may submit the recommended changes, as it deems appropriate, to the voters for approval.	Section 10.15(a) - Every five (5) years the City Council shall at its first regular meeting in July appoint a Charter Review Commission of four (4) or more qualified voters of the City. Section 10.15(b) - Duties of the commission Section 10.15(c) - term of office Section 10.15(d) - Actions by the City Council	Section 7.08 - (1) The City Council shall appoint a Charter Review Committee in the third (3) year after this Charter is adopted and every sixth (6th) year thereafter. The Charter Review Commission shall consist of ten (10) citizens of the City who shall: a. Inquire into the operation of the City government under the Charter and determine whether any provision requires revision. To this end public hearings may be held. The Commission may request the attendance of any officer or employee of the City the production of any City records that may be needed; b. Propose any recommendations it deems desirable to insure compliance with the Charter; and c. Report its findings and present its recommendations to the City Council in the form of a report; and d. File a copy of its report with the office of the City Secretary where it shall be a public record. (2) The term of office of the Charter Review Commission shall be for not more than nine months. (3) Upon finalization of the Charter Review Committee's report the City Council shall receive the report and have published in the official newspaper of the City public notice that a copy of the report is available in office of the City Secretary. (4) City Council shall consider any recommendations made and may order any recommendations be submitted to the voters of the City in the manner provided by state law.

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2	PROPOSED in RED	Fulshear	Katy	Missouri City	Richmond	Rosenberg	Sugar Land	Stafford	Mont Belvieu (out of county)
	Comprehensive Plan	<p>Section 8.08 - (a) The City Council shall adopt and implement a comprehensive plan to guide, regulate, and manage the future development within the corporate limits and the extraterritorial jurisdiction of the City, and to assure the most appropriate and beneficial use of land, water, and other natural resources, consistent with the public interest.</p> <p>(b) The comprehensive plan shall be reviewed and adopted no less than every five (5) years.</p>	-	<p>Section 8.04 - Comprehensive plan for physical development of City shall contain commission's recommendations for growth, development and beautification. A copy, or any part thereof, shall be forwarded to city manager who shall thereupon submit such plan, or part thereof, to council with his recommendations. Council may adopt this plan as a whole or in parts and may adopt any amendment thereto, after at least one (1) public hearing on proposed action. Council shall act on such plan, or part thereof, within sixty (60) days following its submission by city manager. If such plan, or part thereof, should be rejected by council the planning commission may modify such plan, or part thereof, and again forward it to city manager for submission to council. All amendments to comprehensive plan recommended by planning commission shall be submitted in same manner as that outlined above, to council for approval. Recommendations affecting comprehensive plan may be made to city council by any city department through its</p>	<p>Section 14.04 - (1) Existing Comprehensive Master Plan contains recommendations for growth, development and beautification of City and its extraterritorial jurisdiction. Additions to and amendments of Comprehensive Plan shall be by ordinance or resolution in accordance with state law. (2) Following adoption by the City Commission of Comprehensive Master Plan, and any revisions thereto, it shall serve as a guide to all future City Commission action concerning land use and development regulations and expenditures for capital improvements. Any proposal which deviates from Comprehensive Master Plan shall not be authorized until and unless location and extent thereof shall have been submitted to and approved by Commission. In case of denial, Commission shall communicate its reasons to City Commission, which shall have power to overrule such denial with a vote of a majority of full Commission Membership, and upon such overruling, City Commission or appropriate office, department or agency shall have authority to proceed.</p>	<p>Section 8.03(d)(1) - Make, amend, extend and add to the master plan for the physical development of the city.</p>	<p>Section 5.01(c) - Planning and Zoning Commission - "...Make recommendations to the council on the City's master plan."</p>	-	<p>Section 7.03 - A. It is the purpose and intent of this section that the city council establish comprehensive planning as a continuous and ongoing government function in order to promote and strengthen the existing role, processes and powers of the City to prepare, adopt and implement a City Comprehensive Plan to guide, regulate, and manage the future development within the corporate limits and the extraterritorial jurisdiction of the city to assure the most appropriate and beneficial use of land, water, and other natural resources, consistent with the public interest.</p> <p>B. The City Comprehensive Plan shall be reviewed and adopted no less than every two years.</p>
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2	PROPOSED in RED	Fulshear	Katy	Missouri City	Richmond	Rosenberg	Sugar Land	Stafford	Mont Belvieu (out of county)
65	Disaster Clause	Section 8.09 - In case of disaster when a legal quorum of the City Council cannot otherwise be assembled due to multiple deaths or injuries, the surviving persons of the City Council, or highest surviving City official, if no elected official remains, shall, within twenty-four (24) hours of such disaster, request the highest surviving officers of the Fort Bend County Commissioners Court to appoint a number of residents of the City equal to the number necessary to make a quorum to act during the emergency as the City Council. The newly appointed City Council shall call a City election within fifteen (15) days of their appointment, or as provided in the Texas Election Code, for election of the vacant offices, if for good reasons it is known a quorum of the present City Council will never again meet. If it is determined that a quorum of the present City Council will meet again, the appointed Council Members shall serve in their position until such time as the present Council Members may begin serving.	Section 6 - In case of general conflagration, rioting, earthquakes, or other emergency menacing life and property, the Mayor, or in his absence, the Mayor Pro Tem, shall be authorized to marshal all the forces of the different departments of the City for the maintenance of the general security, and shall have the power to deputize, or otherwise employ, such other persons as he may consider necessary for the purpose of protecting the City and its residents. Section 12 - The Council may enter upon cooperative agreements with the proper authorities of State, Federal or County Governments, or other Municipalities, for mutual assistance within the area of an existing or threatened emergency.	Section 9.04(B) - Emergency appropriations: To meet a public emergency created by a natural disaster or man-made calamity affecting life, health, property, or the public peace, the council may make emergency appropriations, not to exceed ten per cent (10%) of the current fiscal year's budgeted receipts. Such appropriations may be made by an emergency ordinance. To the extent that there are no available unappropriated revenues 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.	Section 11.11 - In case of disaster when a legal quorum of the elected City Commission cannot otherwise be assembled due to multiple deaths or injuries, the surviving persons of the City Commission, or highest surviving City official, if no elected official remains, must, within twenty-four (24) hours of such disaster, request the City Manager and the County Judge of Fort Bend County to appoint a commission to act during the emergency and call a City election within thirty (30) days of such disaster, or as provided in the Texas Election Code, for election of a required quorum, if for good reasons it is known a quorum of the present City Commission will never again meet.	-	Section 2.09 - 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: (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.	-	Section 7.07 - In case of disaster when a legal quorum of the City Council cannot otherwise be assembled due to multiple deaths or injuries, the surviving persons of the City Council, or highest surviving City official, if no elected official remains, shall, within 24 hours of such disaster, request the highest surviving officers of the Chambers County Commissioners Court to appoint a number of residents of Mont Belvieu equal to the number necessary to make a quorum to act during the emergency as the City Council. The newly appointed City Council shall call a City election within 15 days of their appointment, or as provided in the Texas Election Code, for election of the vacant offices, if for good reasons it is known a quorum of the present City Council will never again meet. If it is determined that a quorum of the present City Council will meet again, the appointed Council Members shall serve in their position until such time as the present Council Members may begin serving.

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2	PROPOSED in RED	Fulshear	Katy	Missouri City	Richmond	Rosenberg	Sugar Land	Stafford	Mont Belvieu (out of county)
66	Notice of Claim	Section 8.10 - The City shall not be held liable on account of any claim for the death of any person or injuries to any person or damage to any property unless the person making such complaint or claiming such damages shall, within 120 days after the time at which it is claimed such damages were inflicted upon such person or property, file with the City Manager a written statement, under oath, stating the nature and character of such damages or injuries, the extent of the same, the place where same happened, the circumstances under which same happened and the condition causing same, with a detailed statement of each item of damages and the amount thereof, giving a list of any witnesses known by affiant to have seen the accident.	Section 4 - Before City shall be liable to damages for death or personal injuries of any person or for damage to or destruction of property of any kind, which does not constitute a taking or damaging of property under Article I, Section 17, Constitution of Texas, person injured, if living, or his representatives, if dead, or owner of property damaged or destroyed, shall give to Mayor or City Council notice in writing of such death, injury, damage or destruction, duly verified by affidavit, within forty-five days after same has been sustained, stating specifically in such written notice when, where, and how death, injury, damage or destruction, occurred, and apparent extent of any such injury, amount of damages sustained, actual residence of claimant by street and number at date claim is presented, actual residence of such claimant for six months immediately preceding occurrence of such death, injury, damage or destruction, and names and addresses of all	Section 2.06 - Tort liability	Section 11.05 - The City shall not be held liable on account of any claim for the death of any person or injuries to any person or damage to any property unless the person making such complaint or claiming such damages shall, within six (6) months after the time at which it is claimed such damages were inflicted upon such person or property, file with the City a written statement, under oath, stating the nature and character of such damages or injuries, the extent of the same, the place where same happened, the circumstances under which same happened and the condition causing same, with a detailed statement of each item of damages and the amount thereof, giving a list of any witnesses known by affiant to have seen the accident.	Section 13.06 - Before city shall be liable to damage claim or suit for personal injury, or damage to property, person who is injured or whose property is damaged or someone in his behalf shall give city manager, or city secretary, notice in writing within thirty days after occurring of alleged injury, or damage, stating specifically in such notice, when, where and how injury or damage was sustained, and setting forth extent of injury or damage as accurately as possible, and giving names and addresses of all witnesses known to claimant upon whose testimony such person is relying to establish injury or damage. No action at law for damages shall be brought against city for personal injury or damage to property prior to expiration of sixty days after notice hereinbefore described has been filed with city manager or city secretary. After expiration of sixty days aforementioned, complainant may then have two years in which to bring an action at law. In case of injuries resulting in death, person or persons claiming damage therefor shall within thirty days after death of injured person give notice as above required in case of personal injury.	-	Section 10.03 - Before City shall be liable for damages for death or personal injuries of any person or for damages to or destruction of property of any kind, which does not constitute a taking or damaging of property under Article I, Section 17, Constitution of the State of Texas, the person injured, if living, or his legal representatives, if deceased, or the parent or guardian of a minor child, or the owner, his agent or attorney of the property damaged or destroyed, shall give the City notice in writing of such death, injury, damage or destruction, duly verified by affidavit, within ninety (90) days after same has been sustained. Such notice shall be directed to the attention of the City Secretary. The failure to so notify the City within the time and manner specified herein shall exonerate, excuse and exempt the City from any liability whatsoever. No act of any officer, employee or agent of the City shall waive compliance, or preclude the City from requiring compliance, with the provisions of this section as to notice.	Section 7.11 - The City shall not be held liable on account of any claim for the death of any person or injuries to any person or damage to any property unless the person making such complaint or claiming such damages shall, within 120 days after the time at which it is claimed such damages were inflicted upon such person or property, file with the City a written statement, under oath, stating the nature and character of such damages or injuries, the extent of the same, the place where same happened, the circumstances under which same happened and the condition causing same, with a detailed statement of each item of damages and the amount thereof, giving a list of any witnesses known by affiant to have seen the accident.
67	Power to Settle Claims	Section 8.11 - The City Council shall have the power to compromise and settle any and all claims and lawsuits of every kind and character, in favor of, or against, the City, including suits by the City to recover delinquent taxes, after consulting with the City Attorney.	Section 6(b)(6) - The Mayor shall have the power to settle all claims and lawsuits where such claim or lawsuit is for \$5,000.00 or less without approval of the City Council. Section 9(k) - Compromise and settle any and all claims and lawsuits of every kind and character in favor of or against the City of Katy.	-	Section 11.06 - The City Commission shall have the power to settle suits by the City to recover delinquent taxes.	Section 13.07 - The city council shall have the power to compromise and settle any and all claims and lawsuits of every kind and character in favor of or against the city, including suits by the city to recover delinquent taxes.	-	-	Section 7.12 - The City Council shall have the power to compromise and settle any and all claims and lawsuits of every kind and character, in favor of, or against, the City, including suits by the City to recover delinquent taxes after consulting with the City Attorney.
68	Service of Process Against the City	Section 8.12 - All legal process against the City shall be served upon the City Manager.	Section 1(a) - Mayor	-	Section 11.07 - All legal process against the City shall be served upon either the Mayor, City Manager or City Secretary.	Section 13.08 - All legal process against city shall be served upon the mayor, or mayor pro-tem.	-	Section 3.03 - Mayor	Section 7.13 - All legal process against the City shall be served upon the City Manager.
69	Transitional Provisions								

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2	PROPOSED in RED	Fulshear	Katy	Missouri City	Richmond	Rosenberg	Sugar Land	Stafford	Mont Belvieu (out of county)
Existing Ordinances and Resolutions	Section 9.1 - At the time of initial adoption of this Charter, all existing ordinances, resolutions, regulations, and other prior actions of the City Council, not in conflict with this Charter, shall remain in effect without being subject to the provisions of this Charter for referendum.	Section 8 - All codes, ordinances, resolutions, rules and regulations in force in the City on the effective date of this Charter, and not in conflict with this Charter, shall remain in force until altered, amended or repealed by the Council. All taxes, assessments, liens, encumbrances and demands, of or against the City, fixed or established before such date, or for the fixing or establishing of which proceedings have begun at such date, shall be valid when properly fixed or established either under the law in force at the time of the beginning of such proceedings or under the law after the adoption of this Charter.	Section 11.03 - All ordinances, resolutions, rules, and regulations now in force under the city government and not in conflict with the provisions of this Charter shall remain in force until altered, amended, or repealed by the council after this Charter takes effect. All rights of the city under existing franchises and contracts and all existing authority for the issuance of bonds, not in conflict with the provisions of this Charter, shall be preserved in full force and effect.	Section 12.03 - All City ordinances, rules and regulations in force at the time of adoption of this Charter and not in conflict with it shall remain in force until altered, amended or repealed by the Commission. All rights of the City under existing franchises and contracts are preserved in full force and effect. Any ordinances, rules or regulations inconsistent with this Charter are repealed as of the date of adoption of the Charter.	Section 13.14 - All ordinances, resolutions, rules and regulations now in force under the city government of Rosenberg and not in conflict with the provisions of this Charter, shall remain in force under this Charter until altered, amended or repealed by the council after this Charter takes effect; and all rights of the City of Rosenberg under existing franchises and contracts are preserved in full force and effect to the City of Rosenberg. Upon adoption of this Charter it shall constitute the Charter of the City of Rosenberg.	-	Section 11.03 - a. All codes, ordinances, resolutions, rules, and regulations in force in the City on the effective date of this Charter, and not in conflict with the provisions thereof, shall remain in force until altered, amended, or repealed by the City Council. Any code, ordinance, resolution, rule, or regulation which conflicts with the provisions of this Charter is repealed to the extent that it is inconsistent or will interfere with the effective operation of this Charter or ordinances enacted pursuant thereto. b. All taxes, assessments, liens, encumbrances, and demands, of or against the City, fixed or established before the effective date of this Charter, or for the fixing or establishing of which proceedings had begun prior to such date, shall be valid when properly fixed or established under the law in force at the time of the beginning of such proceedings or under the law after adoption of this Charter.	Section 8.01 - At the time of initial adoption of this Charter, all existing ordinances, resolutions, regulations, and other prior actions of the City Council, not in conflict with this Charter, shall remain in effect without being subject to the provisions of this Charter for referendum.	
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2	PROPOSED in RED	Fulshear	Katy	Missouri City	Richmond	Rosenberg	Sugar Land	Stafford	Mont Belvieu (out of county)
71	Officers and Employees	Section 9.2 - (a) Upon adoption of this Charter, the present persons filling elective offices on the City Council will continue to fill those offices for the terms for which they were elected. Term limits, as referenced herein, shall not be imposed for terms preceding adoption of this Charter or for terms less than one year. (b) Nothing in this Charter, except as otherwise specifically provided, shall affect or impair the rights or privileges of persons who are City officers or employees at the time of its adoption. Upon adoption of this Charter, the person presently serving as the City Administrator shall be deemed to be the City Manager, subject to the provisions of this Charter. (c) Except as specifically provided by this Charter, if at the time this Charter takes full effect, a City administrative officer or employee holds any office or position which is or can be abolished by or under this Charter, he shall continue in such position or office until the taking effect of some specific provision under this Charter	Section 9 - Upon adoption of this Charter, the persons then filling elective offices will continue to fill those offices for the terms to which they were elected. Thereafter, the City Council and the Mayor shall be elected as provided in Article VII - Section 2., of this Charter. Persons, who on the date this Charter is adopted, are filling appointive positions with the City of Katy which are retained under this Charter, may continue to fill these positions for the term for which they were appointed, unless removed by the Mayor or the City Council or by other means provided for in this Charter. Persons who, on the effective date of this Charter, are filling elective offices, that by this Charter are made appointive offices shall continue to serve in those offices for the terms to which they were elected.	-	Section 12.02 - Continuation of Elective/Appointive Offices - Upon adoption, present persons filling elective offices on City Commission will continue to fill those offices for terms for which they were elected. Persons who, on date this is adopted, are filling appointive positions with City which are retained under this Charter, may continue to fill those positions for term for which they were appointed, unless removed by City Commission or by other means provided in this Charter. Section 12.04 - Officers and Employees - Except as specifically provided, nothing in this Charter shall affect or impair rights or privileges of persons who are City officers or employees at time of its adoption. Upon adoption, person presently serving as City Manager shall be deemed to be City Manager, subject to provisions of this Charter.	-	Section 4.01 - City Manager - (b)The city manager shall exercise the administrative powers granted herein or by ordinance. In particular, the city manager has the following powers and duties: (1) To establish, organize, and abolish City departments or administrative units not otherwise provided for by the Charter and to assign the duties thereof.	Section 11.02 - Nothing in this Charter, except as may be specifically provided otherwise, shall affect or impair the rights or privileges of persons who are appointive officials or employees of the City at the time of its adoption.	Section 8.02 - A. Rights and Privileges Preserved. Nothing in this Charter except as otherwise specifically provided shall affect or impair the rights or privileges of persons who are City officers or employees at the time of its adoption. B. Continuance of Office or Employment. Except as specifically provided by this Charter, if at the time this Charter takes full effect, a City administrative officer or employee holds any office or position which is or can be abolished by or under this Charter, he shall continue in such position or office until the taking effect of some specific provision under this Charter directing that he vacate the office or position.
72	Pending Matters	Section 9.03 - All rights, claims, actions, orders, franchises, contracts and legal administrative proceedings shall continue except as modified pursuant to the provisions of this Charter and in each case shall be maintained, carried on or dealt with by the City department, office, or agency appropriate under this Charter.	-	-	Section 11.09 - All rights, claims, actions, orders, contracts and legal or administrative proceedings shall continue, except as modified pursuant to the provisions of this Charter, and, in each case, shall be maintained, carried on or dealt with by the City department, office or agency appropriate under this Charter.	Certificate of Change of Government - "That there is no litigation pending or threatened relative to the organization of the City of Rosenberg, Texas, the boundaries thereof, or the title of the present officers to their respective offices."	-	Section 11.04 - All rights, claims, actions, orders, contracts, franchises, and legal or administrative proceedings in existence or pending on the effective date of this Charter shall continue until consummation. All new or renewal rights, claims, actions, orders, contracts, franchises, and legal or administrative proceedings initiated after the effective date of this Charter shall conform to the requirements and provisions thereof.	Section 8.03 - All rights, claims, actions, orders, contracts and legal administrative proceedings shall continue except as modified pursuant to the provisions of this Charter and in each case shall be maintained, carried on or dealt with by the City department, office, or agency appropriate under this Charter.

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2	PROPOSED in RED	Fulshear	Katy	Missouri City	Richmond	Rosenberg	Sugar Land	Stafford	Mont Belvieu (out of county)
73	Manner of Submission to Electors	Section 9.4 - In preparing this Charter, the Charter Commission finds and decides that it is impractical to segregate each subject so as to permit a vote of "yes" or "no" on the same, for the reason that the Charter is so constructed that in order to enable it to work and function, it is necessary that it should be adopted in its entirety.	Section 17 - Pursuant to Article 1167, V.A.C.S., Charter Commission finds and determines that it is impracticable to segregate each subject or section contained in this Charter so that voter may vote "Yes" or "No" on same. This Charter was drafted and framed in such a manner that Articles and Sections of Charter are so interrelated and dependent, one upon other, to extent that Charter would not function properly if it were not adopted in its entirety. Therefore, Charter Commission directs that said Charter be voted upon as a whole and that it shall be submitted to qualified voters of City of Katy at an election to be held for that purpose on 17th day of January, 1981, which time is fixed by Charter Commission at a time not less than forty (40) nor more than ninety (90) days after completion of the work of the Charter Commission. Not less than thirty (30) days prior to aforesaid date of election, City Council shall cause the Office of City Secretary to mail a	Section 11.14 - Pursuant to article 1167, V.A.C.S. [V.T.C.A., Local Government Code § 9.003], Charter commission finds and determines that it is impracticable to segregate each subject or section contained in this Charter so that the voter may vote "Yes" or "No" on same. This Charter was drafted and framed in such a manner that articles and sections of Charter are so interrelated and dependent, one upon the other, to extent that Charter would not function properly if it were not adopted in its entirety. Therefore, Charter commission directs that said Charter be voted upon as a whole and that it shall be submitted to the qualified voters of the City of Missouri City at an election to be held for that purpose on the twenty-third day of November, 1974, which time is fixed by the Charter commission at a time not less than forty (40) nor more than ninety (90) days after the completion of the work of the Charter commission.	Section 10.05 - The Charter Commission in preparing this Charter finds and declares that it is impractical to segregate each subject so that the voter may vote "Yes" or "No" on each subject. The Charter is so constructed that in order to enable it to work and function, it is necessary that it should be adopted in its entirety. For these reasons, the Charter Commission directs that this Charter be voted upon as a whole.	Section 13.18 - (a) Charter Commission in preparing this Charter finds and decides that it is impracticable to segregate each subject so as to permit a vote of "yes" or "no" on the same, for the reason that the Charter is so constructed that in order to enable it to work and function it is necessary that it should be adopted in its entirety. For these reasons the Charter Commission directs that said Charter be voted upon as a whole and that it shall be submitted to qualified voters of City at an election to be held for that purpose on the 20th day of November, A. D., 1956. If a majority of qualified voters voting in such election shall vote in favor of adoption of this Charter, it shall become Charter and after returns have been canvassed, same shall be declared adopted. (b) An official copy of Charter shall be filed with records of city, and mayor shall as soon as practicable certify to secretary of state an authenticated copy under seal of city, showing approval by qualified voters of such Charter. (c) In not less than thirty days prior to such election the city council shall cause the city secretary to mail a copy of this Charter to each	*Editors Note: The charter is set out as amended, passed and approved by the majority of the voters at the city election on May 14, 2011	Section 11.05 - Charter commission in preparing this Charter concludes that it is impracticable to segregate each subject so as to permit a vote of "yes" or "no" on same, for reason that Charter is so constructed that in order to enable it to work and function it is necessary that it should be adopted in its entirety. For these reasons, Charter commission directs that Charter be voted upon as a whole and that it shall be submitted to qualified voters of the City at an election to be held on May 15, 2004. Not less than thirty (30) days prior to that election, City Council shall cause city secretary to mail a copy of this Charter to each qualified voter of City as appears from latest certified list of qualified voters. If a majority of qualified voters voting in election shall vote in favor of adoption of this Charter, it shall become Charter and after returns have been canvassed, same shall be declared adopted, Mayor shall certify to Secretary of State an authenticated copy under City's seal showing approval by voters of City, and City Secretary shall file an official copy of Charter with records of City.	Section 8.04 - In preparing this Charter, the Charter Commission finds and decides that it is impractical to segregate each subject so as to permit a vote of "yes" or "no" on the same, for the reason that the Charter is so constructed that in order to enable it to work and function, it is necessary that it should be adopted in its entirety.
74	Elections								
75	General Election Date	Section 6.01 - May	Article VII, Section 2 - May	Article VI - May	Section 5.02 - May	Section 3.01(c) - May	Section 2.01(c) - May	Section 5.03 - May - "spring uniform election date"	Section 4.01(A) - The regular City election shall be held annually on the uniform election date in May, or at such other times as may be specified by State Law, at which time officers will be elected to fill those offices which become vacant that year.

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2	PROPOSED in RED	Fulshear	Katy	Missouri City	Richmond	Rosenberg	Sugar Land	Stafford	Mont Belvieu (out of county)
76	Terms to be Staggered	Section 6.02 - Terms of the City Council and Mayor shall be staggered as follows: (a) One (1) Council Member elected at large, two (2) Council Members elected from single-member districts, and the Mayor shall be elected in even-numbered years; and (b) One (1) Council Member elected at large and three (3) Council Members elected from single-member districts shall be elected in odd-numbered years.	Article VII, Section 2 - Yes	Section 6.01(c-d) - Yes	Section 3.01 - Yes	Section 3.01(c) - Yes	Section 2.01(b) - Yes	Section 5.03(d)(1-2) - Yes	Section 3.02 - The membership of City Council (members of City Council) shall be composed of the Mayor and six (6) Council Members. The Mayor and Council Members shall be elected from the City at large for three (3) year terms. Each Council Member shall occupy a place on the Council, such places being numbered 1 through 6. Each year two Council places shall be elected for their respective terms except as set forth in the transitional provisions hereinafter set forth.
77	Term limit applies	Separately	Article III, Section 12 - "No person shall be elected to more than three (3) consecutive regular two-year terms as Mayor." [Implies the term limit applies separately.]	N/A	N/A	N/A	Section 2.03 - Separately	N/A	N/A
78	Elections by	Majority	Article VII, Section 3 - Majority	Section 6.03 - Majority	Section 5.02 - Plurality	Section 5.05 - Majority	Section 2.01(c) - Majority	Section 5.05 - Plurality	Section 4.05 - Majority

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2	PROPOSED in RED	Fulshear	Katy	Missouri City	Richmond	Rosenberg	Sugar Land	Stafford	Mont Belvieu (out of county)
	Transition Elections	Section 9.5 - Five-member council to seven-member council as provided in Article III of this Charter, the following election schedule shall be followed until such time as all Council Members are elected in accordance with Section 6.02 of this Charter: (a) May uniform election date in 2017, one (1) Council Member shall be elected at large, and one (1) Council Member shall be elected from each of two (2) single-member districts to be determined by the City Council in the ordinance. (b) May uniform election date in 2018, Mayor and one (1) Council Member shall be elected at large, and one (1) Council Member shall be elected from each of the three (3) single-member districts that did not elect a Council Member under subsection (a). One (1) Council Member elected from a single-member district in the year 2018, shall serve a one-year term. Council Member who serves such one-year term is determined by drawing lots at first regular City Council meeting held after the election.	Section 9 - Upon adoption of this Charter, the persons then filling elective offices will continue to fill those offices for the terms to which they were elected. Thereafter, the City Council and the Mayor shall be elected as provided in Article VII - Section 2., of this Charter. Persons, who on the date this Charter is adopted, are filling appointive positions with the City of Katy which are retained under this Charter, may continue to fill these positions for the term for which they were appointed, unless removed by the Mayor or the City Council or by other means provided for in this Charter. Persons who, on the effective date of this Charter, are filling elective offices, that by this Charter are made appointive offices shall continue to serve in those offices for the terms to which they were elected.	Section 6.01 - Elections to be held under this charter	Section 3.01 - Transitional Provision - All City Commission Members holding office at time of passage shall continue to hold their respective office until their respective term of office for which they were elected expires. At May 2014 election, Mayor shall have a three (3) year term and two (2) newly elected Commissioners, immediately upon canvassing of May 2014 vote shall draw lots to determine which Commissioner's term will expire in one (1) year and which Commissioner's term will expire in two (2) years. A drawing of lots by Commissioners elected in May 2014 shall not be held if a Commissioner voluntarily requests one (1) year term prior to date of canvassing of election.	Section 13.19(b) - Within thirty days after the adoption of this Charter, the city council shall call an election for the filling of positions three, four, five and six as defined and identified in the aforesaid section 5.04, which councilmen shall be elected for a term to expire on the first Monday in May, 1958, or until their successors shall have been elected and qualified. The city council as then constituted shall be the governing body of the City of Rosenberg under the terms of this Charter. Thereafter the city council shall be elected every two years as provided in sections 5.04 and 5.05 of this Charter.	-	Section 11.01 (a-f)	Section 8.05 - In order to provide for a smooth transition between a five-member council elected for two-year terms and a seven-member council elected for three-year terms, the following election schedule shall be followed until such time as all council members are elected to three-year staggered terms...
79									
80	Initiative, Referendum, and Recall								

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2	PROPOSED in RED	Fulshear	Katy	Missouri City	Richmond	Rosenberg	Sugar Land	Stafford	Mont Belvieu (out of county)
	Initiative	<p>Section 7.01 - General Authority</p> <p>Section 7.02 - Petitions for Initiative, Referendum and Recall, Generally</p> <p>Section 7.03 - Petitions for Initiative, Specifically</p> <p>Section 7.06 - Initiative, Referendum, and Recall Elections</p>	<p>Article VIII, Section 1 - reserve the power of direct legislation by initiative except an ordinance appropriating money or authorizing the levy of taxes, or ordinances repealing ordinances appropriating money or levying taxes; petition signed by at least 30 % of qualified voters but in no event less than 300 petitioners</p>	<p>Section 5.01 - reserve the power of direct legislation by initiative except an ordinance appropriating money or authorizing levy of taxes; petition must be signed by at least 10% of the qualified voters.</p>	<p>Section 6.02 - People shall have the power to propose legislation on any local government issue, except legislation appropriating money, levying taxes, affecting zoning, annexing land, or setting rates, fees or charges, and, if the Commission fails to adopt an ordinance so proposed, to adopt or reject the proposed legislation at an election; petitions must be signed by registered voters equal to 30% cast in last general election or one hundred and fifty (150), whichever is greater.</p>	<p>Section 7.02 - Qualified voters initiate legislation by submitting a petition signed by qualified voters of the city equal in number to 20% percent of the number of votes cast at last regular municipal election of city, or one hundred and fifty, whichever is greater.</p>	<p>Section 3.01(a) - power through petition to enact new ordinance and, if council fails to, hold election to approve/reject new ordinance.</p> <p>Section 3.01(b) - does not apply to ordinances relating to financial matters, including budget, levy of taxes, issuance of bonds/debt instruments, salaries of officers and employees, matters which are not legislative or which have been withdrawn/excluded by general law, and matters where state/federal law provides for election.</p> <p>Section 3.04 - Petition signed by at least 30% of those voting in the last city election.</p> <p>Section 3.02(e) - Committee of Petitioners.</p>	<p>Section 9.01 - The qualified voters of the City reserve the power of direct legislation by initiative, and in the exercise of such power may propose any ordinance which is not in conflict with this Charter, the State Constitution, or the laws of this State; provided, however, such power shall not extend to the budget or capital programs, ordinances relating to the appropriation of money, the levy of taxes, the salaries of city officials or employees, zoning ordinances or ordinances repealing zoning ordinances, or ordinances annexing or disannexing territory. Any initiated ordinance may be submitted to the City Council by a petition signed by qualified voters of the City equal in number to at least ten percent (10%) of the qualified voters of the City at the time of such submission. All the signatures on such a petition must have been collected within the ninety (90) day period immediately preceding the date of submission.</p> <p>Section 9.03 - Form of Petition</p> <p>Section 9.04 - Filing, Examination and Certification of Petitions</p>	<p>Section 6.01(a) - The qualified voters of the City shall have power to propose ordinances to the Council. Such power shall not extend to the granting of franchises, budget or any capital program, or relating to appropriation of money, issuing of bonds, setting of utility rates and levy of taxes or salaries of City officers or employees, or any other ordinance not subject to initiative as provided by state statute or common law.</p> <p>Section 6.02(a) - Any five (5) qualified voters may commence initiative, referendum, or recall proceedings by filing with the City Secretary an affidavit stating they will constitute the petitioners' committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses and specifying the address to which all notices to the committee are to be sent and setting out in full the proposed initiative ordinance or citing the ordinances sought to be reconsidered, or the name of the individual to be recalled.</p> <p>Section 6.02(B - D)</p>

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	A	B	C	D	E	F	G	H	I
2	PROPOSED in RED	Fulshear	Katy	Missouri City	Richmond	Rosenberg	Sugar Land	Stafford	Mont Belvieu (out of county)
	Referendum	Section 7.01 - General Authority Section 7.02 - Petitions for Initiative, Referendum, and Recall, Generally Section 7.04 - Petitions for Referendum, Specifically Section 7.06 - Initiative, Referendum, and Recall Elections	Article VIII, Section 2 - the people reserve the power to approve or reject at the polls any legislation enacted by Council except an ordinance authorizing issuance of tax or revenue bonds; prior to effective date of ordinance or within 30 days after effective date of ordinance, a petition signed by 30% of the qualified voters but in no event less than 300 petitioners	Section 5.02 - reserve the power to approve or reject legislation enacted by Council except an ordinance which is enacted for immediate preservation of public peace, health, safety or welfare which contains statement of urgency and is adopted by four or more favorable votes of councilmembers; prior to effective date of any ordinance, a petition signed by qualified voters equal in number to at least 10% of qualified voters.	Section 6.03 - shall have the power to require reconsideration of an adopted ordinance regarding any issue that would be proper subject for an initiative, and if the Commission fails to repeal an ordinance so reconsidered, to approve or reject the ordinance at an election. Shall not extend to budget, capital expenditures, levy of taxes, any bonds, certificates of obligation or any similar obligations; zoning; annexation; or any rates, fees and charges, provided that tax increases shall be subject to petition as provided by state law; petitions must be signed by registered voters equal to 30% cast in last general election or one hundred and fifty (150), whichever is greater.	Section 7.03 - Qualified voters may require that ordinance/resolution passed be submitted to voters; petition within thirty days after the final passage, or within thirty days after its publication; Petition shall be addressed, prepared, signed and verified as required for petitions initiating legislation as provided in section 7.02 (20% of # of votes cast in last municipal election).	Section 3.01(a) - Repeal all or part of an existing ordinance, and if council fails to do so, hold an election to approve/reject the ordinance. Section 3.01(b) - does not apply to ordinances relating to financial matters, including budget, levy of taxes, issuance of bonds/debt instruments, salaries of officers and employees, matters which are not legislative or which have been withdrawn/excluded by general law, and matters where state/federal law provides for election. Section 3.02(e) - Committee of Petitioners. Section 3.04 - Petition signed by at least 30% of those voting in the last city election.	Section 9.02 - Reserve the power to approve or reject any ordinance enacted by the City Council which is subject to the initiative process under this Charter and under the laws of this State, except that ordinances authorizing the issuance of either tax or revenue bonds, whether original or refunding bonds, shall not be subject to such referendum. Ordinances submitted to the City Council by initiative petition and passed by the City Council without change shall be subject to the referendum in the same manner as other ordinances. Within sixty (60) days after the enactment by City Council of any ordinance which is subject to a referendum, a petition signed by qualified voters of the City equal in number to at least ten percent (10%) of the qualified voters of the City at the time of filing the petition may be filed with the City Secretary requesting that any such ordinance be either repealed by the City Council or submitted to a vote of the people. Section 9.04 - Filing, Examination and Certification of Petitions	Section 6.01(B) - Referendum. The qualified voters of the City shall have power to require reconsideration by the Council of any adopted ordinance. Such power shall not extend to the granting of franchises, budget or any capital program, or relating to appropriation of money, issuing of bonds, setting of utility rates and levy of taxes or salaries of City officers or employees, or any other ordinance not subject to referendum as provided by state statute or common law. Section 6.02(A) - Any five (5) qualified voters may commence initiative, referendum, or recall proceedings by filing with the City Secretary an affidavit stating they will constitute the petitioners' committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses and specifying the address to which all notices to the committee are to be sent and setting out in full the proposed initiative ordinance or citing the ordinances sought to be reconsidered, or the name of the individual to be recalled. Section 6.02 (B - D)

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2	PROPOSED in RED	Fulshear	Katy	Missouri City	Richmond	Rosenberg	Sugar Land	Stafford	Mont Belvieu (out of county)
	Recall	Section 7.01 - General Authority Section 7.02 - Petitions for Initiative, Referendum, and Recall, Generally Section 7.05 - Petitions for Recall, Specifically Section 7.06 - Initiative, Referendum, and Recall Elections	Article VIII, Section 8 - filing a petition signed by at least 30% of qualified voters but in no event less than 300 petitioners; same verification as initiative petition; limitation No recall petition shall be filed against Mayor/Councilmember within 6 months after he takes office and neither shall be subjected to more than one recall during a term.	Section 5.07 - reserve the power to recall any elected official by filing a petition signed by 10% of voters qualified to vote at the time of that official's last election to office.	Section 6.11 - reserve the power to recall any elected city officer and may exercise the power by filing with City Secretary a petition signed by qualified voters of the City equal to at least 30% of the number of registered votes cast in the last election or one hundred and fifty (150), whichever is greater; no recall shall be called within six months of taking office and no officer shall be subjected to more than three recall elections during a term; and no officer shall be recalled at an election held less than 3 months prior to expiration of term.	Section 6.01 - Any elected city official, shall be subject to recall on grounds of incompetency, misconduct or malfeasance in office. Section 6.02 - A petition demanding such question to be submitted shall first be filed with the city secretary; petition shall be signed by qualified voters of the city equal in number to at least thirty percent of the number of votes cast at the last regular municipal election of the city, but in no event less than one hundred fifty such petitioners.	Section 3.01(3) - Resign from office for reasons set forth in petition, and if member fails to do so, hold an election on recall. Section 3.02(e) - Committee of Petitioners. Section 3.04(3) - Petition must be signed by at least 20% of city's registered voters residing in that district.	Section 9.11 - Reserve the power to recall any elected official and exercise by filing with City Secretary a petition, signed by qualified voters of the City equal in number to at least ten percent (10%) of the qualified voters of City at the time of such filing, demanding the removal of such elected official. All the signatures on such a petition must have been collected within the ninety (90) day period immediately preceding the date of submission. The petition shall be signed and verified in the manner required for an initiative petition, shall contain a general statement of the grounds for which the removal is sought and the circulator of each petition paper shall make an affidavit that the statements therein made are true. Section 9.15 - No recall petition shall be filed against an elected official within six (6) months after such official takes office. An elected official subjected to a recall election and not removed thereby	Section 6.01(c) - Qualified voters shall have power to recall. Section 6.02(a) - Any five (5) qualified voters may commence initiative. Section 6.04 - Petition containing at least 30 percent of the number of qualified voters registered to vote at the last general City election. Section 6.09 - No petition shall be filed for the recall of an individual within 365 days of the date of the individual's election to City Council or within 180 days before the end of the individual's term on City Council. At any special meeting held under this Section the individual whose removal is sought shall have a thirty (30) minute period to state their response to the recall petition. There shall be no public participation in the special meeting and no other items of business shall be a part of the special meeting.
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84	General Provisions								

	A	B	C	D	E	F	G	H	I
2	PROPOSED in RED	Fulshear	Katy	Missouri City	Richmond	Rosenberg	Sugar Land	Stafford	Mont Belvieu (out of county)
	Construction	Section 8.01 - This Charter shall not be construed as a mere grant of enumerated powers, but shall be construed as a general grant of power and as a limitation of power on the government of the City in the same manner as the Constitution of Texas is construed as a limitation on the powers of the Legislature. Except where expressly prohibited by this Charter, each and every power under Article XI, Section 5 of the Constitution of Texas, which it would be competent for the people of the City to expressly grant to the City, shall be construed to be granted to the City by this Charter.	-	Section 11.04 - Charter shall not be construed as grant of enumerated powers, but a general grant of power and as a limitation of power on the government in the same manner as Constitution of Texas is constructed as a limitation on the powers of the legislature. Except where expressly prohibited by this Charter, each and every power under Article XI, Section 5 of the Constitution of Texas, which it would be competent for the people of the City to expressly grant to the city, shall be construed to be granted to the city by this Charter.	Section 11.12 - This Charter is a general grant of powers and is not to be interpreted as limiting in any way.	Section 13.16 - Charter shall be liberally construed to carry out intents and purposes. If any section or part of section of Charter shall be held invalid by court of competent jurisdiction, such holding shall not affect the remainder of Charter nor context in which such section or part of section so held invalid may appear, except to extent that entire section or part of section may be inseparably connected in meaning and effect with section or part of section to which such holding shall directly apply.	-	-	Section 7.17 - The Charter shall not be construed as a mere grant of enumerated powers, but shall be construed as a general grant of power and as a limitation of power on the government of the City of Mont Belvieu in the same manner as the Constitution of Texas is construed as a limitation on the powers of the Legislature. Except where expressly prohibited by this Charter, each and every power under Article XI, Section 5 of the Constitution of Texas, which it would be competent for the people of the City of Mont Belvieu to expressly grant to the City, shall be construed to be granted to the City by this Charter.
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	A	B	C	D	E	F	G	H	I
2	PROPOSED in RED	Fulshear	Katy	Missouri City	Richmond	Rosenberg	Sugar Land	Stafford	Mont Belvieu (out of county)
86	General Prohibitions	<p>Section 8.02 - (a) No employee/official, whether elected/appointed, shall orally, by letter or otherwise solicit/assist in soliciting any assessment, subscription, or contribution for any political party/political purpose whatever from any subordinate official/employee holding any compensated position.</p> <p>(b) No person who holds any compensated position shall solicit/receive any contribution to campaign funds of any candidate for municipal office or take any part in the management, affairs, or political campaign of any municipal candidate.</p> <p>(c) No person who seeks appointment/promotion with respect to any position or office shall directly/indirectly give, render, or pay any money, service, or other thing of value to any person for or in connection with his or her test, appointment, proposed appointment, promotion, or proposed promotion.</p> <p>(d) Any employee who is found to have violated any provision of this section shall be</p>	<p>Section 7 - nepotism</p> <p>Section 1 - Powers of the City "except as prohibited by the Constitution and Laws of this State or restricted by this Charter, the City may exercise all municipal powers, functions, rights, privileges and immunities of every name and nature whatsoever.</p>	<p>Section 9.07 - payments and obligations prohibited</p> <p>Section 11.10 - nepotism</p>	<p>Section 3.07 - (1) Except where authorized by law or by this Charter, no Mayor or Commission Member shall hold any other City office or City employment during his/her term as Mayor or Commission Member. No former Mayor or Commission Member shall hold any compensated appointive office or City employment until two (2) years after the expiration of term for which they were elected/appointed to City Commission.</p> <p>(2) Members of the City Commission shall not in any way dictate appointment/removal of City administrative officers/employees whom City Manager or any of City Manager's subordinates are empowered to appoint. City Commission, at a meeting called for that purpose, may express its views and fully and freely discuss with City Manager anything pertaining to appointment/removal of such officers/employees.</p> <p>(3) Except for purpose of inquiries and investigations as provided by this Charter, City Commission shall deal with City officers/employees, who are subject to direction and</p>	<p>Section 2.01 - General - "...except as prohibited by the constitution and laws of this state or restricted by this charter..."</p> <p>Section 13.03 - No officer or employee to accept gifts</p> <p>Section 13.04 - Relatives of officers shall not be appointed or employed</p> <p>Section 13.05 - Persons indebted to the city shall not hold office or employment</p>	-	<p>Section 6.05 - No payment shall be made or obligation incurred against any allotment or appropriation except in accordance with appropriations duly made and unless the Finance Director or their designee first certified that there is a sufficient unencumbered balance in such allotment or appropriation and that sufficient funds therefrom are or will be available to cover the claim or meet the obligation when it becomes due and payable.</p> <p>Section 10.06 - nepotism</p>	<p>Section 7.02 - A. Activities Prohibited:</p> <p>1. No person shall be appointed to or removed from or in any way favored or discriminated against with respect to any City position or appointive City administrative office because of race, national origin, sex, political or religious opinions or affiliations.</p> <p>2. No person who seeks appointment or promotion with respect to any City position or appointive City administrative office shall directly or indirectly give, render or pay any money, service or other valuable thing to any person for or in connection with his test, appointment, proposed appointment, promotion or proposed promotion.</p> <p>3. No employee of the city shall continue in such position after becoming a candidate for City Council.</p>

	A	B	C	D	E	F
1	BELL COUNTY HOME RULE CHARTERS					
2		Temple	Killeen	Nolanville	Belton	Harker Heights
3						
4	Form of Government	<p>Section 4.1. FORM OF GOVERNMENT: The form of government created under this Charter is the "Council-Manager" form. Pursuant to this Charter and subject only to limitations imposed by State law, all powers of the City are vested in an elected council, referred to as the "City Council," which will enact local legislation, adopt budgets, determine policies, and appoint a City Manager, who shall serve as the chief executive officer of the City. The City Manager is responsible to the City Council for the execution of the laws and the administration of the government of the City. All powers of the City may be exercised in the manner prescribed by the Constitution, State law, this Charter, and laws of the City. Section 1.1. CORPORATE NAME: The City of Temple, in Bell County, Texas, is incorporated as a home rule city and political subdivision of the State of Texas and is known as the "City of Temple" (hereafter referred to as the "City"). The City has</p>	<p>Section 2. The municipal government provided by this charter shall be known as the "council-manager government." Pursuant to its provisions and subject only to the limitations imposed by the state constitution and by this charter, all powers of the city shall be vested in an elective council, hereinafter referred to as "the council," which shall enact local legislation, adopt budgets, determine policies, and employ the city manager, who shall execute the laws and administer the government of the city. All powers of the city shall be exercised in the manner prescribed by this charter, or if the manner be not prescribed, then in such manner as may be prescribed by ordinance.</p>	<p>All of the inhabitants of the City of Nolanville, in Bell County, Texas as the boundaries and limits of said city are herein established, or as hereafter established in the manner provided by this Charter, shall be a body politic, incorporated under, and to be known by the name and style of the "City of Nolanville" with such powers, rights and duties as are herein provided. The City of Nolanville shall have a "Council-Manager" form of government. All powers of the City shall be vested in the Council, hereinafter referred to as the "City Council," which shall enact local legislation, adopt budgets, determine policies and appoint the City Manager. The City Manager shall answer to the City Council for the execution of the laws and the administration of the government of the City. All powers of the City shall be exercised in the manner prescribed by the laws of the State of Texas, this Charter and as may be prescribed by ordinance. (Charter adopted 11/2/10) State law reference–Form of</p>	<p>Section 1.02. - Form of Government. □ The municipal government shall be the Council-Manager form of government. Subject only to the limitations imposed by, the State constitution, State laws, and this Charter, all powers of the City shall be vested in and exercised by an elective governing body, hereinafter referred to as the City Council or Council. The Council shall enact legislation, adopt budgets, determine policies, make appointments to committees, commissions and boards, and appoint the City Manager who shall execute the laws and administer the government of the City.</p>	<p>SECTION 1.02 FORM OF GOVERNMENT. The municipal government provided by this charter shall be known as the Council-Manager government. Pursuant to its provisions and subject only to the limitations imposed by the State Constitution and by this charter, all powers of the City shall be vested in an elective council, hereinafter referred to as "the council;" which shall enact local legislation, adopt budgets, determine policies and employ the City Manager, who shall execute the laws and administer the government of the City. All power of the City shall be exercised in the manner prescribed by this charter, or if the manner be not prescribed, then in such manner as may be prescribed by ordinance.</p>

	A	B	C	D	E	F
2		Temple	Killeen	Nolanville	Belton	Harker Heights
5	Boundaries of City	Section 2.1. BOUNDARIES: The boundaries of the City are those that have previously been legally established. These boundaries may be changed through annexation, dis-annexation, or exchange of land with other municipalities, with or without the consent of the inhabitants thereof, as is now provided or hereafter provided by State law. An official map of the City may be obtained through the City Secretary's office.	Section 3. The bounds and limits of the City of Killeen shall be established and described by ordinance passed and approved by the city council. Creation of District Boundaries - Section 4. Until and unless changed as provided by this Charter, the City of Killeen shall be divided into four (4) districts for voting purposes. Districts 1, 2, 3, and 4 shall be single member districts, and their boundaries shall be established by ordinance passed and approved by the City Council. (Amend. of 5-3-97; Amend. of 5-7-05)	Section 2.01 Boundaries: The boundaries of the City of Nolanville shall be the same as have heretofore been established and as they existed on the day of the ratification of this Charter, and includes any and all subsequently annexed areas, which boundaries are more fully set out and described by the official city map of the City of Nolanville. (Charter adopted 11/2/10; Ordinance 2014-11-04 #007 adopted 8/11/14, prop. 12, approved at election of 11/4/14) State law reference-Map of municipal boundaries and extraterritorial jurisdiction, V.T.C.A., Local Government Code, sec. 41.001.	Section 2.01. - Boundaries. □ The boundaries and limits of the City shall, until changed in the manner herein provided, be the same as have heretofore been established and as exist on the date of the adoption of this Charter. The boundaries and territorial limits of the City may from time to time by ordinance be fixed, decreased, modified or extended, and property may be annexed into the City or disannexed from the City, with or without the consent of any voter or of any landowner in the affected area.	Section 2.04 Extension of City Limits Upon Petition

	A	B	C	D	E	F
2		Temple	Killeen	Nolanville	Belton	Harker Heights
6	General Powers	<p>Section 3.1. GENERAL POWERS:(a)The City has the power of local self-government to the fullest extent permitted by law. The City has all the powers granted to cities by the Texas Constitution and State law, as fully and completely as though they were specifically enumerated in this Charter, together with all of the implied powers necessary to carry into execution those powers and those express and implied powers necessary for the government, interests, health, welfare, and good order of the City and its inhabitants. All powers must be exercised and enforced in the manner prescribed by the Constitution, State law, this Charter, and the City’s ordinances.</p> <p>(b)Any reference in this Charter to the “Constitution” or “State law” is intended to refer to and identify the Constitution and laws respectively of the State of Texas which are in force at the time any question, issue, controversy, or cause of action arises, and each question, issue, controversy or cause of action shall be determined by</p>	<p>Article II Corporate and General Powers, Powers of the City Section 5. The City shall have all the powers granted to municipal corporations and to cities by the constitution and laws of the State of Texas, together with all the implied powers necessary to carry into execution all the powers granted. The city may acquire property within or without its corporate limits for any city purposes in fee simple or any lesser interest or estate, by purchase, gift, devise, lease, or condemnation, and may sell, lease, mortgage, hold, manage and control such property as its interests may require; and, except as prohibited by the constitution of this state or restricted by this charter, the city shall and may exercise all municipal powers, functions, rights, privileges and immunities of every name and nature whatsoever. The city may use a corporate seal; may sue and be sued, may contract and be contracted with; may implead and be impleaded in all courts and places and in all matters whatever; may</p>	<p>SECTION 1.02 General Powers</p> <p>The City of Nolanville shall have perpetual succession and shall have the power of local self-government to the fullest extent permitted by the law and may use a common seal. The City shall have all the powers granted to cities by the Constitution and Laws of the State of Texas together with all of the implied powers necessary to carry into execution those powers and those express and implied powers necessary for the government, interests, health, welfare and good order of the City and its inhabitants. All powers shall be exercised and enforced in the manner prescribed by the laws of the State of Texas, in this Charter and the City’s ordinances. (Charter adopted 11/2/10)</p> <p>State law references–Powers of home-rule municipality, V.T.C.S. art. 1175; general powers of home-rule municipality, V.T.C.A., Local Government Code, sec. 51.071 et seq.; authority of local self-government, V.T.C.A., Local Government Code, sec. 51.072.</p>	<p>Section 1.04. - General Powers. □</p> <p>The City shall possess and may exercise the full and complete power of local self-government and shall have all powers possible and lawful for a home rule City to have under the constitution and laws of the State of Texas, as fully and completely as though each such power were specifically enumerated in this Charter. The City shall have the authority and power to accomplish and provide for any public purpose, including, but not limited to, the advancement of the interest, welfare, health, morals, comfort, safety, convenience, and economic well being of the City and its inhabitants, the regulation and control of public property and municipal finances, the preservation of the public peace and good order, the security and protection of the public health, safety and welfare, the promotion of trade, commerce and economic development, the beautification and quality of life, and any other service or program serving a public purpose.</p> <p>All powers of the City shall be exercised and enforced as</p>	<p>SECTION 2.01 POWERS OF THE CITY.</p> <p>The City shall have all of the powers possible for a City to have under the Constitution and laws of the State of Texas as fully and completely as though they were specifically enumerated in this charter together with all of the implied powers necessary to carry into execution all of the powers granted.</p>

	A	B	C	D	E	F
2		Temple	Killeen	Nolanville	Belton	Harker Heights
7	Intergovernmental	The City may exercise any of its powers or perform any of its functions, and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with the State or its agencies, or with the Federal government or its agencies, or with the government of any county, city, or political subdivision to accomplish any lawful municipal purpose.	The enumeration of particular powers by this charter shall not be deemed to be exclusive, and in addition to the powers enumerated therein or implied thereby, or appropriate to the exercise of such powers, it is intended that the City of Killeen shall have, and may exercise, all powers of local self-government, and all powers enumerated in Chapter 13, Title 28, Revised Civil Statutes of the State of Texas of 1925, and the acts amendatory thereof and supplementary thereto, now or hereafter enacted, or any other powers which, under the constitution and laws of the State of Texas, it would be competent for this charter specifically to enumerate, and also such further powers as may hereafter be granted under the constitution and laws of Texas.	Section 1.03 Intergovernmental Relations, The City of Nolanville may exercise any of its powers or perform any of its functions, and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise with the Government of Texas or any agency thereof, or with the Federal Government or any agency thereof, or with the government of any county, city or political subdivision to accomplish any lawful municipal purpose. (Charter adopted 11/2/10)	Section 4.06. - Ordinances. □ The Council may adopt legislation by ordinance regarding any subject or matter relating to or dealing with any public purpose. An ordinance must be enacted whenever the purpose is to regulate persons and property; whenever there is imposed a penalty, fine, forfeiture, or tax; whenever the purpose is to set a rate to be paid by consumers; whenever an ordinance is required by State law or this Charter; or when an ordinance is amended.	SECTION 2.03 INTERGOVERNMENTAL RELATIONS. The City may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise with any one or more states or civil divisions or agencies thereof, or the United States or any agency thereof.

	A	B	C	D	E	F
2		Temple	Killeen	Nolanville	Belton	Harker Heights
8	Authority to Annex and Disannex	Section 2.1 The boundaries of the City are those that have previously been legally established. These boundaries may be changed through annexation, dis-annexation, or exchange of land with other municipalities, with or without the consent of the inhabitants thereof, as is now provided or hereafter provided by State law. An official map of the City may be obtained through the City Secretary’s office. Section 6.1 (c) Except as may be provided by State law, the powers of initiative and referendum do not extend to ordinances, resolutions, or measures regarding the budget, any capital improvement program, the appropriation of money, issuing of bonds, setting of utility rates, levying of taxes, annexation, salaries of City officers or employees, zoning amendments, or any other ordinance, resolution, or measure not subject to initiative or referendum as provided by this Charter or State law.	Extension of City Limits Upon Petition: Section 6. When a majority of the inhabitants, qualified to vote for members of the Texas State Legislature, of any territory adjoining Killeen, as said territory may be designated by the City Council desire the annexation of such territory to Killeen, they may present a written petition to that effect to the City Council and shall attach to said petition the affidavit of one or more of their number to the effect that said petition is signed by a majority of such qualified voters, and thereupon, the City Council at the next regularly scheduled session held not sooner than twenty (20) days after the presentation of said petition may, by ordinance, annex such territory to Killeen. On the effective date of the ordinance, the area becomes a part of the City of Killeen and the inhabitants thereof shall be entitled to all the rights and privileges of other citizens of the City of Killeen and shall be bound by the acts,	Section 2.02 - A. Annexation by Ordinance. The Council shall have the power by Ordinance, to annex territory lying adjacent to the City, to extend and enlarge the city boundaries and exchange area with other municipalities. B. Annexation by Petition. The owner or owners of any land contiguous or adjacent to the City may, by petition in writing to the City Council, request the annexation into the City. City Council may grant or refuse such petition as it sees fit. If the City Council grants such petition, it may receive such territory into the City. (Charter adopted 11/2/10) State law references–Municipal annexation, V.T.C.A., Local Government Code, ch. 43; authority of home-rule municipality to annex area, V.T.C.A., Local Government Code, sec. 43.021. Section 2.03 Disannexation: Any area of the City may be disannexed pursuant to any procedure allowed under state law and whenever, in the opinion of the City Council, there exists within the corporate limits of the City a	Section 1.07. - Annexation and Disannexation. □ The City may by ordinance unilaterally annex or disannex any land, property or territory upon its own initiative, or upon a petition submitted by a majority of the voters residing within the territory being annexed or disannexed, or upon petition by the owners of the property. The procedure for the establishment, modification or extension of the City boundaries, and the annexation or disannexation of territory, may not be inconsistent with any applicable requirements established by State law; provided that absent procedures being established by State law the action may be taken by ordinance adopted after one (1) public hearing is held at least ten (10) but not more than twenty (20) days after notice of such public hearing is published in a newspaper of general circulation in the City. Upon final passage of an ordinance, fixing, establishing or modifying the boundaries of the City, or annexing or disannexing any property by any method prescribed herein, the boundaries of the City shall be so extended or modified as provided in such	States or any agency thereof. SECTION 2.04 EXTENSION OF CITY LIMITS UPON PETITION. Whenever a majority of the inhabitants, qualified to vote for members of the Texas State Legislature, of any territory adjoining as said territory may be designated by the City Council or in case there are no such qualified voters in said territory, then when persons owning a majority of the land in area in said territory desire the annexation of such territory to Harker Heights, they may present a written petition to that effect to the City Council and shall attach to said petition the affidavit of one or more of their number to the effect that said petition is signed by majority of such qualified voters, or in case there are no such qualified voters said affidavit shall be to the effect that there are no such qualified voters in said territory and that the persons signing said petition own a majority of the land in area in said territory; and thereupon the City Council at regular session held not sooner than twenty days after the presentation of said petition may by ordinance annex such territory to Harker Heights, and thenceforth the said territory shall be a part of

	A	B	C	D	E	F
2		Temple	Killeen	Nolanville	Belton	Harker Heights
	Authority to Grant Franchises	Section 10.1. AUTHORITY: The City has exclusive dominion, control and jurisdiction over the public streets, avenues, alleys, highways, and boulevards, and public grounds of the City. No person shall acquire the right to use public property that is greater than the right of the general public except by franchise, license, lease or permit providing for adequate compensation or consideration to be paid to the City. Section 10.2. FRANCHISES:(a)A franchise is the grant of a privilege to use public streets, alleys, highways or other property of the City on a city-wide or substantially city-wide basis for any commercial utility offering service to residents of the City. (b)For purposes of this Charter, a “commercial utility” is defined as any person or entity furnishing to the public a commodity or service, including but not limited to the provision or collection of heat, light, gas, power, data, telephone service, communication services, community antenna or cable	ARTICLE XI. - FRANCHISES AND PUBLIC UTILITIES - Control over and Powers with reference to city property: Section 119. The ownership, right of control and use of streets, highways, alleys, parks, public places and all other real property of the City of Killeen is hereby declared to be inalienable to said City, except by ordinances passed by vote of the majority of the governing body of the city, as hereinafter provided; and no franchise or easement involving the right to use same, either along, across, over or under the same, shall ever be valid unless expressly granted and exercised in compliance with the terms hereof, and of the ordinances granting the same. No act or omission of the city, its governing body, officers or agents shall be construed to confer or extend by estoppel or indirection, any right, franchise or easement not expressly granted by ordinance. The City of Killeen shall have the power, subject to the terms	Section 8.03 Franchises - The City Council shall have power by ordinance to grant, renew and extend all franchises of public utilities of every character operating within the City and for such purposes is granted full power. The term “public utility” as used herein is construed to mean any person, firm, or corporation furnishing to the public any general public service, including, but not limited to heat, light, gas, power, telephone service, communication services, community antenna or cable television service, sewer service, and the treatment thereof, water, wrecker service, the carrying of passengers for hire, or any other public service whereby a right to, in part, appropriate or use the streets, highways, or other property of the City, as necessary or proper is granted. Any ordinance granting, renewing or extending franchises shall not take effect until at least thirty (30) days after its passage; and during such thirty (30) day period the descriptive caption of the ordinance shall be published at	Section 11.02. - Franchises. □ The Council shall have the power and authority to grant franchises for the use and occupancy of streets, avenues, alleys and any and all public property belonging to or under the control of the City. No individual, organization, entity, political subdivision, corporation, public utility, or any provider of public service shall provide any service within the City requiring the use or occupancy of any street, public right-of-way or property without first being granted a franchise or permit to use such City facilities. The franchise ordinance or permit shall fully describe the terms of the agreement and, regardless of the title given, shall be subject to the terms of this Article. The terms of such agreements shall be explicit so as to protect the interests of the citizens and shall include but not be limited to the terms prescribed in this Charter. No franchise ordinance or permit shall be passed except on two (2) readings held after a public hearing for which ten (10) days notice is given. Section 11.02 - Section 11.10.	Article IX Franchises; Section 9.01 Ownership, Control, and Use of Real and Public Property of the City: The ownership, right of control and use of the streets, highways, alleys, parks, public places and all other real property of the City is hereby declared to be inalienable, except by ordinances not in conflict with the general laws of the State of Texas, duly enacted by the City Council of the City. No franchise or easement involving the right to use same, either along, across, over or under the same, shall ever be valid, unless expressly granted and exercised in compliance with the terms hereof, and of the ordinances granting the same. No act or omission of the City, its City Council, officers or agents shall be construed to confer or extend by estoppel or indirection, any right, franchise or easement not expressly granted by ordinance. Section 9.02 Exclusive Franchise: No exclusive franchise or privilege shall ever be granted by the City.
9						
10	City Council					

	A	B	C	D	E	F
2		Temple	Killeen	Nolanville	Belton	Harker Heights
	Qualifications	<p>Section 4.4. QUALIFICATIONS FOR CITY COUNCIL: (a)Each candidate for City Council must meet the eligibility requirements set forth in State law and complete an application for office as required by State law. A copy of the application may be obtained from the City Secretary's office.</p> <p>(b)A qualified citizen who desires to become a candidate for City office must, in addition to the qualifications set forth in subsection (a) above, file with the City Secretary a petition signed by at least 25 qualified voters of the appropriate district in the case of a single member district Councilmember candidate or of the City in the case of a candidate for Mayor, recommending candidacy or pay a filing fee of \$100.00. The petition or filing fee must be filed with the City Secretary at the time of filing for candidacy. Each signer of a petition for candidacy must indicate his voter registration number or date of birth, date of signing and place of residence on the petition. Within five days after</p>	<p>Section 23. Candidates for mayor and councilmember shall meet the qualifications for elective office as established in the Texas Elections Code. In addition to the foregoing, candidates for the four district councilmembers herein above provided shall be bona fide residents of the district from which they seek election. A member of the council ceasing to possess any of the qualifications specified in this section or any other section of this charter, failing to attend three (3) consecutive regular meetings of the council without being excused by the council, or convicted of a felony while in office shall immediately forfeit his office. (Amend. of 5-4-91; Amend. of 5-11-13)</p>	<p>SECTION 3.03 Qualifications The Mayor and each Council member shall meet the following:</p> <ol style="list-style-type: none"> 1. Be a qualified voter in the City and State at the time of taking office; 2. Be a resident of the City; 3. Have resided continuously in the corporate limits of the City for twelve (12) months immediately preceding the date of the election or appointment; 4. Not be in violation of any provision in the Charter; 5. Be 21 years of age or older on the first day of the term to be filled after the election or appointment; and 6. Satisfy any other eligibility requirements prescribed by law for the office for which they are a candidate. <p>State law references—Eligibility for public office, V.T.C.A., Election Code, sec. 141.001 et seq.; age and residence requirements for home-rule city office, V.T.C.A., Election Code, sec. 141.003.</p>	<p>Section 3.02. - Qualifications. □ The Councilmembers shall, on the day prior to the date of the scheduled election to be held for such office, be citizens of the United States; qualified voters of the City; residents of the City, or an area having been annexed into the City, for at least twelve (12) consecutive months; be eighteen (18) years of age or older; and not be delinquent on any indebtedness to the City. No City employee shall be eligible to file for the office of Councilmember, and no member of the Council shall hold any other elective public office. If a member of the Council ceases to possess any of the qualifications of office, is finally convicted of a crime involving moral turpitude, or files application to be a candidate for any other elective office when more than one hundred eighty (180) days remain on his/her term of office, his/her office shall, upon such fact being determined by the Council, immediately become vacant; provided that if the residence of a member of the Council is disannexed, the member shall serve the remainder of his or her term of office.</p>	<p>Article II: Section 3.03 Qualifications: The Mayor and each of the councilmembers, and any other elective officers, shall be a citizen of the United States of America and a qualified voter of the State of Texas; shall reside within the corporate limits of the City of Harker Heights; and shall not be in arrears in the payment of any taxes or any other liability due the City or be disqualified by reason of provisions of any other section of this charter. A member of the council ceasing to possess any of the qualifications specified in this section, or any other section of this charter, or convicted of a felony while in office shall immediately forfeit his office.</p>
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	A	B	C	D	E	F
2		Temple	Killeen	Nolanville	Belton	Harker Heights
	Barred if tax delinquent	Section 11.7. OFFICERS AND EMPLOYEES OWING DELINQUENT TAXES INELIGIBLE TO SERVE CITY: No person shall be eligible to hold any office under this Charter, nor shall any person be paid any salary, fee claim or sum due by the City who is in arrears or due and owing the City any sum of money for taxes or otherwise. The failure of any official or employee of the City to pay all arrearages of taxes or other debts due the City, after ten days' notice from the Director of Finance of such arrearages, shall automatically cause the office, position or employment of such debtor to become vacant. Such officer, official or employee, in case of disputed claims may pay the same under protest and suspend the provisions hereof until a final adjudication of the claim.	PERSONS INDEBTED TO THE CITY SHALL NOT HOLD OFFICE OR EMPLOYMENT - Section 135. Deleted from the charter (Amend. Of 5-5-01	Section 6.14 Taxes, when due and payable All taxes due to the City of Nolanville shall be payable at a location designated by the City Council. 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. (Charter adopted 11/2/10) State law references—Delinquency date for payment of taxes, V.T.C.A., Tax Code, sec. 31.02; imposition of penalty for collection of delinquent taxes, V.T.C.A., Tax Code, secs. 33.01, 33.07, 33.08.	Section 3.02. Qualifications. The Councilmembers shall, on the day prior to the date of the scheduled election to be held for such office, be citizens of the United States; qualified voters of the City; residents of the City, or an area having been annexed into the City, for at least twelve (12) consecutive months; be eighteen (18) years of age or older; and not be delinquent on any indebtedness to the City. No City employee shall be eligible to file for the office of Councilmember, and no member of the Council shall hold any other elective public office. If a member of the Council ceases to possess any of the qualifications of office, is finally convicted of a crime involving moral turpitude, or files application to be a candidate for any other elective office when more than one hundred eighty (180) days remain on his/her term of office, his/her office shall, upon such fact being determined by the Council, immediately become vacant; provided that if the residence of a member of the Council is disannexed, the member shall serve the remainder of his or her term of office.	
12						
	Barred if indebted to City		PERSONS INDEBTED TO THE CITY SHALL NOT HOLD OFFICE OR EMPLOYMENT - Section 135. Deleted from the charter (Amend. Of 5-5-01	-	3.02 Qualifications; and not be delinquent on any indebtedness to the City.	
13						

	A	B	C	D	E	F
2		Temple	Killeen	Nolanville	Belton	Harker Heights
14	Term Limit	No person may serve more than three consecutive terms as either a Councilmember elected from a single member district, or as the Mayor elected at large, except that a person serving as a Councilmember from a single member district, or the Mayor elected at large, at the time of the 2014 Charter amendments, may serve for a total of four consecutive terms in the office they hold at the time of the Charter amendments. All previous full, consecutive terms served by the current Councilmembers will count against the four consecutive terms allowed. A partial term to which a person is appointed or elected shall not be counted as a full three year term for purposes of this Section, except that a partial term will be counted as a full three year term if the person resigns or forfeits his office. This Section does not prohibit a person from serving three consecutive terms as a Councilmember from a single member district, and then serving three consecutive terms as Mayor, or vice versa.	Section 22. The members of the City Council of the City of Killeen shall be composed of a mayor and seven councilmembers. Four (4) of the councilmembers shall represent "single member districts," such districts being numbered and designated 1, 2, 3, and 4, and defined in this charter or by ordinance hereafter passed. The mayor and three (3) of the councilmembers shall represent the city at large. Such council shall be elected in the following manner: At an election held on a uniform election date in even-numbered years, a mayor and three councilmembers shall be elected by a plurality vote of the city at large for a term of two (2) years. At an election held on a uniform election date in odd-numbered years, there shall be elected one councilmember from each of the single member districts 1, 2, 3, and 4, by a plurality vote of the registered voters residing within each district, to serve a term of two (2) years. All elections are to be held in	Section 3.09 Prohibition Term Limits. No person shall serve for more than four (4) consecutive two (2) year terms in any one office.	Section 3.01. - Governing Body. <input type="checkbox"/> The governing body of the City shall consist of seven Councilmembers elected by majority vote from the City at large. The councilmembers shall be elected for a term of three (3) years to occupy a place on the council, such places being numbered and designated 1, 2, 3, 4, 5, 6 and 7. All members of the Council shall serve until their successors are elected and take office. The Councilmembers who are elected at the 2020 general election shall hold Places 5, 6 and 7; provided that the candidate elected to the office of Mayor in the 2020 general election shall also hold the office of Mayor until such office is filled in accordance with Section 4.01 following the 2022 general election, or following a vacancy, if any, that arises before the end of the 2020 term. The Councilmembers whose terms end in 2021 shall hold Places 1, 2, 3 and 4. On or before December 15, 2020, the Councilmembers shall draw lots to determine which Place Numbers they hold.	Section 3.01 Number, Selection, Term. No person shall serve for more than two consecutive three year terms in any one office, after the adoption of the charter.
15	Vote	Majority	Section 26- Majority	Majority	Majority	Section 3.01 Majority
16	Public Comment Required	Open to the public.	Open to public.	Open to the public.	Open to the public	Open to the public.

	A	B	C	D	E	F
2		Temple	Killeen	Nolanville	Belton	Harker Heights
	Investigations Subpoena Power		Article II, Section 6 - Yes Article III, Section 6 - Yes	Yes	Not specifically written.	SECTION 3.15 INVESTIGATION BY COUNCIL. The council shall have power to inquire into the conduct of any office, department, agency, or officer 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 and shall be punishable by fine not to exceed one hundred dollars.
17		Not specifically written.				

	A	B	C	D	E	F
2		Temple	Killeen	Nolanville	Belton	Harker Heights
	Judge of Qualifications	<p>Section 9.2 Judge (a)The City Council must appoint a qualified resident attorney of the City to be judge of the Municipal Court and whose title will be Municipal Court Judge. The City Council may appoint one or more qualified attorneys to act as temporary municipal court judges in the absence or disability of the Municipal Court Judge.</p> <p>(b)The Municipal Court Judge is subject to discharge by the City Council.</p> <p>(c)The City Council will fix the Municipal Court Judge's compensation.</p>	<p>Municipal Judge: Section 32. There shall be a Municipal Court of Record for Killeen. The City Council shall appoint a magistrate as a presiding judge for the court, and associates judges, as deemed necessary for the benefit and conduct of the court. Each judge shall be a competent and duly-licensed attorney. The initial appointments of the presiding judge and associate judges shall be by resolution of the City Council at their first regular meeting in June, following the May 3, 1997 election and their initial terms shall be staggered, not to exceed 4 years, as may be decided by the City Council. Thereafter, all judges shall serve terms of 4 years and may serve successive terms, but may be removed by the city council at any time for incompetency, misconduct, malfeasance, or disability. Judges shall receive such salary as may be fixed by the council.</p> <p>When the municipal judge and the associate judge(s) are absent at the same time, the</p>	<p>Section 3.04 - The City Council is the final judge of all elections and the qualifications of its members and of any other elected officials of the City. (Charter adopted 11/2/10)</p>	<p>Section 7.08. - Municipal Court. □ There shall be established and maintained a court, designated as the "Municipal Court" of the City of Belton, for the trial of misdemeanor offenses, with all such powers and duties as are now, or may hereafter be, prescribed by Charter or State law relative to municipal courts. The municipal court shall be organized and supervised as follows:</p> <p>(a)The municipal judge shall be responsible for hearing and the trial of cases filed in the court. The judge shall be entitled to compensation as fixed by the City Council.(b)The Council shall have the power to appoint and remove the Municipal Judge and additional Associate Judges. The qualifications and requirements of office of the Municipal Judge and the Associate Judges shall be as prescribed by State law and the City Council.(c)The term of office of the Municipal Judge and associate judges shall not be for a fixed or definite term.(d)A clerk and any deputy clerks of the court shall be appointed by and report to the City Manager or his designee.(e)The clerk of the court</p>	<p>SECTION 3.09 CITY JUDGE. There shall be a magistrate of the Municipal Court known as the City Judge who shall be appointed by the City Council to serve for a term of two years. The City Council may appoint an alternate judge or judges when desirable. They may be removed by the City Council at any time for incompetency, misconduct, malfeasance, or disability. They shall receive such salary as may be fixed by the council from time to time. All costs and fines imposed by the Municipal Court, or by any court in cases appealed from judgments of the Municipal Court, shall be paid into the City treasury for the use and benefit of the city.</p>
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	A	B	C	D	E	F
2		Temple	Killeen	Nolanville	Belton	Harker Heights
19	Number, Selection and Term of Council Members	Section 4.2. COMPOSITION OF COUNCIL; TERM OF OFFICE: (a)The City Council is composed of five councilmembers, a Mayor elected from the City at large, and four Councilmembers elected from single member districts. The Mayor and four Councilmembers will be elected to three year terms. (b)The terms of the Mayor and the four Councilmembers will be staggered so that during any three year period, two Councilmembers will be elected in one year, two Councilmembers will be elected in the second year, and the Mayor will be elected in the third year. To create this stagger, the four Councilmembers in office at the time of the 2014 Charter amendments will serve their existing terms. The Mayor in office at the time of the 2014 Charter amendments will have one year added to his term so that his term will expire in May 2018, instead of May 2017. Thereafter, the Mayor will be elected to three year terms. (c)A person may not be a	Number, Selection, Term Mayor and the Council: Section 22. The members of the City Council of the City of Killeen shall be composed of a mayor and seven councilmembers. Four (4) of the councilmembers shall represent "single member districts," such districts being numbered and designated 1, 2, 3, and 4, and defined in this charter or by ordinance hereafter passed. The mayor and three (3) of the councilmembers shall represent the city at large. Such council shall be elected in the following manner: At an election held on a uniform election date in even-numbered years, a mayor and three councilmembers shall be elected by a plurality vote of the city at large for a term of two (2) years. At an election held on a uniform election date in odd-numbered years, there shall be elected one councilmember from each of the single member districts 1, 2, 3, and 4, by a plurality vote of the registered voters residing within each district, to	Section 302 Numbers, Selection: The City Council shall be composed of the Mayor and five (5) Councilmembers. The Mayor and Councilmembers shall be elected from the City at-large. Each Councilmember shall occupy a place on the Council, such places being numbered one (1) through five (5). Every even-numbered year the Mayor and two (2) Council positions shall be voted in; on odd-numbered years three (3) Council positions shall be voted in. (Charter adopted 11/2/10; Ordinance D19-08 adopted 8/15/19; Ordinance E20-08 #02 adopted 8/6/20, prop. B, approved at election of 11/3/20)	Section 5.10. - Term of Office.□ The regular term of office of the Councilmembers shall commence immediately following the canvass of the vote for the general election at which they are elected. A Councilmember elected at a special election may take office immediately following the canvass of the vote for the election at which they are elected. Any elected candidate who refuses to take office within thirty (30) days of the date of the canvass of the vote for the election shall forfeit the office.	SECTION 3.01 NUMBER, SELECTION, TERM. The City Council of the City of Harker Heights shall be composed of a Mayor and five City Councilmembers who shall be elected at large from the City for a term of three years. Such council shall be elected in the following manner subject to the adoption of this charter: Every year, in the second quarter, on a date prescribed by State law, either a Mayor and one councilmember, or two councilmembers as the case may be, will be elected by a majority vote to serve for a period of three years. No person shall serve for more than two consecutive three year terms in any one office, after the adoption of the charter.

	A	B	C	D	E	F
2		Temple	Killeen	Nolanville	Belton	Harker Heights
20	Compensation Expenses	Section 9.2 The City Council will fix the Municipal Court Judge's compensation.	Section 24. The compensation for the councilmembers shall not exceed \$100.00 per month and compensation for the mayor shall not exceed \$200.00 per month. Said compensation shall be fixed by the city council. (Amend. of 5-5-01; Amend. of 5-11-13)	Section 3.05 Compensation: Members of the Council shall serve without pay or compensation; provided, however, that they shall be entitled to reimbursement for all expenses incurred in the performance of their official duties as approved by the Council. (Ordinance 2014-11-04 #007 adopted 8/11/14, prop. 2, approved at election of 11/4/14)	Section 3.08. - Compensation. □ Each member of the Council shall be compensated for their service in the amount of one dollar (\$1.00) per annum, provided that, on approval by the Council, they shall also be entitled to reimbursement for necessary expenses incurred in the performance of official duties.	SECTION 3.04 COMPENSATION OF MEMBER. The salary of the Mayor and the City Councilmembers shall be fixed by the City Council.

	A	B	C	D	E	F
2		Temple	Killeen	Nolanville	Belton	Harker Heights
21	General Powers and Duties of the City Council	<p>Section 4.13. RULES OF THE CITY COUNCIL: (a)The Council may adopt its own rules of procedure and a code of conduct applicable to elected and appointed officials and City employees.</p> <p>(b)A Councilmember forfeits his office if the Councilmember: (1)fails to comply with, at any time during his current term of office, any qualifications for the office prescribed by this Charter or by State law;</p> <p>(2)is convicted in any court during his current term of office of (a) a felony, (b) a Class A or Class B misdemeanor, or (c) a crime involving moral turpitude;</p> <p>(3)violates the provisions of Section 4.10(a) while in office; or</p> <p>(4)fails to attend three consecutive regular Council meetings without first being excused by the Council.(c) For purposes of this section, a crime involving moral turpitude includes, but is not limited to, any crime involving dishonesty, fraud, deceit, misrepresentation, or deliberate violence.</p>	<p>Section 27. All powers of the City of Killeen and the determination of all matters of policy shall be vested in the City council. Except where in conflict with and otherwise expressly provided by this charter the city council shall have all powers authorized to be exercised by the city council by Chapter 4 of Title 28, Vernon's Annotated Civil Statutes, and acts amendatory thereof and supplementary thereto, now or hereafter enacted. Without limitation of the foregoing and among the other powers that may be exercised by the council, the following are hereby enumerated for greater certainty: Appoint and remove the city manager. Establish other administrative departments and distribute the work of divisions. Adopt the budget of the city. Authorize the issuance of bonds by a bond ordinance. Inquire into the conduct of any office, department or agency of the city and make investigations as to municipal affairs.</p>	<p>Section 3.01 General Powers and Duties: All powers of the City shall be vested in the City Council, except as otherwise provided by the law or this Charter and the City Council shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the City by law. (Charter adopted 11/2/10)</p>	<p>Section 1.04. - General Powers. □ The City shall possess and may exercise the full and complete power of local self-government and shall have all powers possible and lawful for a home rule City to have under the constitution and laws of the State of Texas, as fully and completely as though each such power were specifically enumerated in this Charter. The City shall have the authority and power to accomplish and provide for any public purpose, including, but not limited to, the advancement of the interest, welfare, health, morals, comfort, safety, convenience, and economic well being of the City and its inhabitants, the regulation and control of public property and municipal finances, the preservation of the public peace and good order, the security and protection of the public health, safety and welfare, the promotion of trade, commerce and economic development, the beautification and quality of life, and any other service or program serving a public purpose.</p> <p>All powers of the City shall be exercised and enforced as</p>	<p>SECTION 3.07 POWERS.</p> <p>All powers of the City of Harker Heights and the determination of all matters of policy shall be vested in the City Council. Except where in conflict with and otherwise expressly provided by this charter the City Council shall have all powers authorized to be exercised by the City Council by Chapter 4 of Title 28 Vernon's Annotated Civil Statutes, and acts amendatory thereof and supplementary thereto, now or hereafter enacted. Without limitation of the foregoing and among the other powers that may be exercised by the council, the following are hereby enumerated for greater certainty: 1. Employ and remove City Manager. 2. Establish administrative departments and distribute the work of divisions. 3. Adopt the budget of the City. 4. Authorize the issuance of bonds. 5. Inquire into the conduct of any office, department or agency of the City and make investigations as to municipal affairs. 6. Appoint all boards and commissions including provision for a planning commission, a zoning commission and a zoning board of adjustment, and appoint the</p>

	A	B	C	D	E	F
2		Temple	Killeen	Nolanville	Belton	Harker Heights
	Prohibition	Section 6 - Personal interest in city contracts	Section 122. No determinate or fixed term franchise shall ever be granted for a longer term than twenty-five years; nor shall any right, privilege or franchise now in existence be extended beyond the period now fixed for its termination, directly or indirectly, or through any means whatsoever, and any ordinance in violation or evasion of this prohibition shall be absolutely void; provided, however, that any corporation, person or association of persons now holding any franchise under any charter or charters or ordinances of the City of Killeen may, with the consent of the City Council of the City surrender such franchise or franchises, subject to the provisions of the City Charter then in force, and take a new franchise under such charter or a new franchise may be granted to a new company or another person with the privilege of acquiring the properties of such franchise holder upon the surrender of the franchise rights then held. No holder of a franchise	Section 3.08 - No holding other office. No former mayor/councilmember shall hold compensated appointive city office/city employment until passage of one year after expiration of term; Appointments/removals - shall not dictate appointment/removal of city administrative officer/employee; Interference with administration - shall deal solely through city manager. Section 3.09 - Councilmember shall vote upon all matters before council except when matter involves consideration of councilmember's own official conduct/where councilmember's financial interest is involved.	Section 4.05. - Prohibitions. □ The Council shall have powers only as a body meeting with a quorum present and no member shall have power to act individually except where that power may, consistent with this Charter, be conferred on a member by the City Council. No member of the Council shall hold any other City office or City employment during his or her term of office, and no former member of the Council shall hold any City office with compensation until one (1) year after the expiration of the full term of office to which such member was appointed or elected. No member of the Council shall give orders directly to any City employee, except when empowered by State law to do so during an emergency, and all members of the Council shall deal with the officers, employees and administrative offices that are supervised by the City Manager, through the City Manager.	SECTION 10.02 PROHIBITIONS, ACTIVITIES PROHIBITED. No person shall be appointed to or removed from, or in any way favored or discriminated against with respect to any City position or appointive City administrative office because of age, race, sex, political or religious opinions or affiliations, marital status, or national origin. No person shall willfully make any false statement, certificate, mark, rating or report in regard to any test, certification or appointment under the personnel provisions of this charter or the rules and regulations made thereunder, or in any manner commit or attempt to commit any fraud preventing the impartial execution of such provisions, rules and regulations. No person who seeks appointment or promotion with respect to any City position or appointive City administrative office shall directly or indirectly give, render or pay any money, service or other valuable thing to any person for or in connection with his/her test, appointment, proposed appointment, promotion or proposed promotion.
22						
23	Mayor					

	A	B	C	D	E	F
2		Temple	Killeen	Nolanville	Belton	Harker Heights
24	Qualifications	<p>(a)The Mayor will preside over City Council meetings and participate in the discussion of all matters before the City Council. The Mayor must vote on all matters before the City Council, but has no veto power.</p> <p>(b)The Mayor will sign all contracts approved by the City Council, except those contracts where the City Council has previously approved the contract and authorized the City Manager to sign. The Mayor will sign all bonds authorized by the City Council and issued pursuant to this Charter.</p> <p>(c)The Mayor is recognized as the official head of the City for the service of civil process, for the enforcement of military law, for all ceremonial purposes and for all other purposes required by State or Federal law. In times of danger or emergency, the Mayor may, by proclamation and with the consent of the City Council, take command of the police and govern the City to maintain order and enforce all laws.</p> <p>(d)The City Council must elect one of its members as Mayor Pro-Tem following each</p>	<p>Section 23. Candidates for mayor and councilmember shall meet the qualifications for elective office as established in the Texas Elections Code. In addition to the foregoing, candidates for the four district councilmembers herein above provided shall be bona fide residents of the district from which they seek election. A member of the council ceasing to possess any of the qualifications specified in this section or any other section of this charter, failing to attend three (3) consecutive regular meetings of the council without being excused by the council, or convicted of a felony while in office shall immediately forfeit his office. (Amend. of 5-4-91; Amend. of 5-11-13)</p>	<p>Section 3.01(E) - No person shall be eligible to be elected to, appointed to, or to serve in office of mayor or councilmember unless that person is a resident of Missouri City, Texas, for six (6) months immediately preceding that person's appointment or election to fill such office. Additionally, no person shall be eligible to be elected to, appointed to, or to serve in office of district councilmember unless that person resides in district and has resided within district, or in an area that has been added to district, for six (6) months immediately preceding that person's appointment or election to fill such office.</p>	<p>Section 4.01. - Mayor. □ At its first regular meeting after each general election, or a vacancy in the office of Mayor, the Council shall elect one (1) of its members to be Mayor for a one (1) year term, or to fill the unexpired term resulting from the vacancy. Nominations for Mayor shall require a second, and the Mayor shall be the Councilmember who receives a majority of the votes cast by the Council but not less than four (4) votes. The Mayor shall serve as the ceremonial head of the City government, preside at all meetings of the Council and provide leadership and coordination necessary to good government. He or she shall work closely with the Council to obtain legislation in the public interest and with the City Manager to ensure that the same is enforced, and participate in the discussion and vote on all legislative and other matters coming before the Council. The Mayor and the City Manager shall have signatory authority for all legal contracts and commitments of the City. The Mayor shall sign all ordinances and resolutions; recommend appointees for the boards and commissions to</p>	<p>SECTION 3.05 PRESIDING OFFICER: MAYOR.</p> <p>The Mayor shall preside at the meetings of the City Council and shall be recognized head of the City of Harker Heights government for all ceremonial purposes, and by the governor for purposes of military law, but he/she shall have no regular administrative duties. The Mayor shall only be entitled to vote upon matters considered by the council in the event there is a tie vote. The Mayor shall have the power of veto of any ordinance passed by the council provided the Mayor sends such ordinance unsigned to the council together with reasons for nonapproval within seven days of its passage by the council. The council may pass the ordinance by an affirmative vote of ¾ of the elected councilmembers in this case and it will become law notwithstanding the veto. In the event of a failure to sign an ordinance within seven days without returning it to the council with a message stating reasons for not signing, the ordinance will automatically become law without the Mayor's signature.</p> <p>At the first meeting following the election, next following each regular</p>

	A	B	C	D	E	F
2		Temple	Killeen	Nolanville	Belton	Harker Heights
	Selection and Term of Mayor	<p>(a)The office of a Councilmember or Mayor becomes vacant upon that person's death, resignation, forfeiture of office or removal from office in any manner authorized by this Charter or State law.</p> <p>(b)A vacancy in the office of any Councilmember, except the Mayor, must be filled by special election within 120 days after the vacancy occurs, except that a vacancy may be filled by appointment of the City Council if there is one year or less left on the unexpired term.</p> <p>(c)A vacancy in the office of the Mayor must be filled by special election within 120 days after the vacancy occurs, or in a manner otherwise provided by State law.</p>	<p>ction 22. The members of the City Council of the City of Killeen shall be composed of a mayor and seven councilmembers. Four (4) of the councilmembers shall represent "single member districts," such districts being numbered and designated 1, 2, 3, and 4, and defined in this charter or by ordinance hereafter passed. The mayor and three (3) of the councilmembers shall represent the city at large. Such council shall be elected in the following manner:</p> <p>At an election held on a uniform election date in even-numbered years, a mayor and three councilmembers shall be elected by a plurality vote of the city at large for a term of two (2) years. At an election held on a uniform election date in odd-numbered years, there shall be elected one councilmember from each of the single member districts 1, 2, 3, and 4, by a plurality vote of the registered voters residing within each district, to serve a term of two (2) years. All elections are to be held in</p>	<p>Section 6.01(b) - 2 year term Section 3.01(b) - at large</p>	<p>Section 4.01. - Mayor. □ At its first regular meeting after each general election, or a vacancy in the office of Mayor, the Council shall elect one (1) of its members to be Mayor for a one (1) year term, or to fill the unexpired term resulting from the vacancy. Nominations for Mayor shall require a second, and the Mayor shall be the Councilmember who receives a majority of the votes cast by the Council but not less than four (4) votes.</p>	<p>SECTION 3.01 NUMBER, SELECTION, TERM. The City Council of the City of Harker Heights shall be composed of a Mayor and five City Councilmembers who shall be elected at large from the City for a term of three years. Such council shall be elected in the following manner subject to the adoption of this charter:</p> <p>Every year, in the second quarter, on a date prescribed by State law, either a Mayor and one councilmember, or two councilmembers as the case may be, will be elected by a majority vote to serve for a period of three years.</p>
25						

	A	B	C	D	E	F
2		Temple	Killeen	Nolanville	Belton	Harker Heights
26	Compensation Expenses	Section 4.9. COMPENSATION OF COUNCILMEMBERS: The Mayor and Councilmembers will serve without compensation, except that they are entitled to reimbursement of all necessary and reasonable expenses incurred in the performance of their official City Council duties. The Mayor and Councilmembers, while not City employees, may be provided certain benefits offered to City employees.	Section 24. The compensation for the councilmembers shall not exceed \$100.00 per month and compensation for the mayor shall not exceed \$200.00 per month. Said compensation shall be fixed by the city council. (Amend. of 5-5-01; Amend. of 5-11-13)	Section 3.04 - Council may provide by ordinance for compensation to its members.	Compensation expenses same as city council.	SECTION 3.04 COMPENSATION OF MEMBER. The salary of the Mayor and the City Councilmembers shall be fixed by the City Council.

	A	B	C	D	E	F
2		Temple	Killeen	Nolanville	Belton	Harker Heights
	Vote	Yes	Section 25. The mayor shall preside at the meetings of the council and shall be recognized as head of the City of Killeen government for all ceremonial purposes, and by the governor for purposes of military Law; but he shall have no regular administrative duties. The mayor shall only be entitled to vote upon matters considered by the council in the event there is a tie vote resulting from absence of a member or members or failure or refusal of a member to vote. However the mayor shall have no veto power. The council shall elect a mayor protem from their number, who shall act as mayor during the absence or disability of the mayor, and, if a vacancy should occur, shall become mayor until the next regular election.	Yes	Yes	Section 3.01(b) - Yes
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	A	B	C	D	E	F
2		Temple	Killeen	Nolanville	Belton	Harker Heights
	Veto	Section 4.8(a) The Mayor will preside over City Council meetings and participate in the discussion of all matters before the City Council. The Mayor must vote on all matters before the City Council, but has no veto power.	Section 25. The mayor shall preside at the meetings of the council and shall be recognized as head of the City of Killeen government for all ceremonial purposes, and by the governor for purposes of military Law; but he shall have no regular administrative duties. The mayor shall only be entitled to vote upon matters considered by the council in the event there is a tie vote resulting from absence of a member or members or failure or refusal of a member to vote. However the mayor shall have no veto power. The council shall elect a mayor protem from their number, who shall act as mayor during the absence or disability of the mayor, and, if a vacancy should occur, shall become mayor until the next regular election.	No, The Mayor shall have no veto power.	Not specifically written.	SECTION 3.05 PRESIDING OFFICER: MAYOR. The Mayor shall preside at the meetings of the City Council and shall be recognized head of the City of Harker Heights government for all ceremonial purposes, and by the governor for purposes of military law, but he/she shall have no regular administrative duties. The Mayor shall only be entitled to vote upon matters considered by the council in the event there is a tie vote. The Mayor shall have the power of veto of any ordinance passed by the council provided the Mayor sends such ordinance unsigned to the council together with reasons for nonapproval within seven days of its passage by the council. The council may pass the ordinance by an affirmative vote of ¾ of the elected councilmembers in this case and it will become law notwithstanding the veto. In the event of a failure to sign an ordinance within seven days without returning it to the council with a message stating reasons for not signing, the ordinance will automatically become law without the Mayor's signature.
28						

	A	B	C	D	E	F
2		Temple	Killeen	Nolanville	Belton	Harker Heights
	Powers and Duties of Mayor	<p>Section 4.8(a)The Mayor will preside over City Council meetings and participate in the discussion of all matters before the City Council. The Mayor must vote on all matters before the City Council, but has no veto power.</p> <p>(b)The Mayor will sign all contracts approved by the City Council, except those contracts where the City Council has previously approved the contract and authorized the City Manager to sign. The Mayor will sign all bonds authorized by the City Council and issued pursuant to this Charter.</p> <p>(c)The Mayor is recognized as the official head of the City for the service of civil process, for the enforcement of military law, for all ceremonial purposes and for all other purposes required by State or Federal law. In times of danger or emergency, the Mayor may, by proclamation and with the consent of the City Council, take command of the police and govern the City to maintain order and enforce all laws.</p> <p>(d)The City Council must elect one of its members as</p>	<p>Section 25. The mayor shall preside at the meetings of the council and shall be recognized as head of the City of Killeen government for all ceremonial purposes, and by the governor for purposes of military Law; but he shall have no regular administrative duties. The mayor shall only be entitled to vote upon matters considered by the council in the event there is a tie vote resulting from absence of a member or members or failure or refusal of a member to vote. However the mayor shall have no veto power. The council shall elect a mayor protem from their number, who shall act as mayor during the absence or disability of the mayor, and, if a vacancy should occur, shall become mayor until the next regular election.</p>	<p>Section 3.06 Mayor: The Mayor shall be the presiding officer of the City Council and shall be recognized as the head of the City government for all ceremonial purposes, for emergency management purposes, and by the governor for purposes of military law. The Mayor may debate and discuss any matters before the City Council and shall only vote on issues resulting in a tie by the City Council. The Mayor shall, when authorized as necessary by the City Council, sign all official documents. The Mayor shall appoint, with the advice and consent of the City Council, the members of citizen advisory boards and commissions, whose conditions of membership shall have been set previously by ordinance.</p>	<p>Section 4.01 The Mayor shall serve as the ceremonial head of the City government, preside at all meetings of the Council and provide leadership and coordination necessary to good government. He or she shall work closely with the Council to obtain legislation in the public interest and with the City Manager to ensure that the same is enforced, and participate in the discussion and vote on all legislative and other matters coming before the Council. The Mayor and the City Manager shall have signatory authority for all legal contracts and commitments of the City. The Mayor shall sign all ordinances and resolutions; recommend appointees for the boards and commissions to the Council; work and coordinate with the City Manager and the Council; and, in time of declared emergency, may take command of the police and govern the City by proclamation, maintain order and enforce all laws. The Mayor shall have such additional powers as are granted to the office by this Charter, State law, or ordinance.</p>	<p>The Mayor shall preside at the meetings of the City Council and shall be recognized head of the City of Harker Heights government for all ceremonial purposes, and by the governor for purposes of military law, but he/she shall have no regular administrative duties. The Mayor shall only be entitled to vote upon matters considered by the council in the event there is a tie vote. The Mayor shall have the power of veto of any ordinance passed by the council provided the Mayor sends such ordinance unsigned to the council together with reasons for nonapproval within seven days of its passage by the council. The council may pass the ordinance by an affirmative vote of ¾ of the elected councilmembers in this case and it will become law notwithstanding the veto. In the event of a failure to sign an ordinance within seven days without returning it to the council with a message stating reasons for not signing, the ordinance will automatically become law without the Mayor's signature.</p>
29						
30	City Council Meetings					

	A	B	C	D	E	F
2		Temple	Killeen	Nolanville	Belton	Harker Heights
31	Meeting Frequency	<p>Section 4.11 Meetings of the City Council(a)The City Council will meet after their election at which time the elected Councilmembers and Mayor must qualify and assume the duties of their offices. The City Council must hold at least one regular meeting every month and may prescribe additional meetings by ordinance or resolution.</p> <p>(b)In the manner permitted by State law, the Mayor, or any two Councilmembers, may call a special meeting of the City Council. Notice of the special meeting must be provided in accordance with State law.</p>	<p>Induction Into Office Meetings: Section 34. On the next regular meeting following each regular municipal election held under this Charter, or any special election for the purpose of filling vacancies in the council, or as soon thereafter as practicable, the council shall meet at the usual time and place for holding meetings, and the newly elected members shall qualify and assume the duties of office. Thereafter, the council shall meet regularly at such times as may be prescribed by its rules but not less frequently than twice each month. All meetings shall be open to the public, in accordance with the Texas Government Code; special meetings shall be called by the city clerk upon request of the mayor, or a majority of the members of the council. (Amend. of 1-15-94)</p>	<p>Section 3.10 Meetings and Procedure: A.Regular and Special Meetings. The City Council shall meet at least once each month at a time and place, which the City Council may prescribe by rule. Special meetings may be called by the Mayor on the Mayor's own motion. On written request of three (3) Council members, the Mayor shall call a special meeting. Items to be placed on an agenda for any city meeting may be requested by the Mayor, any Council Member, the City Manager, or any Department Head. At such time the Mayor shall place that item on the next agenda. Notice of the date, place, time and subject of each meeting shall be in accordance with State Law.</p>	<p>Section 3.06. - Meetings. □ The Council shall hold one (1) or more regular meetings each month on a schedule established from time to time by the Council, and as many additional or special meetings, as the Council deems necessary to transact the business of the City. The Council shall fix the dates and times of the regular meetings.</p>	<p>Section 3.11 Induction into office meetings. At the first meeting following each regular municipal election held under this charter, or any special election for the purpose of filling vacancies in the council, the council shall meet at the usual place for holding meetings, and the newly elected members shall qualify and assume the duties of office. There-after, the council shall meet regularly at such times as may be prescribed by its rules but not less frequently than once each month. All regular meetings of the council, except as permitted by State law to be closed, shall be open to the public; special meetings shall be called upon request of the Mayor, City Manager, or a majority of the members of the council.</p>

	A	B	C	D	E	F
2		Temple	Killeen	Nolanville	Belton	Harker Heights
	Special Meetings	Section 4.11 Meeting of the City Council (a)The City Council will meet after their election at which time the elected Councilmembers and Mayor must qualify and assume the duties of their offices. The City Council must hold at least one regular meeting every month and may prescribe additional meetings by ordinance or resolution. (b)In the manner permitted by State law, the Mayor, or any two Councilmembers, may call a special meeting of the City Council. Notice of the special meeting must be provided in accordance with State law.	Section 34. On the next regular meeting following each regular municipal election held under this Charter, or any special election for the purpose of filling vacancies in the council, or as soon thereafter as practicable, the council shall meet at the usual time and place for holding meetings, and the newly elected members shall qualify and assume the duties of office. Thereafter, the council shall meet regularly at such times as may be prescribed by its rules but not less frequently than twice each month. All meetings shall be open to the public, in accordance with the Texas Government Code; special meetings shall be called by the city clerk upon request of the mayor, or a majority of the members of the council. (Amend. of 1-15-94)	Section 3.10 Meetings and Procedures: Special meetings may be called by the Mayor on the Mayor's own motion. On written request of three (3) Council members, the Mayor shall call a special meeting. Items to be placed on an agenda for any city meeting may be requested by the Mayor, any Council Member, the City Manager, or any Department Head. At such time the Mayor shall place that item on the next agenda. Notice of the date, place, time and subject of each meeting shall be in accordance with State Law.	Section 3.06 Special meetings shall be held on the call of the Mayor, two (2) more Councilmembers, or the City Manager, and, if practicable, on not less than twelve (12) hours' notice to each member. Meetings shall be open to the public and public notice shall be given as provided by State law. Executive and non-public sessions are permitted and may be held only as provided by State law.	Section 3.11 . All regular meetings of the council, except as permitted by State law to be closed, shall be open to the public; special meetings shall be called upon request of the Mayor, City Manager, or a majority of the members of the council.
32						

	A	B	C	D	E	F
2		Temple	Killeen	Nolanville	Belton	Harker Heights
	Vote, Order, Decision or Other Action	<p>Section 4.14. LEGISLATIVE PROCEDURE: Three members of the City Council will constitute a quorum to do business. The affirmative vote of three members is necessary to adopt any ordinance or resolution, except where a greater number is required by State law, this Charter, or City ordinance.</p> <p>Section 6.4. VOLUNTARY SUBMISSION OF LEGISLATION BY THE CITY COUNCIL: The City Council on its own motion and by a majority vote of its members may submit to popular vote for adoption, rejection, or repeal any proposed or referred ordinance, resolution, or measure, in the same manner and with the same force and effect as provided in this Article for submission on petition. Any election called for this purpose must be called and held in accordance with State law.</p>	?	<p>Section 3.11 - The council may legislate and act only by ordinance, resolution or motion; and all ordinances, resolutions or motions, except ordinances making appropriations, shall be confined to one subject, which shall be clearly expressed in the title, and ordinances making appropriations shall be confined to the subject of appropriations.</p>	<p>Section 3.07. - Voting. □ No ordinance, resolution, order, action, matter or issue, shall be passed, approved, adopted, taken or consented to except by a majority vote of at least four (4) members of the Council; and not less than four (4) affirmative votes shall be required to pass, approve, adopt, take action or consent to any ordinance, resolution, action, matter, issue, or motion, other than adjournment or canvass of an election.</p>	<p>SECTION 3.13 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 other penalty or for the contracting of indebtedness shall be by ordinance. The enacting clause of all ordinances shall be "BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HARKER HEIGHTS." SECTION 3.14 PROCEDURE FOR PASSAGE OF ORDINANCE. Every ordinance shall be introduced in written or printed form and, upon passage, shall take effect at the time indicated therein; provided that any ordinance imposing a penalty, fine or forfeiture for a violation of its provisions shall become effective not less than ten days from the date of its passage; subject to the provisions of Article VII of this charter. The City Clerk shall give notice of the passage of every ordinance imposing a penalty, fine or forfeiture for a violation of the provisions thereof, by causing the caption or title of any such ordinance to be published in a newspaper of general circulation in the City of Harker Heights within</p>
33						

	A	B	C	D	E	F
2		Temple	Killeen	Nolanville	Belton	Harker Heights
	Rules of Procedure required	Section 4.13. Rules of the City Council (a)The Council may adopt its own rules of procedure and a code of conduct applicable to elected and appointed officials and City employees.	RULES OF PROCEDURE: JOURNAL: Section 36. The council shall determine its own rules and order of business. It shall keep an indexed journal of its proceedings and the journal shall be open to the public inspection. Ordinances: Section 37. In addition to such acts of the council as are required by statute or by this charter to be by ordinance, every act of the council establishing a fine or other penalty or providing for the expenditure of funds or for the contracting of indebtedness shall be by ordinance. The enacting clause of the ordinances shall be "BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KILLEEN."	Section 3.10 Meetings and Procedures: The City Council shall by resolution determine its own rules and order of business. Provisions shall be made for the taking of minutes, which shall be a public record. Three (3) Council Members of City Council shall constitute a quorum.	Section 4.06. - Ordinances.□ The Council may adopt legislation by ordinance regarding any subject or matter relating to or dealing with any public purpose. An ordinance must be enacted whenever the purpose is to regulate persons and property; whenever there is imposed a penalty, fine, forfeiture, or tax; whenever the purpose is to set a rate to be paid by consumers; whenever an ordinance is required by State law or this Charter; or when an ordinance is amended. The authority of the Council to legislate to accomplish any public purpose shall be subject only to the following: (a)No ordinance of the City may be inconsistent with this Charter or in conflict with any applicable State or Federal law;(b)The enacting clause of every ordinance shall be "BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BELTON, TEXAS.";(c)An ordinance may be adopted on one (1) reading only, except as otherwise specifically provided in this Charter;(d)An ordinance adopted at an emergency meeting held with less than seventy-two (72) hours' notice shall be and	In addition to such acts of the council as are required by statute or by this charter to be by ordinance, every act of the council establishing a fine or other penalty or for the contracting of indebtedness shall be by ordinance. The enacting clause of all ordinances shall be "BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HARKER HEIGHTS."
34						

	A	B	C	D	E	F
2		Temple	Killeen	Nolanville	Belton	Harker Heights
	Agenda items		-	Section 3.10 Meetings and Procedures: A.Regular and Special Meetings. The City Council shall meet at least once each month at a time and place, which the City Council may prescribe by rule. Special meetings may be called by the Mayor on the Mayor's own motion. On written request of three (3) Council members, the Mayor shall call a special meeting. Items to be placed on an agenda for any city meeting may be requested by the Mayor, any Council Member, the City Manager, or any Department Head. At such time the Mayor shall place that item on the next agenda. Notice of the date, place, time and subject of each meeting shall be in accordance with State Law.	-	SECTION 3.14 PROCEDURE FOR PASSAGE OF ORDINANCE.
35						

	A	B	C	D	E	F
2		Temple	Killeen	Nolanville	Belton	Harker Heights
36	Mayor Pro Tempore	Section 4.8. MAYOR AND MAYOR PRO-TEM: The City Council must elect one of its members as Mayor Pro-Tem following each City Council election. The Mayor Pro-Tem will act as Mayor during the absence or disability of the Mayor and, when doing so, will have the rights conferred upon the Mayor.	Section 25. The mayor shall preside at the meetings of the council and shall be recognized as head of the City of Killeen government for all ceremonial purposes, and by the governor for purposes of military Law; but he shall have no regular administrative duties. The mayor shall only be entitled to vote upon matters considered by the council in the event there is a tie vote resulting from absence of a member or members or failure or refusal of a member to vote. However the mayor shall have no veto power. The council shall elect a mayor protem from their number, who shall act as mayor during the absence or disability of the mayor, and, if a vacancy should occur, shall become mayor until the next regular election. Section 26. A vacancy in the council of the City of Killeen, except the office of Mayor, shall be filled by a majority vote of the remaining members of the council, by the selecting of a person possessing all the qualifications prescribed by	SECTION 3.07 Mayor Pro-Tem The Mayor Pro-Tem shall be a Council member elected by the City Council at the first regular City Council meeting following each regular City election. The Mayor Pro-Tem shall act as Mayor during the absence or disability of the Mayor. (Charter adopted 11/2/10)	Section 4.02. - Mayor Pro-Tem. □ At its first regular meeting after each general election or a vacancy in the office of Mayor Pro-Tem, the Council shall elect one (1) of its members to be Mayor Pro-Tem for a one (1) year term, or to fill the unexpired term resulting from the vacancy. Nominations for Mayor Pro-Tem shall require a second and the Mayor Pro-Tem shall be the Councilmember who receives a majority of the votes cast by the Council but not less than four (4) votes. In the absence of the Mayor, the Mayor Pro-Tem shall perform the duties of the office of the Mayor and in such capacity shall be vested with all powers conferred on such office. In the event of the failure, inability, or refusal of the Mayor to act in respect to any matter or duty, the Mayor Pro-Tem shall act. In the event the office of Mayor becomes vacant, the Mayor Pro-Tem shall serve as Mayor until the office is filled by election or appointment as provided herein.	Every ordinance shall be introduced in written or printed form and, upon passage, shall take effect at the time indicated therein; provided that any ordinance imposing a penalty, fine or forfeiture for a violation of its provisions shall become effective not less than ten days from the date of its passage; subject to the provisions of Article VII of this charter. The City Clerk shall give notice of the passage of every ordinance imposing a penalty, fine or forfeiture for a violation of the provisions thereof, by causing the caption or title of any such ordinance to be published in a newspaper of general circulation in the City of Harker Heights within ten days after the passage of said ordinance. It shall be noted on every ordinance, the caption of which is hereby required to be published, and on the record thereof, the fact that same has been published as required by the charter, and the date of such publication, which shall be prima facie evidence of the legal publication and promulgation of such ordinance; provided that the provisions of this correction, amendment, revision and codification of the ordinances of the
37	Vacancies					

	A	B	C	D	E	F
2		Temple	Killeen	Nolanville	Belton	Harker Heights
	Vacancies in Office	<p>Section 4.7 Vacancies in Office</p> <p>(a)The office of a Councilmember or Mayor becomes vacant upon that person’s death, resignation, forfeiture of office or removal from office in any manner authorized by this Charter or State law.</p> <p>(b)A vacancy in the office of any Councilmember, except the Mayor, must be filled by special election within 120 days after the vacancy occurs, except that a vacancy may be filled by appointment of the City Council if there is one year or less left on the unexpired term.</p> <p>(c)A vacancy in the office of the Mayor must be filled by special election within 120 days after the vacancy occurs, or in a manner otherwise provided by State law.</p>	<p>Section 26. A vacancy in the council of the City of Killeen, except the office of Mayor, shall be filled by a majority vote of the remaining members of the council, by the selecting of a person possessing all the qualifications prescribed by Section 23 of this Article, and who shall be a bona fide resident of the district in which the vacancy occurs; unless the vacancy in office is that of a councilmember at large, in which case the person selected to fill the vacancy shall be a bona fide resident of the City of Killeen without regard to the district in which he resides. However, if the vacancy occurs within 90 days before a regular municipal election, the vacancy is not required to be filled. Where more than one vacancy shall develop at any one time, then a special election shall be called on the first authorized uniform election date prescribed by the Election Code that allows sufficient time to comply with the other requirements of law, and that occurs on or after the 30th day</p>	<p>Section 3.08: Vacancies; Forfeiture of Office; Filing of Vacancies: A.Vacancies. The office of a Council member or Mayor shall become vacant upon the member’s death, resignation, removal from office or forfeiture of office in any manner authorized by law.</p> <p>B.Forfeiture of Office. A Council member or the Mayor shall forfeit the office if that person: 1.Lacks, at any time during the term of office for which elected, any qualifications for the office prescribed by this Charter or by law,</p> <p>2.Violates any express prohibition of this Charter,</p> <p>3.Is convicted of a crime involving moral turpitude,</p> <p>4.Fails to attend three consecutive regular meetings of the Council without being excused by the Council or,</p> <p>5.Must vacate the office by the mandate of any other law.</p>	<p>Section 3.03. - Vacancies in Office. □</p> <p>The office of Mayor or Councilmember shall become vacant upon the death, resignation, or removal from office of the incumbent. Vacancies in the office of Mayor shall be filled in accordance with Section 4.01. For vacancies in the office of Councilmember, if a vacancy occurs for an unexpired term of twelve (12) months or less, the vacancy shall be filled by appointment by the City Council. If a vacancy occurs for an unexpired Councilmember term that exceeds twelve (12) months, the vacancy shall be filled by special election called for such purpose. The date for special elections to fill the vacancy shall be the first uniform election date after the vacancy occurs and for which there is sufficient time to call and give notice of the election as required by law; provided that, if a vacancy occurs and no such election date falls within one hundred twenty (120) days after the date of the vacancy, the Council shall, without regard for the specified uniform election dates, order such election to be held on a Saturday within one</p>	<p>SECTION 3.06 VACANCIES.</p> <p>A vacancy in the City Council, except the office of Mayor, shall be filled by calling a special election to be held in accordance with the applicable laws of the State of Texas; provided, however, if such vacancy occurs within ninety days of a general election, then no special election shall be called. If the Mayor Pro-Tem succeeds to the office of Mayor under the provisions of Section 3.05 of this Article III, then his/her office of councilmember shall be considered vacant within the meaning of this Section.</p>
38						

	A	B	C	D	E	F
2		Temple	Killeen	Nolanville	Belton	Harker Heights
	Vacancies	Section 5.9. One or More Council Members may be recalled at same election: (a)One or more Councilmembers may be recalled at the same election. If one or more Councilmembers are recalled at the same election, the remaining Councilmember(s) not recalled must discharge all of the duties of the City Council until the vacancy or vacancies are filled, notwithstanding any other provision in this Charter. (b)If the election is to recall all Councilmembers, then there must be placed on the ballot, under the question of recall, the names of candidates to fill the vacancies that would be created by the recall election. The names of the Councilmembers proposed to be recalled may not appear on the ballot as candidates. Section 5.10 Vacancies in City Council, Due to Recall, How Filled: If at the recall election, it is proposed to recall less than all of the Councilmembers and the election results in the recall of less than all Councilmembers, then within five days after the	Results of Recall Election, Section 116. If a majority of the votes cast at a recall election shall be against the recall of the officer named on the ballot, he shall continue in office for the remainder of his unexpired term, subject to recall as before, if a majority of the votes cast at such an election be for the recall of the officer named on the ballot, he shall, regardless of any technical defects in the recall petition, be deemed removed from office and the vacancy shall be filled by the City Council as in other vacancies. Presiding Officer Mayor: Section 25. The mayor shall preside at the meetings of the council and shall be recognized as head of the City of Killeen government for all ceremonial purposes, and by the governor for purposes of military Law; but he shall have no regular administrative duties. The mayor shall only be entitled to vote upon matters considered by the council in the event there is a tie vote resulting from absence of a member or members or	C. Filling of Vacancies. When a vacancy occurs in the City Council, the remaining members of the City Council may appoint a person meeting the requirements of that position to the vacant seat to serve until the next election. Should more than one (1) year remain on the vacant seat, the City shall call a special election and the candidate who wins the election for the seat shall serve the remainder of the term. (Charter adopted 11/2/10; Ordinance 2014-11-04 #007 adopted 8/11/14, prop. 11, approved at election of 11/4/14) State law reference–Special election to fill vacancy generally, V.T.C.A., Election Code, sec. 201.051 et seq.	Section 3.03.	Section 3.06
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2		Temple	Killeen	Nolanville	Belton	Harker Heights
	Missed Meetings	Section 4.13 (a) Councilmember forfeits his office if the Councilmember: (1) fails to comply with, at any time during his current term of office, any qualifications for the office prescribed by this Charter or by State law; (2) is convicted in any court during his current term of office of (a) a felony, (b) a Class A or Class B misdemeanor, or (c) a crime involving moral turpitude; (3) violates the provisions of Section 4.10(a) while in office; or (4) fails to attend three consecutive regular Council meetings without first being excused by the Council.	Section 23. Candidates for mayor and councilmember shall meet the qualifications for elective office as established in the Texas Elections Code. In addition to the foregoing, candidates for the four district councilmembers herein above provided shall be bona fide residents of the district from which they seek election. A member of the council ceasing to possess any of the qualifications specified in this section or any other section of this charter, failing to attend three (3) consecutive regular meetings of the council without being excused by the council, or convicted of a felony while in office shall immediately forfeit his office. (Amend. of 5-4-91; Amend. of 5-11-13)	Section 3.08 Vacancies; Forfeiture of Office: 1. Lacks, at any time during the term of office for which elected, any qualifications for the office prescribed by this Charter or by law, 2. Violates any express prohibition of this Charter, 3. Is convicted of a crime involving moral turpitude, 4. □ Fails to attend three consecutive regular meetings of the Council without being excused by the Council or, 5. Must vacate the office by the mandate of any other law.	Section 3.05. - Quorum and Attendance. □ Four (4) members of the Council shall constitute a quorum for the purpose of transacting business and no action of the Council shall be valid or binding unless adopted in an open meeting with a quorum present; provided that less than a quorum may adjourn any meeting or canvass an election. It is the duty of each member of the Council to attend regular and special meetings of the Council, and the failure of any member to attend three or more successive meetings, without good and sufficient cause, shall constitute grounds for discipline.	Fails to attend three consecutive regular meetings of the Council without being excused by Council.
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41	City Administration					

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42	City Manager Qualifications, Appointment, and Compensation	<p>Article 7: City Manager Section 7.1. APPOINTMENT: The City Council must appoint the City Manager and fix the City Manager's compensation. The City Manager is subject to discharge by the City Council. The City Manager must reside within the City during his term in office.</p> <p>Section 7.2. ABSENCE OR DISABILITY OF CITY MANAGER: By memorandum filed with the City Secretary, the City Manager must designate a City officer or employee to exercise the powers and perform the duties of City Manager during any temporary relinquishment of duties or disability. The City Council may revoke such designation at any time and appoint another officer of the City to serve until the City Manager returns.</p>	<p>Section 44. The city manager shall be chosen by the city council solely on the basis of his executive and administrative qualifications with special reference to his actual experience in, or his knowledge of, accepted practice in respect to the duties of his office as hereinafter set forth. At the time of his appointment, he need not be a resident of the city or state, but during his tenure of office he shall reside within the city. Appointment and removal of City Manager - Section 28. The Council shall appoint a City Manager who shall have the powers and perform the duties in this charter provided. No councilmember shall receive such appointment during the term for which he shall have been elected, nor within one year after he leaves office.</p> <p>The salary of the City Manager shall be fixed by the City Council, and he shall hold office at its will; but if removed at any time after six months from his appointment, he may demand written</p>	<p>Section 5.01 City Manager: A.Appointment and Qualifications. The City Council shall appoint a City Manager who shall be the chief administrative and executive officer of the City and shall be responsible to the City Council for the administration of all the affairs of the City. The City Manager shall be chosen by the City Council solely on the basis of the City Manager's executive and administrative training, experience and ability. No member of the City Council shall, during the term to which they are elected and for one year after thereafter, be appointed City Manager.</p> <p>B.Term and Compensation. The City Manager shall be appointed for an indefinite term, and may be removed at the discretion of the City Council by an affirmative vote of four (4) members of the City Council.</p> <p>The action of the City Council in suspending or removing the City Manager shall be final, it being the intention of this Charter to vest all authority and fix all responsibility of such suspension or removal in the</p>	<p>Section 7.01. - City Manager. □ The Council shall appoint and may remove the City Manager upon the affirmative vote of a majority of the entire council, and shall supervise the City Manager by majority vote. The City Manager shall be chosen and compensated solely on the basis of his or her experience, education, training, ability and performance, and need not when appointed be a resident of the City; provided that, during his or her tenure of office the City Manager shall reside within the City. The City Manager may be bonded at City expense as determined by the Council. No member of the Council shall, during the term of office to which elected or for one (1) year thereafter, be appointed City Manager.</p>	<p>SECTION 4.01 QUALIFICATIONS. The City Manager shall be chosen by the council solely on the basis of his/her executive and administrative qualifications with special reference to his/her actual experience in, or his/her knowledge of, accepted practice in respect to the duties of his/her office as hereinafter set forth. At the time of his/her employment, he/she need not be a resident of the City or State, but during his/her tenure of office he/she shall reside within the City unless specifically excused from doing so by the council</p>

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43	City Manager Powers and Duties	<p>Section 7.3. POWERS AND DUTIES:</p> <p>The City Manager is the chief executive officer of the City, responsible to the Council for the administration of all City affairs placed in the City Manager's charge by or under this Charter. The City Manager shall: (1)Appoint and, when necessary, suspend or remove City employees and officers provided for by this Charter, except as otherwise provided by law, this Charter, or personnel rules adopted pursuant to this Charter;</p> <p>(2)Authorize any administrative officer subject to the City Manager's direction and supervision to exercise these powers with respect to subordinates in that officer's department, division, office or agency; (3)Direct and supervise the administration of all departments, divisions, offices and agencies of the City, except as otherwise provided by this Charter or by law;</p> <p>(4)Recommend to the City Council the salaries to be paid to each appointive officer and subordinate employee of the</p>	<p>Section 45. The city manager shall be the chief executive officer and the head of the administrative branch of the city government. He shall be responsible to the council for the proper administration of all affairs of the city and to that end he shall have power and shall be required to:</p> <p>Appoint and, when necessary for the good of the service, remove all officers and employees of the city except as otherwise provided by this charter and except as he may authorize the head of a department to appoint and remove subordinates in such department.</p> <p>Prepare the budget annually and submit it to the council and be responsible for its administration after adoption.</p> <p>Prepare and submit to the council at the end of the fiscal year a complete report on the finances and administrative activities of the city for the preceding year.</p> <p>Keep the council advised of the financial condition and future needs of the city and make such recommendations</p>	<p>Section 5.01 City Manager: Powers and Duties: The City Manager shall have the following powers and duties:</p> <p>1.The City Manager shall appoint and, when the City Manager deems it necessary for the good of the City, may suspend or remove any City Department head, except as otherwise provided by law, this Charter, or personnel rules adopted pursuant to this Charter. The City Manager may authorize any employee, who is subject to the City Manager's discretion and supervision, to exercise these powers with respect to their subordinates in the officer's respective department, office, or agency.</p> <p>2.Direction by City Manager. All departments, offices and agencies under the direction and supervision of the City Manager shall be administered by an employee appointed by the City Manager and subject to the direction and supervision of the City Manager. With the consent of Council, the City Manager may serve as the head of one or more such departments, offices, or agencies or may appoint one</p>	<p>Section 7.01 The City Manager shall be the chief executive and administrative officer of the City and shall be responsible to the Council for the proper administration of all the affairs and business of the City. The City Manager shall be required to:</p> <p>(a)Enforce all State laws and City ordinances;(b)Appoint, supervise, suspend and remove officers and employees of the City, except those appointed by the Council or as otherwise specifically provided in this Charter or State law;(c)Attend all council meetings except when excused;(d)Prepare and submit the proposed annual budget, and be responsible for the administration of the adopted budget;(e)Keep the Council advised of the financial condition and needs of the City and make appropriate recommendations;(f)Prepare and submit to the Council at the end of each fiscal year a complete report on the finances and administrative activities of the City for such year;(g)Make such other reports as the Council may require concerning the operations of the City;(h)Meet, discuss and confer with and advise the Mayor and/or</p>	<p>SECTION 4.02 POWERS AND DUTIES.</p> <p>The City Manager shall be the chief executive office and the head of the administrative branch of the City government. He/she shall be responsible to the council for the proper administration of all affairs of the City and to that end he/she shall have power and shall be required to:</p> <p>1. Employ and, when necessary for the good of the service, remove all officers and employees of the City except as otherwise provided by this Charter and except as he/she may authorize the head of a department to appoint and remove subordinates in such department. 2.Prepare the budget annually and submit it to the council and be responsible for its administration after adoption. 3.Prepare and submit to the council at the end of the fiscal year a complete report on the finances and administrative activities of the City for the preceding year. 4. Keep the council advised of the financial condition and future needs of the City and make such recommendations as may seem to him/her desirable. 5. Perform such other duties as may</p>

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44	Acting City Manager	Section 7.2. ABSENCE OR DISABILITY OF CITY MANAGER: By memorandum filed with the City Secretary, the City Manager must designate a City officer or employee to exercise the powers and perform the duties of City Manager during any temporary relinquishment of duties or disability. The City Council may revoke such designation at any time and appoint another officer of the City to serve until the City Manager returns.	Absence of City Manager - Section 46. To perform his duties during his temporary absence or disability, the manager may designate by letter filed with the city clerk a qualified administrative officer of the city.	Section 5.01 City Manager: D. Acting City Manager. By letter filed with the City Secretary the City Manager shall designate, subject to approval of the City Council, a qualified employee to exercise the powers and perform the duties of City Manager during the City Manager's temporary absence or disability. The City Council may revoke such designation at any time and appoint another employee of the City to serve until the City Manager shall return or his disability shall cease. (Charter adopted 11/2/10; Ordinance D19-08 adopted 8/15/19; Ordinance E20-08 #02 adopted 8/6/20, prop. E, approved at election of 11/3/20)	Section 7.02. - Interim Manager. <input type="checkbox"/> If the office of City Manager is vacant, the Council shall designate an interim City Manager. The Council may designate a person to perform the duties of the City Manager during his/her extended absence or disability.	SECTION 4.03 ABSENCE OF CITY MANAGER. To perform his/her duties during his/her temporary absence or disability, the manager may designate by letter filed with the City Clerk a qualified administrative officer of the City.

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	City Attorney	<p>Section 4.27. CITY ATTORNEY: (a)The City Council must appoint a competent, licensed attorney as City Attorney of the City and fix the City Attorney's compensation. The City Attorney is subject to discharge by the City Council. The City Attorney must reside in the City during his term in office.</p> <p>(b)The City Attorney will represent the City in all litigation and will act as the legal advisor of and counsel for the City and all offices and departments within the City. The City Attorney will examine and approve, or disapprove, as to form and legality, all documents, contracts, and legal instruments to which the City or its agencies are a party.</p> <p>(c)The City Attorney has the power to appoint assistants as he may deem necessary, subject to the approval of the City Council, at such compensation as is fixed by the City Council.</p>	<p>Legal Department: Section 33. There shall be Legal Department, the head of which shall be the City Attorney. The City Attorney shall be a competent and duly-licensed attorney and shall represent the city in all litigation. He shall be the legal advisor of and attorney and counsel for the city and all offices and departments thereof. There shall be such deputy or assistant city attorneys as may be authorized by the council and appointed by the City Attorney, who shall be authorized to act for and on behalf of the City Attorney. (Amend. of 5-11-13)</p>	<p>Section 5.02 B.City Attorney. The City Manager shall make recommendations to the council for a City Attorney. The City Council shall determine who shall be appointed as the City Attorney, and shall fix the City Attorney's compensation. The City Attorney shall represent the City in all legal proceedings and shall perform any other duties prescribed by this Charter, ordinance or state laws.</p>	<p>Section 7.07. - City Attorney.□ There shall be a department and office of City Attorney. The City Attorney shall be a competent and duly licensed attorney. He or she shall receive for his or her services such compensation as is fixed by the Council and shall advise the City on all legal matters and represent the City in all litigation and other legal matters. The Council may retain other attorneys for specific matters when it deems same to be necessary.</p>	<p>SECTION 3.10 CITY ATTORNEY.</p> <p>The City Council shall appoint a competent and duly licensed attorney who shall be its City Attorney. He/she shall receive for his/her services such compensation as may be fixed by the council and shall hold his/her office at the will of the City Council and until his/her successor is appointed.</p> <p>The City Attorney shall represent the City in all litigation. He/she shall be the legal advisor of and attorney and counsel for the City and all officers and departments thereof.</p>
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2		Temple	Killeen	Nolanville	Belton	Harker Heights
	Municipal Judge	<p>Section 9.2. JUDGE; TERM OF OFFICE; SALARY:</p> <p>(a)The City Council must appoint a qualified resident attorney of the City to be judge of the Municipal Court and whose title will be Municipal Court Judge. The City Council may appoint one or more qualified attorneys to act as temporary municipal court judges in the absence or disability of the Municipal Court Judge.</p> <p>(b)The Municipal Court Judge is subject to discharge by the City Council.</p> <p>(c)The City Council will fix the Municipal Court Judge's compensation.</p>	<p>Municipal Judge: Section 32. There shall be a Municipal Court of Record for Killeen. The City Council shall appoint a magistrate as a presiding judge for the court, and associates judges, as deemed necessary for the benefit and conduct of the court. Each judge shall be a competent and duly-licensed attorney. The initial appointments of the presiding judge and associate judges shall be by resolution of the City Council at their first regular meeting in June, following the May 3, 1997 election and their initial terms shall be staggered, not to exceed 4 years, as may be decided by the City Council. Thereafter, all judges shall serve terms of 4 years and may serve successive terms, but may be removed by the city council at any time for incompetency, misconduct, malfeasance, or disability. Judges shall receive such salary as may be fixed by the council.</p> <p>When the municipal judge and the associate judge(s) are absent at the same time, the</p>	<p>Section 5.02 Municipal Court; Judge(s). The City Council shall establish a municipal court and shall appoint a presiding judge(s) and any such other associate judge(s) as are deemed necessary and fix the compensation therefor. The judge(s) of the municipal court shall serve a term of two years in accordance with the Government Code and State law.</p>	<p>Section 7.08. - Municipal Court. □ There shall be established and maintained a court, designated as the "Municipal Court" of the City of Belton, for the trial of misdemeanor offenses, with all such powers and duties as are now, or may hereafter be, prescribed by Charter or State law relative to municipal courts. The municipal court shall be organized and supervised as follows:</p> <p>(a)The municipal judge shall be responsible for hearing and the trial of cases filed in the court. The judge shall be entitled to compensation as fixed by the City Council.(b)The Council shall have the power to appoint and remove the Municipal Judge and additional Associate Judges. The qualifications and requirements of office of the Municipal Judge and the Associate Judges shall be as prescribed by State law and the City Council.(c)The term of office of the Municipal Judge and associate judges shall not be for a fixed or definite term.(d)A clerk and any deputy clerks of the court shall be appointed by and report to the City Manager or his designee.(e)The clerk of the court</p>	<p>SECTION 3.09 CITY JUDGE.</p> <p>There shall be a magistrate of the Municipal Court known as the City Judge who shall be appointed by the City Council to serve for a term of two years. The City Council may appoint an alternate judge or judges when desirable. They may be removed by the City Council at any time for incompetency, misconduct, malfeasance, or disability. They shall receive such salary as may be fixed by the council from time to time. All costs and fines imposed by the Municipal Court, or by any court in cases appealed from judgments of the Municipal Court, shall be paid into the City treasury for the use and benefit of the city.</p>
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	Chief of Police	Not specifically written.	Police Force: Section 17. There shall be a police department for the City of Killeen, the head of which shall be the Chief of Police. The officers of the police department are vested with the powers and authorities given to them as peace officers under the laws of the State of Texas, the laws of the United States, and the ordinances of the City of Killeen. (Amend. of 5-11-13)	Not specifically written.	Section 7.03. - Administrative Departments. □ There shall be such administrative departments as are required to be maintained by this Charter, and as are established by ordinance. Administrative departments shall include, but shall not be limited to, the City Manager, Finance, Police , Fire, Public Works, Development Services and Library. All departments, other than those for which this Charter requires the department head to be appointed by the Council, shall be under the control and direction of the City Manager. The Council shall approve all personnel policies, and shall, by ordinance, have the power to establish administrative offices or departments not provided for in this Charter, and to discontinue, redesignate, or combine any of the departments and administrative offices that are established by ordinance. No change shall be made by the Council in any personnel policy, department or the City organization until the City Manager's recommendations have been heard by council.	SECTION 2.14 POLICE FORCE. The City of Harker Heights shall have power to maintain a City police force, prescribe the duties, powers and compensation of policemen and regulate their conduct; to appoint watchmen and prescribe their duties, powers and compensation; to suppress and prevent any riot, affray, disturbance or disorderly assembly within the city; to prevent, prohibit and suppress immoderate riding and driving in the streets; to police all parks, grounds, speedways, boulevards, cemeteries and all other property or places owned by the City and lying either within or without the City limits and used for municipal purposes.
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2		Temple	Killeen	Nolanville	Belton	Harker Heights
48	City Secretary	<p>Section 4.28. CITY SECRETARY:(a)The City Council must appoint a qualified person as City Secretary and fix the City Secretary's compensation. The City Secretary is subject to discharge by the City Council.</p> <p>(b)The City Secretary must:</p> <p>(1)Give notice of all official public meetings of the City Council in a manner consistent with State law and this Charter;</p> <p>(2)Attend all public meetings and hearings of the City Council;</p> <p>(3)Keep the minutes of the proceedings of all public official meetings and hearings of the City Council in a manner prescribed by the City Council and consistent with State law;</p> <p>(4)Act as custodian of all official records of the City Council;</p> <p>(5)Hold and maintain the seal of the City, and affix this seal to all appropriate documents;</p> <p>(6)Authenticate by signature and seal, and record all ordinances, resolutions, and proclamations of the City; and</p> <p>(7)Perform such other duties as may be required by the City</p>	<p>City Secretary: Section 31.</p> <p>There shall be a city secretary who shall be the city clerk. He shall give notices of council meetings, shall keep the journal of its proceedings, shall authenticate by his signature and record in full in a book kept and indexed for the purpose all ordinances and resolutions, and shall perform such other duties assigned to him, and those elsewhere provided for in this Charter, by city ordinance or in state law. (Amend. of 5-11-13)</p>	<p>Section 5.02 D.City Secretary. The City Manager shall appoint the City Secretary. The City Secretary, or their designee, shall give notice of City Council meetings, shall keep the minutes of the proceedings of such meetings, shall authenticate by signature all ordinances and resolutions, and shall perform such other duties as the City Manager shall assign and those elsewhere provided for in this Charter.</p>	<p>Section 7.06. - City Clerk. □</p> <p>The office and department of City Clerk shall be established and maintained. The duties of the City Clerk shall be as set forth in this Charter. Such duties shall include, but not be limited to, the giving notice of all council meetings; keeping the minutes of the proceedings of council meetings and the archives of the City; authenticating by his or her signature, and recording in full in books kept and indexed for the purpose, all ordinances and resolutions; performing other duties as shall be assigned to the position by law; maintaining appropriate files of all contracts and other legal documents resulting from and/or having a bearing on actions of the Council; and assisting the City Manager to maintain appropriate records, files and resources which pertain to City business or specific council or board meeting agenda items.</p>	Not specifically written.

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49	Chief Financial Officer	<p>Section 8.1. DIRECTOR OF FINANCE: The City Council must appoint the Director of Finance and fix the Director's compensation. The Director of Finance is subject to discharge by the City Council. The Director of Finance must reside within the City during his term in office.</p> <p>Section 8.2. POWERS AND DUTIES: The Director of Finance has the following powers and duties: (a)Supervision of the financial systems of each City department and responsibility for the accounting of all funds of the City, appropriated or otherwise; (b)Maintenance of such books and records of accounts as may be prescribed by the City Council, all of which must comply with generally accepted accounting principles as promulgated by the Governmental Accounting Standards Board; (c)Review and approval of all disbursement requests by all City departments; (d)Act as Treasurer of the City and invest all public funds prudently in accordance with</p>	<p>Article VII: Finance Administration - Director of Finance Appointment: Section 68. There shall be a department of finance, the head of which shall be the director of finance. (Amend. of 5-11-13) Qualifications: Section 69. The director of finance shall have the proper knowledge of municipal accounting and sufficient experience in budgeting and financial control to properly perform the duties of the office, and shall be a Certified Public Accountant. (Amend. of 5-11-13) Power and Duties: Section 70. Under the direction of the city manager, the director of finance shall have charge of the administration of the financial affairs of the city and to that end he shall have authority and shall be required to: Supervise and be responsible for the disbursement of all monies and have control over all expenditures to ensure that budget appropriations are not exceeded;</p> <p>Maintain a general accounting system for the city government</p>	<p>CFO is City Manager. Separate department - Section 5.02 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 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.</p> <p>(Charter adopted 11/2/10; Ordinance 2014-11-04 #007 adopted 8/11/14, prop. 13,</p>	<p>Section 8.01. - Finance Department.□ The Department of Finance shall be established and maintained and the head of such department shall be the Director of Finance. The Director of Finance shall have knowledge of municipal accounting and experience in budgeting and financial control. Such director shall provide a bond with such surety and in such amount as the Council may require. The premium on such bond shall be paid by the City.</p> <p>Section 8.02. - Powers and Duties.□ Under the direction of the City Manager, the Director of Finance shall have the charge of the administration of the financial affairs of the City and to that end, he or she shall have authority and shall be required to: (a)Supervise and be responsible for the disbursement of all monies and have control over all expenditures to insure that budget appropriations are not exceeded;(b)Maintain a general accounting system for the City government and each of its offices, departments, and agencies;</p>	Not specifically written.

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Boards and Commissions: Qualification			Board of Equalization: Appointment: Qualifications Section 86. Deleted from the Charter. (Amend. of 5-11-13 BOARD OF EQUALIZATION: PUBLIC HEARINGS: NOTICE TO OWNER section 87. Deleted from the Charter. (Amend. of 5-11-13) BOARD OF EQUALIZATION: POWER AND DUTIES: Section 88. Deleted from the Charter. (Amend. of 5-11-13)	Article VII Planning and Zoning: Section 7	Section 1.02. - Form of Government. □ The municipal government shall be the Council-Manager form of government. Subject only to the limitations imposed by, the State constitution, State laws, and this Charter, all powers of the City shall be vested in and exercised by an elective governing body, hereinafter referred to as the City Council or Council. The Council shall enact legislation, adopt budgets, determine policies, make appointments to committees, commissions and boards , and appoint the City Manager who shall execute the laws and administer the government of the City. Section 10.07. - Board of Adjustment. □ A board of adjustment shall be established and maintained. As authorized by ordinance and/or State law, such board shall have the power to hear and determine appeals from the refusal of building permits, appeals from administrative decisions by the building official applying the zoning ordinance, and to authorize a variance from the zoning regulations. Members of the board of adjustment shall hold no other	Section 3.07 Powers Appoint all boards and commissions including provision for a planning commission, a zoning commission and a zoning board of adjustment, and appoint the members of all such commissions and boards, and as well the members of the hospital board, if a hospital is established. The planning and zoning commissions may be combined. Such boards and commissions shall have all powers and duties now or hereafter conferred and created by this charter, by City ordinance or by law.
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	Planning and Zoning Commissions	Section 3.13. PLANNING, ZONING AND DEVELOPMENT:(a)The City Council must adopt and maintain a comprehensive zoning ordinance. The City Council must appoint a Planning and Zoning Commission in accordance with State law. The Commission should contain an odd number of members, or any specific number required by State law. The Planning and Zoning Commission and City Council have all of the rights, privileges, powers, and authority to plan and zone property consistent with State law. (b)The City Council may appoint a Zoning Board of Adjustment in accordance with State law. The Zoning Board of Adjustment will have such powers granted by State law and any additional powers which may be granted by the City Council.	Powers: Section 27 Provide for a planning commission, a zoning commission and a zoning board of adjustment, and appoint the members of all such commissions and boards, and as well the members of the hospital board, if a hospital is established. The planning [and] zoning commissions may be combined. Such boards and commissions shall have all powers and duties now and hereafter conferred and created by this charter, by city ordinance or by law. Adopt, modify and carry out plans proposed by the planning commission for the clearance of slum districts and rehabilitation of blighted areas. Adopt, modify and carry out plans proposed by the planning commission for the replanning, improvement, and redevelopment of neighborhoods and for the replanning, reconstruction or redevelopment of any area or district which may have been destroyed in whole or in part by disaster.	Section 7.01 Planning and Zoning Commission; Planning and Zoning Authority: The City Council shall appoint a City Planning and Zoning Commission in accordance with the General Laws of the State of Texas. The City Council shall have all of the rights, privileges, powers and authority; given, permitted and granted under the Laws of the State of Texas in, for and of municipalities and their environs. (Charter adopted 11/2/10) State law references–Zoning commission, V.T.C.A., Local Government Code, sec. 211.007; municipal zoning authority, V.T.C.A., Local Government Code, ch. 211.	ARTICLE X. - PLANNING AND DEVELOPMENT Section 10.01. - Purpose and Intent. The development of the City shall be undertaken and accomplished pursuant to a comprehensive plan, and the Council shall establish and provide for the revision and update of the comprehensive plan from time to time, but not less than every five (5) years, as a governmental function, to promote, guide, strengthen and assist the management of future development within the City and its extraterritorial jurisdiction, to assure the appropriate and beneficial use of land, water, and natural and community resources, consistent with the public interest.	Section 3.07 Powers 6. Appoint all boards and commissions including provision for a planning commission, a zoning commission and a zoning board of adjustment, and appoint the members of all such commissions and boards, and as well the members of the hospital board, if a hospital is established. The planning and zoning commissions may be combined. Such boards and commissions shall have all powers and duties now or hereafter conferred and created by this charter, by City ordinance or by law.
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52	Financial Administration					

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	Fiscal Year	Section 12.1. FISCAL YEAR: The fiscal year of the City begins on the first day of October and ends on the last day of September of the next succeeding year. The fiscal year also constitutes the budget and accounting year. The City Council may change the fiscal year by ordinance. (8)Submit to the City Council and make available to the public a complete report on the finances and administrative activities of the City as of the end of each fiscal year;	Fiscal Year - Section 49. The fiscal year of the City of Killeen shall begin the 1 st 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.	Financial Procedures: Section 6.01 Fiscal Year: The fiscal year of the City shall begin on the first day of October and end on the last day of September. (Charter adopted 11/2/10) State law references–Power to establish fiscal year, V.T.C.A., Local Government Code, sec. 101.022; city fiscal year, V.T.C.A., Tax Code, sec. 1.05.	Section 8.04. - 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.	SECTION 5.01 FISCAL YEAR. The fiscal year of the City of Harker Heights shall begin the 1st 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.
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54	Annual Budget	<p>Section 12.2. SUBMISSION OF BUDGET AND BUDGET MESSAGE: On or before the 1st day of August of each year, the City Manager must submit to the City Council, by filing with the City Secretary, a budget for the upcoming fiscal year and an accompanying message.</p> <p>Section 12.3. BUDGET MESSAGE: The City Manager's message must explain the budget both in fiscal terms and in terms of the work programs. It must outline the proposed financial policies for the City for the upcoming 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, summarize the City's debt position and include such other material as the City Manager deems desirable.</p> <p>Section 12.4. BUDGET: The budget must provide a complete financial plan of all the City funds and activities for the upcoming year and, except as</p>	<p>Article V- The Budget PREPARATION AND SUBMISSION OF BUDGET - Section 50. Not less than forty-five (45) days prior to the beginning of each fiscal year, the city manager shall submit to the council a proposed budget, which budget shall provide a complete financial plan for the fiscal year, and shall contain the following: A budget message, explanatory of the budget, which message shall contain an outline of the proposed financial policies of the city for the fiscal year, shall set forth the reasons for salient changes from the previous fiscal year in expenditures and revenue items, and shall explain any major changes in financial policy.</p> <p>A consolidated statement of receipts and expenditures of all funds.</p> <p>An analysis of property valuations.</p> <p>An analysis of tax rate.</p> <p>Tax levies and tax collections by years for at least five years or, if records for five years are not available, then for as many</p>	<p>Section 6.02 Preparation and Submission of Budget: The City Manager shall submit a proposed budget containing a complete financial plan for each fiscal year. Such a budget shall be submitted to the City Council not more than one hundred twenty (120) days but not less than sixty (60) days prior to the beginning of each fiscal year. The budget shall contain the following: (a)A financial policies of the City for the fiscal year, shall set forth the reasons for any major changes in expenditure and revenue items from the previous fiscal year, and shall explain any major change in financial policies.</p> <p>(b)Revenue Summary</p> <p>(c)Departmental Expenditure Summary</p> <p>(d)Departmental Budget</p> <p>(e)Schedule of Outstanding Debt</p> <p>(f)Schedule of Capital Outlays by Department</p> <p>(g)Review of Property Valuations (h)An Analysis of Tax Rates</p> <p>(i)Tax Levies and Tax Collection by Year for the Last Three (3) Years (i)A Provision</p>	<p>Section 8.05. - Annual Budget. □ The City Manager, between thirty (30) and ninety (90) days prior to the beginning of each fiscal year, shall submit to the Council, a proposed budget, which shall provide a complete financial plan for the fiscal year, and shall contain the following:</p> <p>(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 receipts and expenditures for all funds.(c)An analysis of property valuations.(d)An analysis of tax rate.(e)Tax levies and tax collections by years for at least five (5) years or, if records for five (5) years are not available, then for as many years as are available.(f)General fund resources in detail.(g)Summary of proposed expenditures by function, department and activity.(h)Summary of proposed</p>	<p>Article V The Budget: Section 5.02 - 5.10: SECTION 5.02 ANTICIPATED REVENUES COMPARED WITH OTHER YEARS IN BUDGET.</p> <p>In preparing the budget, the City Manager shall in the preparation of the budget place in parallel columns opposite the several items of revenue the actual amount of each item for the last completed fiscal year, the estimated amount for the current fiscal year, and the proposed amount for the ensuing fiscal year.</p> <p>SECTION 5.03 PROPOSED EXPENDITURES COMPARED WITH OTHER YEARS.</p> <p>The City Manager in the preparation of the budget shall in parallel columns opposite the various items of expenditures place the actual amount of such items of expenditures for the last completed fiscal year, the estimated amount for the current fiscal year and the proposed amount for the ensuing fiscal year.</p> <p>SECTION 5.04 BUDGET A PUBLIC RECORD.</p> <p>The budget and all supporting schedules shall be filed with the City Clerk when submitted to the council and shall be a public record for inspection by anyone. The City</p>

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55	Capital Program	Section 6.1 Except as may be provided by State law, the powers of initiative and referendum do not extend to ordinances, resolutions, or measures regarding the budget, any capital improvement program, the appropriation of money, issuing of bonds, setting of utility rates, levying of taxes, annexation, salaries of City officers or employees, zoning amendments, or any other ordinance, resolution, or measure not subject to initiative or referendum as provided by this Charter or State law. (7)Prepare and submit the annual budget and capital program to the City Council; (2)The proposed capital expenditures during the upcoming fiscal year, detailed for each fund by department, and the proposed method of financing each such capital expenditure;	LAPSE OF APPROPRIATIONS: Section 73. Except for an appropriation approved as part of the Capital Improvement Program, all appropriations shall lapse at the end of the fiscal year to the extent that they shall not have been expended or lawfully encumbered. An appropriation approved as part of the Capital Improvement Program shall continue in force until the purpose for which it was made has been accomplished or abandoned. The purpose of any such appropriation shall be deemed abandoned if three years pass without any disbursement from the appropriation. (Amend. of 5-15-18)	Section 9.13: Referendum; Petition; Procedure; Effect Prior to Election: (1) Qualified voters of the City may require that any ordinance, with the exception of ordinances dealing with any budget or any capital program , or relating to the appropriation of money, issuing of bonds, setting of utility rates and levy of taxes or salaries of City officers or employees, or any other ordinance not subject to referendum as provided by state statute or case law, passed by the City Council be submitted to the voters of the City for approval or disapproval, by submitting a petition for this purpose within sixty (60) days after the date the ordinance sought to be reconsidered was adopted.	Not specifically written.	Not specifically written.

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	Annual Audit	<p>Section 4.26. AUDIT AND EXAMINATION OF THE CITY BOOKS AND ACCOUNTS:</p> <p>Annually, the City Council must cause an audit to be made of the books and accounts of each and every department and activity of the City. The audit must be made by a certified public accountant selected and employed by the City Council.</p>	<p>At any time to examine and audit the accounts and other records of any such utility and reports, including on local operations by each such public utility. Auditors - Section 40. Prior to the end of each fiscal year the council shall designate qualified Certified Public Accountants who, as of the end of the fiscal year, shall make an independent audit of accounts and other evidences of financial transactions of the city government and shall submit their report to the council. Such accountant shall have no personal interest, direct or indirect, in the fiscal affairs of the city government. They shall not maintain any accounts or record of the city business, but, within specifications approved by the council, shall post-audit the books and documents kept by the department of finance and any separate or subordinate accounts kept by any other office, department or agency of the city government.</p> <p>The city council may appoint a city auditor. The city auditor</p>	<p>Section 6.11 Audit of City Books and Accounts: The City Council shall appoint a Certified Public Accountant to make a complete audit of the books and accounts of every City Department at the close of every fiscal year and present his report to the City Council. Such audit report shall be filed with the City Secretary and shall be available for public inspection. (Charter adopted 11/2/10)</p> <p>State law reference—Audit of municipal finances, V.T.C.A., Local Government Code, ch. 103.</p>	<p>Section 8.17. - Independent Audit. □</p> <p>Prior to the end of the fiscal year, the City Council shall designate qualified certified public accountants who shall make an independent audit of accounts and other evidences of financial transactions of the City government and shall submit their report to the City Council. Notice shall be given by publication in a newspaper of general circulation that the audit is on file at the City Hall for inspection.</p>	<p>SECTION 3.16 INDEPENDENT ANNUAL AUDIT.</p> <p>Annually the council shall designate qualified public accountants who, as of the end of the fiscal year, shall make an independent audit of accounts and other evidences of financial transactions of the City government and shall submit their report to the council. Notice shall be given by publication in some newspaper of general circulation in the City of Harker Heights that the annual audit is on file at the City Hall for inspection. Such accountant shall have no personal interest, direct or indirect, in the fiscal affairs of the City government. They shall not maintain any accounts or record of the City business, but, within specifications approved by the council, shall post audit the books and documents kept by the Department of Finance and any separate or subordinate accounts kept by any other office, department or agency of the City government.</p>
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	Purchasing and Contracts	<p>Section 3.9. ACQUISITION AND OWNERSHIP OF OTHER PUBLIC UTILITIES; RIGHT TO MANUFACTURE OR PURCHASE PUBLIC UTILITY PRODUCTS:</p> <p>(a)The City has the power to lease, buy, own, construct, maintain, and operate, inside or outside the City limits, any public service or public utility as allowed by State law, this Charter, and any other City ordinances or resolutions.</p> <p>(b)If the cost of acquiring any public service or public utility is in excess of ten million (\$10,000,000) dollars, the acquisition must be authorized by the voters of the City, at an election called for that purpose. If the City acquired any public service or public utility, the cost of which was in excess of ten million (\$10,000,000) dollars, the public service or utility may not be sold or leased unless the sale or lease is authorized by the voters of the City.</p> <p>(c)If the City desires to acquire any public service or public utility by purchase, lease, condemnation, or otherwise, the City has the power to obtain</p>	<p>Purchase Procedure: Section 76. The Director of Finance shall have authority to make expenditures from one or more municipal funds without the approval of the City Council for all budgeted items up to that amount which, under State law, triggers the competitive Procurement process. All contracts or purchases requiring expenditures from one or more municipal funds in the amount involving more than the dollar amount which, according to Section 252.021 of the Local Government Code, or any successor statute thereto, triggers the competitive procurement process, shall be let in compliance with the procedures prescribed by Chapter 252 of the Local Government Code and the acts amendatory thereof and supplementary thereto, now or hereafter enacted. (Amend. of 5-4-91; Amend. of 5-5-01; Amend. of 5-7-05)</p>	<p>Section 6.08 Contracts and Purchase Procedure: The City Council may by ordinance set a maximum amount for which the City Manager shall be authorized to execute contracts and/or to expend funds for budgeted items; provided however, that all contracts and expenditures must comply with state laws requiring competitive bids. The City Council may by ordinance establish an amount above which all contracts or purchases must be approved in advance by the City Council. All Contracts and purchases shall be handled in a manner to obtain the best value for the City. (Charter adopted 11/2/10; Ordinance D19-08 adopted 8/15/19)</p> <p>State law reference—Purchasing and contracting authority of municipality, V.T.C.A., Local Government Code, chs. 252, 271.</p>	<p>Section 8.14. - Purchase Procedure.□</p> <p>All purchases made and contracts executed by the City and exceeding authorized limits set by the Finance Director, shall be pursuant to a requisition from the head of the office, department or agency whose appropriation will be charged; and no contract or order shall be binding upon the City unless the Director of Finance certifies there is to the credit of such office, department or agency, a sufficient unencumbered appropriation to pay for the supplies, materials, equipment, or contractual services for which the contract or order is to be issued. All such contracts and purchases shall be made in accordance with all applicable competitive bidding requirements established by State law.</p>	Not specifically written.
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	Exemption from Garnishment	Section 3.3. CITY FUNDS NOT SUBJECT TO GARNISHMENT: No funds of the City shall be subject to garnishment and the City shall never be required to answer in any garnishment proceedings.	Provisions Relating to Assignment, execution and Garnishment - Section 142 Deleted from the Charter. (Amend of 5-11-13)	Section 11.01 Assignment, Execution, and Garnishment: (1)Property, real and personal, belonging to the City shall not be liable to be sold or appropriated under any writ of execution or cost bill. Funds belonging to the City in the hands of any person, firm or corporation, shall not be liable to garnishment, attachment or sequestration; nor shall the City be liable to garnishment, attachment or sequestration; not [nor] shall the City be liable to garnishment on account of any debt it may owe or duns or property it may have on hand owing to any person. Neither the City nor any of its officers or agents shall be required to answer any such writ of garnishment on any account whatsoever. (2)The City shall not be obligated to recognize any assignment of wages or funds by its employees, agents, or contractors, except as provided by the laws of this State or the United States of America.	Section 13.05. - Exemption of Assets. □ Property of the City shall not be liable for sale or appropriation by writ of execution. Funds of the City possessed by any person or entity shall not be liable to garnishment on account of any debt the City may owe nor funds or property it may have on hand owed to any person. The City and its officers and agents shall not be required to answer a writ of garnishment of City property on any account whatsoever. Except as may be specifically required and mandated by law, the City shall not be obligated to recognize any voluntary assignment of wages or funds by its employees, agents or contractors.	Not specifically written.
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59	Exemption from Bond, Undertaking, or Security	Section 4.25. SURETY BONDS:(a) The City Manager and Director of Finance must give a surety bond in an amount not less than five hundred thousand (\$500,000) dollars, payable to the City and conditioned for the faithful discharge of the duties of such officers and for the faithful accounting for all monies, credits and things of value coming into the hands of such officers. The bonds must be signed by a surety company authorized to do business under State law and the City must pay the premium on the bonds. (b)The City Council may require surety bonds from other appointive City officers or City employees, in any amount the City Council may fix by ordinance or resolution. The bonds must be conditioned on the faithful discharge and accounting of all monies, credits and things of value coming into the hands of such officers or employees. The bonds must be signed by a surety company authorized to do business under State law and the City must pay the premium	Section 81 - Surety Bonds: Section 82. Deleted from the charter. ARTICLE VI. - ISSUANCE AND SALE OF BONDS - Section 66. The City of Killeen shall have the right and power to issue its general obligation bonds on the full faith and credit of the City, payable from ad valorem taxes not to exceed the maximum rate permitted by the Texas Constitution, for the purpose of providing permanent public improvements or for any other public purpose. The City also shall have the right and power to issue its revenue bonds payable from the revenues of any municipally owned utility or utilities, and may secure such revenue bonds by a mortgage or deed of trust on the physical properties of such utility or utilities. The City also shall have the right and power to issue interest bearing time warrants pursuant to state law. (Amend. of 5-11-13) ISSUANCE OF BONDS AND TIME WARRANTS Section 67. All bonds and warrants of the City of Killeen shall be	Section 11.02 - Security and Bond: It shall not be necessary in any action, suit or proceeding in which the City is a party for any bond, undertaking or security to be demanded or executed by or on behalf of the City. All such actions shall be conducted in the same manner as if such bond, undertaking or security had been given as required by law. (Charter adopted 11/2/10) State law reference–Cities exempt from security for court costs, V.T.C.A., Civil Practice and Remedies Code, sec. 6.002.	Section 13.04. - Security or Bond Not Required. □ It shall not be necessary in any action, suit or proceeding in which the City may be a party, for any bond, undertaking, or security to be executed on behalf of the City, but all actions, suits and proceedings shall be conducted as if a bond, undertaking or security had been given. The City shall have all remedies of appeal provided by law to all courts without bond or security of any kind. For the purposes of all such actions, suits, proceedings and appeals, the City shall be responsible in the same manner and to the same extent as if the bond, undertaking or security had been executed and given.	Not specifically written.

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60	Liability Coverage for City Officials	<p>Section 15.7. NO WAIVER OF IMMUNITY: No provision of this Charter is a waiver of sovereign or governmental immunity from suit or liability, and no provision of this Charter is a waiver of any public official, employee or volunteer immunity. The City expressly retains all immunities provided to municipalities and their officials, employees and volunteers as those immunities now exist or may later exist in accordance with State and Federal law. Section 11.3.</p> <p>TAX LIENS AND LIABILITIES: Property having a situs in the City on January 1 of each year shall stand charged with a special lien in favor of the City until the tax on that property is paid. City tax liens shall be superior to all other liens except other tax liens, regardless of when the other non-tax liens were created. Purchasers of property within the City shall take the property subject to tax liens. In addition to the lien against the property, the owner of property subject to taxation</p>	Not specifically written.	Not specifically written.	<p>Section 13.03. - Reservation of Defenses. □ Nothing contained in this Charter or in any ordinance or contract of the City shall be construed to mean the City waives any rights, privileges, defenses or immunities provided under common law, or the constitution and laws of the State of Texas. No such right, privilege, defense or immunity may be waived except by the City Council acting in a public meeting to settle or compromise a claim, dispute or lawsuit.</p>	Not specifically written.

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61	Severability	Section 15.6. SEVERABILITY: If any provision of this Charter is held invalid, the other provisions of the Charter will not be affected. If the application of the Charter or any of its provisions to any person or circumstance is held invalid, the application of the Charter and its provisions to other persons or circumstances will not be affected.	Section 6: On the effective date of the ordinance, the area becomes a part of the City of Killeen and the inhabitants thereof shall be entitled to all the rights and privileges of other citizens of the City of Killeen and shall be bound by the acts, ordinances, resolutions and regulations of the city.	Section 11.11 Severability Clause: In any section or part of a section of this Charter shall be ruled invalid by a Court of competent jurisdiction, such holding shall not affect the remainder of this Charter nor the context in which such section or part of section so held invalid may appear, except to the extent that an entire section or part of section may be inseparably connected in meaning and effect with the section or part to which such holding shall directly apply. (Charter adopted 11/2/10)		Not specifically written.

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	Non-Substantive Revisions		<p>Section 38: The city council shall have power to cause the ordinances of the city to be corrected, amended, revised, codified and printed in code form as often as the council deems advisable, and such printed code, when adopted by the council, shall be in full force and effect without the necessity of publishing the same or any part thereof in a newspaper. Such printed code shall be admitted in evidence in all courts and places without further proof. (Amend. of 5-11-13)</p>	<p>Section 11.13 Non Substantive Revisions: The City Council may, without approval of the voters, adopt an ordinance that makes the following types of revisions to the charter: (1)Renumbering, revising titles, and rearranging parts thereof; (2)Correcting errors in spelling, grammar, cross-references and punctuation; and (3)Revising language to reflect modern usage and style. A revision adopted under this Section is not intended to and is not to be interpreted as making any substantive change in any Charter provision. (Ordinance 2014-11-04 #007 adopted 8/11/14, prop. 1, approved at election of 11/4/14)</p>	-	-
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	Charter Review Commission	<p>Article 15: General Provisions Section 15.1. AMENDMENTS TO THE CHARTER: This Charter may be amended in accordance with State law. The Charter may be reviewed as needed, but the City Council must perform, on its own or by committee, a review of this Charter at least once every ten years.</p> <p>Section 15.2. ORDINANCES CONTINUED IN FORCE: All ordinances and resolutions in force at the time of the adoption of this Charter, not inconsistent with its provisions, will continue in full force and effect until amended or repealed.</p>	<p>Amending the Charter: Section 149. Amendments to this Charter may be framed and submitted to the qualified electors of the city by a Charter commission in the manner provided by law for framing and submitting a new Charter. Amendments may also be proposed and submitted by ordinance, passed by a majority vote of the full membership of the council, or by a petition signed by not less than a number equal to at least five percent (5%) of the number of qualified voters of the municipality or 20,000, whichever is the smaller. When a Charter amendment petition shall have been filed with the council in conformity with the provisions of this Charter as to petitions for initiated ordinances, the council shall forthwith provide by ordinance for submitting such proposed amendment to a vote of the qualified electors. Any ordinance for submitting a Charter amendment to the qualified electors shall provide that such amendment be</p>	<p>Section 10.03 Charter Review Committee: A. The City Council shall appoint a Charter Review Committee in the third (3rd) year after this Charter is adopted and every sixth (6th) year thereafter. The Charter Review Committee shall consist of five (5) members, each City Council member appointing one, who shall: 1. Inquire into the operation of the City government under the Charter and determine whether any provision requires revision. Order public hearings to be held in accordance with the Texas Open Meetings Act to discuss proposed revisions, inquiries by the public, or for any other reason related to the revision of the Charter. The Committee may request the attendance of any officer or employee of the City and the production of any City records that may be needed; 2. Propose any recommendations it deems desirable to insure compliance with the Charter and changes in state law; and 3. Report its findings and present its recommendations to the City Council in the form of a</p>	<p>Section 13.09. - Charter Review. □ The Council may, at anytime, appoint an advisory Charter Review Committee, consisting of at least seven (7) qualified voters of the City. The Council shall appoint such a Committee not less often than every tenth year. The term of each such Committee shall be three (3) months and such Committee shall review, hold hearings upon, and make recommendations for the amendment, if any, of this Charter. The Council may call an election to consider any amendment proposed by the Committee, and any resulting Charter election shall be noticed and held in compliance with State law; provided that the Council may call the election for any permitted election date, or the earlier to occur on the date of the next general State or general City election.</p>	<p>Section 10.03 Charter Amendment. a. Proposal of Amendment. Amendments to this charter may be framed and proposed: 1. In a manner provided by law, or 2. By ordinance of the council containing the full text of the proposed amendment or amendments, or 3. By a report of a Charter Commission created by ordinance, or 4. By the voters of the City, upon submission of a petition containing the full text of the proposed amendment or amendments and signed by not less than 5% of the qualified voters of the City. b. Upon delivery to the City election officials of a proposal meeting the above requirements, an election shall be held on that proposal. c. Such elections shall be announced on the same day of each of two successive weeks in one or more newspapers published in Bell County and of general circulation in the City at least 30 days prior to the date of the election. This announcement shall include a substantial copy of the proposed amendment or amendments.</p>
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64	Comprehensive Plan	<p>Section 3.14. COMPREHENSIVE PLAN: (a) The City Council must establish by ordinance a comprehensive plan for the orderly development of the City. The City Council and the Planning and Zoning Commission must use the comprehensive plan as a guide for development of the City with respect to land use, thoroughfares and streets, buffer zones, parks, and other matters affecting development within the City and its extraterritorial jurisdiction. (b) The comprehensive plan may be amended by majority vote of the City Council after a public hearing, and such amendments will become part of the official records of the City.</p>	-	<p>SECTION 7.03 Comprehensive Plan The Planning and Zoning Commission shall prepare a Comprehensive Plan for the City of Nolanville for submission to the City Council for adoption. The City Council shall consider the recommendations of the Planning and Zoning Commission for growth, development and beautification of the City. The City Council may adopt this plan as a whole or in parts and may adopt any amendment thereto after at least one (1) public hearing on the proposed adoption. The Planning and Zoning Commission shall review the Comprehensive Plan every five (5) years and submit any recommended changes, amendments or modifications to the City Council for approval, or disapproval. (Charter adopted 11/2/10)</p>	<p>Section 10.02. - Comprehensive Plan. □ The Council shall adopt and maintain a comprehensive plan, and all public and private development shall conform with the adopted comprehensive plan, or the applicable elements or portions thereof. The comprehensive plan may be amended at anytime and reviewed and considered for amendment periodically as found appropriate by the Council. The comprehensive plan adopted by ordinance shall constitute the master and general plan for the development of the City. It shall contain the Council's policies for growth, development and beautification of the land within the corporate limits and the extraterritorial jurisdiction of the City, or for geographic portions thereof including neighborhood and community plans, as determined appropriate from time to time.</p>	Not specifically written.

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	Disaster Clause	Section 4.16. EMERGENCY MEASURES, DEFINED: (a)An emergency measure is an ordinance or resolution for the immediate preservation of public business, property, health or safety, or providing for the usual daily operation of a municipal department. The nature of the emergency must be set forth in the ordinance or resolution. (b)Ordinances or resolutions appropriating money to defray current or other expenses of the City may be passed as emergency measures, but may not levy taxes; grant, renew or extend a franchise; or regulate the rate charged by any public utility for its services.	Not specifically written.	SECTION 11.09 Disaster Clause In case of disaster when a legal quorum of the elected City Council cannot otherwise be assembled due to multiple deaths or injuries, the surviving persons of the City Council, or highest surviving City official, if no elected official remains, must, within twenty-four (24) hours of such disaster, request the highest surviving officers of the local Economic Development Corporation and the County Judge of Bell County to appoint a commission to act during the emergency as the City Council and call a City election within fifteen (15) days of such disaster, or as provided in the Texas Election Code, for election of a required quorum, if for good reasons it is known a quorum of the present City Council will never again meet. (Charter adopted 11/2/10)	Section 11.11 - In case of disaster when a legal quorum of the elected City Commission cannot otherwise be assembled due to multiple deaths or injuries, the surviving persons of the City Commission, or highest surviving City official, if no elected official remains, must, within twenty-four (24) hours of such disaster, request the City Manager and the County Judge of Fort Bend County to appoint a commission to act during the emergency and call a City election within thirty (30) days of such disaster, or as provided in the Texas Election Code, for election of a required quorum, if for good reasons it is known a quorum of the present City Commission will never again meet.	Not specifically written.
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2		Temple	Killeen	Nolanville	Belton	Harker Heights
	Notice of Claim	<p>Section 3.5. NOTICE OF CLAIM: (a)The City may not be held liable for the death of or injury to a person, or for damage to property, unless the claimant or legal representative files a written notice of claim with the City Secretary within six months after the event alleged to have caused the death, injury, or damage. The written notice must meet all requirements of State law. Nothing in this section shall be construed to mean the City waives any rights, privileges, defenses or immunities in tort action, or otherwise, which are provided under common law and State law.</p> <p>(b)The City Council has the power to compromise and settle any and all claims and lawsuits of every kind and character, in favor of, or against, the City.</p>		<p>SECTION 11.03 Notice of Claim</p> <p>The City shall not be held liable on account of any claim for the death of any person or injuries to any person or damage to any property unless the person making such complaint or claiming such damages shall, within one hundred-twenty (120) days after the time at which it is claimed such damages were inflicted upon such person or property, file with the City a written statement, under oath, stating the nature and character of such damages or injuries, the extent of the same, the place where same happened, the circumstances under which same happened and the condition causing same, with a detailed statement of each item of damages and the amount thereof, giving a list of any witnesses known by affiliate [affiant] to have seen the accident. (Charter adopted 11/2/10)</p> <p>State law references–Texas Tort Claims Act, V.T.C.A., Civil Practice and Remedies Code, ch. 101; notice procedures, V.T.C.A., Civil Practice and Remedies Code, ch. 101</p>	<p>Section 13.02. - Notice of Claim Against City.□</p> <p>Except as provided by the constitution or a statute in conflict herewith, the City shall not be liable for any damages, attorneys' fees, costs of court, or monies regarding any matter whatsoever, unless notice has first been given the City in compliance with this section.</p> <p>(a)Before the City shall be liable for any damage, claim or suit, attorneys' fees or costs of court, arising out of or for any personal injury, damage to property, or violation of any statutory right or duty, the person who is injured or whose property has been damaged, or someone on his or her behalf, shall give the City Manager or the City Clerk notice in writing duly certified within ninety (90) days after the date of the alleged damage, injury or violation of statutory duty or right, stating specifically in such notice when, where and how the injury or damage was sustained, setting forth the extent of the injury or damage as accurately as possible, and giving the names and addresses of all witnesses known to the claimant</p>	Not specifically written.
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2		Temple	Killeen	Nolanville	Belton	Harker Heights
67	Power to Settle Claims	Section 3.5 The City Council has the power to compromise and settle any and all claims and lawsuits of every kind and character, in favor of, or against, the City.	Power to settle claims - Section 138. The city council shall have the power to compromise and settle any and all claims and lawsuits of every kind and character in favor of or against the city, including suits by the city to recover delinquent taxes.	Section 11.04 Power to Settle Claims: The City Council shall have the power to compromise and settle any and all claims and lawsuits of every kind [or] character, in favor of, or against, the City, including suits by the City to recover delinquent taxes. (Charter adopted 11/2/10)	Section 13.06. - Settlement of Claims. □ The Council shall have the authority to compromise and settle any and all claims and lawsuits of every kind and character in favor of or against the City, except suits by the City to recover delinquent taxes; provided that the City Attorney shall have the authority to settle on behalf of the City any and all matters pending in municipal court, or in the county courts on appeal from the municipal court.	Not specifically written.
68	Service of Process Against the City		Section 139. All legal process against the city shall be served upon the Mayor, or Mayor pro-tem.	SECTION 11.05 Service of Process Against the City All legal process against the City shall be served upon the City Manager. (Charter adopted 11/2/10)	City Manager	Not specifically written.
69	Transitional Provisions					

	A	B	C	D	E	F
2		Temple	Killeen	Nolanville	Belton	Harker Heights
	Existing Ordinances and Resolutions	Section 15.2. ORDINANCES CONTINUED IN FORCE: All ordinances and resolutions in force at the time of the adoption of this Charter, not inconsistent with its provisions, will continue in full force and effect until amended or repealed.	Effect of this charter on existing law: Section 146. All ordinances, resolutions, rules, regulations, rights, claims actions, orders contracts and legal administrative proceedings shall continue except as modified pursuant to the provisions of this charter and in each case shall be maintained, carried on or dealt with by the city department, office or agency appropriate under this charter. Amending the charter: Section 149. Amendments to this Charter may be framed and submitted to the qualified electors of the city by a Charter commission in the manner provided by law for framing and submitting a new Charter. Amendments may also be proposed and submitted by ordinance, passed by a majority vote of the full membership of the council, or by a petition signed by not less than a number equal to at least five percent (5%) of the number of qualified voters of the municipality or 20,000, whichever is the smaller. When a Charter amendment	Section 12.01 Construction of Charter: The Charter shall not be construed as a mere grant of enumerated powers, but shall be construed as a general grant of power and as a limitation of power on the government of the City of Nolanville in the same manner as the Constitution of Texas is construed as a limitation on the powers of the Legislature. Except where expressly prohibited by this Charter, each and every power under Article XI, Section 5 of the Constitution of Texas, which it would be competent for the people of the City of Nolanville to expressly to the City, will be granted to be construed to the City by this Charter. (Charter adopted 11/2/10)		Article XI Transitional Provisions: Section 11.01
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	A	B	C	D	E	F
2		Temple	Killeen	Nolanville	Belton	Harker Heights
	Officers and Employees	Section 15.3. OFFICERS AND EMPLOYEES: (a)Nothing in this Charter except as otherwise specifically provided affects or impairs the rights or privileges of persons who are City officers or employees at the time of its adoption or amendment. (b)Except as specifically provided by this Charter, if at the time this Charter takes effect, a City officer or employee holds any office or position which is or can be abolished by or under this Charter, he or she shall continue in such office or position until the specific provision under this Charter directing that he or she vacate the office or position takes effect.	Section 22. The members of the City Council of the City of Killeen shall be composed of a mayor and seven councilmembers. Four (4) of the councilmembers shall represent "single member districts," such districts being numbered and designated 1, 2, 3, and 4, and defined in this charter or by ordinance hereafter passed. The mayor and three (3) of the councilmembers shall represent the city at large. Such council shall be elected in the following manner: At an election held on a uniform election date in even-numbered years, a mayor and three councilmembers shall be elected by a plurality vote of the city at large for a term of two (2) years. At an election held on a uniform election date in odd-numbered years, there shall be elected one councilmember from each of the single member districts 1, 2, 3, and 4, by a plurality vote of the registered voters residing within each district, to serve a term of two (2) years. All elections are to be held in	Section 12.02 Officers and Employees: A.Rights and Privileges Preserved. Nothing in this Charter except as otherwise specifically provided should affect or impair the rights or privileges of person[s] who are City officers or employees at the time of its adoption. B.Continuance of Office or Employment. Except as specifically provided by this Charter, if at the time this Charter takes full effect, a City administrative officer or employee hold[s] any office or position which is or can be abolished by or under this Charter, he shall continue in such position or office until the taking effect of some specific provision under this Charter directing that he vacate the office or position.	Section 4.04. - Duties of Officers and Employees. □ Provided that no action of the Council shall be inconsistent with this Charter, the Council shall from time to time, after having heard the City Manager's recommendations, establish personnel policies and regulations, and the duties, responsibilities and authority of each appointed officer and employee of the City not inconsistent with this Charter. The City shall be an equal opportunity employer and the service of each such officer and employee shall be at will and the Council may require other and further duties of any appointed officer or employee whose duties are prescribed herein, and may define, prescribe and change the duties of any appointed officer or employee as in its judgment be best for the public interest. No person related within the second degree of consanguinity or affinity to a member of the Council or the City Manager shall be or remain employed by the City; provided that such prohibition shall not apply to any person employed full-time for a period of twelve (12) months or more prior to the member of the Council, City	SECTION 11.01 OFFICERS AND EMPLOYEES. 1. Rights and Privileges Preserved. Nothing in this charter except as otherwise specifically provided shall affect or impair the rights or privileges of persons who are City officers or employees at the time of its Adoption. 2. Continuance of Office or Employment. Except as specifically provided by this charter, if at the time this charter takes full effect a City administrative officer or employee holds any office or position which is or can be abolished by or under this charter, he shall continue in such office or position until the taking effect of some specific provision under this charter directing that he/she vacate the office or position.
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2		Temple	Killeen	Nolanville	Belton	Harker Heights
	Pending Matters	Section 15.4. PENDING MATTERS: All rights, claims, actions, orders, contracts or legal administrative proceedings shall continue except as modified pursuant to the provisions of this Charter and in each case shall be maintained, carried on or dealt with by the City department, office or agency appropriate under this Charter.	Section 146. All ordinances, resolutions, rules, regulations, rights, claims actions, orders contracts and legal administrative proceedings shall continue except as modified pursuant to the provisions of this charter and in each case shall be maintained, carried on or dealt with by the city department, office or agency appropriate under this charter.	Section 12.03 Pending Matters: All rights, claims, actions, orders, contracts, and legal administrative proceedings shall continue except as modified pursuant to the provisions of this Charter and in each case shall be maintained, carried on or dealt with by the City department, office, or agency appropriate under this Charter. (Charter adopted 11/2/10)	Section 13.06. - Settlement of Claims. □ The Council shall have the authority to compromise and settle any and all claims and lawsuits of every kind and character in favor of or against the City, except suits by the City to recover delinquent taxes; provided that the City Attorney shall have the authority to settle on behalf of the City any and all matters pending in municipal court, or in the county courts on appeal from the municipal court.	SECTION 11.02 PENDING MATTERS. All rights, claims, actions, orders, contracts and legal or administrative proceedings shall continue except as modified pursuant to the provisions of this charter and in each case shall be maintained, carried on or dealt with by the City department, office or agency appropriate under this charter.
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2		Temple	Killeen	Nolanville	Belton	Harker Heights
	Manner of Submission to Electors	<p>Section 6.4. VOLUNTARY SUBMISSION OF LEGISLATION BY THE CITY COUNCIL: The City Council on its own motion and by a majority vote of its members may submit to popular vote for adoption, rejection, or repeal any proposed or referred ordinance, resolution, or measure, in the same manner and with the same force and effect as provided in this Article for submission on petition. Any election called for this purpose must be called and held in accordance with State law.</p> <p>Section 6.5. FORM OF BALLOTS: The ballots used when voting upon such proposed and referred ordinances, resolutions or measures, shall set forth their nature sufficiently to identify them, and shall also set forth upon separate lines the words: "For the Ordinance." and "Against the Ordinance." or "For the Resolution." and "Against the Resolution."</p>	<p>Submission to Electors: Section 107. If the council shall fail to pass an ordinance proposed by the initiative petition, or shall pass it in a form different from that set forth in the petition thereof, or if the council fails to repeal a referred ordinance, the proposed or referred ordinance shall be submitted to the electors on the first authorized uniform election date prescribed by the Election Code that allows sufficient time to comply with the other requirements of law. The council may, in its discretion, and if no regular election is to be held within such period shall, provide for a special election. (Amend. of 5-11-13)</p>	<p>Section 12.04 Manner of Submission to Electors: In preparing this Charter, The Charter Commission finds and decides that it is impractical to segregate each subject so as to permit a vote of "yes" or "no" on the same, for the reason that the Charter is so constructed that in order to enable it to work and function, it is necessary that it should be adopted in its entirety. (Charter adopted 11/2/10; Ordinance E20-08 #02 adopted 8/6/20, prop. H, approved at election of 11/3/20) Section 12.05 Transitional Elections: Reserved.</p>	<p>ARTICLE V. - ELECTIONS <input type="checkbox"/></p> <p>Section 5.01. - Conduct of Elections. <input type="checkbox"/> All elections shall be held in accordance with State law and the ordinances adopted by the Council for the conduct of elections. The Council shall appoint the election judges, provide for other election officials, and establish and alter the voting precincts by ordinance. In the absence of State law providing regulations for the conduct of any election, the Council shall provide such regulations by ordinance. As authorized by State law, the Council may contract and provide for elections to be conducted and held as a joint election.</p> <p>Section 5.02. - Notice and Order for Elections. <input type="checkbox"/> City elections shall be ordered and notice thereof given as provided in the Texas Election Code, and the Council shall establish the procedures and order elections except as provided therein. If not otherwise provided for by State law, all elections shall be ordered at least thirty (30) days prior to the date of the election and notice shall be given by publication not more than thirty (30) days prior to the date of the election.</p>	<p>SECTION 8.08 SUBMISSION TO ELECTORS. If the council shall fail to pass an ordinance proposed by the initiative petition, or shall pass it in a form different than set forth in the petition thereof, or if the council fails to repeal a referred ordinance, the proposed or referred ordinance shall be submitted to the electors not less than thirty days nor more than sixty days from the date the council takes its final vote thereon. The council may, in its discretion, and if no regular election is to be held within such period shall, provide for a special election if provided by state law.</p>
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74	Elections					

	A	B	C	D	E	F
2		Temple	Killeen	Nolanville	Belton	Harker Heights
75	General Election Date	Section 14.1. ELECTIONS:(a)The Texas Election Code, any other applicable State laws, and any ordinances or resolutions adopted by the City Council	In the election code. May	Section 4.01 Elections: The general City election shall be held annually on the uniform election date in November, or at such other times as may be specified by State Law, at which	May	May
76	Terms to be Staggered	OF COUNCIL; TERM OF OFFICE: (a)The City Council is composed of five councilmembers, a Mayor elected from the City at large, and four Councilmembers elected from single member districts. The Mayor and four Councilmembers will be elected to three year terms. (b)The terms of the Mayor and the four Councilmembers will be staggered so that during any three year period, two Councilmembers will be elected in one year, two Councilmembers will be elected in the second year, and the Mayor will be elected in the third year. To create this stagger, the four Councilmembers in office at the time of the 2014 Charter amendments will serve their existing terms. The Mayor in office at the time of the 2014 Charter amendments will have one year added to his term so that his term will expire in May 2018, instead of May 2017. Thereafter, the Mayor will be elected to three year terms. (c)A person may not be a candidate for two positions on	Not specifically written.	Section 6.01(c- d) - Yes	Not specifically written.	Section 3.04.01 Change to Ward System; Should the City Council elect to establish wards as prescribed by Section 2.07, it shall do so in the following manner: A. Should the City Council deem it appropriate, it may expand the council by ordinance to a maximum of seven membersB. After passage of the appropriate ordinance, an election shall be held on the election date next following the passage of said ordinances on the date prescribed by State law. The council may elect to stagger terms by drawing lots for two places to serve one (1) year terms, two places to serve two (2) year terms, and the balance to serve three (3) year terms for the initial period, with all places being elected for three (3) year terms in elections subsequent to the initial election following passage of the above ordinances.

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2		Temple	Killeen	Nolanville	Belton	Harker Heights
77	Term limit applies	Section 4.3. TERM LIMITS No person may serve more than three consecutive terms as either a Councilmember elected from a single member district, or as the Mayor elected at large, except that a person serving as a Councilmember from a single member district, or the Mayor elected at large, at the time of	The members of the City Council shall serve not more than three (3) terms in succession, in whole or in part, whether appointed (to fill an unexpired portion of a term) or elected, and until their successors shall have been elected and qualified and they shall be ineligible to	Not specifically written.	Section 5.10. - Term of Office.□ The regular term of office of the Councilmembers shall commence immediately following the canvass of the vote for the general election at which they are elected. A Councilmember elected at a special election may take office immediately following the canvass of the vote for the election at which	B. After passage of the appropriate ordinance, an election shall be held on the election date next following the passage of said ordinances on the date prescribed by State law. The council may elect to stagger terms by drawing lots for two places to serve one (1) year terms, two places to serve two (2) year terms, and the
78	Elections by	Majority	Majority	Section 6.03 - Majority	Section 5.02 - Plurality	Majority

	A	B	C	D	E	F
2		Temple	Killeen	Nolanville	Belton	Harker Heights
79	Transition Elections	Section 9.5 - Five-member council to seven-member council as provided in Article III of this Charter, the following election schedule shall be followed until such time as all Council Members are elected in accordance with Section 6.02 of this Charter: (a) May uniform election date in 2017, one (1) Council Member shall be elected at large, and one (1) Council Member shall be elected from each of two (2) single-member districts to be determined by the City Council in the ordinance. (b) May uniform election date in 2018, Mayor and one (1) Council Member shall be elected at large, and one (1) Council Member shall be elected from each of the three (3) single-member districts that did not elect a Council Member under subsection (a). One (1) Council Member elected from a single-member district in the year 2018, shall serve a one-year term. Council Member who serves such one-year term is determined by drawing lots at first regular City Council meeting held after the election.	Not specifically written.	Section 12.05 Transitional Elections - Reserved	Section 5.07. - Voters and Voting. □ Every registered voter who has been a resident of the City for thirty (30) days or more prior to the date of the election shall be entitled to vote in City elections. Early voting and the hours the polls are open shall be as established by State law, or, absent State law providing therefor, as established by ordinance. Write-in votes shall be permitted only in compliance with the Texas Election Code. Section 5.08. - Canvassing. □ The returns of every municipal election shall be delivered by the election judges to the City Clerk at City Hall after the closing of the polls. The Council shall canvass the returns in accordance with State law. If not governed by State law the canvass shall be held within five (5) business days. The returns of every City election shall be recorded in the minutes of the Council by totals for each candidate, or, for and against each measure.	SECTION 8.15 RECALL ELECTION. The City Clerk shall at once examine the recall petition and if he/she finds it sufficient and in compliance with the provisions of this article of the Charter, he/she shall within five (5) days submit it to the City Council with his/her certificate to that effect and notify the officer sought to be recalled of such action. If the officer whose removal is sought does not resign within (5) days after such notice the City Council shall thereupon order and fix a date for holding a recall election. Any such election shall be held not less than thirty nor more than sixty days after the petition has been presented to the City Council at the same time as any municipal election held within such period; but if no such municipal election is to be held within such period, the City Council shall call a special election to be held within the time aforesaid. SECTION 8.16 BALLOTS IN RECALL ELECTION. Ballots used at recall elections shall conform to the following requirements: 1. With respect to each person whose removal is sought the question shall be submitted "Shall
80	Initiative, Referendum, and Recall					

	A	B	C	D	E	F
2		Temple	Killeen	Nolanville	Belton	Harker Heights
	Initiative	<p>Section 6.1 General Power:(a)Initiative. The registered voters of the City have the power to propose ordinances, resolutions, and measures to the City Council.</p> <p>Section 6.2 Initiative: (a)Except for ordinances, resolutions, or measures described in Section 6.1(c), registered voters of the City may initiate legislation through ordinance, resolution or measure by submitting a petition addressed to the City Council. The petition must be signed and verified in the same manner and form required for a recall petition under Article 5. The petition must be signed by at least 20% of the total registered voters in the City as shown on the then existing voter registration rolls maintained by the Bell County Elections Department. The petition must include a copy of the proposed ordinance, resolution, or measure and must request that the ordinance or resolution be submitted to the registered voters in an election, if not first passed by the City Council.</p>	<p>Article X - Initiative, Referendum and Recall: Power of Initiative. Section 100. The electors shall have power to propose any ordinance except an ordinance appropriating money or authorizing the levy of taxes, and to adopt or reject the same at its polls, such power being known as the initiative. Any initiative ordinance may be submitted to the council by a petition signed by qualified electors of the city equal in number to at least twenty-five per cent of the number of voters in the last regular municipal election of the mayor and at-large councilmembers. (Amend. of 5-11-13)</p>	<p>Section 9.01: General Authority A.Initiative. The qualified voters of the City shall have power to propose ordinances to the City Council. Such power shall not extend to the budget or any capital program, or relating to the appropriation of money, issuing of bonds, setting of utility rates and levy of taxes or salaries of City Officers or employees, or any other ordinance not subject to initiative as provided by state statute or case law.</p>	<p>Section 6.02. - Initiative.□ Subject only to the limitations provided in this Article, the people of the City shall have the power to propose legislation on any local government issue, except legislation appropriating money, levying taxes, zoning land, annexing land, or setting rates, fees or charges, and, if the Council fails to adopt an ordinance so proposed, to adopt or reject the proposed legislation at an election.</p>	<p>SECTION 8.01 POWER OF INITIATIVE.</p> <p>The electors shall have power to propose any ordinance except an ordinance appropriating money or authorizing the levy of taxes, and to adopt or reject the same at its polls, such power being known as the initiative. Any initiative ordinance may be submitted to the council by a petition signed by qualified electors of the City equal in number to at least twenty-five percent of the number of votes cast at the last regular municipal election.</p>
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	A	B	C	D	E	F
2		Temple	Killeen	Nolanville	Belton	Harker Heights
Referendum		<p>Section 6.1 (b)Referendum. The registered voters of the City have the power to require reconsideration by the City Council of any adopted ordinance, resolution, or measure.</p> <p>(c)Except as may be provided by State law, the powers of initiative and referendum do not extend to ordinances, resolutions, or measures regarding the budget, any capital improvement program, the appropriation of money, issuing of bonds, setting of utility rates, levying of taxes, annexation, salaries of City officers or employees, zoning amendments, or any other ordinance, resolution, or measure not subject to initiative or referendum as provided by this Charter or State law.</p> <p>Section 6.3 Referendum: (a)Except for ordinances, resolutions, or measures described by Section 6.1(c), registered voters of the City may require that any ordinance, resolution, or measure passed by the City Council be submitted to the voters of the City for approval or disapproval</p>	<p>Article X - Initiative, Referendum and Recall: Power of Referendum: Section 101. The electors shall have power to approve or reject at the polls any ordinance passed by the council, or submitted by the council to a vote of the electors, such power being known as the referendum, except in cases of bond ordinances and ordinances making the annual tax levy. Ordinances submitted to the council by initiative petition and passed by the council without change shall be subject to the referendum in the same manner as other ordinances. Within twenty days after the enactment by the council of any ordinance which is subject to a referendum, a petition signed by qualified electors of the city equal in number to at least twenty-five per centum of the number of voters at the last preceding regular municipal election of the mayor and at-large councilmembers may be filed with the city clerk requesting that any such ordinance be either repealed or</p>	<p>Section 9.01 General Authority B.Referendum. The qualified voters of the City shall have power to require reconsideration by the City Council of any adopted ordinance. Such power shall not extend to the budget or any capital program, or relating to the appropriation of money, issuing bonds, setting of utility rates and levy of taxes or salaries of City officers or employees, or any other ordinance not subject to referendum as provided by state statute or case law.</p>	<p>Section 6.03. - Referendum. □ The people of the City shall have the power to require reconsideration by the Council of any adopted ordinance regarding any issue that would be a proper subject for an initiative, and if the Council fails to repeal an ordinance so reconsidered, to approve or reject the ordinance at an election. Such power shall not extend to the budget; capital expenditures; levy of taxes; any bonds or any similar obligations; zoning; annexation; or any rates, fees and charges; provided that tax increases shall be subject to petition as provided by State law.</p>	<p>SECTION 8.02 POWER OF REFERENDUM.</p> <p>The electors shall have power to approve or reject at the polls any ordinance passed by the council, or submitted by the council to a vote of the electors, such power being known as the referendum, except in cases of bond ordinances and ordinances making the annual tax levy or annexing or de-annexing additional territory. Ordinances submitted to the council by initiative petition and passed by the council without change shall be subject to the referendum in the same manner as other ordinances. Within twenty calendar days after the enactment by the council of any ordinance which is subject to a referendum, a petition signed by qualified electors of the City equal in number to at least twenty-five percent of the number of votes cast at the last preceding regular municipal election may be filed with the City Clerk requesting that any such ordinance be either repealed or submitted to a vote of the electors.</p>
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	A	B	C	D	E	F
2		Temple	Killeen	Nolanville	Belton	Harker Heights
	Recall	<p>Section 5.1 Power of Recall: (a)The people of the City reserve the power to recall any elected officer of the City and may exercise such power by filing with the City Secretary a petition demanding the removal of the elected officer and signed by registered voters of the City equal in number to at least 30% of the registered voters of the City, in the case of the Mayor, or at least 30% of the registered voters in a single member district, in the case of a Councilmember elected from or appointed to represent a single member district. (b)The required number of registered voters for the recall petition will be determined by the existing voter registration rolls maintained by the Bell County Elections Department on the date the petition is filed with the City Secretary.</p>	<p>Section 111. Any member of the City Council, including the mayor, may be removed from office by recall. Recall procedure: Section 112. Any elector of the City of Killeen may make and file with the city clerk an affidavit containing the name or names of the officer or officers whose removal is sought and a statement of the grounds for removal. By the close of business on the first business day following receipt of the affidavit, the clerk shall deliver to the elector making such affidavit copies of petition blanks demanding such removal. Such blanks when issued by the city clerk shall bear the signature of that officer and be addressed to the city council, and shall be numbered, dated, and indicate the name of the person to whom issued. The petition blanks when issued shall also indicate the number of such blanks issued and the name of the officer whose removal is sought. The city clerk shall enter in a record to be kept in his office the name of the</p>	<p>Section 9.01 General Authority - Recall. The qualified voters of the City shall have the power to petition for recall of the Mayor or any member of the City Council.</p>	<p>Section 6.11. - Power of Recall. □ The people of the City reserve the power to recall any elected City officer and may exercise the power by filing with the City Clerk a petition signed by qualified voters of the City equal in number to at least fifteen percent (15%) of the number of registered voters within the City on the date the petition is first filed with the City Clerk, demanding the removal of the elected officer and stating the reasons for removal. The petition shall be signed and verified as required for an initiative petition and a separate petition must be filed for each officer being recalled.</p> <p>Section 6.12. - Recall Election. □ The provisions requiring a five (5) member committee, an affidavit and a petition being filed for commencement of initiative petitions, and the provisions for examination, certification, and amendment of petitions shall apply to recall petitions. If the City Clerk certifies the petition as sufficient, the City Council shall, at the first meeting for which timely notice may be given, order a special election to be held at the earliest</p>	<p>SECTION 8.12 RECALL: GENERAL. Any member of the City Council, including the Mayor, may be removed from office by recall.</p> <p>SECTION 8.13 RECALL PROCEDURE. Any elector of the City of Harker Heights may make and file with the City Clerk an affidavit containing the name or names of the officer or officers whose removal is sought and a statement of the grounds for removal. The clerk shall thereupon deliver to the elector making such affidavit copies of petition blanks on hand for distribution. Such blanks when issued by the City Clerk shall bear the signature of that office and be addressed to the City Council, and shall be numbered, dated, and indicate the name of the person to whom issued. The petition blanks when issued shall also indicate the number of such blanks issued and the name of the person to whom issued. The petition blanks when issued shall also indicate the number of such blanks issued and the name of the officer whose removal is sought. The City Clerk shall enter a record to be kept in his/her office the name of the elector to whom the petition blanks</p>
83						
84	General Provisions					

	A	B	C	D	E	F
2		Temple	Killeen	Nolanville	Belton	Harker Heights
85	Construction	Section 15.5. CONSTRUCTION: This Charter must be liberally construed to carry out its intents and purposes.	Construction and Separability Clause: Section 148. The charter shall be liberally construed to carry out its intents and purposes. If any section or part of section of this charter shall be held invalid by a court of competent jurisdiction such holding shall not affect the remainder of this charter nor the context in which such section or part of section so held invalid may appear, except to the extent that an entire section or part of section may be inseparably connected in meaning and effect with the section or part of section to which such holding shall directly apply.	Section 11.10 Construction of Charter: The Charter shall not be construed as a mere grant of enumerated powers, but shall be construed as a general grant of power and as a limitation of power on the government of the City of Nolanville in the same manner as the Constitution of Texas is construed as a limitation of the powers of the Legislature. Except where expressly prohibited by this Charter, each and every power under Article XI, Section 5 of the Constitution of Texas, which it would competent for the people of the City of Nolanville to expressly grant to the City, will be construed to be granted to the City by this Charter. (Charter adopted 11/2/10)	Section 1.08	SECTION 2.02 CONSTRUCTION. The powers of the City under this charter shall be construed liberally in favor of the City, and specific mention of particular powers in the charter shall not be construed as limiting in any way the general power stated in this article. It is intended that all of the powers enumerated in Chapter 13, Title 28, Revised Civil Statutes of the State of Texas of 1925 and the acts amendatory thereof and supplementary thereto now or hereafter enacted, or any other powers which, under the Constitution and laws of the State of Texas, it would be competent for this charter to specifically enumerate, and also such further power as may hereafter be granted under the Constitution and laws of Texas.

	A	B	C	D	E	F
2		Temple	Killeen	Nolanville	Belton	Harker Heights
86	General Prohibitions	Not specifically written.	Section 11. The City of Killeen shall have exclusive dominion, control and jurisdiction in, upon, and over and under the public streets, avenues, alleys and highways of the city, and may provide for the improvement thereof by paving, re-paving, raising, draining, or otherwise. Such exclusive dominion, control and jurisdiction in, upon, over and under the public streets, avenues, alleys and highways of the city shall also include, but not be limited to, the right to regulate, locate, relocate, remove or prohibit the location of, all utility pipes, lines, wires, or other property.	Not specifically written.	<p>Section 4.05. - Prohibitions. □ The Council shall have powers only as a body meeting with a quorum present and no member shall have power to act individually except where that power may, consistent with this Charter, be conferred on a member by the City Council.</p> <p>No member of the Council shall hold any other City office or City employment during his or her term of office, and no former member of the Council shall hold any City office with compensation until one (1) year after the expiration of the full term of office to which such member was appointed or elected.</p> <p>No member of the Council shall give orders directly to any City employee, except when empowered by State law to do so during an emergency, and all members of the Council shall deal with the officers, employees and administrative offices that are supervised by the City Manager, through the City Manager.</p>	<p>SECTION 10.02 PROHIBITIONS, ACTIVITIES PROHIBITED.</p> <p>No person shall be appointed to or removed from, or in any way favored or discriminated against with respect to any City position or appointive City administrative office because of age, race, sex, political or religious opinions or affiliations, marital status, or national origin.</p> <p>No person shall willfully make any false statement, certificate, mark, rating or report in regard to any test, certification or appointment under the personnel provisions of this charter or the rules and regulations made thereunder, or in any manner commit or attempt to commit any fraud preventing the impartial execution of such provisions, rules and regulations.</p> <p>No person who seeks appointment or promotion with respect to any City position or appointive City administrative office shall directly or indirectly give, render or pay any money, service or other valuable thing to any person for or in connection with his/her test, appointment, proposed appointment, promotion or proposed promotion.</p>