

ORDINANCE NO. 20121213-004

AN ORDINANCE RENUMBERING AND REARRANGING THE CITY CHARTER.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. The City Charter at Article XII Section 11 states "The council shall have the power, by ordinance, to renumber and rearrange all articles, sections, and paragraphs of this Charter or any amendments thereto, as it shall deem appropriate...."

PART 2. On November 6, 2012, City of Austin voters passed Propositions 1, 2, 3, 4, 5, 7, 9, and 10 amending the City Charter.

PART 3. As forth in Exhibit A, the Charter is renumbered and rearranged, integrating changes to the affected articles, sections, and paragraphs, as Council deems appropriate.

PART 4. This Ordinance takes effect on December 24, 2012.

PASSED AND APPROVED

December 13, 2012 §
 §
 § Lee Leffingwell
 Mayor

APPROVED: Karen M. Kennard **ATTEST:** Shirley A. Gentry
 City Attorney Shirley A. Gentry
 City Clerk

CHARTER

Preamble.

Article I. Incorporation, Form of Government, Powers.

Article II. The Council.

Article III. Elections.

Article IV. Initiative, Referendum, and Recall.

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Article XII. General Provisions.

PREAMBLE.

We the citizens of Austin, in reverence to the dignity and the enrichment of all people, do ordain and establish this Charter to assure economic, environmental, and cultural prosperity throughout our community.

ARTICLE I. INCORPORATION, FORM OF GOVERNMENT, POWERS.

§ 1. INCORPORATION.

The inhabitants of the City of Austin, Travis County, Texas, within its corporate limits, as established by Chapter 90, page 634, Special Laws of Texas, 1909, 31st Legislature, and as extended by ordinances of the City of Austin enacted subsequent thereto, shall continue to be and are hereby constituted a body politic and corporate, in perpetuity, under the name the "City of Austin," hereinafter referred to as the "city," with such powers, privileges, rights, duties, and immunities as are herein provided.

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§ 2. FORM OF GOVERNMENT.

The municipal government provided by this Charter shall be, and shall be known as, "council-manager government." Pursuant to the provisions of, and subject only to the limitations imposed by, the state constitution, the state laws, and this Charter, all powers of the city shall be vested in and exercised by an elective council, hereinafter referred to as "the council," which shall enact legislation, adopt budgets, determine policies, and appoint the city manager who shall execute the laws and administer the government of the city.

§ 3. GENERAL POWERS.

The city shall have all the powers granted to cities by the Constitution and laws of the State of Texas, together with all the implied powers necessary to carry into execution such granted powers. The city may use a corporate seal; may sue and be sued; may contract and be contracted with; may cooperate with the government of the State of Texas or any agency or 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; may acquire property within or without its corporate limits for any municipal purposes in fee simple, or in any lesser interest or estate, by purchase, gift, devise, lease or condemnation, and, subject to the provisions of this Charter, may sell, lease, mortgage, hold, manage, and control such property as may now or hereafter be owned by it; may pass ordinances and enact such regulations as may be expedient for the maintenance of the good government, order, and peace of the city and the welfare, health, morals, comfort, safety, and convenience of its inhabitants. In addition to the powers enumerated herein, and subject only to the limitations imposed by the state constitution, the state laws, and this Charter, the city shall have, without the necessity of its express enumeration in this Charter, each and every power which, by virtue of Article XI, Section 5, of the Constitution of Texas, the people of the city are empowered by election to grant to or confer upon the city by expressly and specifically granting and enumerating the same herein.

§ 4. STREETS AND PUBLIC PROPERTY.

The city shall have exclusive dominion, control, and jurisdiction, in, upon, over, and under the public streets, sidewalks, alleys, highways, public squares, and public ways within the corporate limits of the city, and in, upon, over, and under all public property of the city. With respect to each and every public street, sidewalk, alley, highway, public square, or other public way within the corporate limits of the city, the city shall have the power to establish, maintain, alter, abandon, or vacate the same; to regulate, establish, or change the grade thereof; to control and regulate the use thereof; and to abate and remove in a summary manner any encroachment thereon.

§ 5. STREET DEVELOPMENT AND IMPROVEMENT.

The city shall have the power to develop and improve, or cause to be developed and improved, any and all public streets, sidewalks, alleys, highways, and other public ways within the corporate limits of the city by laying out, opening, narrowing, widening, straightening, extending and establishing building lines along the same; by purchasing, condemning, and taking property therefor; by filling, grading, raising, lowering, paving, repaving, and repairing, in a permanent

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manner, the same; and by constructing, reconstructing, altering, repairing, and realigning curbs, gutters, drains, sidewalks, culverts, and other appurtenances and incidentals in connection with such development and improvements. The city may make or cause to be made any one or more of the kinds or classes of development and improvement authorized hereinabove, or any combination or parts thereof. The cost of such development and improvement shall be paid by the city, or partly by the city and partly by assessments levied against the property abutting thereon and the owners thereof, and such assessments may be levied in any amounts and under any procedure now or hereafter permitted by state law.

If improvements be ordered constructed in any part of the area between and under rails, tracks, double-tracks, turnouts and switches, and two (2) feet on each side thereof, of any railway, using, occupying, or crossing any such highway, portion or portions thereof, ordered improved, then the city council shall have power to assess the whole cost of improvements in such area against such railway, and shall have power, by ordinance, to levy a special tax upon such railway, and its road-bed, ties, rails, fixtures, rights and franchises, which tax shall constitute a lien thereon superior to any other lien or claim except state, county, and city ad valorem taxes, and which may be enforced either by sale of said property in the manner provided by law for the collection of ad valorem taxes by the city, or by suit in any court having jurisdiction. The ordinance levying such tax shall prescribe the time, terms and conditions of payment thereof, and the rate of interest, not to exceed eight percent (8%) per annum, and same, if not paid when due, shall be collectible, together with interest, to expenses of collection and reasonable attorney's fees, if incurred. The city council shall have power to cause to be issued assignable certificates in evidence of any such assessments.

As an alternate and cumulative method of developing, improving, and paving any and all public streets, sidewalks, alleys, highways, and other public ways within the corporate limits, the city shall have the power and authority to proceed in accordance with Chapter 106, page 489, Acts 1927, Fortieth Legislature, First Called Session, as now or hereafter amended ; to adopt plans and specifications pursuant thereto; to pay to the contractor, the successful bidder, in cash, that part of the cost which may be assessed against the abutting property and the owners thereof; to reimburse itself for the amount paid such contractor by levying assessments against the abutting property and the owners thereof, after the hearing and notice prescribed in the aforesaid statutes, in an amount permitted by said statutes and not in excess of the enhancement in value of such property occasioned by the improvements; and to issue assignable certificates in favor of the city for such assessments, said certificates to be enforceable in the manner prescribed by the aforesaid statutes. The city shall likewise have the power to make any such development, improvement or paving with its own forces if, in the opinion of the council, the work can be done more expeditiously or economically, and in such event the city shall have the power to reimburse itself for the cost of such improvement in the same amount and in the same manner as if the work had been performed by a successful bidding contractor.

§ 6. ANNEXATION FOR ALL PURPOSES.

The City Council shall have the power by ordinance to fix the boundary limits of the City of Austin; and to provide for the alteration, reduction, and the extension of said boundary limits, and the annexation of additional territory lying adjacent to the city, with or without the consent of the territory and inhabitants annexed. Before the City may institute annexation or disannexation

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proceedings, the City Council shall provide an opportunity for all interested persons to be heard at a public hearing. Prior notice of such hearings shall be published in accordance with state law in a newspaper having general circulation in the City and in the territory proposed to be annexed.

Upon the final passage of any such ordinance, the boundary limits of the City shall thereafter be fixed in such ordinance; and when any additional territory has been so annexed, same shall be a part of the City of Austin, and the property situated therein shall bear its pro rata part of the taxes levied by the city, and the inhabitants thereof shall be entitled to all rights and privileges of all the citizens, and shall be bound by the acts, ordinances, resolutions, and regulations of the City.

§ 7. LIMITED PURPOSE ANNEXATION.

In addition to the power to annex additional territory for all purposes, the City shall have the power, by ordinance, to fix, alter, and extend the corporate boundary limits of the City for the limited purposes of planning, zoning, health, and safety and to annex for such limited purposes additional territory lying adjacent to the City, with or without the consent of the property owners or inhabitants of such annexed territory; provided, however, that no such territory which lies farther than five miles from the corporate boundary limits enclosing the territory which is a part of the City for all purposes, as those corporate boundary limits are now or may hereafter be established shall be annexed for any limited purpose or purposes. Whenever the boundary limits annexed for such limited purposes are not coterminous with the corporate boundary limits enclosing the territory which a part of the City for all purposes, such boundary limits of the limited purpose territory shall be known as "Limited Purpose Boundary Limits." Every ordinance by which territory is to be annexed to the City for limited purposes shall state clearly the limited purpose or purposes for which it is being annexed, and shall be published one time, in a newspaper of general circulation in the City and in the form in which it is to be finally adopted, not less than thirty (30) days prior to its final passage.

When any additional territory has been annexed for said limited purpose or purposes, it shall be a part of the city for such limited purpose or purposes only. However, in dealing with the property and inhabitants thereof, the City shall have every power which it otherwise possesses and which is reasonable and expedient for the accomplishment of the limited purpose or purposes for which such property is annexed, and the power of the City to deal with the property and inhabitants of such limited purpose territory shall include the powers enumerated in the next two (2) succeeding sentences but shall not be limited or restricted thereto. With regard to territory annexed for the limited purpose of planning or zoning, the City shall have the power to control and regulate the use of property and the density of structures, to require compliance with reasonable zoning regulations, to control and regulate the subdivision of property and to control and regulate the construction of buildings. With regard to territory annexed for the limited purpose or purposes of health or safety, the City shall have the power to adopt all reasonable regulations pertaining to health and safety and to require compliance with such regulations. Every inhabitant of territory annexed for limited purpose or purposes, who is otherwise qualified, shall be entitled to vote in City elections on every issue where the questions is the election or recall of a City councilmember or the amendment of this Charter, and every such inhabitant shall be deemed to be a citizen of the City in connection with any ordinance, regulation, or action which is, or is alleged to be, applicable to him or her or his or her property because of such limited purpose annexation, but will not be eligible to run for any office in the City of Austin. The City shall have no power to levy any tax for municipal purposes on either the property of the inhabitants of

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territory annexed for limited purpose or purposes, and no funds of the City shall be spent in such territory except where reasonable and expedient for the accomplishment of the limited purpose or purposes for which the territory is annexed; but the City may collect reasonable charges from property owners and inhabitants of such territory for services rendered by the City in the accomplishment of the limited purpose or purposes for which the territory is annexed.

ARTICLE II. THE COUNCIL.

§ 1. COUNCIL MEMBERSHIP.

- (A) The council shall be composed of:
 - (1) a mayor elected from the city at-large; and
 - (2) 10 council members elected from single-member districts.
- (B) The term "council member(s)" includes the mayor unless otherwise provided.
- (C) The independent citizens redistricting commission, as prescribed below in Section 3, shall be empowered to divide the city into 10 geographical council districts for the election of council members. The commission shall designate each council district by a number or by other designation.

§ 2. ELIGIBILITY OF COUNCIL MEMBERS.

- (A) A candidate for mayor must meet all eligibility requirements of state law and must have resided continuously in the state for 12 months and in the city for six months immediately preceding the regular filing deadline for a mayoral candidate's application for a place on the ballot. If the mayor ceases to reside in the city, the mayor automatically resigns.
- (B) A candidate for city council from a council district must meet all eligibility requirements of state law and must have resided continuously in the state for 12 months and in the council district from which the member is seeking election for six months immediately preceding the regular filing deadline for a council candidate's application for a place on the ballot. If a council member elected from a council district ceases to reside in the district as the boundaries of the district were drawn at the time of the council member's election, the council member automatically resigns.

§ 3. REDISTRICTING.

- (A) For purposes of this section, the following terms are defined:
 - (1) COMMISSION means the Independent Citizens Redistricting Commission.
 - (2) CONTROLLING PERSON means an officer, director, manager, principal, or shareholder or member owning at least 10% ownership of a legal entity.
 - (3) DAY means a calendar day, except that if the final day of a period within which an act is to be performed is a Saturday, Sunday, or holiday in which the City of Austin's offices are closed, the period is extended to the next day that is not a Saturday, Sunday, or holiday in which the City of Austin's offices are closed.
 - (4) PANEL means the Applicant Review Panel of three qualified, independent auditors that screens applicants for the Commission.

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- (5) QUALIFIED INDEPENDENT AUDITOR means an auditor who is currently licensed by the Texas Board of Public Accountancy and has been a practicing independent auditor for at least five years prior to appointment to the Applicant Review Panel.
- (6) SPOUSE means one's licensed marriage spouse, common law spouse, or recognized domestic partner.
- (7) SUBSTANTIAL NEGLECT OF DUTY means that an individual has disregarded a manifest duty, prescribed by this section, intentionally, knowingly, or negligently. Missing half or more of the meetings in a three month period constitutes a substantial neglect of duty.
- (B) In 2013 and thereafter in each year following the year in which the national census is taken under the direction of Congress at the beginning of each decade, the Commission shall adjust the boundary lines of the 10 single-member districts in conformance with the standards and process set forth in this article. The Commission shall be fully established no later than July 1, 2013, and thereafter no later than March 1 in each year ending in the number (1). The Commission shall not draw district lines at any other time, except if the districts must be redrawn because of a judicial decision invalidating the then existing district plan, in whole or in part, or the date of the city election is moved. If the date of the city election is moved, then the dates in this article shall be adjusted to ensure the commission has sufficient time to draw the lines prior to the election date.
- (C) The commission shall:
 - (1) conduct an open and transparent process enabling full public consideration of and comment on the drawing of district lines;
 - (2) draw district lines according to the redistricting criteria specified in this section; and
 - (3) conduct themselves with integrity and fairness. This selection process is designed to produce a commission that is independent from influence by the City Council and is reasonably representative of this city's diversity.
- (D) The commission shall consist of 14 members.
 - (1) Each commission member shall be a voter who has been continuously registered in the City of Austin for five or more years immediately preceding the date of his or her appointment. Each commission member, except the student member described below, shall have voted in at least three of the last five city of Austin general elections immediately preceding his or her application. One commission member shall be a student duly enrolled in a community college or university in the City of Austin and who resides and is registered to vote in the City of Austin.
 - (2) The term of office of each member of the commission expires upon the appointment of the first member of the succeeding commission in the year following the year in which the national census is taken.
 - (3) Nine members of the commission shall constitute a quorum. Nine or more affirmative votes shall be required for any official action, including approval of a final plan establishing the boundaries of any council district.
 - (4) Each commission member shall apply this section in a manner that is impartial and that reinforces public confidence in the integrity of the redistricting process. A commission member shall be ineligible, for a period of 10 years beginning from the date of appointment, to hold elective public office for the City of Austin. A member of the commission shall be ineligible, for a period of three years beginning

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from the date of appointment, to hold appointive public office for the City of Austin, to serve as paid staff for or as a paid consultant to the City of Austin, the City Council or any member of the City Council, or to receive a non-competitively bid contract with the City of Austin. This three year ban on having a paid consultancy or entering noncompetitively bid contracts applies to the member individually and all entities for which the member is a controlling person.

- (E) The commission shall establish the boundaries of the council districts for the City of Austin in a plan using the following criteria as set forth in the following order of priority:
 - (1) districts shall comply with the United States Constitution. Each council district shall have reasonably equal population with other districts, except where deviation is required to comply with the federal Voting Rights Act or allowable by law.
 - (2) districts shall comply with the federal Voting Rights Act (42 U.S.C. Sec. 1971 and following) and any other requirement of federal or state law.
 - (3) districts shall be geographically contiguous.
 - (4) the geographic integrity of any local neighborhood or local community of interest shall be respected in a manner that minimizes their division to the extent possible without violating the requirements of any of the preceding subsections. A community of interest is a contiguous population that shares common social and economic interests that should be included within a single district for purposes of its effective and fair representation. Communities of interest shall not include relationships with political parties, incumbents, or political candidates.
 - (5) to the extent practicable, district boundaries shall be drawn to encourage geographical compactness such that nearby areas of population are not bypassed for more distant populations.
 - (6) to the extent practicable, district boundaries shall be drawn using the boundaries of existing election precincts.
 - (7) to the extent practicable, district boundaries shall be drawn using geographically identifiable boundaries.
- (F) The place of residence of any incumbent or potential political candidate shall not be considered in the creation of a plan or any district. Districts shall not be drawn for the purpose of favoring or discriminating against any incumbent, political candidate, or political group.
- (G) By December 1, 2013, and thereafter by November 1 in each year ending in the number one (1), the commission shall adopt a final plan for the City of Austin specifically describing the district boundaries for each of the council districts prescribed above. Upon adoption, the commission shall certify the plan to the City Council. The city council may not change the plan. The plan shall have the force and effect of law.
 - (1) The commission shall issue a report that explains the basis on which the commission made its decisions in achieving compliance with the criteria listed above and shall include definitions of the terms and standards used in drawing the final plan.
 - (2) If the commission does not adopt a final plan by the dates in this section, the city attorney for the City of Austin shall immediately petition state court for an order prescribing the boundary lines of the single-member districts in accordance with the redistricting criteria and requirements set forth in this Section. The plan prescribed by the court shall be used for all subsequent city council elections until a final plan is adopted by the commission to replace it.

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- (H) The commission has the sole legal standing to defend any action regarding a certified final map, and shall inform the City Council if it determines that funds or other resources provided for the operation of the commission are not adequate. The City Council shall provide adequate funding to defend any action regarding a certified map. The commission has sole authority to determine whether the city attorney or other legal counsel retained by the commission at its discretion shall represent the commission in defense of a certified final map.
- (I) Commission Selection Process.
 - (1) No later than December 1, 2012, and thereafter by June 1 in each year ending in the number zero, the City of Austin Auditor shall initiate and widely publicize an application process, open to all registered City of Austin voters who meet the requirements of subdivision 3(D)(1) above, in a manner that promotes a large, diverse (by race, ethnicity, gender, and geography) and qualified Commissioner applicant pool. The City Auditor shall take all reasonable and necessary steps to ensure that the pool has the requisite numbers, diversity, and qualifications. This process shall remain open until February 1, 2013 and thereafter until September 30 in each year ending in the number zero.
 - (2) No later than December 1, 2012 and thereafter by June 1 in each year ending in the number zero, the City of Austin Auditor shall initiate and widely publicize an application process, open to all qualified independent auditors that reside in the City of Austin and who meet the requirements of subdivision 3(A)(5) above, in a manner that promotes a large pool of applicants and applicant diversity by race, ethnicity, gender, and geography. This process shall remain open until February 1, 2013 and thereafter until September 1 in each year ending in the number zero.
 - (3) The City of Austin Auditor shall remove from the commissioner or independent auditor applicant pool any person with conflicts of interest including:
 - (a) Within the five years immediately preceding the date of application, either the applicant or their spouse, shall have done any of the following:
 - (i) been appointed to, elected to, or have been a candidate for state or city office.
 - (ii) served as an officer, employee, or paid consultant of a political party or of the campaign committee of a candidate for elective state, county or city office.
 - (iii) been a registered state or local lobbyist.
 - (iv) contributed or bundled \$1,000 or more in aggregate to candidates for City of Austin elective office in the last city election.
 - (b) A person who has been, within the three years immediately preceding the date of application: a paid employee of the City of Austin; person performing paid services under a professional or political contract to the City of Austin, to the City Council, or to any member of the City Council; any controlling person of any such consultant; or a spouse of any of the foregoing.
 - (4) No later than February 15, 2013, and no later than October 1 in each year ending in the number zero, the City of Austin Auditor shall review the auditor review panel applicants and remove those who do not meet the prescribed qualifications in subdivision 3(A)(5) or have conflicts of interest as defined by subdivision 3(I)(3). No later than February 15, 2013, and no later than October 1 in each year ending in the number zero, the City of Austin Auditor shall at a public meeting

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randomly draw the names of three qualified independent auditors from a pool consisting of all qualified independent auditors, without conflicts of interest, that have applied to serve on the Applicant Review Panel. After the drawing, the City Auditor shall notify the three qualified independent auditors whose names have been drawn that they have been selected to serve on the panel. If any of the three qualified independent auditors declines to serve on the panel or is disqualified because of any conflict of interest prescribed above in subdivision 3(I)(2), the City of Austin Auditor shall resume the random drawing at a public meeting as soon as possible until three qualified independent auditors who meet the requirements of this section have agreed to serve on the panel.

- (5) No later than March 1, 2013, and thereafter no later than October 31 in each year ending in the number zero, the City of Austin Auditor shall have reviewed and removed individuals with conflicts of interest as defined in subdivision 3(I)(3), or fail to meet the qualification prescribed in subdivision 3(D)(1), from among the commission applicants, and then shall publicize the names in the applicant pool and provide copies of their applications to the Applicant Review Panel.
- (6) No later than May 1, 2013, and thereafter by January 15 in each year ending in the number one, the Applicant Review Panel shall select a pool of 60 applicants from among the qualified applicants. These persons shall be the most qualified applicants on the basis of relevant analytical skills, ability to be impartial, residency in various parts of the City, and appreciation for the City of Austin's diverse demographics and geography. The members of the Applicant Review Panel shall not communicate directly or indirectly with any elected member of the City Council, or their representatives, about any matter related to the nomination process or any applicant prior to the presentation by the panel of the pool of recommended applicants to the City Council.
- (7) No later than May 2, 2013, and by January 16 in each year ending in the number one thereafter, the Applicant Review Panel shall submit its pool of 60 recommended applicants to the City Council. Each member of the City Council within five days in writing may strike up to one applicant from the pool of applicants. No reason need be given for a strike. Any applicant struck by any member of the City Council must be removed from the pool of applicants. No later than May 8, 2013, and thereafter by January 22 in each year ending in one, the Applicant Review Panel shall submit the pool of remaining applicants to the City of Austin Auditor.
- (8) No later than May 9, 2013 and thereafter by January 23 in each year ending in the number one, the City of Austin Auditor shall randomly draw at a public meeting eight names from the remaining pool of applicants. These eight individuals shall serve on the Citizens Redistricting Commission.
- (9) No later than June 30, 2013, and thereafter by February 28 in each year ending in the number one, the eight commissioners shall review the remaining names in the pool of applicants and, from the remaining applicants in that pool, shall appoint six applicants to the commission. These six appointees must be approved by at least five affirmative votes among the eight commissioners. These six appointees shall be chosen to ensure that the commission reflects the diversity of the City of Austin, including, but not limited to, racial, ethnic, and gender diversity. However, it is not intended that formulas or specific ratios be applied for this

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purpose. Applicants shall also be chosen based on relevant analytical skills and ability to be impartial. As for geographic diversity, for the first redistricting in 2013, the eight commissioners shall appoint the remaining six members to ensure geographic diversity and that at least three commissioners come from each of the four existing Travis County Commissioners districts, to the extent feasible with the remaining six open seats. As for the redistricting in each year ending in the number one thereafter, the eight commissioners shall ensure that at least one commission member resides in each of the then current council districts, to the extent feasible with the remaining six open seats.

- (10) Once constituted, the commission shall conduct hearings and adopt a plan for the boundaries of the city's council districts as required by the charter of the City of Austin.

(J) Citizens Redistricting Commission Vacancy, Removal, Resignation, or Absence.

- (1) In the event of substantial neglect of duty, gross misconduct in office, or inability to discharge the duties of office, a member of the commission, having been served written notice and provided with an opportunity for a response, may be removed by a vote of 10 of the Commissioners.
- (2) Any vacancy, whether created by removal, resignation, or absence, in the 14 commission positions shall be filled by the Commission within 15 days after the vacancy occurs, from the remaining pool of applicants and in compliance with the applicant requirements of subdivision 3(I)(8). Nine members must agree to any appointment.

(K) The activities of the Citizens Redistricting Commission are subject to all of the following:

- (1) the commission shall comply with all state and city requirements for open meetings.
- (2) the records of the commission and all data considered by the commission are public records that will be made available in a manner that ensures immediate and widespread public access.
- (3) commission members and commission staff may not communicate with or receive communications about redistricting matters from anyone outside of a public hearing. This paragraph does not prohibit communication between commission members, commission staff (which shall exclude staff of any council members), legal counsel, and consultants retained by the commission that is otherwise permitted by state and city open meeting requirements.
- (4) the commission shall select one of its members to serve as the chair and one to serve as vice chair. The chair and vice chair shall remain voting members of the commission.
- (5) the commission shall hire commission staff, legal counsel, and consultants as needed; provided, however, that compensation of such persons shall be limited to the period in which the commission is active. The commission shall establish clear criteria for the hiring and removal of these individuals, communication protocols, and a code of conduct. The commission shall apply the conflicts of interest listed in subdivision 3(I)(3) to the hiring of staff, legal counsel, and consultants. The commission shall require that at least one of the legal counsel hired by the commission has demonstrated extensive experience and expertise in implementation and enforcement of the federal Voting Rights Act of 1965 (42 U.S.C. Sec. 1971 and following). The commission shall make hiring, removal, or

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contracting decisions on staff, legal counsel, and consultants by nine or more affirmative votes.

- (6) notwithstanding any other provision of law, no employer shall discharge, threaten to discharge, intimidate, coerce, or retaliate against any employee by reason of such employee's membership on the commission or attendance or scheduled attendance at any meeting of the commission.
- (7) the commission shall establish and implement an open hearing process for public input and deliberation that shall be subject to public notice and promoted through an extensive outreach program to solicit broad public participation in the redistricting public review process. The hearing process shall begin with hearings to receive public input before the commission votes and approves a preliminary redistricting plan. In 2013, there shall be at least two such public hearings, before the commission votes on a preliminary plan, in each of the four Travis County Commissioner Precincts, and in each year ending in the number one thereafter, there shall be at least one such public hearing, before the commission votes on a preliminary redistricting plan in each of the then existing 10 council districts. In addition, these hearings shall be supplemented with all other appropriate activities to further increase opportunities for the public to observe and participate in the review process.

Following the commission's vote approving the preliminary plan, there shall be at least four public hearings, geographically dispersed with at least one hearing in each of the four Travis County Commissioners' precincts and hearing shall be held on a different date. The commission also shall display the approved preliminary plan for written public comment in a manner designed to achieve the widest public access reasonably possible. Written public comment shall be taken for at least 14 days from the date of public display of the approved preliminary plan. The commission then shall vote on a proposed final plan and then it shall hold two subsequent public hearings, one north of Lady Bird Lake and one south of Lady Bird Lake and take at least five days of written public comments. The Commission then shall be finished with all hearings and adopt a final plan by no later than December 1, 2013, and thereafter by November 1 in each year ending in the number one.

- (8) members of the commission shall not be compensated for their service. Members of the panel and the commission are eligible for reimbursement of reasonable and necessary personal expenses incurred in connection with the duties performed pursuant to this act.
- (9) the City Council shall appropriate sufficient funds to meet the operational cost of the commission and the cost of any outreach program to solicit broad public participation in the redistricting process.
- (10) the commission shall remain inactive except when necessary to comply with its duties under this ordinance and the charter of the City of Austin.

§ 4. TRANSITION.

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- (A) This section provides for a transition from the seven-member council elected at large to the 11-member council provided by this article. Except as provided in this section, and after the transition as prescribed in this section, the mayor and council members shall serve three-year terms.
- (B) The three council members elected at large in May 2011 shall serve three-year terms. The mayor and three council members elected at-large in the May 2012 general election shall serve two-year terms.
- (C) A general election shall be held for the council in May 2014, at which the mayor and the 10 council members elected from council districts shall be elected.
- (D) As soon as practicable after assuming office after the May 2014 general election, the City Clerk shall divide at a public hearing the council members elected from council districts into two classes by drawing lots. Class One shall consist of five council members who shall serve initial two-year terms. Class Two shall consist of five council members who shall serve three-year terms.
- (E) At the May 2016 general election, the five Class One council members elected by districts will be elected for three-year terms.
- (F) At the May 2017 general election, the Mayor and five Class Two council members elected by districts will be elected for three year terms, marking the end of the transition period.

§ 5. TERM LIMITS.

(A) Except as provided in Subsection (C), a person may not be elected to or serve in the office of Mayor for more than two consecutive terms, and a person who has held the office of Mayor for more than two years of a term to which some other person was elected Mayor may not be elected to the office of Mayor more than once in succession.

(B) Except as provided in Subsection (C), a person may not shall be elected to or serve on the City Council in a position other than Mayor for more than two consecutive terms, and a person who has held a position other than Mayor for more than two years of a term to which some other person was elected to the position may not be elected to a position other than Mayor more than once in succession.

(C) A person subject to a term limit with respect to an office may become a candidate for the office and serve if elected if the person's application to be a candidate for the office is accompanied by a petition requesting that the person be authorized to be a candidate and the petition is signed by at least five per cent of the qualified voters of the territory from which the office is elected.

§ 6. VACANCIES.

Where a vacancy in any place on the council shall occur, the vacant place shall be filled by a special election, and, where necessary, by a run-off election, in the same manner as provided in this Charter for the regular election of a councilmember. Such special election shall be held on the next available state uniform election date following the creation of the vacancy, and the run-off election shall be held according to state law following the preceding election; provided, however, that where a vacancy shall occur within ninety (90) days of a regular election, no special election to fill the vacancy shall be called, unless more than one vacancy occurs.

Exhibit A

§ 7. POWERS OF THE COUNCIL.

All powers and authority which are expressly or impliedly conferred on or possessed by the city shall be vested in and exercised by the council; provided, however, that the council shall have no power to, and shall not:

(A) Sell, convey, lease, mortgage, or otherwise alienate any land which is now, or shall hereafter be, dedicated for park purposes, unless:

- (1) the qualified voters of the city shall authorize such act by adopting in a general or special election a proposition submitting the question and setting forth the terms and conditions under which such sale, conveyance, lease, mortgage, or other alienation is to be made; or
- (2) a lease is to an independent school district, as defined by state law, for a purpose that two-thirds of the council find is a park purpose.

(B) Sell, convey, or lease all or any substantial part of the facilities of any municipally owned public utility, provided that the council may lease all or a substantial part of such facilities to any public agency of the State of Texas if the qualified voters of the city authorize such lease by adopting in a general or special election a proposition submitting the question and setting forth the terms and conditions under which such lease is to be made.

(C) Accept or admit liability in, or pay any claim for damages asserted against the city without first obtaining a written opinion from the city attorney regarding the city's liability therein.

§ 8. INVESTIGATIVE BODY.

The council shall have the express power to inquire into the official conduct of any department, agency, office, officer or employee of the city, and for that purpose shall have the power to administer oaths, subpoena witnesses, compel the production of books, papers, and other evidence material to the inquiry. The council shall provide by ordinance penalties for contempt in failing or refusing to obey any such subpoena or to produce any such books, papers or other evidence, and shall have the power to punish any such contempt in the manner provided by such ordinance.

§ 9. INTERFERENCE IN PERSONNEL MATTERS.

Neither the council nor any of its members shall instruct or request the city manager or any of his or her subordinates to appoint to or remove from office or employment any person except with respect to those offices which are to be filled by appointment by the council under the provisions of this Charter. Except for the purpose of inquiry and investigation, the council and its members shall deal with the administrative service of the city solely through the city manager and shall not give orders to any of the manager's subordinates either publicly or privately.

§ 10. MAYOR AND MAYOR PRO TEM.

Exhibit A

The councilmember elected to and occupying the place designated “mayor” shall be the mayor of the City of Austin. At its first meeting following each regular election of councilmembers, the council shall, by election, designate one of its number as mayor pro tem, who shall serve in such capacity during the pleasure of the council. The mayor shall preside at all meetings of the council and shall be recognized as head of the city government for all ceremonial purposes, for the purpose of receiving service of civil process, and for military purposes, but he or she shall have no regular administrative duties. The mayor, as a member of the council, shall be entitled to vote upon all matters considered by the council, but shall have no veto power. The mayor pro tem shall act as mayor during the absence or disability of the mayor, and shall have power to perform every act the mayor could perform if present.

§ 11. CITY CLERK.

The council shall appoint the city clerk who shall serve at the pleasure of the council. The city clerk shall keep the records of the council, and shall have such other duties and responsibilities as may be assigned by this Charter and the council.

§ 12. MEETINGS OF THE COUNCIL.

The council shall meet in regular session at the City Hall at least once each week at such time as may be prescribed by ordinance, unless otherwise ordered by the council for reasons to be spread upon the minutes. Special meetings of the council shall be called by the city clerk upon written request of the mayor or two (2) members of the council. All meetings shall be open to the public except as may be authorized by the laws of the State of Texas.

§ 13. RULES OF PROCEDURE.

The council shall by ordinance determine its own rules and order of business. A majority of the whole council shall constitute a quorum, and no action of the council shall be of any force or effect unless it is adopted by the favorable votes of a majority of the whole council. Minutes of all meetings of the council shall be taken and recorded, and such minutes shall constitute a public record.

§ 14. PROCEDURE TO ENACT LEGISLATION.

The council shall legislate by ordinance only, and the enacting clause of every ordinance shall be, “BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN.” Before any ordinance shall be adopted, the city attorney shall approve such ordinance in writing or shall file with the city clerk his or her written legal objections thereto. Every ordinance enacted by the council shall be signed by the mayor, mayor pro tem, or by two councilmembers, and shall be filed with and recorded by the city clerk before the same shall become effective. Unless otherwise provided by law or this Charter, no ordinance shall become effective until the expiration of 10 days following the date of its final passage, except where an ordinance relating to the immediate preservation of the public peace, health or safety, is adopted as an emergency measure by the favorable votes of at least two-thirds of the councilmembers and contains a statement of the nature of the emergency.

Exhibit A

§ 15. PUBLICATION OF ORDINANCE.

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

§ 16. CODE OF ORDINANCES.

Within six (6) months after the effective date of this section, the council shall cause all general ordinances of the city to be compiled and printed in code form. For the purpose of this section general ordinances shall be deemed to be those ordinances of a permanent or continuing nature which affect the residents of the city at large. Every general ordinance enacted subsequent to the original codification required above shall be enacted as an amendment to the code. After the original codification, the council shall have the power to cause all general ordinances to be recodified and reprinted whenever in its discretion such is deemed desirable, and it shall be mandatory upon the council to cause all general ordinances to be recodified and reprinted before the expiration of any ten (10) consecutive years following the last preceding codification or recodification. When adopted by the council, the printed codes of general ordinances contemplated by this section shall be in full force and effect without the necessity of such codes or any part thereof being published in any newspaper.

§ 17. PROOF OF ORDINANCE.

An ordinance of the City of Austin may be proved prima facie by a printed code of ordinances purporting to be printed by authority of the city, or by a copy of the ordinance certified by the city clerk to be a true copy of the same, or by the city clerk's official record thereof.

ARTICLE III. ELECTIONS.

§ 1. SPECIAL ELECTIONS.

The council may by ordinance call such special elections as are authorized by the state law and this Charter, fix the time of holding same, and provide all means for holding such special elections, provided that every special election shall be held on a Saturday, unless otherwise provided by law or this Charter, and shall be held as nearly as practicable according to the provisions governing general elections.

§ 2. ELECTION DATE; COUNCIL TERMS; ELECTION BY MAJORITY AND RUN-OFF ELECTIONS.

Exhibit A

- (A) The City's general election shall be held on the November uniform election date authorized by state law in even-numbered years. Notwithstanding any other provision of this Charter, the regular term of the mayor and council members is four years. Council terms shall be staggered so that a general election is held every two years, and half or as near to half as is practical, of the council is elected at each election.
- (1) The council shall provide by ordinance for the transition from three-year terms to four-year terms and for staggering the terms of council members. The ordinance may provide for drawing lots for initial terms or temporarily lengthening or shortening individual council member's terms to accomplish the transition. If a council member's term is shortened by more than a year for the purpose of the transition, that shortened term does not count as a term for the purpose of Article II Section 5 of this Charter. When this paragraph has served its purpose, it expires, and need not be reprinted in future versions of the Charter.
- (B) A council member shall hold office for a term specified by this Charter or until a successor has been elected and qualified. If elected to fill an unexpired term, a council member shall hold office for the remainder of the unexpired term or until a successor has been elected and qualified.
- (C) The regular term of a council member begins on the date set by ordinance. A councilmember may qualify for office on that date or as soon thereafter as practicable. In the case of a special election to fill an unexpired term, the person elected may qualify and assume office as soon as practicable after the canvass of the election.
- (D) At every regular election and at every special election called to fill one or more vacant places on the council, election to each place on the council shall be by a majority of all the votes cast for such place at such election. In every such election each qualified voter shall vote for not more than one candidate for each council place to be filled. Where in an election to a place on the council, no candidate receives a majority of all the votes cast for such place at such election, the council shall, immediately upon declaring the official results of the election, issue a call for a run-off election for every place to which no one was elected. Such run-off election shall be held in accordance with state law and the two (2) candidates who received in the preceding election the highest number of votes for each place to which no one was elected shall be voted on again, and the candidate who receives the majority of the votes cast for each such place in the run-off election shall be elected to such place.

§ 3. REGULATION OF ELECTIONS.

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 council for the conduct of elections. Provided that the council shall appoint the election judges and other election officials. Voting precincts shall be established by ordinance and may be altered from time to time in like manner.

§ 4. FILING OF CANDIDATES.

Exhibit A

Any qualified person who desires to become a candidate for election to a place on the council shall file with the city clerk at least forty-five (45) days prior to the election day an application for his or her name to appear on the ballot. Such application shall be accompanied by a filing fee of five hundred dollars (\$500.00). If the petition is sufficient to satisfy statutory requirements, the filing fee may be reduced by one dollar (\$1.00) per signature for each registered voter who signs a petition requesting that the name of the candidate be placed on the ballot. In case of a district position, the petition shall be signed by registered voters residing in the particular district. Such application shall clearly designate by number the place on the council to which the candidate seeks election and shall contain a sworn statement by the candidate that he or she is fully qualified under the laws of Texas and the provisions of this Charter to hold the office he or she seeks.

§ 5. BALLOTS.

For every regular election and for every special election called to fill one or more vacant places on the council, the city clerk shall place upon the official ballot the name of every candidate who shall file an application which complies with the provisions of this Charter. The council places to be filled shall be placed on the ballot in numerical order. The name of each candidate shall be placed on the ballot under the designated place for which he or she shall have filed, and in such manner that the names of the candidates for each place shall be clearly separate and distinguishable from the names of the candidates for every other council place. The order on the ballot of the names of the candidates for each respective council place shall be determined by lot in a drawing to be held under the supervision of the city clerk, at which drawing each candidate or his or her named representative shall have a right to be present.

§ 6. CANVASSING ELECTION AND DECLARING RESULTS.

The returns of every municipal election shall be delivered by the election judges to the city clerk not later than twelve (12) hours after the closing of the polls. The council shall canvass the returns and declare the official results of the election in accordance with state law. The returns of every municipal election shall be recorded in the minutes of the council, by precinct totals for each candidate.

§ 7. CAMPAIGN CONTRIBUTION AND EXPENSE STATEMENTS.

The city clerk shall electronically publish campaign finance reports that are filed in the clerk's office in compliance with law. The publication shall be by means of the Internet or by a similar technology that may become available after the enactment of this section. The council may adopt ordinances to administer this section. The ordinances may provide for the manner and duration of electronic publication.

§ 8. LIMITS ON CAMPAIGN CONTRIBUTIONS AND EXPENDITURES.

(A) Limits On Contributions To Candidates.

(1) No candidate for Mayor or City Council and his or her campaign committee shall accept campaign contributions in excess of \$300 per contributor per election from any person,

Exhibit A

except for the candidate and small-donor political committees. The amount of the contribution limit shall be modified each year with the adoption of the budget to increase or decrease in accordance with the most recently published federal government, Bureau of Labor Statistics Indicator, Consumer Price Index (CPI-W U.S. City Average) U.S. City Average. The most recently published Consumer Price Index on May 13, 2006, shall be used as a base of 100 and the adjustment thereafter will be to the nearest \$50.00.

(2) Each candidate may authorize, establish, administer, or control only one campaign committee at one time.

(3) No candidate and his or her committee shall accept an aggregate contribution total of more than \$30,000 per election, and \$20,000 in the case of a runoff election, from sources other than natural persons eligible to vote in a postal zip code completely or partially within the Austin city limits. The amount of the contribution limit shall be modified each year with the adoption of the budget to increase or decrease in accordance with the most recently published federal government, Bureau of Labor Statistics Indicator, Consumer Price Index (CPI-W U.S. City Average) U.S. City Average. The most recently published Consumer Price Index on May 13, 2006, shall be used as a base of 100 and the adjustment thereafter will be to the nearest \$1,000.00.

(B) Small-Donor Political Committees.

(1) A small-donor political committee is a political committee which has accepted no more than \$25 from any contributor during any calendar year, has had at least 100 contributors during either the current or previous calendar year, has been in existence for at least six months, and has never been controlled by a candidate.

(2) Such a committee shall not contribute more than \$1000 per candidate per election for the offices of Mayor and City Council.

(C) Coordinated Expenditures.

Any expenditure supporting the election of a candidate or opposing the election of an opponent made with the prior consent of the candidate or his or her committee, or with cooperation or strategic communication between the candidate or his or her committee and the person making the expenditure, is considered a contribution and an expenditure.

(D) Contributions Considered To Be From One Committee.

Contributions made by separate political committees established, administered, maintained, or controlled by the same person or persons, including any parent, subsidiary, branch, division, department or local unit of the person, or by groups of those persons, shall be considered to be made by a single political committee.

(E) Responsibility Of Candidate To Prevent Violations.

The candidate, or his or her committee, shall determine whether accepting each contribution would violate this section before accepting the contribution.

Exhibit A

(F) Time Restrictions On Candidate Fundraising; Officeholder Accounts.

(1) In this section terms have the same meaning they have in Title 15 of the Texas Election Code. The term "officeholder account" means an account in which funds described by subsection (F)(4) must be kept. "Officeholder" means the mayor or a council member.

(2) An officeholder, a candidate for mayor or city council, or an officeholder's or candidate's committee may not solicit or accept a political contribution except during the last 180 days before an election for mayor or council member or in which an officeholder faces recall.

(3) Except as provided by subsection (F)(6), no later than the 90th day after an election, or if a candidate is in a runoff election no later than the 90th day after the runoff, a candidate or officeholder shall distribute the balance of funds received from political contributions in excess of any remaining expenses for the election: (a) to the candidate's or officeholder's contributors on a reasonable basis, (b) to a charitable organization, or (c) to the Austin Fair Campaign Fund.

(4) An unsuccessful candidate who, after an election, has unpaid expenses remaining, or who has unreimbursed campaign expenditures from personal funds that were made with the intent to seek reimbursement from political contributions, may solicit and accept political contributions after the election until the unpaid expenses are paid and the unreimbursed expenditures are reimbursed.

(5) An officeholder who, after an election, has unpaid expenses remaining, or who has unreimbursed campaign expenditures from personal funds that were made with the intent to seek reimbursement from political contributions, may solicit and accept political contributions after leaving office until the unpaid expenses are paid and the unreimbursed expenditures are reimbursed. An officeholder may also pay the unpaid expenses and reimburse the unreimbursed expenditures from political contributions received during a subsequent campaign.

(6) An officeholder may retain up to \$20,000 of funds received from political contributions for the purposes of officeholder expenditures.

(7) An officeholder shall keep funds retained under subsection (F)(6) in an account separate from any other funds including personal funds of the officeholder and any other political funds of the officeholder. The funds kept in an officeholder account may be used only for officeholder expenditures. The funds kept in an officeholder account may not be used for campaign expenditures. The funds kept in an officeholder account may not exceed \$20,000.00 at any time.

(8) When an officeholder leaves the Council the funds remaining in an officeholder account must be paid to the Austin Fair Campaign Fund.

(G) Applicability To Councilmembers.

Any incumbent mayor or councilmember is subject to the regulations applied to candidates for the office he or she holds.

Exhibit A

(H) Criminal or Civil Litigation Fund.

Nothing in this article applies to the solicitation, acceptance, or use of contributions for:

(1) defending a criminal action or prosecuting or defending a civil action brought by or against the person in the person's status as a candidate or officeholder; or

(2) participating in an election contest or participating in a civil action to determine a person's eligibility to be a candidate for, or elected or appointed to, a public office in this state.

(I) Enforcement.

The city council may by ordinance adopt penalties and enforcement procedures for violations of this Article.

(J) Severability.

If any provision of this section, or the application of that provision to any persons or circumstances, shall be held invalid, then the remainder of this section, to the extent that it can be given effect, and the application of that provision to persons or circumstances other than those to which it was held invalid, shall not be affected thereby, and to this extent the provisions of this section are severable.

ARTICLE IV. INITIATIVE, REFERENDUM, AND RECALL.

§ 1. POWER OF INITIATIVE.

The people of the city reserve the power of direct legislation by initiative, and in the exercise of such power may propose any ordinance, not in conflict with this Charter, the state constitution, or the state laws except an ordinance appropriating money or authorizing the levy of taxes. Any initiated ordinance may be submitted to the council by a petition signed by qualified voters of the city equal in number to the number of signatures required by state law to initiate an amendment to this Charter.

§ 2. POWER OF REFERENDUM.

The people reserve the power to approve or reject at the polls any legislation enacted by the council which is subject to the initiative process under this Charter, except an ordinance which is enacted for the immediate preservation of the public peace, health or safety, which contains a statement of its urgency, and which is adopted by the favorable votes of five (5) or more of the councilmembers. Prior to the effective date of any ordinance which is subject to referendum, a petition signed by qualified voters of the city equal in number to the number of signatures required by state law to initiate an amendment to this Charter may be filed with the city clerk requesting that any such ordinance be either repealed or submitted to a vote of the people. When such a petition has been certified as sufficient by the city clerk, the ordinance specified in the

Exhibit A

petition shall not go into effect, or further action thereunder shall be suspended if it shall have gone into effect, until and unless it is approved by the voters as herein provided.

§3. FORM AND VALIDATION OF A PETITION.

A petition under Section 1 or Section 2 of this article is subject to the requirements prescribed by state law for a petition to initiate an amendment to this Charter, and shall be in the form and validated in the manner prescribed by state law for a petition to initiate an amendment to this Charter.

§ 4. COUNCIL CONSIDERATION AND SUBMISSION TO VOTERS.

When the council receives an authorized initiative petition certified by the city clerk to be sufficient, the council shall either:

(a) Pass the initiated ordinance without amendment within ten (10) days after the date of the certification to the council; or

(b) Order an election and submit said initiated ordinance without amendment to a vote of the qualified voters of the city at a regular or special election to be held on the next allowable election date authorized by state law after the certification to the council.

When the council receives an authorized referendum petition certified by the city clerk to be sufficient, the council shall reconsider the referred ordinance, and if upon such reconsideration such ordinance is not repealed, it shall be submitted to the voters at a regular or special election to be held on the next allowable election date authorized by state law after the date of the certification to the council. Special elections on initiated or referred ordinances shall not be held more frequently than once each six (6) months, and no ordinance on the same subject as an initiated ordinance which has been defeated at any election may be initiated by the voters within two (2) years from the date of such election.

§ 5. BALLOT FORM AND RESULTS OF ELECTION.

The ballot used in voting upon an initiated or referred ordinance shall state the caption of the ordinance and below the caption shall set forth on separate lines the words, "For the Ordinance" and "Against the Ordinance."

Any number of ordinances may be voted on at the same election in accordance with the provisions of this article. If a majority of the votes cast is in favor of a submitted ordinance, it shall thereupon be effective as an ordinance of the city. An ordinance so adopted may be repealed or amended at any time after the expiration of two (2) years by favorable vote of at least three-fourths of the council. A referred ordinance which is not approved by a majority of the votes cast shall be deemed thereupon repealed.

§ 6. POWER OF RECALL.

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The people of the city reserve the power to recall any member of the council and may exercise such power by filing with the city clerk a petition, signed by qualified voters of the territory from which the council member is elected equal in number to at least 10 percent of the qualified voters of the territory from which the council member is elected, demanding the removal of a councilmember. 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 one of the signers of each petition paper shall make an affidavit that the statements therein made are true.

§ 7. RECALL ELECTION.

Within 20 days after a recall petition is filed, the city clerk shall examine the same. The provisions regulating examination, certification and amendment of initiative petitions shall apply to recall petitions. If the petition is certified by the city clerk to be sufficient and the councilmember whose removal is sought does not resign within five days after the certification to the council, the council shall order and hold a recall election in the territory from which the council member is elected on the first authorized election date that allows sufficient time to comply with other requirements of law.

§ 8. RECALL BALLOT.

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

(1) With respect to each person whose removal is sought the question shall be submitted "Shall (name of Councilmember) be removed from the office of City Councilmember?"

(2) Immediately below each such question there shall be printed the two (2) following propositions, one above the other, in the order indicated:

"For the recall of (name of Councilmember)"

"Against the recall of (name of Councilmember)."

§ 9. RESULTS OF RECALL ELECTION.

If a majority of the votes cast at a recall election shall be against removal of the councilmember named on the ballot, he or she shall continue in office. If the majority of the votes cast at such election be for the removal of the councilmember named on the ballot, the council shall immediately declare his or her office vacant and such vacancy shall be filled in accordance with the provisions of this Charter for the filling of vacancies. A councilmember thus removed shall not be candidate to succeed himself or herself in an election called to fill the vacancy thereby created.

§ 10. LIMITATION ON RECALL.

No recall petition shall be filed against a councilmember within six (6) months after he or she takes office, and no councilmember shall be subject to more than one recall election during a term of office.

ARTICLE V. ADMINISTRATIVE ORGANIZATION.

§ 1. THE CITY MANAGER.

The council shall appoint a city manager who shall be the chief administrative and executive officer of the city. He or she shall be chosen by the council solely on the basis of his or her executive and administrative training, experience, and ability, and need not, when appointed, be a resident of the City of Austin; however, during the tenure of his or her office, he or she shall reside within the city.

The city manager shall not be appointed for a definite term, but may be removed at the will and pleasure of the council by a majority vote of the entire membership of the council. If removed after serving six (6) months he or she may demand written charges and the right to be heard thereon at a public meeting of the council prior to the date on which his or her final removal shall take place. Pending such hearing, the council may suspend him or her from office. The action of the council in suspending or removing the city manager shall be final, it being the intention of this Charter to vest all authority and fix all responsibility for such suspension or removal in the council. The city manager shall receive such compensation as may be fixed by the council.

No member of the council shall, during the time for which he or she is elected or for two (2) years thereafter, be chosen as city manager.

§ 2. POWERS AND DUTIES OF THE CITY MANAGER.

The city manager shall be responsible to the council for the proper administration of all affairs of the city and to that end he or she shall have power and shall be required to:

- (1) Appoint and remove any officer or employee of the city except those officers appointed by the council and except as otherwise provided by this Charter.
- (2) Prepare the budget annually, submit it to the council, and be responsible for its administration after adoption.
- (3) Prepare and submit to the 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 council advised of the financial condition and future needs of the city and make such recommendations as may seem desirable.

Exhibit A

(5) Appoint, by letter filed with the city clerk, a qualified administrative officer of the city to perform his or her duties during his or her temporary absence or disability.

(6) Perform such other duties as may be prescribed by this Charter or required of him or her by the council, not inconsistent with the provisions of this Charter.

§ 3. ADMINISTRATIVE DEPARTMENTS.

There shall be such administrative departments as are established by this Charter and as may be established by ordinance, all of which shall be under the control and direction of the city manager. The council may abolish any department or combine one or more departments created by it, but no administrative department shall be created, abolished or combined with another department until the council has obtained and considered the recommendations of the city manager with regard thereto.

§ 4. DIRECTORS OF DEPARTMENTS.

At the head of each department there shall be a director who shall be appointed, and who may be removed, by the city manager. Such directors shall have supervision and control over their respective departments, and may serve as chiefs of divisions within their respective departments. Two (2) or more departments may be headed by the same individual, and the city manager may head one or more departments.

§ 5. DEPARTMENTAL ORGANIZATION.

The work of each department shall be distributed among such divisions as may be established by ordinance. Provided, however, that no departmental division shall be made until the city manager shall have been heard and have made his or her recommendations with respect thereto. Pending passage of ordinances establishing departmental divisions, the manager may establish temporary divisions in any department.

§ 6. CITY ATTORNEY.

There shall be a department of law, the head of which shall be the city attorney, who shall be appointed by the city manager. The city attorney shall be a competent attorney who shall have practiced law in the State of Texas for at least five (5) years immediately preceding his or her appointment. The city attorney shall be the legal advisor of, and attorney for, all of the officers and departments of the city, and he or she shall represent the city in all litigation and legal proceedings. He or she shall draft, approve, or file his or her written legal objections to, every ordinance before it is acted upon by the council, and he or she shall pass upon all documents, contracts and legal instruments in which the city may have an interest.

There shall be such assistant city attorneys as may be authorized by the council, who shall be authorized to act for and on behalf of the city attorney.

ARTICLE VI. MUNICIPAL COURT.

§ 1. MUNICIPAL COURT.

There shall be a court known as the municipal court of the City of Austin, with such jurisdiction, powers and duties as are given and prescribed by the laws of the State of Texas.

§ 2. JUDGE OF THE MUNICIPAL COURT.

The municipal court shall be presided over by a magistrate who shall be known as the judge of the municipal court. He or she shall be appointed by the council for a four-year term beginning on January first of even numbered years. He or she shall be removed only for cause or disability as defined in the State Constitution. He or she shall have been admitted to practice law in the State of Texas for not less than two (2) years and shall have resided in the city for a period of not less than two (2) years immediately preceding his or her appointment.

In the event the judge of the municipal court is unable to act for any reason, the council shall appoint an attorney possessing the qualifications required above to act in his or her place. The judge, or anyone acting in his or her place, shall receive such compensation as may be set by the council.

The council shall have the power to create and establish additional municipal courts, and to appoint more than one judge of each municipal court, whether one or more, each of whom shall be a magistrate and shall have the qualifications and serve the term of office prescribed in the first paragraph of this section.

If any judge of a municipal court announces candidacy, or in fact becomes a candidate, in any general, special, or primary election, for any elective public office, at a time when the unexpired term of the judge's office exceeds one year, the judge's announcement or candidacy is an automatic resignation of the office of municipal judge.

§ 3. CLERK OF THE MUNICIPAL COURT.

There shall be a clerk of the municipal court who shall be appointed by, and who shall serve at the pleasure of, the council. The clerk shall have the power to administer oaths and affidavits, make certificates, affix the seal of the court thereto, and otherwise perform any and all acts necessary in issuing process or such court and conducting the business thereof.

There shall be such deputy clerks of the municipal court as may be authorized by the council, who shall have authority to act for and on behalf of the clerk of the municipal court, and who shall be appointed by the clerk of the municipal court.

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§ 4. FINES AND FORFEITURES — POWER OF COUNCIL.

The city council shall have the power to remit fines, forfeitures and penalties for the violation of penal ordinances of the city, and to grant reprieves and pardons for all offenses arising under the penal ordinances of the city.

ARTICLE VII. FINANCE.

§ 1. DEPARTMENT OF FINANCE.

There shall be a department of finance, the head of which shall be the director of finance. The director of finance shall be appointed by the city manager, shall have knowledge of municipal accounting and shall have had experience in budgeting and financial control. Said 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.

§ 2. DIRECTOR OF FINANCE — POWERS AND DUTIES.

The director of finance shall administer all financial affairs of the city, other than the assessment and collection of taxes. He or she shall have authority and be required to:

- (1) Maintain a general accounting system for the city government and exercise financial control over all offices, departments, and agencies thereof;
- (2) Certify as to the availability of funds for all proposed expenditures. Unless the Director of Finance shall certify that there is an unencumbered balance in the appropriation and funds available, no appropriation shall be encumbered and no expenditure shall be made;
- (3) Submit to the council through the city manager a monthly statement of all receipts and disbursements in sufficient detail to show the exact financial condition of the city;
- (4) Prepare, as of the end of the fiscal year, a complete financial statement and report.

§ 3. FISCAL YEAR.

The fiscal year of the city which began on January 1, 1953, shall end on December 31, 1953. The next succeeding fiscal year shall begin on January 1, 1954, and end on September 30, 1954, and shall constitute an interim fiscal period. After September 30, 1954, the fiscal year of the city shall begin on the first day of October and end on the last day of September of each calendar year. The fiscal year established by this section shall also constitute the budget and accounting year. As used herein the term "budget year" shall mean the fiscal year for which any budget is adopted and in which it is administered. All funds collected by the city during any fiscal year, including both current and delinquent revenues, shall belong to such fiscal year and, except for funds derived to pay interest and create a sinking fund on the bonded indebtedness of the city, shall be applied to the payment of expenses incurred during such fiscal year. Any revenues uncollected at the end of any fiscal year shall become resources of the next succeeding fiscal year.

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§ 4. INTERIM BUDGET.

The city manager shall submit to the council an interim budget which shall be prepared, as nearly as practicable, in accordance with the requirements for the budget document herein prescribed, for the interim fiscal period hereinabove established. Following the approval of such interim budget, the council shall enact such appropriation and other ordinances as may be necessary for the effectuation of such interim budget.

§ 5. THE BUDGET DOCUMENT.

The budget for the city government shall present a complete financial plan for the ensuing fiscal year, and shall consist of three parts as follows:

Part I shall contain:

- (1) A budget message, prepared by the city manager, which shall outline his or her proposed fiscal plan for the city and describe significant features of the budget for the forthcoming fiscal period;
- (2) A general budget summary which, with supporting schedules, will show the relationship between total proposed expenditures and total anticipated revenues for the forthcoming fiscal period and which shall compare these figures with corresponding figures for the last completed fiscal year and the year in progress.

Part II shall contain:

- (1) Detailed estimates of all proposed expenditures, showing the corresponding expenditures for each item for the current fiscal year and the last preceding fiscal year with explanations of increases or decreases recommended;
- (2) Detailed estimates of anticipated revenues and other income;
- (3) Delinquent taxes for current and preceding years, with the estimated percentage collectible; and
- (4) Statement of the indebtedness of the city, showing debt redemption and interest requirements, debt authorized and unissued, and conditions of the sinking funds.

Part III shall contain a proposed complete draft of the appropriation ordinance, the tax levying ordinance, and any other ordinances required to effectuate the budget.

§ 6. BUDGET PREPARATION AND ADOPTION.

At least thirty (30) days prior to the beginning of each budget year, the city manager shall submit to the council a proposed budget in the form required by this Charter. At the meeting of the council at which the budget is submitted, the council shall order a public hearing on the budget and shall cause to be published, at least ten (10) days prior to the date of such hearing, the

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time and place thereof. At the time and place so advertised the council shall hold a public hearing on the budget as submitted, at which all interested persons shall be given an opportunity to be heard. The budget shall be finally adopted not later than the twenty-seventh day of the last month of the fiscal year. Upon final adoption the budget shall be in effect for the budget year, and copies thereof shall be filed with the city clerk, the County Clerk of Travis County, and the state comptroller of public accounts. The final budget shall be reproduced and sufficient copies shall be made available for use of all offices, departments, and agencies of the city, and for the use of interested persons.

§ 7. WORK PROGRAMS AND ALLOTMENTS.

At the beginning of each fiscal year the head of each department or agency of the city government, upon the direction of the city manager, shall submit to the department of finance a work program for the year. Said work program shall include all appropriations for operation, maintenance, and capital outlays and shall indicate the requested allotments of such appropriations by months for the entire fiscal year. The city manager shall review the requested allotments, and, after such alteration or revision as he may deem necessary, authorize such for expenditure. Thereafter the department of finance shall authorize all expenditures for departments and agencies to be made from the appropriations on the basis of the approved allotments and not otherwise. The approved allotments may be revised during the fiscal year by the city manager, or upon application by the head of any department or agency and approval by the city manager, but in no event shall the aggregate of departmental or agency allotments exceed the appropriation available to such departments or agencies for the fiscal year. If, at any time during the fiscal year, the city manager shall ascertain that available revenues will be less than total appropriations for the year, he or she shall reconsider the work program and allotments of the departments and agencies and revise them so as to prevent the making of expenditures in excess of available revenues.

§ 8. APPROPRIATIONS.

No funds of the city shall be expended nor shall any obligation for the expenditure of money be incurred, except in pursuance of the annual or interim period appropriation ordinance provided by this Charter. At the close of each fiscal year any unencumbered balance of an appropriation shall revert to the fund from which appropriated and may be reappropriated by the city council. The council may transfer any unencumbered appropriation balance or portion thereof from one office, department, or agency to another. The city manager shall have authority, without council approval, to transfer appropriation balances from one expenditure account to another within a single office, department, or agency of the city.

§ 9. DEPOSITORIES.

All monies received by any person, department, or agency of the city for or in connection with affairs of the city shall be deposited promptly in city depositories, which shall be designated by the council in accordance with such regulations and subject to such requirements as to security for deposits and interest thereon as may be established by ordinance. All checks, vouchers, or warrants for the withdrawal of money from the city depositories shall be signed by the director of finance or his or her deputy and countersigned by the city manager.

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§ 10. GENERAL OBLIGATION BONDS.

The city shall have the power to borrow money on the credit of the city and to issue general obligation bonds for the acquisition of property for permanent public improvements or for any other public purpose not now or hereafter prohibited by the constitution and laws of the State of Texas. Except for the refunding of bonds previously issued, any proposition to borrow money and to issue such bonds shall first be approved by a majority of the qualified voters voting at an election called for the purpose of authorizing the issuance of such indebtedness. The ordinance calling such election and the manner of conducting the election shall conform in all respects to the general laws of the State of Texas.

§ 11. REVENUE BONDS.

The city shall have power to borrow money for the purpose of constructing, purchasing, improving, extending or repairing of public utilities, recreational facilities or facilities for any other self liquidating municipal function not now or hereafter prohibited by any general law of the state, and to issue revenue bonds to evidence the obligation created thereby. Such bonds shall be a charge upon and payable solely from the properties, or interest therein, acquired and the income therefrom, and shall never be a debt of the city. All revenue bonds issued by the city shall first be authorized by a majority of the qualified electors voting at an election held for such purpose. The council shall have authority to provide for the terms and form of any purchase agreement, contract, mortgage, bond or document desired or necessary for the issuance of revenue bonds and the acquisition and operation of any such property or interest.

§ 12. REVENUE BONDS FOR CONSERVATION.

In order to conserve the energy-producing resources, water resources, and wastewater treatment facilities of the city and, therefore, to save money of the city, the city shall have power to borrow money for the purpose of providing conservation facilities, including facilities to be owned or operated by persons other than the city, and to issue revenue bonds, notes or other obligation in evidence of such borrowing. Such bonds shall be a charge upon and payable solely from the public utilities referred to in the first paragraph of this Section 11 and the income therefrom, and shall never be a debt of the city. All revenue bonds or obligations shall be issued in accordance with applicable laws of the State of Texas. The council shall have the authority to provide for the terms and form of any purchase agreement, contract, mortgage, bond or document desired or necessary for the issuance of revenue bonds and the providing of any such resource conservation facilities.

§ 13. SALE OF BONDS.

All bonds issued by the city shall be sold in accordance with state law.

§ 14. SINKING FUND.

It shall be the duty of the council to levy an annual tax sufficient to pay the interest on and provide the necessary sinking fund required by law on all outstanding general obligation bonds of the city. The interest and sinking fund shall be deposited in a separate account and shall not be

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diverted to or used for any other purpose than to pay the interest and principal on such bonds. The sinking fund maintained for the redemption of any debt may be invested in any interest bearing bonds of the United States government, the State of Texas, the County of Travis, or the City of Austin.

§ 15. PURCHASE PROCEDURE.

All purchases made and contracts executed by the city shall be pursuant to a written requisition from the head of the office, department or agency whose appropriation will be charged, and no contract or order shall be binding upon the city unless and until the director of finance certifies that there is to the credit of such office, department or agency a sufficient unencumbered appropriation balance to pay for the supplies, materials, equipment or contractual services for which the contract or order is to be issued. Before the city makes any purchase or contract for supplies, materials, equipment or contractual services, opportunity shall be given for competition unless exempted by state statute. The city manager shall have the authority to contract for expenditures without further approval of the council for an expenditure that does not exceed forty-three thousand dollars annually. A contract or an amendment to a contract, involving an expenditure of more than forty-three thousand dollars annually must be expressly approved by the council. All contracts or purchases involving more than five thousand dollars (\$5,000.00) shall be let to the bid deemed most advantageous to the city after there has been an opportunity for competitive bidding; provided, however, that the council shall have the right to reject any and all bids. Contracts for personal or professional services shall not be let on competitive bids and each such contract, or amendment to a contract, involving more than forty-three thousand dollars annually shall be approved by the council. The city manager may not contract for personal or professional services under the manager's authority if the manager knows or reasonably should know that the contractor's full scope of work will exceed the limit of the manager's authority. The amount of the forty-three thousand dollar annual limitation shall be modified each year with the adoption of the budget to increase or decrease in accordance with the most recently published federal government, Bureau of Labor Statistics Indicator, Consumer Price Index (CPI-W U.S. City Average) U.S. City Average. The most recently published Consumer Price Index on May 4, 2002, shall be used as a base of 100 and the adjustment thereafter will be to the nearest one thousand dollars (\$1,000.00).

§ 16. INDEPENDENT AUDIT.

At the close of each fiscal year, and at such other times as 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 shall be published immediately in a newspaper in the city of Austin and copies placed on file in the City Hall as a public record.

§ 17. CITY AUDITOR.

There shall be a city auditor who shall be appointed by the city council. The city auditor may be removed at the conclusion of a five-year term of office by a majority of the city council, or during the five- year term by a vote of three-fourths of the city council. The auditor shall report

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to the city council through an audit committee of the council. The auditor shall have such duties, responsibilities and staff as determined by ordinance including the responsibility to conduct, or cause to be conducted, financial, performance, investigative, and other audits following government auditing standards as promulgated by the Comptroller General of the United States. The city auditor shall assist the city council in establishing accountability and in improving city system and service delivery.

ARTICLE VIII. TAXATION.

§ 1. TAXES — ARREARS OF OFFSET TO DEBT AGAINST CITY.

No money shall be paid by the city upon any claim, debt, demand or account whatsoever to any person, firm or corporation who is in arrears to the City of Austin for taxes; and the city shall be entitled to counter-claim and offset against any such debt, claim, demand or account in the amount of taxes so in arrears, and no assignment or transfer of such debt, claim, claim, demand or account after the said taxes are due, shall affect the right of the city to so offset the said taxes against the same.

ARTICLE IX. PERSONNEL.

§ 1 Classified Civil Service.

- (A) To the extent of any conflict with other provisions of this Charter, this article controls. If another ballot proposition amending the previous Section 1 of this article is approved by the voters at the same election at which this section is adopted, this section supersedes and replaces the other amendment to Section 1, but does not supersede or replace other amendments to this article that were part of the other proposition.
- (B) There is hereby established a classified civil service in which all employment and promotions shall be made on the basis of merit and fitness. The civil service shall include all appointive offices and employments in the administrative service and in other agencies and offices of the City, except the following:
 - (1) members of the city council and their direct staff;
 - (2) persons who are appointed or elected by the city council pursuant to this Charter;
 - (3) the city manager and assistant city managers;
 - (4) department directors and assistant department directors;
 - (5) the city attorney and all assistant city attorneys;
 - (6) temporary and seasonal employees; and
 - (7) employees covered by a state civil service statute.

§ 2 Municipal Civil Service Commission.

- (A) There shall be a municipal civil service commission consisting of five commissioners, one of whom shall serve as chair.
- (B) The city council shall appoint the commissioners, and shall designate one of the five as chair. Commissioners shall be appointed for a term of three years, except that of

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the first five commissioners appointed after adoption of this section, one shall be appointed for a one year term and two each shall be appointed for two and three-year terms so that thereafter commissioners will serve staggered terms. Any vacancy occurring after appointment shall be filled by the city council for the remainder of the unexpired term.

- (C) Each commissioner must be a qualified voter of the City who does not, during the commissioner's term, hold or become a candidate for any other public office of the City or of the State of Texas.
- (D) Commissioners may be paid compensation for their services as determined in advance by the city council.
- (E) A commissioner may be removed before the end of the commissioner's term only for cause, and after receiving a written statement of the reasons for removal and a public hearing before the city council if the commissioner requests a hearing.
- (F) Three members of the commission constitute a quorum. The commission must act by majority vote. The chair has the same voting rights as the other commissioners.
- (G) The commission shall:
 - (1) hear appeals and make final, binding decisions in the case of any municipal civil service employee or appointee who is discharged, suspended, demoted, denied a promotion, or put on disciplinary probation;
 - (2) recommend the adoption of civil service rules and perform services under the civil service rules as provided in this section;
 - (3) conduct any investigations it may consider desirable or which it may be required to make by the city council or the city manager concerning the administration of municipal civil service, and report its findings and recommendations to the City Council;
 - (4) perform other duties regarding the municipal civil service, not inconsistent with this article, that the City Council may require;
 - (5) issue subpoenas and subpoenas duces tecum to witnesses, whether at the request of interested parties or on its own motion, when reasonably necessary to obtain pertinent evidence at a hearing or investigation; and
 - (6) administer oaths to witnesses appearing at a hearing or investigation.

§ 3 Human Resources Director.

- (A) There shall be a human resources department, the head of which shall be the human resources director. The human resources director shall be appointed and may be removed by the city manager, and must have had training and experience in personnel administration.
- (B) The human resources director shall:
 - (1) perform the duties prescribed by this article, by ordinance, by the commission, or by the city manager, according to their respective authorities under this Charter;
 - (2) prepare and recommend to the city manager a classification plan, and amendments thereto, for a classified municipal civil service;
 - (3) certify all payrolls for persons in the classified service at the time of initial employment, upon change of status, or upon removal from the payroll; and

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- (4) perform such other duties and functions as may be prescribed by the council or the city manager.

§ 4 Civil Service Rules.

- (A) The administration of the classified municipal civil service, including the employment or appointment of all persons in the municipal civil service, shall be governed, as far as practicable, by rules and regulations known as the municipal civil service rules.
- (B) Within 12 months following the adoption of this section, the human resources director shall prepare civil service rules that meet the requirements specified in this section and recommend them to the civil service commission. After notice and public hearing, the commission shall make any modifications it deems necessary, and recommend that the city council adopt the rules. The civil service rules become effective when adopted by the city council by ordinance.
- (C) After the civil service rules are adopted, they may be amended at any time by using the same process used for the initial adoption of the rules.
- (D) At a minimum, the civil service rules must contain provisions governing:
 - (1) initial appointments, promotions, and lateral transfers, all of which shall be based on merit and fitness;
 - (2) disciplinary probation or suspension, involuntary demotion, denial of promotion, and discharge, all of which, in the case of non-probationary employees, must be for cause;
 - (3) the establishment of probationary periods not to exceed six months for all initial appointments, during which time the appointee may be removed from the position without cause;
 - (4) the establishment of probationary periods not to exceed three months for all promotional appointments, during which time the appointee may be removed from the position promoted to, and returned to his/her prior position, without cause;
 - (5) procedures for reductions in force that give consideration to the affected employees' length of service and past work performance; and
 - (6) other provisions, not inconsistent with this subsection, that may be required by the city council.
- (E) The personnel policies in effect and applicable to the classified service on the effective date of this ordinance shall remain in effect until superseded by civil service rules adopted under this section.

§ 5. EMPLOYEES' RETIREMENT SYSTEM.

There shall be a retirement system for the employees of the city which shall be known as the employees' retirement system of the City of Austin. After the first six (6) months of employment, all municipal employees except the mayor, members of the council, members of boards and commissions, employees of the fire department, and part-time or temporary employees, shall become members of such system. Such system shall be governed by a board of directors composed of such members and selected in such a manner as may be provided by ordinance of the council, provided that classified employees shall have representation on the board. Such

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system shall be financed by a retirement fund created by contributions of the members and of the city, and the contributions by the city shall always be equal to or greater than the contributions of the members. The benefits payable to any member upon retirement shall be based upon the amount of contributions made on behalf of such member, and shall be determined on an actuarial basis. Upon separation of any member from the service of the city before retirement, such member shall be entitled to receive only the amount of his or her contributions to the fund and interest thereon.

Establishment of the employees' retirement system shall not preclude the council from merging such system with, or adopting, any voluntary statewide or national retirement system where the general benefits of such merger or change are at least equal to those under the employees' retirement system. The council shall likewise not be precluded from consolidating any retirement system maintained by employees of the fire department with the employees' retirement system of the City of Austin under terms agreeable to both systems.

§ 6. COUNCIL APPOINTEES.

- (A) Notwithstanding any other provision of this Charter:
- (1) each member of the City Council may hire assistants and other office staff as may be necessary to carry out the duties and responsibilities of the city council, and as may be authorized by ordinance;
 - (2) each of the salaried city employees that this Charter provides be appointed by the City Council shall hire and manage the appointee's own staff as may be authorized by ordinance;
 - (3) the City Council may by ordinance provide for the adoption of the personnel policies for the employees subject to this section.
- (B) If an officer or employee who is appointed by the city council under this Charter, other than a judge of a municipal court, announces candidacy, or in fact becomes a candidate, in any general, special, or primary election, for any elective public office, the officer's or employee's announcement or candidacy is an automatic resignation of the office or employment.

ARTICLE X. PLANNING.

§ 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 Austin to prepare, adopt and implement a comprehensive plan to guide, regulate and manage the future development within the corporate limits and 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. Through the process of comprehensive planning and the preparation, adoption and implementation of a comprehensive plan, the city intends to preserve, promote, protect and improve the public health, safety, comfort, order, appearance, convenience and general welfare; prevent the overcrowding of land and avoid undue concentration or diffusion of population or land uses; facilitate the adequate and efficient

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provision of transportation, water, wastewater, schools, parks, recreational facilities, housing and other facilities and services; and conserve, develop, utilize and protect natural resources.

It is further the intent of this article that the adopted comprehensive plan shall have the legal status set forth herein, and that no public or private development shall be permitted, except in conformity with such adopted comprehensive plan or element or portion thereof, prepared and adopted in conformity with the provisions of this article.

§ 2. THE PLANNING COMMISSION — ORGANIZATION.

There shall be established a planning commission which shall consist of citizens of the City of Austin who must be registered voters in the city and must have resided within the city for one year next preceding their appointment. The planning commission shall have a number of members equal to the number of members on the council plus two (2) additional members, a minimum of two-thirds of the members who shall be lay members not directly or indirectly connected with real estate and land development. The city manager, the chairperson of the zoning board of adjustment, the director of public works and the president of the board of trustees of the Austin Independent School District shall serve as ex officio members. The members of said commission shall be appointed by the council for a term of two (2) years, five (5) members to be appointed in every odd-numbered year and four (4) members in every even-numbered year. The commission shall elect a chairperson from among its membership and shall meet not less than once each month. Vacancies in an unexpired term shall be filled by the council for the remainder of the term.

§ 3. DIRECTORS FOR PLANNING, GROWTH MANAGEMENT AND LAND DEVELOPMENT SERVICES.

The city council shall create by ordinance the department or departments necessary to provide technical and administrative support in the areas of planning, growth management and land development, and the director(s) of said department(s) shall be appointed by the city manager.

§ 4. THE PLANNING COMMISSION — POWERS AND DUTIES.

The planning commission shall:

(1) Review and make recommendations to the council regarding the adoption and implementation of a comprehensive plan (as defined by Section 5 of this article) or element or portion thereof prepared under authorization of the city council and under the direction of the city manager and responsible city planning staff;

(2) After a comprehensive plan or element or portion thereof has been adopted in conformity with this article:

(a) Review and make recommendation to the council on all amendments to the comprehensive plan or element or portion thereof;

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(b) Review and make recommendations to the council on all proposals to adopt or amend land development regulations for the purpose of establishing the relationship of such proposal to, and its consistency with, the adopted comprehensive plan or element or portion thereof. For purposes of this article and subsection, "land development regulations" includes zoning, subdivision, building and construction, environmental, and other police power regulations controlling, regulating, or affecting the use or development of land;

(3) Pursuant to ordinances adopted by the council, exercise control over platting and subdividing land within the corporate limits and the extraterritorial jurisdiction of the city to insure the consistency of any such plats or subdivision with the adopted comprehensive plan or element or portion thereof;

(4) 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 necessary or desirable to implement the adopted comprehensive plan or element or portion thereof during the forthcoming five-year period;

(5) Monitor and oversee the effectiveness and status of the comprehensive plan and recommend annually to the council any changes in or amendments to the comprehensive plan as may be desired or required;

(6) Prepare periodic evaluation and appraisal reports on the comprehensive plan, which shall be sent to the council at least once every five (5) years after the adoption of the comprehensive plan or element or portion thereof;

(7) Require information from the city manager relative to its work;

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 not inconsistent with the provisions of this Charter.

§ 5. THE COMPREHENSIVE PLAN.

The council shall adopt by ordinance a comprehensive plan, which shall constitute the master and general plan. The comprehensive plan 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, community or areawide plans. The comprehensive plan shall include the following elements: (1) a future land use element; (2) a traffic circulation and mass transit element; (3) a wastewater, solid waste, drainage and potable water element; (4) a conservation and environmental resources element; (5) a recreation and open space element; (6) a housing element; (7) a public services and facilities element, which shall include but not be limited to a capital improvement program; (8) a public buildings and related facilities element; (9) an economic element for commercial and industrial development and redevelopment; and (10) health and human service element.

The council may also adopt by ordinance other elements as are necessary or desirable to establish and implement policies for growth, development and beautification within the city, its

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extraterritorial jurisdiction, or for geographic portions thereof, including neighborhood, community, or areawide plans. The council shall provide for financing of all elements contained in the comprehensive plan in accordance with law.

The several elements of the comprehensive plan shall be coordinated and be internally consistent. Each element shall include policy recommendations for its implementation and shall be implemented, in part, by the adoption and enforcement of appropriate land development regulations.

The planning commission shall forward the proposed comprehensive plan or element or portion thereof to the city manager, who shall thereupon submit such plan, or element or portion thereof, to the council with recommendations thereon.

The council may adopt, or adopt with changes or amendments, the proposed comprehensive plan or element or portion thereof, after at least one public hearing. The council shall act on such plan, element or portion thereof, within sixty (60) days following its submission by the city manager. If such plan or element or portion thereof is not adopted by the council, it shall, with policy direction, return such plan or element thereof to the planning commission, which may modify such plan or element or portion thereof, and again forward it to the city manager for submission in like manner to the council. Furthermore, all amendments to the comprehensive plan or element or portion thereof recommended by the planning commission shall be forwarded to the city manager and shall be subject to review and adoption in the same manner as for the original adoption of the comprehensive plan as set forth above.

§ 6. LEGAL EFFECT OF COMPREHENSIVE PLAN.

Upon adoption of a comprehensive plan or element or portion thereof by the city council, all land development regulations including zoning and map, subdivision regulations, roadway plan, all public improvements, public facilities, public utilities projects and all city regulatory actions relating to land use, subdivision and development approval shall be consistent with the comprehensive plan, element or portion thereof as adopted. For purposes of clarity, consistency and facilitation of comprehensive planning and land development process, the various types of local regulations or laws concerning the development of land may be combined in their totality in a single ordinance known as the Land Development Code of the City of Austin.

§ 7. LEGAL EFFECT OF PRIOR COMPREHENSIVE PLAN.

Any comprehensive plan or element or portion thereof adopted pursuant to the authority of Article X of this Charter or other law, but prior to the effective date of this amendment shall continue to have such force and effect as it had at the date of its adoption and until appropriate action is taken to adopt a new comprehensive plan or element or portion thereof as required and authorized by this amendment.

ARTICLE XI. FRANCHISES AND PUBLIC UTILITIES.

§ 1. INALIENABILITY OF PUBLIC PROPERTY.

The right of control and use of the public streets, highways, sidewalk, alleys, parks, public squares, and public places of the city is hereby declared to be inalienable by the city, except by ordinances not in conflict with the provisions of this Charter. No act or omission by the council or any officer or agent of the city shall be construed to grant, renew, extend, or amend by estoppel or indirection any right, franchise or easement affecting said public streets, highways, sidewalks, alleys, parks, public squares, public places and other real property.

§ 2. POWER TO GRANT FRANCHISE.

The council shall have the power by ordinance to grant, renew, and extend all franchises of all service providers placing or installing facilities or equipment in, on or over the City rights of way and of all public utilities of every character operating within the city, and, with consent of the franchise holder, to amend the same. Provided, however, that no franchise shall be granted for a term of more than twenty-five (25) years, and 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.

§ 3. ORDINANCE GRANTING FRANCHISE.

Every ordinance granting, renewing, extending, or amending a franchise shall be read at three (3) regular meetings of the council, and shall not be finally acted upon until thirty (30) days after the first reading thereof. Within five (5) days following each of the three (3) readings of the ordinance, the full text thereof shall be published one time in some newspaper of general circulation in the city, and the expense of such publication shall be borne by the prospective franchise holder. No such ordinance shall become effective until the expiration of sixty (60) days following the date of its final adoption by the council, and every such ordinance shall be subject to the referendum procedure provided by state law.

§ 4. TRANSFER OF FRANCHISE.

No franchise shall be transferred by the holder thereof except with the approval of the council expressed by ordinance.

§ 5. REGULATION OF FRANCHISE.

Every grant, renewal, extension, or amendment of a franchise granted under this article, whether so provided in the ordinance or not, shall be subject to the right of the council:

(1) To forfeit any such franchise by ordinance at any time for failure of the holder thereof to comply with the terms of the franchise, such power to be exercised only after notice and hearing.

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(2) To impose reasonable regulations to insure safe, efficient and continuous service to the public.

(3) To require such expansion and extension of plants and facilities as are necessary to provide adequate service to the public.

(4) To require every franchise holder to furnish to the city, without cost to the city, full information regarding the location, character, extent and condition of all facilities of such franchise holder in, over and under the streets, alleys, and other public property of the city; and to regulate and control the location, relocation, and removal of such facilities.

(5) To collect from every franchise holder operating in the city its fair and just proportion of the expense of excavating, grading, paving, repaving, constructing, reconstructing, draining, repairing, maintaining, lighting, sweeping, and sprinkling such portions of the alleys, bridges, culverts, viaducts, and other public places and ways of the city as may be occupied or used in whole or in part by such utilities; or to compel such franchise holder to perform, at its own expense, its just share of such excavating, grading, paving, repaving, constructing, reconstructing, draining, repairing, maintaining, lighting, sweeping and sprinkling.

(6) To require every franchise holder to allow other franchise holder to use its tracks, poles, wires, pipes or other facilities, including bridges and viaducts, wherever in the judgment of the council such use shall be in the public interest, provided that in such event the council shall fix a reasonable rental to be paid to the owner of the facility for such use, after notice to the interested parties and a hearing of the facts.

(7) (a) To prescribe the form of accounts kept by every franchise holder.

(b) To examine and audit at any time the accounts and other records of any franchise holder.

(c) To require annual and other reports, including reports on the local operations of the utility, which shall be in such form and contain such information as the council shall prescribe.

(8) To require and collect any compensation and rental not now or hereafter prohibited by the laws of this state.

(9) To require such franchise holders who request an increase in rates, charges or fares, to reimburse the city for reasonable expenses incurred in employing rate consultants to conduct investigations, present evidence and advise the council on such requested increase.

§ 6. REGULATION OF RATES.

The council shall have full power after notice and hearing to regulate by ordinance the rates, charges, and fares of every franchise holder operating in the city to the fullest extent allowed by state and federal law. Provided that no such ordinance shall be passed as an emergency measure. Any franchise holder requesting an increase in its rates, charges, or fares shall have, at the hearing on such request, the burden of establishing by clear and convincing evidence the value of its

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investments and the amount and character of its expenses and revenues. No franchise holder shall institute any legal action to contest any rate, charge, or fare fixed by the council until such franchise holder has filed a motion for rehearing with the council specifically setting out each ground of its complaint against the rate, charge or fare fixed by the council, and until the council shall have acted upon such motion.

§ 7. ACCOUNTS OF MUNICIPALLY 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 all assets appropriately subdivided into different classes, all liabilities subdivided by classes, depreciation reserve, other reserves and surplus; also revenues, operating expenses including depreciation, interest payments, rental and other distribution of annual income. The accounts shall show the actual capital cost to the city of each public utility owned, also the costs 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 city council shall annually cause to be made and published a report showing the financial results of such city ownership and operation, giving the information specified in this section and such additional data as the city council shall deem expedient.

ARTICLE XII. GENERAL PROVISIONS.

§ 1. OFFICERS — NOT TO BE INTERESTED IN FRANCHISES — FORFEITURE OF OFFICE.

Neither the mayor nor any other member of the city council, nor any elective or appointive officer of the city, shall be directly or indirectly in the employ of any person, company or corporation, holding or seeking to hold any franchise from the City of Austin, or shall receive directly or indirectly any wage, commission, fee, gift, favor or payment from such franchise holder, and any violation of this section shall ipso facto render vacant the office held by the person so violating it.

§ 2. OFFICERS, ETC. — IMPROPER ACTS OF.

Any officer or employee of the city who by solicitation or otherwise shall exert his/her influence directly or indirectly to influence any other officer or employee of the city to favor any particular person or candidate for office in the city shall be guilty of a misdemeanor and upon conviction thereof shall forfeit his or her office or employment and be punished by a fine not exceeding two hundred dollars (\$200.00). Officers and employees shall not be permitted to take an active part in any political campaign of another for an elective position of the city if they are in uniform or on active duty. The term "active part" means making political speeches, passing out cards, or other political literature, writing letters, signing petitions, actively and openly soliciting votes and making public derogatory remarks about candidates for such elective positions. City officers and employees are prohibited from contributing or using city resources, equipment or money for election campaigning.

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Officers and employees coming under the provisions of this act are not required to contribute to any political fund or render any political service to any person or party whatsoever; and no person shall be removed, reduced in classification or salary, or otherwise prejudiced by refusing to do so; and any official who attempts the same shall be guilty of violating the provisions of this section.

§ 3. NOTICE OF CLAIMS.

Before the City of Austin shall be liable for damages for the 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, the person injured, if living, or his or her representatives, if dead, or the owner of the property damaged or destroyed, shall give the city council or city manager notice in writing of such death, injury, damage or destruction, duly verified by affidavit, within forty-five (45) days after same has been sustained, stating specifically in such written notice when, where, and how the death, injury, damage or destruction, occurred, and the apparent extent of any such injury, the amount of damages sustained, the actual residence of the claimant by street and number at the date the claim is presented, the actual residence of such claimant for six (6) months immediately preceding the occurrence of such death, injury, damage or destruction, and the names and addresses of all witnesses upon whom it is relied to establish the claim for damages; and the failure to so notify the council or city manager within the time and manner specified herein shall exonerate, excuse and exempt the city from any liability whatsoever. No act of any officer or employee of the city shall waive compliance, or estop the city from requiring compliance, with the provisions of this section as to notice, but such provisions may be waived by resolution of the council, made and passed before the expiration of the forty-five-day period herein provided, and evidenced by minutes of the council.

§ 4. DAMAGES — CITY NOT LIABLE — LIMITATIONS.

The City of Austin shall not be liable for damages to anyone, on account of any defect in, obstruction on, or anything else in connection with any sidewalk in the city; nor shall the City of Austin be liable for damages to anyone on account of any defect, obstruction on, or anything else in connection with any street, alley, or public place, other than any sidewalk, unless and until it be shown that some person, in the employment of the city and having superintendence or control of the work on the streets, alleys or public places, had actual notice of such defect, obstruction or other thing, for a sufficient length of time before such injury was received to have remedied such condition of the street, alley or public place before the injury was received.

§ 5. SECURITY OR BOND NOT REQUIRED.

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.

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§ 6. ASSIGNMENT, EXECUTION AND GARNISHMENT.

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 unless specifically exempted by statute. The City shall not be obligated to recognize any assignment of wages or funds by its employees, agents or contractors.

§ 7. EFFECT OF CHARTER ON EXISTING LAW.

All ordinances, resolutions, rules, and regulations now in force under the city government and not in conflict with the provisions of any amendment to this Charter shall remain in force under such amendment until altered, amended, or repealed by the council after such amendment to 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 any amendment to this Charter, shall be preserved in full force and effect.

§ 8. CONSTRUCTION OF CHARTER.

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 of Austin 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 Austin to expressly grant to the city, shall be construed to be granted to the city by this Charter.

§ 9. 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.

§ 10. SEPARABILITY CLAUSE.

If any section or part of a section 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 section or part of a section of this Charter.

§ 11. REARRANGEMENT AND RENUMBERING.

The council shall have the power, by ordinance, to renumber and rearrange all articles, sections, and paragraphs of this Charter or any amendments thereto, as it shall deem appropriate, and upon the passage of any such ordinance a copy thereof, certified by the city clerk, shall be forwarded to the secretary of state for filing.

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§ 12. INTERIM MUNICIPAL GOVERNMENT.

From and after the date of the adoption of any amendment to this Charter and until the completion of the first city election thereunder and the qualification of the mayor and councilmembers therein elected, the mayor and councilmembers then in office shall continue in office and shall exercise all of the powers conferred upon the city by such amendment.