

Eric Opiela PLLC
ATTORNEY AND COUNSELOR AT LAW
9415 OLD LAMPASAS TR.
AUSTIN, TEXAS 78750

Telephone: 512.791.6336

E-mail: eopiela@ericopiela.com

20 FEB 2023

Blake A. Hawthorne, Clerk
The Supreme Court of Texas
P.O. Box 12248
Austin, TX 78711

Re: Case No. 23-0111, *In re Maria Teresa Ramirez Morris, and Texas Alliance for Life, Inc.*, in the Supreme Court of Texas

Dear Mr. Hawthorne,

Per the order of the Court dated February 16, 2023, Relators file this status report and letter brief regarding Respondent City Council of the City of San Antonio's actions on the proposed "Justice Policy" charter amendment.

In a meeting held February 16, 2023, Respondent City Council, via its consent agenda, passed the Ordinance, attached as Exhibit A to this letter, "ORDERING AN ELECTION FOR A CITY CHARTER AMENDMENT TO BE HELD ON SATURDAY, MAY 6, 2023, IN THE CITY OF SAN ANTONIO, BEXAR COUNTY, TEXAS." As the Ordinance was on the consent agenda, no changes were made to the Ordinance, as attached. The Ordinance was passed by a vote of 7-0-3, with Ron Nirenberg, Jalen McKee-Rodriguez, Adriana Rocha-Garcia, Melissa Cabello Havdra, Mario Bravo, Phyllis Viagran, and Teri Castillo voting for, no members voting against, and Manny Pelaez, John Courage, and Clayton Perry "walking" the vote, recorded as absent. *See* Exhibit B, "Three San Antonio council members leave meeting ahead of criminal justice reform charter vote," *San Antonio Express News*, February 16, 2023. In accordance with Article II, Section 15, of the San Antonio City Charter, and Section 14 of the Ordinance, the Ordinance is effective February 26, 2023, 69 days prior to the May 6, 2023 Municipal Election (requiring a minimum waiting period of 10 days for any ordinance to become effective when less than eight council members vote in the affirmative). The deadline for calling the election for May 6, 2023, was 78 days prior to the election or February 17, 2023. *See* Tex. Elec. Code § 3.005(c) (requiring order 78 days in advance).

The ballot language approved by Respondent City Council is a single Yes/No proposition as follows:

CITY OF SAN ANTONIO PROPOSITION A

Shall the City Charter be amended to include a justice policy under which the City of San Antonio will "use its available resources and authority to accomplish three goals of paramount importance: first, to reduce the city's contribution to mass incarceration; second, to mitigate racially discriminatory law enforcement practices; and third, to save scarce public resources for greater

public needs” and to “reduce unnecessary arrests and save scarce public resources through a comprehensive set of reforms”, including: ending enforcement of low-level marijuana possession by prohibiting police officers from issuing citations or make arrests for Class A or Class B misdemeanor possession of marijuana offenses, except in limited circumstances; prohibiting the enforcement of abortion crimes to promote the reproductive health, safety, and privacy of all City residents and stating that police officers shall not investigate, make arrests, or otherwise enforce any alleged criminal abortion, except in limited circumstances; banning no-knock warrants by stating that police officers shall not obtain a “no-knock” search warrant, nor shall they participate in serving a “no-knock” search warrant with other law enforcement agencies and creating additional policies concerning the issuing of warrants; banning chokeholds with no exceptions; requiring police officers to issue citations instead of making arrests for low-level nonviolent crimes defined as Possession of Controlled Substance less than 4 oz, Penalty Group 2-A (synthetic cannabinoids), Class A or B misdemeanor under Texas Health and Safety Code §§ 481.1161(b)(1) & (2), Driving while License Invalid, Class A or B misdemeanor under Texas Transportation Code § 521.457, Theft of Property less than \$750, Class B misdemeanor under Texas Penal Code § 31.03(e)(2)(A), Theft of Service less than \$750, Class B misdemeanor under Texas Penal Code § 31.04(e)(2), Contraband in a Correctional Facility, Class B misdemeanor under Texas Penal Code § 38.114(c), Graffiti, with damage less than \$2500, Class A or B misdemeanor under Texas Penal Code § 28.08(b)(2) & (3), Criminal Mischief with damage less than \$750, Class B misdemeanor under Texas Penal Code § 28.03(b)(2), and all Class C misdemeanors, except Class C Public Intoxication, which shall be addressed in accordance with Texas Code of Criminal Procedure Section 14.031; and requiring the San Antonio City Council to appoint and provide resources to a Justice Director, with no previous experience in law enforcement, who will be charged with fulfilling the justice policy by providing a justice impact statement before any City Council vote affecting the justice policy and meeting quarterly with community stakeholders to discuss the development of policies, procedures and practices related to the justice policy in open meetings?

ARGUMENT

I. RESPONDENT CITY COUNCIL DID NOT MEET THE STATUTORY DEADLINE FOR CALLING A MAY 6, 2023 ELECTION FOR THE PROPOSED CHARTER CHANGES.

The Texas Election Code specifies February 17, 2023 as the deadline for a municipality to order an election on a measure held on the May 6, 2023 uniform election date. *See* Tex. Elec. Code § 3.005(c) (requiring order 78 days in advance). While Respondent City Council voted to enact the attached ordinance on February 16, 2023, they did not do so with the necessary vote to adopt it with immediate effect, rather they adopted it effective February 26, 2023. To hold that Respondent City Council adopted it prior to February 26, 2023 would render both Article II, Section 15, San Antonio City Charter, and the Ordinance’s own terms in Section 14 meaningless. In construing ordinances, courts must “giv[e] effect to each sentence, clause, and word if reasonable and possible.” *Pearce v. City of Round Rock*, 78 SW 3d 642, 649 (Tex. Ct. App.-Austin 2002), *citing Texas Workers' Comp. Ins. Fund v. Del Indus., Inc.*, 35 S.W.3d 591, 593 (Tex. 2000).

Additionally, it is the longstanding law in this state, that legislative enactments, of which city ordinances are, perform no function whatsoever until their effective date. *Highland Park*

Independent School District v. Loring, 323 S.W.2d 469, 471 (Tex. Civ. App.-Dallas 1959, no writ), citing *Norton v. Kleberg County*, 231 S.W.2d 716 (Tex. 1950); *Popham v. Patterson*, 51 S.W.2d 680, 683 (1932). As Respondent City Council did not order this election with “sufficient time to comply with other requirements of law,” May 6, 2023 is not “the first authorized uniform election date prescribed by the Election Code;” November 7, 2023 is the first authorized date for this election, and this Court should issue a writ of mandamus to compel Respondent to amend the Ordinance to comply with state law. Tex. Loc. Gov’t Code § 9.004(b).

II. THE APPROVED BALLOT LANGUAGE IS MISLEADING AND DOES NOT MEET THE *DACUS* STANDARD.

The page-long length of the ballot proposition belies the claim of respondents that this is a single-subject charter amendment and proposition. Notably, too, the ballot language is misleading in that it omits reference to the proposed charter amendment’s provision in Section 177 that enlists the entirety of city staff, city funds and city resources—not just police officers, as the ballot language states—in its fight to obstruct state agencies, and the courts in the lawful exercise of their regulatory and judicial power against illegal abortions. In *In re Durnin*, 619 S.W.3d 250, 253 (Tex. 2021), citing *Dacus v. Parker*, 466 S.W.3d 820 (Tex. 2015), this Court set forth the standard for evaluating whether a ballot proposition is misleading:

In *Dacus*, we held that ballot propositions must “be submitted [to the voters] with such definiteness and certainty that voters are not misled.” *Id.* at 822. Although “the ballot need not reproduce the text of the amendment or mention every detail, it must substantially identify the amendment’s purpose, character, and chief features.” *Id.* A ballot proposition may mislead the voters “in either of two ways. First, it may affirmatively misrepresent the measure’s character and purpose or its chief features. Second, it may mislead the voters by omitting certain chief features that reflect its character and purpose.” *Id.* at 826. . . . Ballot language “must capture the measure’s essence,” but “neither the entire measure nor its every detail need be on the ballot.” *Id.* at 825.

In re Durnin, 619 S.W.3d 250, 253 (Tex. 2021) (citing *Dacus v. Parker*, 466 S.W.3d 820 (Tex. 2015)).

In this case, Respondents have not merely omitted a key feature of the law—the enlistment of the entirety of city government in thwarting the state’s efforts to administer its laws relating to abortion—it affirmatively misrepresents that “*police officers* shall not investigate, make arrests, or otherwise enforce any alleged criminal abortion.” While this might fit with Intervenor’s perception that this is only a charter amendment about policing, it is simply not the case when one reads the actual text of the “Justice Policy” charter amendment. Since the “character and purpose” of the proposed amendment doesn’t match one of its actual “chief features” in that the amendment goes beyond policing, this error is not a minor omission, but is an affirmative misrepresentation subjecting Respondents to *mandamus* relief compelling the restatement of the proposition in accurate language so that it does not impermissibly mislead voters. *In re Durnin*, 619 S.W.3d at 255.

III. MANDAMUS RELIEF LIES TO SEPARATE THIS MULTIPLE SUBJECT HYDRA INTO DISTINCT SEPARATE MEASURES IN ORDER TO AFFORD VOTERS A MEANINGFUL BALLOT CHOICE

The *ultra vires* action of Respondent City Council in ordering the election on a charter amendment clearly in violation of Tex. Loc. Gov't Code § 9.004(d)-(e), and with complicated and misleading ballot language reinforces, not obviates, the need for the relief sought by Relators to be granted. Absent *mandamus* relief, San Antonio voters will be denied their right to select, at the ballot box, which of the diverse subjects contained within the proposition they wish to support and which ones they wish to oppose.

This proposed charter amendment, and accompanying single comprehensive ballot proposition, reveals itself as a multi-headed Hydra on subjects as varied as preventing city police officers from investigating or making arrests for abortions, halting citations and arrests for Class A or Class B misdemeanor possession of marijuana, banning police chokeholds and no-knock warrants, and expanding cite-and-release policies to direct officers to cite, not arrest, people for certain nonviolent misdemeanor offenses, including theft. As presented in the Ordinance, it is a clear violation of Tex. Loc. Gov't Code § 9.004(d)-(e), which prohibits multiple-subject charter amendments, and requires that any ballot proposition must be prepared so that a voter may approve or disapprove any one or more amendments without having to approve or disapprove all of the amendments.

Sufficient time exists to order the relief requested to separate this into multiple propositions without interfering with the election. Indeed, as stated *supra* the Ordinance ordering the election will not take effect for another six days. Relators argue the only legal date for this election under the Texas Election and Local Government Codes is still months away in November, allowing extensive time for Respondents to revise and restate the ballot language to allow voters a meaningful choice. However, even in the event this Court rejects that argument, and allows Respondents to move forward with a May 6, 2023 special election for this measure, sufficient time exists to make the necessary changes to comply with Section 9.004, Local Government Code. The drawing for ballot positions in the associated municipal general election held on this same date occurred just this morning. The ballot for that election will not be fixed until, at the earliest, Friday, February 24, 2023, as that is the last day for a candidate to withdraw from that election and have his or her name omitted from the ballot. Tex. Elec. Code §§ 145.092(f), 145.094(a)(4), 145.096(a)(4)). The deadline to mail ballots to overseas and military voters (the earliest deadline prescribed in the Election Code) for any election held May 6, 2023 is over a month away, March 22, 2023. Tex. Elec. Code § 86.004(b). Since the wheels of the “election machinery” have yet even begun to turn, *mandamus* relief is appropriate to grant the relief requested by Relators to protect the voting rights of San Antonio residents. *See In re Khanoyan*, 637 S.W.3d 762, 763-65 (Tex. 2022). Relators requested *mandamus* relief as soon as Respondent Racca-Sittre approved the charter petition. Respondents’ choice to wait until the last minute—actually, beyond the last minute due to the February 16, 2023 vote being insufficient for immediate effect---to call an election has resulted in circumstances beyond petitioners’ control requiring this Court to act with “unusual dispatch” in granting relief to ensure San Antonio voters are afforded meaningful choices at the ballot box. *In re Self*, 652 SW 3d 829, 830 (Tex. 2022), *citing In re Anthony*, 642 S.W.3d

588 (Tex. 2022); *In re Abbott*, 628 S.W.3d 288 (Tex. 2021); *In re Williams*, 470 S.W.3d 819 (Tex. 2015).

IV. CONCLUSION

Respondent City Council's actions on the proposed charter amendment reinforce the need for this Court to grant the *mandamus* relief sought by Relators. In addition to the relief requested in their original petition, as a result of the City Council's actions on February 16, 2023, as described *supra*, Relators additionally request that this Court grant *mandamus* relief to compel Respondent City Council to amend its Ordinance attached as Exhibit A to call the election on the "Justice Policy" charter amendment to be held on the first legal uniform election date, November 7, 2023. Further, Relators request this Court grant *mandamus* relief to compel Respondent to amend the proposed ballot language in the Ordinance to not be materially misleading by stating that rather than "police officers," "no city staff, city funds, or city resources" may be used to gather or provide information to any other governmental body or agency regarding abortion, miscarriage or reproductive act unless in defense of a healthcare provider or patient.

Very truly yours,

ERIC OPIELA PLLC

By: 

Eric Opiela
Texas Bar No. 24039095
Counsel for Relators

Attachments:

Exhibit A: Ordinance Calling Election

Exhibit B: "Three San Antonio council members leave meeting ahead of criminal justice reform charter vote," *San Antonio Express News*, February 16, 2023.

Exhibit C: City of San Antonio Charter

CERTIFICATE OF SERVICE

By my signature above, I hereby certify that a true and correct copy of this document was served as required Texas Rule of Appellate Procedure 9.5 to Respondents and Intervenor's Counsel of Record via eService on this the 20th day of February 2023.

EXHIBIT A

AS
02/16/23
Item No _____

THIS IS A DRAFT AND WILL BE
REPLACED WITH THE FINAL UPON COUNCIL APPROVAL

ORDINANCE

ORDERING AN ELECTION FOR A CITY CHARTER AMENDMENT TO BE HELD ON SATURDAY, MAY 6, 2023, IN THE CITY OF SAN ANTONIO, BEXAR COUNTY, TEXAS.

* * * * *

WHEREAS, on January 10, 2023, petitioners submitted to the Office of the City Clerk a petition seeking to amend the City Charter to adopt a Justice Policy that limits enforcement of low-level marijuana possession, limits enforcement of abortion crimes, bans no-knock warrants and contains additional policies concerning warrants, bans chokeholds by San Antonio police officers, establishes a cite and release policy for low-level nonviolent crimes, and creates a Justice Director to serve as the lead representative charged with fulfilling the Justice Policy; and

WHEREAS, the City Clerk has certified to the City Council that the petition contains a sufficient number of verified signatures, as determined by state law, of qualified voters of the municipality to submit the Charter amendment to the electors of the City of San Antonio; and

WHEREAS, state law requires the City Council to submit a proposed charter amendment to the voters for their approval at an election if the submission is supported by a petition signed by a sufficient number of qualified voters of the municipality; and

WHEREAS, it is now necessary to vote on the item to order an election to amend the City Charter;
NOW THEREFORE:

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. A Charter amendment election is ordered to be held in the various voting precincts of the City of San Antonio on Saturday, May 6, 2023, to submit the following proposition to amend the City Charter of the City of San Antonio to the qualified voters of the City:

CITY OF SAN ANTONIO PROPOSITION A

Shall the City Charter be amended to include a justice policy under which the City of San Antonio will “use its available resources and authority to accomplish three goals of paramount importance: first, to reduce the city’s contribution to mass incarceration; second, to mitigate racially discriminatory law enforcement practices; and third, to save scarce public resources for greater public needs” and to “reduce unnecessary arrests and save scarce public resources through a comprehensive set of reforms”, including: ending enforcement of low-level marijuana possession by prohibiting police officers from issuing citations or make arrests for Class A or Class B misdemeanor possession of marijuana offenses, except in limited circumstances; prohibiting the enforcement of abortion crimes to promote the reproductive health, safety, and privacy of all City residents and stating that police officers shall not investigate, make arrests, or otherwise enforce any

alleged criminal abortion, except in limited circumstances; banning no-knock warrants by stating that police officers shall not obtain a “no-knock” search warrant, nor shall they participate in serving a “no-knock” search warrant with other law enforcement agencies and creating additional policies concerning the issuing of warrants; banning chokeholds with no exceptions; requiring police officers to issue citations instead of making arrests for low-level nonviolent crimes defined as Possession of Controlled Substance less than 4 oz, Penalty Group 2-A (synthetic cannabinoids), Class A or B misdemeanor under Texas Health and Safety Code §§ 481.1161(b)(1) & (2), Driving while License Invalid, Class A or B misdemeanor under Texas Transportation Code § 521.457, Theft of Property less than \$750, Class B misdemeanor under Texas Penal Code § 31.03(e)(2)(A), Theft of Service less than \$750, Class B misdemeanor under Texas Penal Code § 31.04(e)(2), Contraband in a Correctional Facility, Class B misdemeanor under Texas Penal Code § 38.114(c), Graffiti, with damage less than \$2500, Class A or B misdemeanor under Texas Penal Code § 28.08(b)(2) & (3), Criminal Mischief with damage less than \$750, Class B misdemeanor under Texas Penal Code § 28.03(b)(2), and all Class C misdemeanors, except Class C Public Intoxication, which shall be addressed in accordance with Texas Code of Criminal Procedure Section 14.031; and requiring the San Antonio City Council to appoint and provide resources to a Justice Director, with no previous experience in law enforcement, who will be charged with fulfilling the justice policy by providing a justice impact statement before any City Council vote affecting the justice policy and meeting quarterly with community stakeholders to discuss the development of policies, procedures and practices related to the justice policy in open meetings?

SECTION 2. The official ballots for the election shall be prepared in accordance with the Texas Election Code to permit the electors to vote “FOR” or “AGAINST” the aforesaid PROPOSITION, with the ballots to contain such provisions, markings, and language as required by law, and with such PROPOSITION to be expressed substantially as follows:

CITY OF SAN ANTONIO PROPOSITION A

FOR	}	SHALL THE CITY CHARTER BE AMENDED TO INCLUDE A JUSTICE POLICY UNDER WHICH THE CITY OF SAN ANTONIO WILL “USE ITS AVAILABLE RESOURCES AND AUTHORITY TO ACCOMPLISH THREE GOALS OF PARAMOUNT IMPORTANCE: FIRST, TO REDUCE THE CITY’S CONTRIBUTION TO MASS INCARCERATION; SECOND, TO MITIGATE RACIALLY
AGAINST	}	DISCRIMINATORY LAW ENFORCEMENT PRACTICES; AND THIRD, TO SAVE SCARCE PUBLIC RESOURCES FOR GREATER PUBLIC NEEDS” AND TO “REDUCE

UNNECESSARY ARRESTS AND SAVE SCARCE PUBLIC RESOURCES THROUGH A COMPREHENSIVE SET OF REFORMS”, INCLUDING: ENDING ENFORCEMENT OF LOW-LEVEL MARIJUANA POSSESSION BY PROHIBITING POLICE OFFICERS FROM ISSUING CITATIONS OR MAKE ARRESTS FOR CLASS A OR CLASS B MISDEMEANOR POSSESSION OF MARIJUANA OFFENSES, EXCEPT IN LIMITED CIRCUMSTANCES; PROHIBITING THE ENFORCEMENT OF ABORTION CRIMES TO PROMOTE THE REPRODUCTIVE HEALTH, SAFETY, AND PRIVACY OF ALL CITY RESIDENTS AND STATING THAT POLICE OFFICERS SHALL NOT INVESTIGATE, MAKE ARRESTS, OR OTHERWISE ENFORCE ANY ALLEGED CRIMINAL ABORTION, EXCEPT IN LIMITED CIRCUMSTANCES; BANNING NO-KNOCK WARRANTS BY STATING THAT POLICE OFFICERS SHALL NOT OBTAIN A “NO-KNOCK” SEARCH WARRANT, NOR SHALL THEY PARTICIPATE IN SERVING A “NO-KNOCK” SEARCH WARRANT WITH OTHER LAW ENFORCEMENT AGENCIES AND CREATING ADDITIONAL POLICIES CONCERNING THE ISSUING OF WARRANTS; BANNING CHOKEHOLDS WITH NO EXCEPTIONS; REQUIRING POLICE OFFICERS TO ISSUE CITATIONS INSTEAD OF MAKING ARRESTS FOR LOW-LEVEL NONVIOLENT CRIMES DEFINED AS POSSESSION OF CONTROLLED SUBSTANCE LESS THAN 4 OZ, PENALTY GROUP 2-A (SYNTHETIC CANNABINOIDS), CLASS A OR B MISDEMEANOR UNDER TEXAS HEALTH AND SAFETY CODE §§ 481.1161(B)(1) & (2), DRIVING WHILE LICENSE INVALID, CLASS A OR B MISDEMEANOR UNDER TEXAS TRANSPORTATION CODE § 521.457, THEFT OF PROPERTY LESS THAN \$750, CLASS B MISDEMEANOR UNDER TEXAS PENAL CODE § 31.03(E)(2)(A), THEFT OF SERVICE LESS THAN \$750, CLASS B MISDEMEANOR UNDER TEXAS PENAL CODE § 31.04(E)(2), CONTRABAND IN A CORRECTIONAL FACILITY, CLASS B MISDEMEANOR UNDER TEXAS PENAL CODE § 38.114(C), GRAFFITI, WITH DAMAGE LESS THAN \$2500, CLASS A OR B MISDEMEANOR UNDER TEXAS PENAL CODE § 28.08(B)(2) & (3), CRIMINAL MISCHIEF WITH DAMAGE LESS THAN \$750, CLASS B

MISDEMEANOR UNDER TEXAS PENAL CODE § 28.03(B)(2), AND ALL CLASS C MISDEMEANORS, EXCEPT CLASS C PUBLIC INTOXICATION, WHICH SHALL BE ADDRESSED IN ACCORDANCE WITH TEXAS CODE OF CRIMINAL PROCEDURE SECTION 14.031; AND REQUIRING THE SAN ANTONIO CITY COUNCIL TO APPOINT AND PROVIDE RESOURCES TO A JUSTICE DIRECTOR, WITH NO PREVIOUS EXPERIENCE IN LAW ENFORCEMENT, WHO WILL BE CHARGED WITH FULFILLING THE JUSTICE POLICY BY PROVIDING A JUSTICE IMPACT STATEMENT BEFORE ANY CITY COUNCIL VOTE AFFECTING THE JUSTICE POLICY AND MEETING QUARTERLY WITH COMMUNITY STAKEHOLDERS TO DISCUSS THE DEVELOPMENT OF POLICIES, PROCEDURES AND PRACTICES RELATED TO THE JUSTICE POLICY IN OPEN MEETINGS?

SECTION 3. If adopted, the specific provision of the City Charter listed below shall be amended to create Article XV, entitled Justice Policy, by adding the underscored words to read in its entirety as follows:

ARTICLE XV. JUSTICE POLICY

Sec. 170. Justice policy.

It is the policy of the City of San Antonio to use its available resources and authority to accomplish three goals of paramount importance: first, to reduce the City's contribution to mass incarceration; second, to mitigate racially discriminatory law enforcement practices; and third, to save scarce public resources for greater public needs.

Sec. 171. Definitions.

- (a) Justice impact statement. A statement of how major City decisions impact the City's justice policy. The statement is to be prepared by the Justice Director. The elements of the justice impact statement shall include, at a minimum, the following elements: (1) how the proposed action fulfills the three aims of the City's justice policy; (2) whether the proposed action will negatively impact any historically over-policed communities; (3) whether the proposed action would

- increase law enforcement spending as compared to other City programs; and (4) a consideration of alternatives, if any, that would better advance the City's justice policy;
- (b) Justice policy. All of the policies contained within this Article of the City Charter;
 - (c) Law enforcement industry. Includes any past or present sworn officer, civilian employee, or contractor of any law enforcement agency, including any local, state, tribal, or federal agency; also includes private security and contractors for law enforcement agencies;
 - (d) Mass incarceration. The criminal justice system by which the United States criminalizes and incarcerates more of its own people than any other country in the history of the world. Mass incarceration inflicts harm on the most vulnerable among us and disproportionately impacts people of color;
 - (e) Marginalized communities. People who are historically less protected and more subject to persecution within American society, including, Black, indigenous, and people of color, the LGBTQIA community, immigrant communities, people with disabilities, and people living in poverty; and
 - (f) Over-policing. The historic and current practice of law enforcement to disproportionately target poor people and people of color, including for offenses that are committed at equal rates among races and income levels.

Sec. 172. Justice Director.

- (a) The City Council, including the Mayor and District Representatives, shall directly appoint a Justice Director to serve as the lead City representative charged with fulfilling the Justice Policy. Such appointment shall occur at a publicly noticed meeting subject to the Texas Open Meetings Act. The City Council shall fix the Justice Director's compensation;
- (b) The Justice Director shall be appointed on the basis of qualifications to fulfill the City's social justice three-part mandate of reducing the City's contribution to mass incarceration, mitigating racist and discriminatory law enforcement practices, and saving scarce public resources for greater public needs;
- (c) No person shall be eligible for appointment as Justice Director if they have worked in the law enforcement industry, or if they disclose significant financial investments in the law enforcement industry;

- (d) Prior to taking action to appoint a Justice Director, the City shall request and publish a Personal Financial Statement Report from each candidate, to include, at a minimum, all fields included in Form PFS-TEC of the Texas Ethics Commission. The report shall cover, at a minimum, the candidate's current investments and any investments held over the twelve months prior to appointment;
- (e) The Justice Director shall report directly to the City Council;
- (f) The Justice Director may be removed by resolution approved by the majority of the total membership of the City Council, with or without cause.

Sec. 173. Resources and support.

- (a) The Mayor and City Council shall provide the Justice Director with sufficient personnel and resources necessary to carry out this justice policy;
- (b) The Justice Director and any support staff shall have access to offices in the Department of Diversity, Equity, Inclusion and Accessibility.

Sec. 174. Justice impact of City decisions.

- (a) The Justice Director shall provide the City Council with a justice impact statement prior to any City Council vote affecting the City's justice policy. Decisions that require a justice impact statement shall include, but not be limited to: the annual city budget and any amendments thereof; any contract or contract amendment concerning sworn officers of the San Antonio Police Department; and any resolution or ordinance related to law enforcement, criminal justice, policing, crime, public safety, or incarceration;
- (b) In addition to justice impact reports regarding individual City actions, the City Manager shall collaborate with the Justice Director to prepare an annual justice impact statement for City activities, with specific analysis of the justice impact of each City department. The City Manager shall ensure that the Justice Director has access to City information on an ongoing basis to allow for ongoing monitoring and analysis of the City's justice impact.

Sec. 175. Community stakeholder involvement.

- (a) The Justice Director shall arrange quarterly meetings subject to the Texas Open Meetings Act to discuss both the development of policies, procedures, and

practices related to this justice policy as well as data gathered concerning the implementation of the justice policy. These meetings shall include the Police Department, a designated individual from the Bexar County District Attorney's office, representatives from community organizations, and individuals directly impacted by over-policing and mass incarceration;

- (b) All input raised during such quarterly meetings shall be meaningfully considered, and the Justice Director will report back to City Council on the work completed during such quarterly meetings.

Sec. 176. Elimination of marijuana enforcement.

- (a) San Antonio police officers shall not issue citations or make arrests for Class A or Class B misdemeanor possession of marijuana offenses, except in the limited circumstances described in Section 176(b);
- (b) The only circumstances in which San Antonio police officers are permitted to issue citations or make arrests for Class A or Class B misdemeanor possession of marijuana are when such citations or arrests are part of (1) the investigation of a felony level narcotics case that has been designated as a high priority investigation by an San Antonio police commander, assistant chief of police, or chief of police; and/or (2) the investigation of a violent felony.
- (c) San Antonio police shall not consider the odor of marijuana or hemp to constitute probable cause for any search or seizure, except in the limited circumstances of a police investigation pursuant to Section 176(b).
- (d) In every instance other than those described in Section 176(b), and without relying on the impermissible grounds identified in Section 176(c), if a San Antonio police officer has probable cause to believe that a substance is marijuana, an officer may seize the marijuana. If the officer seizes the marijuana, they must write a detailed report and release the individual if possession of marijuana is the sole charge.
- (e) San Antonio police officers shall not issue any charge for possession of marijuana unless it meets one or both of the factors described in Section 176(b);
- (f) A class C misdemeanor citation for possession of drug residue or drug paraphernalia shall not be issued in lieu of a possession of marijuana charge;
- (g) No City funds or personnel shall be used to request, conduct, or obtain tetrahydrocannabinol (THC) testing of any cannabis-related substance to

determine whether the substance meets the legal definition of marijuana under state law, except in the limited circumstances of a police investigation pursuant to Section 176(b). This prohibition shall not limit the ability of San Antonio police to conduct toxicology testing to ensure public safety, nor shall it limit THC testing for the purpose of any violent felony charge.

Sec. 177. Elimination of abortion enforcement.

- (a) It is the policy of the City of San Antonio to promote the reproductive health, safety, and privacy of all City residents;
- (b) The City hereby finds and declares that a variety of factors negatively impact its ability to legally and appropriately enforce state laws that criminalize abortion, including:
 - (i) The City's goal of promoting reproductive health, safety, and privacy of all City residents;
 - (ii) The legal and practical complexity of evaluating claims that City residents may have violated state laws concerning the criminalization of abortion;
 - (iii) The lack of training and capacity of City police to discern valid and enforceable complaints of unlawful abortion;
 - (iv) The risk of liability arising from improper enforcement of criminal abortion laws;
- (c) In light of the policy and findings identified above, City of San Antonio police officers shall not investigate, make arrests, or otherwise enforce any alleged criminal abortion, except in the circumstances identified in Section 177(d);
- (d) The only circumstances in which City of San Antonio police officers are permitted to investigate, make arrests, or otherwise enforce any state law that criminalizes abortion are when (i) coercion or force is used against a pregnant person or (ii) in cases involving conduct criminally negligent to the health of the pregnant person seeking care;
- (e) Except to the extent required by state or federal law, the City of San Antonio will not gather information concerning abortion-related crimes. Specifically, no city staff, city funds, or city resources will be used to:
 - (i) Store or catalog any report of an abortion, miscarriage, or other reproductive healthcare act or outcome;

- (ii) Provide information to any other governmental body or agency about any abortion, miscarriage, or other reproductive healthcare act, unless such information is provided to defend the patient's right to abortion care or the healthcare provider's right to provide that care;
- (iii) Conduct surveillance or collect information related to an individual or organization for the purpose of determining whether an abortion has occurred, except for aggregated data without personally identifying information or personal health information which is collected for purposes unrelated to criminal investigation, enforcement, or prosecution.

Sec. 178. Ban on no-knock warrants; additional policies concerning warrants.

- (a) San Antonio Police officers shall not obtain a "no-knock" search warrant, nor shall they participate in serving a "no-knock" search warrant with other law enforcement agencies;
- (b) No police officers may gain forcible entry into a premises, absent circumstances in which there is verified, imminent threat to human life;
- (c) For all search warrant executions:
 - (i) A law enforcement officer shall be easily recognizable and identifiable as a uniformed law enforcement officer;
 - (ii) A law enforcement officer shall knock and audibly, or in a manner sufficient to provide notice to any person with a disability, announce their identity as a law enforcement officer, authority pursuant to the warrant, and purpose;
 - (iii) A knock and announcement shall be provided in a manner reasonably expected to be heard observed and understood by occupants of the premises to be searched based on the size and nature of the location;
 - (iv) Any subsequent entry and search of the premises shall be recorded by a body-worn camera or other government issued recording device;
 - (v) Law enforcement officers shall delay entry for a sufficient amount of time after the announcement, based on the size and nature of the premises and occupants, to allow the occupant a reasonable opportunity to respond, and such delay shall be a minimum of 30 seconds;
 - (vi) An occupant of the premises to be searched shall be afforded an opportunity to comprehend the warrant authorizing entry to the premises prior to entry by a law enforcement officer;

- (d) To account for the potential presence of vulnerable persons:
 - (i) *Evaluation.* An application for a warrant shall assess, and a court issuing a warrant shall evaluate, whether there will be children, individuals with a disability, individuals who are elderly, or other vulnerable individuals present at the location where the warrant is to be executed;
 - (ii) *Requirements for issuance.* The City shall seek to execute search warrants only when children, individuals who are elderly, or other vulnerable individuals are not home. A warrant may only authorize the search of a location where a child, individual with a disability, any individual who is elderly, or other vulnerable individual will be present if the court determines, based on particularized facts, that there is a clear necessity for such search and that a safety plan is in place to ensure the safety of the vulnerable individuals;
- (e) All officers shall be equipped with video and audio recording devices, tested for functionality at least 24 hours before execution, turned on at least five minutes before the warrant is executed and to remain on five minutes after the warrant service process is complete (i.e. the entire event in which officers are on the scene);
- (f) Any search warrant authorized by this section shall utilize the least intrusive tactics possible. Only such persons as may be reasonably necessary for the successful execution of the search warrant with all practicable safety may participate in execution of a search warrant;
- (g) *Use of explosive devices.* Law enforcement officers executing a warrant shall not use or possess flash-bang stun grenades, or other explosive devices, chemical weapons, or any military-grade firearm, unless expressly authorized under the covered warrant based on clear and convincing evidence that the use of the devices is necessary under the particularized circumstances to protect the life or safety of law enforcement officers or other persons;
- (h) For purposes of this section:
 - (i) Verifiable exigent circumstances is defined as: an event occurring in real-time that is life-threatening to the officer(s) and/or an occupant(s) of the property;
 - (ii) In such cases, the officer(s) must be able to verify the perceived threat through video footage, required documentation and witness statements. Examples of

verifiable exigent circumstances could include: hearing a round being chambered in a gun, an occupant screaming something threatening, or seeing through a window an occupant or hostage held by a firearm.

- (i) Applications and issuance for all warrants must include:
 - (i) Search warrants are directed to law enforcement within the jurisdiction of the property being searched;
 - (ii) All search warrants shall contain:
 - (1) the date and time the warrant was issued;
 - (2) The name of the affiant;
 - (3) The identity and description, of the person for whom a search warrant is being issued;
 - (4) The offense, or probable cause, cited within the affidavit;
 - (5) The objects or persons described in the warrant, if found there, to be seized;
 - (6) The location and description of the place to be searched;
 - (7) A list of estimated ages and gender of any additional occupants, as well as any known individuals with cognitive and/or physical disabilities and pets at the property to be searched;
 - (8) Intended course of action if no response from suspect within 30 seconds;
- (j) Search warrants not executed within 7 days of issuance are void;
- (k) An officer must provide evidence gathered 24 hours, or less, before executing to verify the person is present at the residence to be searched and verify that there are no significant changes to information contained within the application;
- (l) *Avoiding destruction of property.* In executing any warrant, law enforcement officers shall seek to avoid the destruction of property occasioned by forcible entry and the execution of the search;
- (m) Property and/or cash cannot be seized during the course of the search unless a lawful arrest is made and these assets will be returned immediately to the arrestee if s/he is not convicted of the crime listed in the arrest;
- (n) If evidence is obtained in violation of this section, the City shall not attempt to utilize such evidence, and shall notify the District Attorney that any such evidence was unlawfully obtained;

- (o) Post-search report. For each search conducted pursuant to a warrant, the City shall collect the following data:
 - (i) The items to be seized under a warrant, as described in the application;
 - (ii) The items seized in the execution of that warrant;
 - (iii) Whether forcible entry was made in the execution of the warrant;
 - (iv) Any destruction of property that occurred in the execution of the warrant; and
 - (v) Any injuries that occurred in the execution of the warrant, either by law enforcement, occupants, or others present;
- (p) Each post-search report completed pursuant to Section 178(o) shall be considered public information subject to the Texas Public Information Act.

Sec. 179. Ban on chokeholds.

- (a) San Antonio police officers shall not use a chokehold or neck restraint on another person;
- (b) Any policies pertaining to the use of force adopted by law enforcement agencies must be consistent with this section;
- (c) For the purposes of this section:
 - (i) "Chokehold" means the intentional application of direct pressure to a person's trachea or windpipe for the purpose of restricting another person's airway;
 - (ii) "Neck restraint" refers to any vascular neck restraint or similar restraint, hold, or other tactic in which pressure is applied to the neck for the purpose of constricting blood flow.

Sec. 180. Cite and release policy.

- (a) Except as provided under Section 180(b), a citation, ticket or verbal warning, rather than arrest, shall be issued for individuals charged with committing the following offenses, in accordance with Article 14.06 of the Texas Code of Criminal Procedure:
 - (i) All Class C misdemeanors, except Class C Public Intoxication, which shall be addressed in accordance with Texas Code of Criminal Procedure Section 14.031;
 - (ii) Possession of Controlled Substance less than 4 oz, Penalty Group 2-A (synthetic cannabinoids), Class A or B misdemeanor under Texas Health and

Safety Code §§ 481.1161(b)(1) & (2);

- (iii) Driving while License Invalid, Class A or B misdemeanor under Texas Transportation Code § 521.457;
 - (iv) Theft of Property less than \$750, Class B misdemeanor under Texas Penal Code § 31.03(e)(2)(A);
 - (v) Theft of Service less than \$750, Class B misdemeanor under Texas Penal Code § 31.04(e)(2);
 - (vi) Contraband in a Correctional Facility, Class B misdemeanor under Texas Penal Code § 38.114(c);
 - (vii) Graffiti, with damage less than \$2500, Class A or B misdemeanor under Texas Penal Code § 28.08(b)(2) & (3); and
 - (viii) Criminal Mischief with damage less than \$750, Class B misdemeanor under Texas Penal Code § 28.03(b)(2).
- (b) An officer may conduct a custodial arrest for offenses listed under Section 1 only if any of the following circumstances are present:
- (i) The subject could not provide satisfactory evidence of personal identification to allow for citation. In determining whether the subject is able to provide satisfactory evidence of personal identification, it shall be acknowledged that not all persons are able to produce a government issued ID. Therefore, although a government-issued ID is preferred, the City shall accept other forms of identification, regardless of expiration date, including but not limited to: any state or federally-issued ID, library card, utility or rent bill, community organizational membership card, student ID, church ID, or other forms of identification that include an individual's name and address, as well as photos of the aforementioned forms of identification. Additionally, in the absence of a physical ID, a credible verbal verification of a subject's identity and address shall suffice and may be obtained by contacting a family member, friend, or any person who has personal knowledge of the subject;
 - (ii) The subject demands to be taken before a magistrate;
 - (iii) The subject has an outstanding arrest warrant for a non-citation eligible offense from a criminal law enforcement agency;
 - (iv) Before making an arrest for a citation-eligible offense, the officer shall contact a supervisor to obtain approval. In any case where an arrest is made

for a citation-eligible offense, the specific reason(s) for the arrest and supervisor approval shall be included in the incident report. If an incident report fails to contain a valid reason for an arrest in cases of the above-listed offenses, or include reasons for arrests not listed herein, the San Antonio Police Department Internal Affairs Unit shall conduct an investigation into the incident and take appropriate follow-up or disciplinary action with the arresting officer;

- (c) In cases in which the subject is suspected of committing any offense(s) listed in Section 180(a) or Class C Public Intoxication, and the subject appears to suffer from mental illness and/or addiction, the subject should be referred to appropriate medical and/or psychiatric services in lieu of arrest;
- (d) On a quarterly basis, the City shall gather and publish as an open record under the Texas Public Information Act, the following data concerning the cite and release program:
 - (i) Aggregate data showing the number of arrests made for citation-eligible offenses in which arrest was *not* mandated by state law. Such data shall also be aggregated and categorized by race and ethnicity of the person arrested, geographic location of arrest, alleged criminal offense, and reason for arrest;
 - (ii) Aggregate data showing the number of citations, tickets or warnings issued for citation-eligible offenses. Such data shall also be aggregated and categorized by race and ethnicity of the person cited, ticketed or issued a warning, geographic location of incident, and alleged criminal offense;
 - (iii) Anonymized records of every instance that a San Antonio police officer made an arrest for a citation-eligible offense, including:
 - (1) Documented reason for the stop and the arrest;
 - (2) The particular offense alleged;
 - (3) The reason for arrest and whether supervisor approval for the arrest was obtained;
 - (4) The age, race, and ethnicity of the person arrested;
 - (5) The general location, such as the zip code or intersection of the incident;
 - (iv) This report or memorandum should not include information that would jeopardize any ongoing criminal investigation or prosecution, and the report should include the number of unduplicated officers making such arrests.

Sec. 181. Implementation of justice policies.

- (a) The City Manager and Chief of Police shall ensure that San Antonio police officers receive adequate training concerning each of the provisions of the justice policy;
- (b) The City Manager shall work with the San Antonio Police Chief to update City policies and internal operating procedures in accordance with this justice policy. Actions that may be necessary include, but are not limited to: updating the San Antonio Police Department General Manual; updating the training bulletin; training officers; and updating internal databases and systems.

Sec. 182. Officer discipline.

Any violation of this justice policy may subject a San Antonio police officer to discipline as provided by the Texas Local Government Code or as provided in City policy.

Sec. 183. Effective date.

This Charter amendment shall become effective upon adoption.

Sec. 184. Severability.

If any portion of this Article shall be deemed unlawful by a court of law, that portion shall be severed from the Charter and the rest shall continue in force.'

SECTION 4. . CANVASS DATE. The City Council shall canvass the results of the election during the regularly scheduled "B" Session on Wednesday, May 17, 2023.

SECTION 5. CERTIFICATION. As soon as practicable after the election and the declaration by the City Council that this Charter amendment has been approved and adopted, the Mayor shall certify to the Secretary of State an authenticated copy of the amendment, under the City's seal, showing the approval by the qualified voters of the municipality.

SECTION 6. JOINT ELECTION; CONTRACT FOR ELECTION SERVICES. The City Council also authorizes the Saturday, May 6, 2023 Charter amendment election to be held jointly with other participating local political subdivisions located within Bexar County. The city shall execute an agreement with Bexar County to conduct the election as a joint election with the other political subdivisions identified in the agreement. An ordinance authorizing this contract will be considered by the City Council at a subsequent meeting.

Pursuant to the Texas Election Code, Section 61.012, as amended, the Bexar County Elections Administrator shall provide at least one accessible voting system in each polling place used in the Election. Such voting system shall comply with Texas and federal laws establishing the requirements for voting systems that permit voters with physical disabilities to cast a confidential or secret ballot.

SECTION 7. PRECINCTS AND POLLING LOCATIONS; HOURS OF VOTING. The Charter amendment election shall be held as prescribed by law between the hours of 7:00 a.m. and 7:00 p.m. on Saturday, May 6, 2023, at the precincts of the City of San Antonio at the locations listed by the Bexar County Elections Administration office. The list of locations, as currently anticipated, is attached as **Exhibit A** and may be updated by the Administrator on its website at: <https://www.bexar.org/1568/Elections-Department>.

SECTION 8. VOTING SYSTEM. Voting on Election Day shall be conducted by the use of ES&S EVS 6.0.2.0 equipment, comprised of the ExpressVote (voting unit), the (Tabulator), the Express Touch (Curbside unit) and the DS450 and 850 (for tabulating the mail ballots, as determined by the City Clerk and the Bexar County Elections Administrator).

For early voting by mail and for provisional voting at this election, voting shall be conducted using the 850 equipment, and paper ballots.

For early voting by personal appearance, voting shall be conducted using the same equipment as on Election Day. The equipment shall be placed at branch offices established for the purpose of conducting early voting by personal appearance at the locations and during the dates and hours listed by the Bexar County Elections Administration office, in an attachment to the election agreement brought to Council for consideration at a later meeting.

SECTION 9. VOTER REGISTRATION; EARLY VOTING. The last day to register to vote in the May 6, 2023 election is Thursday, April 6, 2023. Early voting by personal appearance shall be conducted at the branch offices during the period for early voting, commencing Monday, April 24, 2023, and ending on Tuesday, May 2, 2023. Hours of early voting are established by the Bexar County Elections Administrator in accordance with the applicable provisions of Texas law. A copy of the locations as identified on the date of this ordinance and hours for early voting are attached as **Exhibit B**. If any locations are changed, this will be reflected on the Bexar County Elections webpage found here: <https://www.bexar.org/1568/Elections-Department>

Electors may cast their early vote by mail. Ballot applications and ballots voted by mail shall be mailed to the early voting clerk as follows:

Jacquelyn F. Callanen
Bexar County Elections Administrator
1103 S. Frio, Suite 100
San Antonio, TX 78207

The last day for the Administrator to accept an application by mail for a ballot to be voted by mail is by close of business on Tuesday, April 25, 2023.

SECTION 10. NOTICE. (a) *Form of Notice of Election.* The City Clerk of the City of San Antonio is authorized and directed to prepare a form of the Notice of Election in both English and Spanish, the contents of which comply with the requirements of Section 4.004 of the Texas Election Code and any other applicable law, and will include at the minimum, the nature and date of the election; the location of each election day and early voting polling place; the hours the polls will be open; the locations, dates and times of temporary branch locations of early voting by personal appearance; the early voting clerk's mailing address; and any other information required by other law, and with variations as permitted by applicable law.

(b) *Method of Giving Notice.* Notice of the election shall be given by posting a copy of the Notice of Election, both in English and Spanish, not later than the 21st day before the date set for the election as required by state law. Notice of the election shall also be given by publishing a Notice of Election, both in English and Spanish, at least once, not earlier than the 30th day or later than the 10th day before Election Day, in a newspaper of general circulation published in the City of San Antonio. The *San Antonio Express News* is a newspaper of general circulation within the city.

SECTION 11. ELECTION MATERIAL. All resident qualified electors of the City shall be permitted to vote at the election and on the day of the election, such electors shall vote at the designated polling places. The election shall be held and conducted in accordance with the provisions of the Texas Election Code, as amended, and as may be required by any other law. All election materials and proceedings shall be printed in both English and Spanish. The official ballots for the election shall be prepared in accordance with the Texas Election Code.

SECTION 12. If any provision of this Ordinance or its application to any person or circumstance shall be held to be invalid, the remainder of this Ordinance and the application of such provision to other persons and circumstances shall nevertheless be valid, and this Council declares that this Ordinance would have been enacted without such invalid provision.

SECTION 13. It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter

AS
02/16/23
Item No. _____

of the public business to be considered at such meeting, including this Ordinance, was given, all as required by Chapter 551, Texas Government Code.

SECTION 14. This ordinance is effective immediately upon the receipt of eight affirmative votes; otherwise, it is effective ten days after passage.

PASSED AND APPROVED this the 16th day of February 2023.

M A Y O R
Ron Nirenberg

ATTEST:

APPROVED AS TO FORM:

Debbie Racca-Sittre, City Clerk

Andrew Segovia, City Attorney

EXHIBIT B

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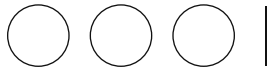
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| 1. Valley residents feel impact of meteorite west of McAllen | 2. Cold front to plunge temps to just above freezing in San Antonio | 3. Ex-Spurs player arrested on domestic assault charge in S.A. | 4.
' |
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NEWS // POLITICS

Three San Antonio council members leave meeting ahead of criminal justice reform charter vote

Molly Smith, Staff writer

Updated: Feb. 16, 2023 3:49 p.m.



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1 of 10



Ananda Tomas, executive director of Act 4 SA, reacts after the City Clerk's Office certifies a petition at the City Council meeting on Thursday, Feb 16, 2023. Thomas was present to advocate for the proposed San Antonio Justice charter vote.

Kin Man Hui, San Antonio Express-News / Staff photographer

Voters will decide whether to decriminalize abortion and marijuana in May, though the city attorney has said such action is unenforceable and several organizations, along with the Texas attorney general, have lined up against it.

Dozens of residents turned out Thursday morning to lobby City Council against calling a May 6 charter amendment election, but the council had no choice in the matter.

"You know this will ultimately wind up in court, costing millions of dollars of

time and money," said Susan Brown, a board member of Justice SA.

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taxpayer money, said Susan Bayne, a board member of INRUSA, a conservative-leaning organization focused on property taxes, government spending and public safety.

On ExpressNews.com: San Antonio voters to decide on abortion, marijuana and police reform in May election

Ahead of Thursday's vote, City Attorney Andy Segovia reminded the council that calling the charter election "is not a vote on the merits; the voters will decide in the May election whether the petitions come into effect or not."

That didn't stop the three North Side councilmen from leaving the dais for the vote.

"We're not going to be participating in a vote that puts an illegal item before the voters," District 8 Councilman Manny Peláez said after the meeting. "I swore an oath to uphold the laws of Texas, the federal laws and the Constitution, and this amendment does the exact opposite of that."

District 10 Councilman Clayton Perry referenced a Texas Supreme Court case filed by the Texas Alliance for Life, which wants to split up the proposition into separate votes. The Austin-based anti-abortion group said the amendment breaks state law because it includes several subjects under one proposition.

Segovia has said the amendment should stand as is because all the elements have to do with criminal justice reform.

"The city is already facing one lawsuit pertaining to issues within this charter amendment, and there are sure to be more in the future," Perry said in a statement after the meeting. "Please read and understand the full impacts of the proposed city charter amendment before casting your vote in May."

Texas Solicitor General Judd E. Stone II supported the Texas Alliance for Life in a court filing Wednesday on behalf of state Attorney General Ken Paxton. Stone called the proposition “a grab bag of provisions” that “flagrantly violates” state law around charter amendments.

But city attorneys said the Texas Alliance for Life’s “challenge is not appropriate until after the election — should the voters approve the amendment at all,” as the “Texas Election Code specifically provides a method for challenging the validity of a charter amendment post-election.”

The Texas Supreme Court asked the city to provide an update by Monday on Thursday’s council action, including the approved ballot language.

District 9 Councilman John Courage said he was worried about the ballot language and that’s why he skipped the vote.

“I felt like it doesn’t adequately express to the public when they go to vote what they’re actually voting for, and I have a real problem with putting a petition out there for people to vote on if they really won’t understand all of the implications,” Courage said.

The San Antonio Justice Charter — which will be on the ballot as Proposition A — resulted from a citizen-led petition that met the 20,000-voter signature threshold after a three-month effort.

Proposition A would decriminalize abortion and low-level marijuana possession. It would bar San Antonio police from enforcing state laws or making arrests connected with the procedure and the drug.

Marijuana is illegal in Texas, and performing an abortion is now a felony crime, except when a pregnant person's life is at risk.

The proposition also expands the city's existing cite-and-release program to all state-eligible Class C misdemeanors and bans police from using chokeholds or no-knock warrants. A justice director would be appointed to oversee the implementation of these policies. A Class C misdemeanor is punishable by a maximum fine of \$500.

Act 4 SA Executive Director Ananda Tomas said the councilmen's intentional absence from calling the election was disappointing because constituents from every district signed the petition. Act 4 SA is leading the charter amendment effort.

"I really think that they did a disservice to the citizens of San Antonio by not taking a vote on this today, on something that is already mandated and prescribed for them to do," Tomas said.

"We got enough signatures to put this on the ballot. Your only job is ministerial — to say, 'Yes, it should be on the ballot' — and they didn't do that today. They didn't do their job."

The charter amendment vote will coincide with the May 6 municipal election, when races for all 10 City Council seats and mayor will be on the ballot.

The city attorney cautioned against advocating for the charter election "on city time," leading the council to call the election without any discussion.

Only District 2 Councilman Jalen McKee-Rodriguez and District 5 Councilwoman Teri Castillo have spoken out publicly in support of the justice charter.

Castillo told the Express-News' Puro Politics Podcast this month that she is "supportive of the spirit of the justice charter." McKee-Rodriguez was present in early January when petition organizers submitted signatures to the city clerk for validation.

molly.smith@express-news.net

Written By
Molly Smith

VIEW COMMENTS

LOCAL

Grand jury declines to indict officer who fatally shot teen

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EXHIBIT C



CHARTER
OF THE
CITY OF SAN ANTONIO, TEXAS

ADOPTED OCTOBER 2, 1951

Published and Issued by
THE CITY OF SAN ANTONIO
December, 1951

AMENDED
November, 1974
January, 1977
May, 1991
May, 1997
November, 2001
May, 2004
November, 2008
May, 2012
May, 2015
November, 2018
May, 2021

Printed: July, 2021

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**OFFICIALS
of the
CITY OF SAN ANTONIO, TEXAS
AT THE TIME OF THE MAY 1, 2021
CHARTER AMENDMENT ELECTION**

Ron Nirenberg
Mayor

Roberto C. Treviño	Melissa Cabello Havrda
Jada Andrews-Sullivan	Ana Sandoval
Rebecca J. Viagran	Manny Peláez
Adriana Rocha Garcia	John Courage
Shirley Gonzales	Clayton Perry

City Council

Erik Walsh
City Manager

Andrew Segovia
City Attorney

Tina J. Flores, LPEC
City Clerk

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PART I

CHARTER*

Art. I.	Incorporation, Form of Government and Powers, §§ 1—3a
Art. II.	City Council, §§ 4—18
Art. III.	Municipal Elections, §§ 19—25
Art. IV.	Recall, Initiative and Referendum, §§ 26—44
Art. V.	Administrative Service, §§ 45—68
Art. V.A.	City Internal Audit Department
Art. VI.	Civil Service, §§ 69—78
Art. VII.	Finance, §§ 79—111
Art. VIII.	Corporation [Municipal] Court, §§ 112—116
Art. IX.	Planning Commission, §§ 117—123A
Art. X.	Public Library, §§ 124—127
Art. XI.	Franchises, §§ 128—137
Art. XII.	General Provisions, §§ 138—165
Art. XIII.	Ethics Review Board, §§ 166—168
Art. XIV.	Binding Arbitration with the International Association of Fire Fighters Local 624, § 169

***Editor's note**—The charter included herein was adopted at an election held on October 2, 1951, to become effective on January 1, 1952. The editor has inserted footnotes or [] where explanatory material has been added. The catchlines of the articles and sections have in some instances been altered in minor respects so as to more clearly indicate the contents thereof. The original numbering system has been retained. Amendments to the Charter as originally enacted are indicated by the history note following the amended section. Minor nonsubstantive changes have been made in capitalization and style to conform the Charter to the Code format.

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ARTICLE I. INCORPORATION, FORM OF GOVERNMENT AND POWERS

Sec. 1. Incorporation.

The inhabitants of the City of San Antonio in Bexar County, Texas, residing within the corporate limits of the city, as now or hereinafter established in the manner provided by law or by this Charter, are hereby constituted and shall continue to be a municipal body politic and corporate under the name of the "CITY OF SAN ANTONIO," hereinafter referred to as "the City," and by that name shall have perpetual succession and shall have and succeed to all the rights, property, real, personal and mixed, immunities, powers, privileges and franchises now held, possessed and enjoyed by the city or granted herein, and shall be subject to all its present duties and liabilities, subject to the limitations prescribed in this Charter.

Sec. 2. Form of government.

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

Sec. 3. Powers of city.

Par. 1. General powers. The city may sue and be sued, plead and be impleaded in all courts, have a corporate seal, contract and be contracted with, ordain and establish such acts and regulations and ordinances not inconsistent with the constitution and laws of this state and this Charter as shall be needed for the government, interest, welfare and good order of the city and the interest, welfare, health, morals, comfort, safety and

convenience of its inhabitants; the city may purchase, take, hold, acquire and convey, lease, mortgage and dispose of any property whatever within the city limits. The city may acquire necessary property for sewer, sanitary, cemetery, waterworks, gas, electric light and power, and any other corporate purposes by purchase, condemnation or other means within or without the city limits, and may lease, convey and alienate the same. Except as prohibited by the constitution and laws of Texas or as restricted by this Charter, the city shall have all municipal powers, functions, rights, privileges and immunities of every name and nature whatsoever, now or hereafter granted by the constitution and laws of Texas, including without limitation the powers conferred expressly and permissively by laws passed pursuant to the Texas Home rule Amendment, as now or hereafter amended, all of which are hereby adopted. The council is expressly authorized to adopt any rule or regulation deemed necessary, advisable or convenient for the purpose of exercising any power expressly or permissively conferred by such act. The city shall have the powers conferred by the provisions of legislation passed by the State Legislature, as now or hereafter amended, which Act is hereby adopted.

Par. 2. Annexation. The city shall have the power, by ordinance, to fix and change the bounds and limits of the city and to provide for the extension of the said bounds and limits and the annexation of additional territory lying adjacent to the city with or without the consent of the territory and the inhabitants thereof annexed; provided, however, that such an ordinance, or any amendment thereto, shall be published one time, prior to passage, in some daily newspaper published in the city and such ordinance shall not be passed until at least thirty days have elapsed after publication. The city shall have power to annex additional territory, lying adjacent to the city, and the inhabitants thereof, as may be authorized by, and in the manner and form prescribed by any general law of Texas.

Par. 3. Cooperation with state and federal governments. The city may cooperate and contract with the government of the State of Texas or any agency or political subdivision thereof, and with the government of the United States of America, or any

agency or department thereof, to accomplish any lawful purpose for the interest, welfare, health, morals, comfort, safety and convenience of the city or its inhabitants.

Par. 4. Eminent domain. The city shall have the power of eminent domain where necessary or desirable to execute any power conferred upon it by this Charter, or by the constitution or laws of Texas and may condemn either private or public property whether in or out of the corporate limits of the city for such purposes, upon payment of fair compensation for the property taken. Such power may be exercised in any manner authorized by the constitution or laws of Texas, or as may be prescribed by ordinance. The city may condemn the fee or any lesser interest in the property taken, and may condemn for any public purpose whether specifically stated herein or not.

Par. 5. Urban redevelopment. The city may adopt, modify and carry out plans for the clearance and redevelopment of slum districts or blighted areas within the city, as such districts or areas may be defined by ordinance as to character, nature, location and extent. For the accomplishment of these public purposes, which may be further defined by ordinance, the city may acquire by purchase or by condemnation all privately owned land, buildings and other property interests within such districts or areas. The city may establish, locate, relocate, build and improve any streets or other public open spaces provided for in any plan so adopted. Pending the final clearance and redevelopment of such district or area, the city may maintain, lease or sell any buildings or other improvements thus acquired. The city may sell the land, or any part thereof in such districts or areas, which is designated for private or public buildings or for private open spaces upon such terms, covenants and conditions and subject to such restrictions, excluding rent control by the city, as to building uses and open spaces, as will substantially carry out the plans adopted by the city for the clearance and redevelopment of such districts or areas; provided, however, that land so disposed of shall contain a covenant which shall run with such land precluding its sale to or use by any public housing agency. Before any plan is finally adopted by the city, a public hearing shall be held thereon by the council, and, thirty days prior to such hearing, notice of its time and place shall be

published one time in a newspaper published in the city and shall be sent by mail to the record owners of the property interests included within the district or area covered by any plan.

Par. 6. Fiscal powers. The city shall have the power to:

- (1) Assess, levy and collect taxes for general and special purposes on all lawful subjects of taxation in accordance with the laws of Texas and this Charter.
- (2) Provide for the payment of the current expenses and of the debts of the city.
- (3) Borrow money on the faith and credit of the city by the issue or sale of bonds or notes of the city.
- (4) Borrow money on the faith and credit of any improvement district heretofore or hereafter established in the city by the council, and issue bonds therefor for permanent public improvements in such districts.
- (5) Levy and collect special assessments for local improvements.
- (6) Levy an occupation tax on any person, corporation, partnership, engaged in any business, occupation or calling in accordance with the laws of Texas.
- (7) Levy an annual tax and appropriate funds for the purpose of advertising the city in order to increase its growth, improve the same and benefit its inhabitants.

Par. 7. Street powers. The City of San Antonio shall have the power to lay out, establish, open, alter, widen, lower, extend, grade, abandon, discontinue, abolish, close, care for, pave, supervise, maintain and improve streets, alleys, sidewalks, parks, squares, public places and bridges; and regulate the use thereof and require the removal from streets, sidewalks, alleys and other public property or places of all obstructions and encroachments of every nature or character thereon.

Par. 8. Street improvements. The city shall have exclusive dominion, control and jurisdiction in, upon, and over and under the public streets, avenues, alleys, highways, and public ways of the city, and may provide for the improvement thereof by paving,

re-paving, raising, draining, or otherwise. The provisions, without limitations, of laws providing for assessments against abutting property for street improvements are expressly adopted. Such exclusive dominion, control and jurisdiction in, upon, over and under the public streets, avenues, alleys, highways, and public ways, of the city shall also include, but not be limited to, the power to regulate, locate, remove, or prohibit the location of, all utility pipes, conduits, lines, poles, wires or other property of any public utility.

Par. 9. Zoning. For the purpose of promoting the health, safety, morals or general welfare of the city, the council may by ordinance regulate the location, height, bulk and size of buildings and other structures, the size of yards, courts and other open spaces, and the use of buildings, structures and land for trade, industry, business, residence or other purposes. Such ordinances may provide that the zoning board of adjustment may, in appropriate cases and subject to appropriate principles, standards, rules, conditions and safeguards set forth in the ordinance, make special exceptions to the terms of the zoning regulations in harmony with their general purpose and intent. Such ordinances may provide that the zoning board of adjustment may authorize variances from the strict application of the regulations in such cases and subject to such limitations as may be set forth in ordinance. All of the powers granted by state zoning enabling laws now existing or hereafter enacted, are hereby adopted.

Par. 10. Sanitary sewer system. The city shall have the power to provide for a sanitary sewer system and to require property owners to connect their premises with such sewer system; to provide for fixing penalties for failure to make sanitary sewer connections; and shall further have the right to fix charges and compensation to be charged by the city for sewerage service and make rules and regulations for the collection thereof.

Par. 11. Garbage disposal. The city shall have the right by ordinance to adopt and prescribe rules and regulations for the handling, collection and disposition of all garbage, trash and rubbish within the city and to fix and collect charges for the removal thereof.

Par. 12. Public assistance. The city may appropriate its funds, in the exercise of a governmental function, for the assistance of needy persons to provide for them the basic necessities of life in accordance with categories of such persons as may be defined by ordinance.

Par. 13. Other powers. The city shall have power to:

- (1) Provide for, acquire, construct, regulate, protect and maintain public buildings, works, improvements, parks, gardens, and recreational facilities of any nature.
- (2) License and regulate persons, corporations, partnerships and associations engaged in any business, occupation or calling.
- (3) License and regulate vehicles operated for hire and fix and regulate the rates to be charged therefor.
- (4) License and regulate all places of public amusement.
- (5) Define and prohibit the maintenance of any nuisance within the corporate limits of the city and within the territory outside of the corporate limits of the city which is within five thousand feet of the said corporate limits, and abate such nuisances by summary proceedings and provide for the punishment of the authors thereof.
- (6) Define, prohibit, abate, suppress and prevent all things or any acts detrimental to the health, morals, comfort, safety, convenience and welfare of the inhabitants of the city.
- (7) Regulate the construction and height of and materials used in all buildings and structures within the city, and provide for their inspection and make, prosecute, and enforce regulations governing same.
- (8) Regulate the maintenance and use of all buildings and structures in the city.
- (9) Fix standards of weights and measures and provide for their inspection.

- (10) Regulate the filing of plats of any subdivision of property in or out of the city in accordance with the laws of Texas or as may be prescribed by ordinance; and to require that streets, sidewalks, curbs, street signs, utilities and public open spaces of all subdivisions to be established shall be designed, constructed and installed in accordance with standards established by the city.
- (11) Compel the laying of sidewalks by property owners in front of or abutting their land, in accordance with specifications prescribed by the city; and compel the repair of such sidewalks in like manner.
- (12) Direct and control the laying of all tracks required for public transportation on any street, alley, public way or public place in the city.
- (13) Regulate the sale of tickets or issuance of passes or other evidences of the right to travel on any public transportation system using the streets, alleys, public ways or public places of the city.
- (14) Provide for a license fee on animals and regulate, restrain and prohibit the running at large or keeping of animals and fowls in the city.
- (15) Provide for the regulation and inspection of all bakeries and dairies in the city, and of all bakeries and dairies located outside of the city from which products are sold in the city; and for the inspection of all cows from which milk is sold in the city; and prescribe fees to be charged in connection with such regulation and inspection, and prescribe standards for the quality of all bakery and dairy products sold in the city.
- (16) Provide for the inspection of meat, fish, vegetables, fruit and every or any food or food product offered for sale in the city; and provide for inspection, before slaughter, of all animals to be offered for sale in the city.
- (17) Provide for the erection and maintenance of market houses.
- (18) Establish fire zones of various classifications.

- (19) Adopt and enforce all necessary police, health and sanitary regulations.
- (20) Adopt and enforce such regulations and penal ordinances as may be necessary for maintaining and promoting the peace, lives, health, security and property of the inhabitants, for promoting the good government and welfare of the city, and for the performance of all municipal functions.
- (21) Provide suitable penalties for the violation of any regulations enacted by the city.
- (22) Exercise jurisdiction over all property owned by the city whether within or without the corporate limits of said city.
- (23) Acquire, own, operate and maintain any character of public utility, including, without limitation, water, gas, light, power, telephone, telegraph and transportation systems, by any lawful means.

Par. 14. Cumulative powers. The enumeration of particular powers and the specification of the manner of exercising the same by this Charter shall never be deemed to be exclusive nor construed as a limitation upon the general powers herein granted or upon their exercise in any other lawful manner, and in addition to the powers enumerated herein or implied thereby, or appropriate to the exercise of such powers, it is intended that the city shall have and may exercise all powers it would be competent for this Charter specifically to enumerate.

(Ord. No. 85965, § 1 (Props. 1, 2), 5-5-97)

State law reference—Powers of home rule cities generally, Vernon's Ann. Civ. St. art. 1175.

Sec. 3a. Limitation on powers; streetcar or light rail.

No grant of permission to alter or damage any public way of the city for the laying of streetcar or light rail tracks shall ever be valid, and no funds shall be appropriated and no bonds or notes shall be issued or sold for the purpose of streetcar or light

rail systems, unless first approved by a majority of the qualified electors of the city voting at an election containing a proposition specifically identified for and limited to such purpose.
(Ord. No. 2015-05-20-0423, § 3 (Prop. 1), 5-20-15)

ARTICLE II. CITY COUNCIL

Sec. 4. Creation, composition and powers.

There is hereby created as the governing body of the City a Council which shall consist of eleven (11) members, each of whom shall be elected to and occupy a place, such places being numbered consecutively beginning with Place 1 and ending with Place 11.

Each member of the Council shall be a citizen of Texas, a qualified elector and registered to vote in the City, shall have resided in the City at least one year prior to filing his application for election and must reside in the City during his term of office.

The Councilmembers shall be elected from districts or wards which shall be drawn by ordinance and shall be as nearly equal in population as practicable.

The boundaries of the districts or wards shall be reexamined and redetermined by ordinance, where appropriate following each succeeding Federal decennial census, or at other times where substantial variances in the number and makeup of the population of districts or wards have occurred, taking into consideration annexations, disannexations, shifts in population, compactness, ethnic composition and other criteria established by law. On any annexations, the City Council shall designate the annexed area to be a part of the wards or districts to which it is contiguous.

Members of the Council for Place 1 through Place 10 shall be elected from such districts or wards which shall be numbered accordingly and each such member shall be elected by a majority vote of the qualified electors voting in said election in the particular district or ward. Each member from a district or ward shall reside within its boundaries at least six (6) months prior to

filing his application for election and continuing during his or her term of office, and failure to do so shall render such office vacant. Candidates for and the person elected as member of the council in the remaining place, Place 11, may reside anywhere in the City and shall be elected by a majority of all qualified electors voting in said City election, with said Council Member to serve as Mayor as provided in Section 9 of this Charter.

No member of the Council may hold any other public office or employment for which compensation is paid by the City or Bexar County, Texas. Subject to the provisions of this Charter, the Council shall have and exercise all powers now or hereafter conferred on the City; shall succeed to all powers heretofore vested in any former governing body of the City; shall have the general care, management and control of the City, its property and finances, and shall enact, alter, modify or repeal all ordinances and resolutions not repugnant to this Charter and the Constitution and laws of Texas.

(Ord. No. 47586, § 1 (Prop. 1), 1-17-77; Ord. No. 85965, § 1 (Prop. 1), 5-5-97)

Sec. 5. Terms of office.

The terms of office of all members of the council elected at a regular municipal election shall be for two (2) years beginning on the first day of June next following their election.

If a member of the council shall file to become a candidate for nomination or election to any public office, other than that of member of the council, he or she shall vacate immediately his or her place on the council and the vacancy thereby created shall be filled in the same manner as any other vacancies.

(Ord. No. 44594, § 1 (Prop. 7), 11-07-74; Ord. No. 85965, § 1 (Prop. 1), 5-5-97)

Sec. 6. Compensation.

Each member of the council shall receive as compensation for their services as such member the sum of \$45,722, and the Mayor shall receive the sum of \$61,725 per annum.

(Ord. No. 2015-05-20-0423, § 3 (Prop. 2), 5-20-15)

Sec. 7. Forfeiture of office.

Any member of the council who ceases to possess the required qualifications for office; or who is convicted, while in office, of a felony or misdemeanor involving moral turpitude shall forfeit his office, which forfeiture shall be declared and enforced by a majority vote of the council.

Sec. 8. Vacancies.

Vacancies in the council, including the mayor, arising from any cause with 120 days or less remaining in the term shall be filled by majority vote of the remaining members for the unexpired term only and provided the successor shall possess all qualifications required for the office. Vacancies in the council, including the mayor, arising from any cause with more than 120 days remaining in the term shall be filled by special election and, where necessary, by a run-off election, in the same manner as provided for in this Charter for the regular election of a councilmember. Such special election shall be held on the next authorized uniform election date that occurs before the regular election and that allows enough time to hold the election in the manner required by law. The City Council may appoint a person to serve as a council member or mayor on a temporary basis during the period between the creation of the vacancy and the special election.

(Ord. No. 44594, § (Prop. 2), 11-07-74; Ord. No. 2012-05-17-0348, § 9, 5-17-12; Ord. No. 2015-05-20-0423, § 3 (Prop. 3), 5-20-15)

Editor's note—Prop. Two provided that §§ 8 and 9 would be effective after the general city election on the first Tuesday of April, 1975.

State law reference—Filling vacancies, V.A.T.S. Election Code, arts. 4.09, 4.10.

Sec. 9. Mayor and mayor pro tem.

Par. 1. The person elected to the last place on the council shall serve as and be the mayor during his term of office.

Par. 2. The mayor pro tem shall act as mayor during the absence or disability of the mayor. Should a vacancy occur in the office of the mayor, the mayor pro tem shall act as mayor until

the mayor's position has been filled as provided in Section 8 above. While serving as mayor, the mayor pro tem shall receive the same compensation as the mayor.

Par. 3. The mayor, the mayor pro tem and any member of council may be paid such expenses in connection with their official duties as may be provided by the council.
(Ord. No. 44594, § 1 (Prop. 2), 11-07-74; Ord. No. 2015-05-20-0423, § 3 (Prop. 2), 5-20-15)

Note—See editor's note to § 8.

Sec. 10. City clerk.

The council shall choose a city clerk, who shall keep the records of the council and of the city, and who shall perform such other duties as may be required by this charter or the council. All civil process to the city shall be served upon the city clerk. Other officers and employees in the office of the clerk shall be in the classified civil service of the city, and, shall be appointed and may be removed by the city manager.

Sec. 11. Meetings of the council.

All meetings of the council shall be held at such times as may be prescribed by ordinance or resolution; but not less than one regular meeting shall be held each week, unless postponed for reasons to be spread on the minutes which shall be kept of all Council meetings. Special meetings of the Council shall be called by the City Clerk upon the written request of the Mayor, the City Manager or three members of the Council. All meetings of the Council and of any committees thereof shall be in compliance with the Texas Open Meetings Act as it may be amended from time to time.

(Ord. No. 85965, § 1 (Prop. 3), 5-5-97)

State law reference—Open meetings law, Vernon's Ann. Civ. St. art. 6252-17.

Sec. 12. Council rules.

The council shall determine its rules and order of business and keep minutes of its proceedings. It shall have power to

compel the attendance of absent members, and, by a vote of not less than seven members, may expel a member from a council meeting for disorderly conduct or the violation of its rules.

Sec. 13. Quorum.

A majority of the members of the council shall constitute a quorum to do business, but a lesser number may adjourn from time to time and compel the attendance of absent members in the manner prescribed by ordinance. A vote regarding adjournment or the attendance of absent members may be adopted by a majority of the members present; but in all other matters upon which the council may vote, a majority vote of all members of the council in office shall be necessary for adoption. In the event of the existence of six (6) or more vacancies, the remaining members shall constitute a quorum and may conduct all necessary business until such vacancies are filled. In all matters upon which the council votes, the individual votes shall be recorded by the clerk in the minutes of the council, and shall be a public record.

(Ord. No. 47586, § 1 (Prop. 1), 1-17-77)

Sec. 14. Ordinances and resolutions—Introduction and passage.

Ordinances and resolutions shall be introduced in the council only in written or printed form. The enacting clause of all ordinances shall be "Be it ordained by the City Council of the City of San Antonio."

Sec. 15. Same—When to take effect; emergency measures.

Except as otherwise provided in this Charter or by ordinance or law, all ordinances and resolutions passed by the council shall take effect at the time indicated therein, but not less than ten (10) days from the date of their final passage. The affirmative vote of at least eight (8) members of the council shall be required to pass any ordinance or resolution as an emergency measure. An emergency measure is an ordinance or resolution to provide for the preservation of the public peace, property, health or safety, in which the emergency is set forth, and may be made

effective immediately upon enactment. No measure making or amending a grant, renewal or extension of a franchise or other special privilege shall ever be passed as an emergency measure. (Ord. No. 47586, § 1 (Prop. 1), 1-17-77)

Sec. 16. Same—Recording of ordinances, resolutions and minutes.

Each ordinance or resolution and the minutes of the council shall be recorded as soon as practicable by the city clerk in well bound books, which shall be public records. Ordinances shall be authenticated by the signature of the mayor and the city clerk and shall be systematically recorded in an ordinance book in a manner approved by the council. It shall only be necessary to record the caption or title of ordinances in the minute book of the council meetings.

Sec. 17. Same—Publication of ordinances.

Every ordinance imposing any penalty, fine or forfeiture for a violation of its provisions shall, after passage, be published for one time in a newspaper published in the city. Proof of such publication by the printer or publisher of such newspaper made by affidavit before any officer authorized to administer oaths and filed with the city clerk shall be conclusive evidence of the legal publication and promulgation of such ordinance in all courts and elsewhere. Such publication may consist of the full text of the ordinance, or a substantive condensed statement of the nature and purpose of the ordinance and the penalty for violation. The penalty, fine or forfeiture shall apply five days after publication.

The council may adopt any code or codification of ordinances or parts thereof, and may amend and correct such ordinances for the purpose of general distribution, and when so adopted and contained in printed form, publication of such code need not be made other than by publication of the ordinance or resolution adopting the same, provided that two copies of such code or codification are filed for permanent record and inspection in the office of the city clerk prior to adoption.

Any administrative rules or regulations of any department of the city or of the state affecting the city, or any statute of Texas or any published code, specifications or requirements prepared by an official or unofficial organization for general circulation and use, may be made effective in the city by reference in an ordinance, provided two copies are filed for permanent record and inspection in the office of the city clerk prior to adoption. The city clerk is authorized to destroy one copy upon the adoption of a superseding rule, regulation, statute, published code, specification or requirement, which must be kept for permanent historical reference.

(Ord. No. 2015-05-20-0423, § 3 (Prop. 4), 5-20-15)

State law references—Publication of ordinances, Vernon's Ann. Civ. St. art. 1176b-1 et seq.; codification of ordinances, Vernon's Ann. Civ. St. art. 1176a.

Sec. 18. Same—Enactment of resolutions.

The council, or a majority thereof, may act by resolution in all cases except where an ordinance is by this Charter required; provided, that no contract on the part of the city shall be made or authorized, nor any money appropriated from the funds of the city nor any franchise or privilege for the use of any of the public streets or other public places of the city be granted or renewed, nor any lands of the city be conveyed, or leased, nor authority for such conveyance or lease given otherwise than by ordinance.

ARTICLE III. MUNICIPAL ELECTIONS*

Sec. 19. Regular and special elections.

The City Clerk shall be responsible for administering all City elections in accordance with the State Election Code and other applicable state law, provided that the Council may, by ordinance, make rules and regulations not inconsistent with state law.

***Editor's note**—Ordinance No. 85965, § 1 (Prop. 5), adopted May 5, 1997, deleted article III, §§ 19—25 and provided for the following provisions to read as herein set out. Formerly, such article pertained to similar provisions and derived from an election effective 1-1-52; Ord. No. 44391, § 1 (Prop. 4), 10-3-74; Ord. No. 73584, 5-6-91; Ord. No. 85965, § 1 (Prop. 1), 5-5-97.

Candidates filing for office must pay a \$100.00 filing fee or provide a petition with signatures of registered voters as provided by State law.
(Ord. No. 85965, § 1 (Prop. 5), 5-5-97)

Sec. 20. Limitation on terms of office.

No person shall be eligible to hold any elected office for more than four full terms, and shall not be placed on the ballot for election to any term if service for the full term would constitute a violation hereof. For the purpose of this section, the office of Mayor shall be considered a separate office from other Council places.

(Ord. No. 85965, § 1 (Prop. 5), 5-5-97; Ord. No. 2008-11-17-1010, §§ 4, 5 (Prop. 1), 11-17-08)

Editor's note—The effective date of the November 4, 2008 amendment to the City Charter shall be December 1, 2008. The amendment approved on November 4, 2008 is not applicable to any current or former mayors or members of City Council, whether appointed or elected.

Secs. 21—25. Reserved.

ARTICLE IV. RECALL, INITIATIVE AND REFERENDUM

Sec. 26. Recall provisions.

Any member of the council may be removed from office by recall. A petition stating the general grounds on which removal of a district or ward council member is sought shall be signed by qualified electors equal in number to ten (10) per cent of those electors who were qualified to vote in such ward or district at the time of the last regular municipal election, and shall be filed by any qualified elector of the district or ward with the city clerk.

A petition stating the general grounds on which removal of the council member serving as mayor is sought shall be signed by qualified electors equal in number to ten (10) per cent of those electors who were qualified to vote at the time of the last regular municipal election, and shall be filed by any qualified elector of the city with the city clerk.

A separate petition shall be circulated with respect to each member of council whose removal is sought.
(Ord. No. 47586, § 1 (Prop. 1), 1-17-77)

Sec. 27. Signatures to petitions.

The signatures to recall petitions need not all be appended to one petition and may be duplicated and assembled, but to each separate paper there shall be attached an affidavit to the circulator and such paper shall be invalid without such affidavit. Each signer of any petition paper shall, after his signature, show the place of residence by street and number or other description sufficient to identify the voting precinct. An affidavit attached to each petition or duplicate shall be as follows:

State of Texas
County of Bexar

_____, being duly sworn, deposes and says that he personally circulated the foregoing paper, that all the signatures affixed thereto were made in his presence, and that he believes them to be the genuine signatures of the persons whose names they purport to be.

Signed _____
(Signature of Circulator)

Subscribed and sworn to before me this _____ day of _____, 19____.

Notary Public

Sec. 28. Filing, examination, and certification of recall petitions.

All petition papers comprising a recall petition shall be assembled and filed with the city clerk as one instrument. Within twenty (20) days after filing, the city clerk shall determine whether each paper of the petition is properly attested and whether the petition is signed by a sufficient number of qualified electors. Upon completing his examination, the city clerk shall certify the result thereof to the council. If he should certify that the petition is insufficient, he shall set forth in his

certificate the particulars in which it is defective; provided, however, that except as to the particulars certified to be defective, the petition shall be deemed to be valid in all other respects.

Sec. 29. Amendment of petitions.

A recall petition may be amended at any time within twenty days after certification of insufficiency by the city clerk, by filing a supplementary petition upon additional papers signed and filed as provided in case of an original petition. The city clerk shall, within ten (10) days after such supplement is filed, examine the supplementary petition and, if his certificate shall show the petition still to be insufficient, he shall file it in his office and notify the person filing and no further action shall be had on such insufficient petition. The finding of the insufficiency of a petition shall not prevent the filing of a new petition for the same purpose.

Sec. 30. Recall election ordered.

If a recall petition, or amended petition be certified by the city clerk to be sufficient, he shall at once submit it to the council and notify the member of council whose removal is sought of such action. The council shall order a recall election which shall be held not less than thirty nor more than forty days after the petition has been presented to the council, and at the same time as any other special or general election held within such period. If no such election is to be held, the council shall call a special election. Should the member of council whose removal is sought resign prior to said recall election, then no election shall be held.

Sec. 31. Ballots in recall election.

Ballots used in recall elections shall read as to each member of the council whose removal is sought as follows: "Shall (name of person) BE REMOVED FROM THE CITY COUNCIL BY RECALL?" Below such question there shall be printed the following as to each member:

"For the recall of (name of person)."

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

Sec. 32. Result of recall election.

If a majority of the votes cast be against recall of a member, he shall continue in office for the remainder of his term, but subject to recall as before. If a majority of such votes be for the recall of a member, he shall, regardless of any defect in the recall petition, be deemed removed from office and a successor shall be appointed or elected as required by this Charter.
(Ord. No. 2012-05-17-0348, § 9, 5-17-12)

Sec. 33. Limitations on recall petitions.

No recall petition shall be filed against a member of the council within three months after he takes office nor, in respect to a member subjected to a recall election and not removed thereby, until at least six months after such election.

Sec. 34. Power of initiative.

The electors shall have power to initiate any ordinance, except ordinances appropriating money, levying a tax, granting a franchise, or fixing public utility rates, and to adopt or reject the same at the polls; provided, however, that the foregoing limitations on initiated ordinances shall not apply to any ordinance initiated pursuant to the provisions of Article I, Section 3, Paragraph 12 of this Charter. Any initiated ordinance may be submitted to the council by a petition signed by qualified electors of the city equal in number to ten per cent of the electors qualified to vote at the time of the last regular municipal election. In addition to the ordinances excepted above, ordinances zoning or rezoning property shall not be subject to this power.
(Ord. No. 85965, § 1 (Prop. 1), 5-5-97)

Sec. 35. Power of referendum.

The electors shall have power to approve or reject at the polls any ordinance passed by the council save one appropriating money, levying taxes, or fixing public utility rates, or any ordinance submitted by the council of its own initiative to a vote of the electors; provided, however, that the foregoing limitation on ordinances subject to a referendum shall not apply to any ordinances enacted pursuant to the provisions of Article I,

Section 3, Paragraph 12 of this Charter. Ordinances submitted to the council by initiative petition and passed by the council shall be subject to the referendum in the same manner as other ordinances. Within forty days after the enactment by the council of any ordinance which is subject to a referendum, a petition signed by qualified electors of the city equal in number to at least ten per cent of the electors qualified to vote at the last preceding regular municipal election may be filed with the city clerk requesting that any such ordinance be either repealed or submitted to a vote of the electors. In addition to the ordinances excepted above, ordinances zoning or rezoning property shall not be subject to this power.
(Ord. No. 85965, § 1 (Prop. 1), 5-5-97)

Sec. 36. Form of petitions.

All petition papers circulated for the purpose of an initiative or referendum shall be uniform in size and style. Initiative petition papers shall contain the full text of the proposed ordinance. The signatures to initiative or referendum petitions need not all be appended to one paper, but to each separate paper there shall be attached a statement of the circulator that he personally circulated the foregoing paper, that all the signatures appended thereto were made in his presence, and that he believes them to be the genuine signatures of the persons whose names they purport to be. Each signer of any such petition paper shall sign his name in ink or indelible pencil and shall indicate after his name his place of residence by street and number, or other description sufficient to identify the voting precinct.

Sec. 37. Filing, examination and certification of petitions.

All petition papers comprising a petition shall be assembled and filed with the city clerk as one instrument. Within twenty days after a petition is filed, the city clerk shall determine whether each paper of the petition has a proper statement of the circulator and whether the petition is signed by a sufficient number of qualified electors, and shall hold any petition paper entirely invalid which does not have attached thereto the

statement signed by the circulator thereof. The city clerk shall certify the result of his examination to the council at its next regular meeting. If he shall certify that the petition is insufficient he shall set forth in his certificate the particulars in which it is defective and shall at once notify the person filing same of his findings.

Sec. 38. Amendment of petitions.

A petition may be amended at any time within twenty days after the notification of insufficiency has been sent by the city clerk, by filing a supplementary petition upon additional papers signed and filed as provided in case of an original petition. The city clerk shall, within ten days after such an amendment is filed, examine the amended petition and, if the petition be still insufficient, he shall file his certificate to that effect in his office

and notify the person filing of his findings and no further action shall be had on such petition. The finding of the insufficiency of a petition shall not prevent the filing of a new petition for the same purpose.

Sec. 39. Effect of certification on referendum petition.

When a referendum petition, or amended petition, has been certified as sufficient, the ordinance specified in the petition shall not go into effect, or further action thereunder shall be suspended if it be in effect, until and unless approved by the electors.

Sec. 40. Consideration by council.

Whenever the council receives a petition from the city clerk, it shall be immediately considered. A proposed initiative ordinance shall be read and provision shall be made for a public hearing. The council shall take final action on the ordinance not later than sixty days after the date on which such ordinance was submitted to the council by the city clerk. A referred ordinance shall be reconsidered and the council shall, within thirty days, vote upon the question, "Shall the ordinance be repealed?"

Sec. 41. Submission to electors.

If the council fails to pass an ordinance proposed by initiative petition, or passes it in a form different from that set forth in the petition, or if the council fails to repeal a referred ordinance, the proposed or referred ordinance shall be submitted to the electors on the next authorized uniform election date that allows enough time to hold the election in the manner required by law. (Ord. No. 2015-05-20-0423, § 3 (Prop. 4), 5-20-15)

Sec. 42. Form of ballot for initiated and referred ordinances.

Ordinances submitted to a vote of the electors in accordance with the initiative and referendum provisions of this Charter shall be submitted by ballot title which shall contain a clear, concise statement, without argument, of the substance of such ordinance. The ballot used shall have below the ballot title the following propositions, one above the other, in the order indicated: "FOR THE ORDINANCE" and "AGAINST THE ORDINANCE." Any number of ordinances may be voted on at the same election and may be submitted on the same ballot.

Sec. 43. Results of election.

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

Sec. 44. Repealing ordinances; publication.

Initiative and referendum ordinances adopted or approved by the electors shall be published and may be amended or repealed by the council, as in the case of other ordinances; provided, however, that no ordinance adopted at the polls under the initiative or referendum shall be amended or repealed by the council within six months of adoption.

ARTICLE V. ADMINISTRATIVE SERVICE**Sec. 45. City manager—Selection, appointment and removal.**

Par. 1. Selection. The council shall, by a supermajority vote (i.e., at least 67%) of its members, appoint a city manager who shall be chosen on the basis of his or her executive and administrative qualifications. He or she shall receive annual compensation as fixed by the council which, in no event, shall exceed, in total, an amount greater than 10 times the annual salary furnished to the lowest paid full-time city employee, and shall, during his or her tenure of office, reside within the city. No person ever elected to office as a member of the governing body of the city shall be eligible for appointment as city manager.

Par. 2. Appointment and removal. The city manager shall be appointed for an indefinite term, but may not serve any more than eight years. The city manager may be removed by resolution at the discretion of the council by a majority vote of its members. Upon passage of a resolution stating the intention to remove the city manager and the reasons therefor, a copy of which shall be immediately furnished him or her, the council may suspend him or her from duty, but his or her salary shall continue until his or her removal becomes effective. Within twenty days after the passage of such a resolution, the city manager may reply in writing to it, and may request a public hearing. If so requested the council shall fix a time and place for a public hearing upon the question of removal, which shall be held not sooner than ten days nor more than twenty days after the receipt of such request. The final resolution removing the city manager shall not be adopted until such public hearing, if requested, has been held. The action of the council in removing the city manager shall be final. In case of the absence, disability or suspension of the city manager, the council may designate a qualified administrative officer of the city to perform the duties of the office. Pending the selection of any city manager following the adoption of this Charter, the council may appoint an acting city manager, who shall have all of the qualifications, powers and duties hereinbefore prescribed for the city manager, and who shall serve for a period not to exceed three months.
(Ord. No. 2018-11-15-0900, § 3, 11-15-18)

Sec. 46. Same—Powers and duties.

The city manager shall be responsible to the council for the proper administration of all affairs of the city and, subject to the civil service provisions of this Charter and except as otherwise provided herein, he shall have power and shall be required to:

- (1) Enforce all laws and ordinances;
- (2) Appoint and remove all officers and employees in the administrative service of the city; provided that he may authorize the head of a department or office to appoint or remove subordinates therein and provided, further, that he shall not appoint or remove officers and employees of:
 - (a) The board of trustees of the San Antonio public library;
 - (b) Any municipally-owned public utility, including electric, gas and water systems, while such utility is operating under the terms of any indenture, mortgage or deed of trust providing for employment by other authority.
- (3) Exercise administrative supervision and control over all departments created by this Charter and hereafter created by the council;
- (4) Keep the council fully advised as to the financial conditions and needs of the city; prepare and submit the budget annually to the city council and be responsible for its administration after its adoption; prepare and submit, as of the end of the fiscal year, complete report on the financial and administrative activities of the city for such year;
- (5) Recommend to the council such actions as he may deem desirable;
- (6) Prepare and submit to the council such reports as may be required of him;
- (7) Attend all regular and special meetings of the council, and participate in the discussion of the council provided, however, that he shall have no vote;

- (8) Act as the chief conservator of the peace within the city;
and
- (9) Perform such other duties as may be prescribed by this Charter or which may be required of him by ordinance or resolution of the council.

Sec. 47. Council members not to interfere in appointments or removals.

Members of the council shall not direct or request the city manager or any subordinate of the city manager to appoint to or remove from office or employment, or in any manner take part in the appointment or removal of officers or employees in the administrative service of the city, except for the purpose of inquiry. The council and its members shall deal with the administrative service solely through the city manager and neither the council nor any member of council shall give orders to any subordinates of the city manager, either publicly or privately. Any violation of the foregoing provisions by any member of the council shall constitute official misconduct, and shall authorize the council by a vote of two-thirds of its entire membership to expel such offending member, if found guilty after a public hearing, and declare the office vacant and fill in accordance with the provisions of Section 8.

(Ord. No. 2015-05-20-0423, § 3 (Prop. 4), 5-20-15)

Sec. 48. Investigations.

The council, the city manager, or any person or committee authorized by either or both of them, shall have power to inquire into the conduct of any department, agency or office of the city, and for that purpose shall have power to administer oaths. The council, on its own initiative, or upon request of the city manager, shall have power to subpoena witnesses, compel the production of books, papers and other evidence material to such inquiry.

The council shall provide by ordinance for penalties for contempt for refusal on the part of officers or employees of city departments, agencies, or offices, to obey such subpoenas, or to produce evidence.

Sec. 49. Boards, commissions, committees, and authorities.

Boards, commissions, committees, and authorities shall not be established to administer municipal functions of the City; provided, however, that this section shall not apply to (1) the Board of Trustees of the San Antonio public library, (2) the Municipal Civil Service Commission, (3) the Planning Commission, (4) boards of examiners and/or appeals established by ordinance to administer the provisions of building, electrical and plumbing codes, and (5) boards, commissions and authorities established under the provisions of the laws of Texas. The Council by ordinance may create boards, commissions or committees to assist in only an advisory capacity the City Council and heads of municipal departments in the performance of their duties. The members of any such advisory boards, commissions or committees shall be appointed by the Council and shall receive no compensation from the City.
(Ord. No. 85965, § 1 (Prop. 1), 5-5-97)

Sec. 50. Administrative departments created, control.

There are created and placed under the control of the city manager the following administrative departments of the city government:

- (1) Legal department
- (2) Finance department
- (3) Police department
- (4) Fire department
- (5) Public works or successor department
- (6) Public health department
- (7) Parks and recreation department
- (8) Aviation department

In addition to the administrative departments created, the council shall have power by ordinance to establish, discontinue or redesignate other administrative departments or offices. The council may combine any two of the departments and/or

administrative offices created by this Charter. No functions or duties assigned by this Charter to a particular department or office shall be abolished, except as otherwise provided by this Charter, but such functions or duties may be assigned by ordinance to other administrative departments or offices of the city; provided, however, that no changes shall be made by the council in the organization of the administrative service of the city until the recommendations of the city manager shall have been heard by the city council; and provided, further, that all administrative departments and offices of the city shall be under the direction and supervision of the city manager. (Ord. No. 2015-05-20-0423, § 3 (Prop. 4), 5-20-15)

Sec. 51. 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. Said directors shall have supervision and control over their respective departments, subject to approval by the city manager, except as otherwise specifically provided by this Charter.

Sec. 52. Department divisions.

The work of each department shall be distributed among such divisions thereof as may be established by ordinance; provided, however, that no division shall be established unless the city manager shall have been given an opportunity to have been heard thereon; provided, further, that pending the passage of an ordinance or ordinances distributing the work of the departments under the supervision and control of the manager among specific divisions thereof, the manager may establish temporary divisions.

Sec. 53. Appointment, qualifications, general duties of City Attorney.

There shall be a department of law, the director of which shall be the City Attorney, whose appointment shall be recommended by the City Manager and confirmed by the majority of the Council and who is a practicing attorney in good standing with

the State Bar of Texas, duly licensed, and who shall have practiced law for at least five (5) years immediately preceding his or her appointment. The City Attorney shall serve as chief legal advisor to the Council, the City Manager and all city departments, offices and agencies, and the City Attorney shall represent the city in all legal proceedings, and draft, approve or file his or her written legal objections to every ordinance before it is acted upon by the Council, and prepare or endorse his or her written approval or file his or her written legal objections to all documents, contracts and legal instruments in which the city may have an interest, and perform any other duties prescribed by this Charter or by ordinance. During his or her term of office, the City Attorney shall report to the City Manager and be a resident citizen within the City of San Antonio.

(Ord. No. 94956, 11-15-01)

Editor's note—Ord. No. 94956, adopted November 15, 2001, amended § 53 in its entirety to read as herein set out. Formerly, § 53 pertained to the city attorney as head of the legal department and derived from original codification.

Sec. 53a. Term, removal, absence or disability of City Attorney.

The City Attorney shall not be appointed for a definite fixed time, but shall be removable at the will and pleasure of the City Manager with the advice of the Council. If removed by the City Manager, 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 effect; but pending such hearing the City Manager may suspend him or her from office. The action of the City Manager in suspending or removing the City Attorney shall be final. In case of the absence or disability of the City Attorney, the City Manager may recommend with the confirmation of City Council a qualified person to perform the duties of the office.

(Ord. No. 94956, 11-15-01)

Sec. 54. Assistants to have all powers and duties of City Attorney.

All powers and duties imposed on the City Attorney may be exercised and performed by any Assistant City Attorney under his or her direction.

(Ord. No. 94956, 11-15-01)

Editor's note—Ord. No. 94956, adopted November 15, 2001, amended § 54 in its entirety to read as herein set out. Formerly, § 54 pertained to the powers and duties of the City Attorney and derived from original codification.

Sec. 55. Finance department—Director of finance; qualifications.

The director of the finance department shall be the head of such department and he shall have knowledge of municipal accounting and taxation 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 city shall pay the premium on said surety bond.

Sec. 56. Same—Powers and duties.

The finance department shall have the authority and be required to:

- (1) Administer the financial affairs of the city in accordance with ordinances enacted by the council.
- (2) Prepare the budget for the city manager and assist him in its administration after authorization by the council as required by this Charter.
- (3) Maintain accounting control over the finances of the city government, and perform such other duties pertaining to the financial affairs of the city as the council may require.
- (4) Control the purchase, storage and distribution of all supplies, materials, equipment, and contractual services now or hereafter required by the council.
- (5) Reserved.

- (6) Collect, have custody of, and disburse all funds belonging to the city, subject to the provisions of this Charter and ordinances enacted thereunder; have custody as fiduciary of all funds of the city; keep a record of investments; have custody of all bonds and certificates of city indebtedness, including bonds and certificates unissued or cancelled; and the receipt and delivery of city bonds and certificates of transfer, registration, and exchange.

(Ord. No. 85965, § 1 (Prop. 1), 5-5-97)

Sec. 57. Police department—Chief of police; appointment and removal.

The chief of police shall be the director of the police department.

Sec. 58. Same—Authority and duties of policemen.

The officers and policemen of the police department shall have all the powers and authority given to them as peace officers under the laws of Texas, this Charter, and all other powers and authority that may lawfully be conferred on them by the council. Such officers and policemen may exercise their powers and authority within the corporate limits of the city, and within the limits of any property owned, leased or otherwise subject to the control of the city, which lies outside the corporate limits of the city. It shall be the duty of each officer and policeman to use his best endeavors to prevent the commission of offenses against the laws of the state and the ordinances and regulations of the city; to observe and enforce all such laws, ordinances and regulations; to detect and arrest offenders against the same; to preserve the good order of the city and to secure the inhabitants thereof from violence, and the property therein from injury. Such officers and policemen shall execute any criminal warrant or warrants of arrest, or any writ subpoenas, or other process that may be placed in their hands by the duly constituted authorities of the city. No officer or policeman shall receive any fee or other compensation for any service rendered in the performance of his duty other than the salary paid him by the city.

Sec. 59. Chief of the fire department.

The chief of the fire department shall be the director of the fire department.

Sec. 60. Public works or successor department—Director; head of department.

The director of public works or successor department shall be the head of the department.

(Ord. No. 2015-05-20-0423, § 3 (Prop. 4), 5-20-15)

Editor's note—Ord. No. 2015-05-20-0423, § 3 (Prop. 4), adopted May 20, 2015, changed the title of section 60 from "Public works department—Director; head of department" to "Public works or successor department—Director; head of department."

Sec. 61. Same—Powers and duties.

The department of public works or successor department shall have charge of the planning, opening, construction, maintenance and repair of all streets, alleys, sidewalks, bridges, rivers, watercourses, creeks, ditches and public ways; of the storm sewers, repair of all public buildings and properties belonging to or used by the city; and of such other functions as may be prescribed by ordinance.

(Ord. No. 2015-05-20-0423, § 3 (Prop. 4), 5-20-15)

Sec. 62. Public health department—Director of public health; qualifications.

The director of the public health shall be the head of the department, who shall be trained in public health administration.

(Ord. No. 2015-05-20-0423, § 3 (Prop. 4), 5-20-15)

Sec. 63. Same—Powers and duties.

The public health department shall enforce the laws of the state and all ordinances and regulations relating to public health; it shall exercise such additional powers and perform such additional duties as may be prescribed by ordinance.

Sec. 64. Parks and recreation department—Director of parks and recreation; head of department.

The director of parks and recreation shall be the head of the department.

Sec. 65. Same—Powers and duties.

The parks and recreation department shall have charge of the management and maintenance of public parks, playgrounds, golf courses, swimming pools, and all other public recreational facilities and programs. The management, operation and maintenance of parks and playgrounds, and of all other public recreational facilities and programs shall be deemed to be done in the governmental capacity of the city. The parks and recreation department shall exercise such additional powers and perform such additional duties as may be prescribed by ordinance.

Sec. 66. Aviation department—Director of aviation; head of department.

The director of the aviation department shall be the head of the department.

Sec. 67. Same—Powers and duties.

The aviation department shall have charge of the management, operation and maintenance of the municipal airports, and of all facilities, services and installations related or incidental thereto which are owned or operated by the city. It shall exercise such other powers and perform such additional duties as may be prescribed by ordinance.

Sec. 68. Departmental offices and employments.

The number of offices and employments in each municipal department and office shall be fixed by ordinance; provided, that before adoption of such ordinance, the city manager may make such recommendation to the council as to him might seem desirable.

ARTICLE V.A. CITY INTERNAL AUDIT DEPARTMENT

Par. 1. Department of Internal Audit. There shall be an independent department of internal audit which is charged with conducting financial, fiscal compliance, and financial procedure audits of all city departments, offices, agencies and programs.

Par. 2. City Internal Auditor-Appointment; qualifications; compensation. The department of internal audit shall be under the direction and control of the city internal auditor, who shall be appointed by the City Council. The city internal auditor must be a person knowledgeable in public financial and fiscal theory, municipal accounting and auditing; public administration and be a certified public accountant. The city internal auditor's compensation shall be fixed by the City Council.

Par. 3. Term, removal, absence or disability of city internal auditor. The city internal auditor shall not be appointed for a definite fixed time but shall be removable at the will and pleasure of the City Council by a vote of not less than a majority of the entire Council. The city internal auditor may demand written charges and the right to be heard thereon at a public meeting of the City Council prior to the date on which the city internal auditor's final removal shall take effect, but pending such hearing the City Council may suspend the city internal auditor from office. The action of the City Council in suspending or removing the city internal auditor shall be final. In case of the absence or disability of the city internal auditor, the City Council may designate some qualified person to perform the duties of the office.

Par. 4. Appointment and removal of assistant auditors. Assistant auditors shall serve at the will and pleasure of the City Auditor. All other employees in the department of internal audit shall be in the classified civil service of the city and shall be appointed and may be removed by the City Auditor. Any classified employee in the department of internal audit shall enjoy the same rights as other classified city employees, except that in the event of a suspension, reduction or removal of a classified employee in the department of internal audit, the

classified employee shall enjoy the right to appeal to the Municipal Civil Service Commission whose decision shall be final.

(Ord. No. 94956, 11-15-01)

ARTICLE VI. CIVIL SERVICE

Sec. 69. Establishment.

There shall be a classified civil service which shall include all appointive offices and employments in the administrative service and in other agencies and offices of the City, and all persons receiving compensation from the City for personal services, except the following:

- (a) Members of the Council;
- (b) Persons who are appointed or elected by the Council pursuant to this Charter;
- (c) The City Manager, Deputy City Manager, the Assistant City Managers and Assistants to the City Manager, if any; and the secretary to the City Manager;
- (d) The directors of departments;
- (e) All assistant directors of departments;
- (f) All executive secretaries;
- (g) Architects, attorneys, assistant auditors, dentists, doctors, engineers, psychologists and veterinarians employed by the city;
- (h) Any other managerial or professional employees as designated by the City Manager and approved by the City Council;
- (i) Part-time, temporary and seasonal employees; and
- (j) Persons, firms, corporations, associations, foundations or other organizations whose services may be specifically engaged for professional, investigative, consultative, or other special services, and all employees or

agents performing such services for such person, firm, corporation, association, foundation or of organization so specially engaged.

(Ord. No. 94956, 11-15-01)

Sec. 70. Municipal civil service commission.

Par. 1. There shall be a Municipal Civil Service Commission consisting of three members and three alternates available to serve in case of absence of regular members, who shall be appointed by the Council, which shall designate one of the three as chairman. Each member and alternate of the Commission shall be a qualified elector of the City, shall neither hold nor be a candidate for any other public office or position. Members of the Commission shall serve for terms of two years. Vacancies in an unexpired term shall be filled by the Council by appointment for the remainder of the term. A member or alternate of the Commission may be removed by Council only for cause and after being given a written statement of the charges against him and a public hearing thereon, if he requests. A certified copy of the charges and a transcript of record of such public hearing shall be filed with the City Clerk.

Par. 2. Members of the commission shall be paid compensation for their services as determined in advance by the council.

Par. 3. Two members of the commission shall constitute a quorum. The commission shall act by majority vote. The chairman shall have the same voting rights as any other member.

Par. 4. The commission shall have power and shall be required to:

- (a) Hear appeals in case any employee or other person in the classified civil service is suspended, reduced or removed, and shall report in writing to the city manager its findings and recommendations;
- (b) Make any investigation which it may consider desirable or which it may be required by the council or city manager to make, concerning the administration of

personnel in the municipal service, and to report to the council and city manager its findings, conclusions and recommendations;

- (c) Perform the services hereinafter provided with respect to the civil service rules;
- (d) Perform such other duties with reference to personnel administration, not inconsistent with this Charter, as the council may require.

Par. 5. To administer the functions or authority of the commission, it shall have authority to issue subpoenas and subpoena duces tecum to witnesses where reasonably necessary to obtain pertinent evidence and any member of the commission shall have authority to administer oaths.

(Ord. No. 94956, 11-15-01)

Sec. 71. Personnel director.

There shall be a director of personnel, who shall be appointed and who may be removed by the city manager, and who shall have had training and experience in personnel administration. He shall have power and be required to:

- (1) Perform such duties as are prescribed herein and as may be prescribed by ordinance, or by the commission or the city manager, according to their respective jurisdictions under this Charter.
- (2) Prepare and recommend to the city manager a classification plan and amendments thereto for the classified service for presentation upon approval by the city manager to the council, and after adoption by the council, administer the plan approved. The plan shall include titles for each class of positions. Each class shall include all positions which are sufficiently similar with respect to duties, responsibilities, and authority so that the same title may be used to designate each position allocated to the class, the same requirement as to education, experience, intelligence, general and specialized knowledge, skill, physical condition and other qualifications may be demanded of incumbents for the

performance of their duties, the same tests of fitness may be used, and the same schedule of pay can be applied under like working conditions. After adoption of the plan the director, with the approval of the city manager, shall adopt written specifications for each class and allocate positions to classes. The class titles shall be used in personnel, budget, and financial records and communications, and, if individual positions are designated in the appropriation ordinances, in designating such positions.

- (3) Prepare and keep a record of the duties and responsibilities of each office and employment and establish and maintain a roster of all persons in the classified civil service showing as to each person:
 - (a) The class title of the position, the salary or pay, any changes in title, pay or status, and
 - (b) Such other data as is deemed desirable to maintain and improve personnel administration.
- (4) Hold open competitive examinations for all appointments in the classified civil service to determine the qualifications of those seeking employment and promotions, and upon the basis of such tests establish employment lists of persons eligible for appointment in the order of their achievement, which lists shall not be continued in effect for longer than one year following their establishment unless the director, with the approval of the commission, shall renew such lists for reasons presented in writing, but in no event shall such lists be continued in effect for more than eighteen months.

The character, content and manner of conducting tests shall be determined by the director, with the approval of the commission; however, upon the recommendation of the city manager, approved by the commission, such tests may be noncompetitive for positions which require exceptional qualifications of scientific, managerial, or professional character.

- (5) Upon written notice that a position in the classified service is to be filled, certify, in the order of their

achievement, the names of the three persons highest on the employment list for the class who are willing to accept appointment. If there is no list available, the director may authorize a provisional appointment to a permanent position to continue until a list can be established and certification made; provided, however, that no provisional appointment shall continue for more than sixty days and shall not be renewed. Temporary appointments may be authorized by the director to an extra position established by the council but shall not continue longer than thirty days and shall not be renewed.

- (6) Establish for each class probationary periods of not less than three nor more than six months to enable the appointing officer to observe whether new officers and employees are able and willing to perform their duties in a satisfactory manner. Appointing officers must submit to the director reports at least once each month during the probationary period. No permanent appointment shall be made except on certificate of the personnel director, based upon monthly reports, that the office or employee has satisfactorily passed the probationary period.
- (7) Prepare and recommend to the city manager at least sixty days before the beginning of each fiscal year for presentation upon approval by the city manager to the council, a pay plan, including a schedule of pay for each class of position with minimum and maximum rates and, where necessary, intermediate rates, and, following the adoption of the appropriation ordinance by the council, see that payments are made in accordance therewith.
- (8) Certify to the department of finance, prior to payment, that the persons whose names appear on any payroll or pay voucher were on the roster of employees, were employed in accordance with the Charter and regulations established thereunder, performed the services

indicated during the period covered, and that the pay rate has been established as provided herein. No payment shall be made without such certificate.

Sec. 72. Civil service rules.

The administration of the classified service of the city, including the employment or appointment of all persons in the classified civil service and their probation, and promotion, shall be prescribed, as far as practicable, by rules and regulations to be known as the civil service rules.

The director shall, within six months after this Charter takes effect, prepare such rules and recommend their adoption to the commission. After a public hearing thereon, the commission shall approve or reject the rules wholly or in part, or modify them, and approve them as modified. Rules, and any amendments thereto, which are approved by the commission or on which it takes no action within sixty days after they are recommended by the director, shall be given to the city manager for presentation to the council, together with whatever recommendations he may desire to make. Rules and amendments thereto shall become effective when approved by the council or on the tenth day after submission if, prior thereto, the council shall not have rejected them. Thereafter the board shall have power to amend, repeal, or add to the rules on the recommendation of the director, or on its own initiative, subject to the requirement of a public hearing and all the other subsequent steps of procedure required herein for adoption of the original rules. Copies of rules and amendments thereto shall be transmitted by the director to the council, the city manager and to the director of each department, and shall be made available to all officers and employees in the classified civil service of the city.

The rules shall include:

- (1) A provision that employment, promotion, suspension, reduction or removal shall be upon the basis of education, experience, intelligence, general and specialized knowledge, ability and willingness to work as demonstrated by competitive tests and service ratings;

- (2) A procedure by which any officer or employee without further competitive test may be transferred from a position in a given class to another position in the same class or to a position in a different class for which he is qualified and for which no higher maximum rate of pay has been established;
- (3) A provision for fixing hours of work, checking attendance, payments for overtime, establishing training courses, determining the order of lay off when forces are reduced because of lack of work or funds, and handling annual, sick, and special leave of absence with or without pay or with reduced pay;
- (4) A system of service ratings designed to reflect the merit of each person in the classified civil service;
- (5) Such other provisions as may be required by the council.

Sec. 73. Appointments.

No person shall be appointed to the classified civil service except after certification by the personnel director or except upon authorization by him of a provisional or temporary appointment. No person shall be appointed to the classified civil service under any title not appropriate to the duties to be performed.

Sec. 74. Compensation.

The salary or compensation of persons in the classified civil service shall be established by ordinance, which shall provide minimum and maximum compensation for each class of service. All increases or decreases in compensation of any person within the limits provided for each class may be directed by the city manager or other appointing authority with the approval of the city manager.

Sec. 75. Information, reports, and access to premises and records.

Every officer and employee in the service of the city shall furnish the personnel director any information required in the administration of personnel and shall allow the municipal civil

service commission and the director and members of his staff reasonable access to premises, buildings and records under his charge.

Sec. 76. Suspensions, reductions, and removals.

Any person in the classified civil service who has not completed the probationary period or who is serving under provisional or temporary appointment may be suspended, reduced in pay or class, or removed at any time by the city manager or other officer having power to appoint. Notice of such action shall be given to the personnel director.

Any person who has been appointed following certification from an employment list may be suspended, reduced in pay or class, or removed at any time during the probationary period by the city manager or other officers having power to appoint by giving him a written notice of such action, together with a statement of the reasons.

Any person who has completed the probationary period may be suspended, reduced in pay or class, or removed by the city manager or officer having authority to appoint. A written notice of the suspension, reduction or removal, stating the reasons and when it is effective, shall be given to such person or sent by registered mail to their usual place of residence. Such person, within ten city business days after the delivery or mailing of such notice, may appeal in writing to the commission for a hearing. The commission shall immediately fix a place and a time not later than ten city business days after such appeal for holding a hearing, at which hearing the appellant shall have the right to appear and be heard in person or by counsel. The commission shall, at the request of the appellant or of the city manager or other officer ordering the suspension, reduction or removal, compel other persons to attend the hearing as witnesses. All testimony given shall be under oath. The members of the commission shall have the power to administer oaths and affirmations, and to compel the attendance of witnesses and other persons by subpoena and other processes provided by law, and to compel the production of all pertinent records. The commission may make any further investigation which it might

deem proper. Within twenty-four hours after the completion of the public hearing or such investigation, the commission shall report its findings and recommendations to the city manager. A copy of the written statement given the officer or employee, of the written reply, if any, and a copy of the findings and recommendations of the commission shall be filed as a public record in the office of the personnel director.
(Ord. No. 2015-05-20-0423, § 3 (Prop. 4), 5-20-15)

Sec. 77. Status of appointive officers and employees when this charter became effective.

All appointive officers and employees in the service of the city, other than the officers and employees excepted from the classified civil service, whose offices or employments have not been abolished by this Charter, or whose offices or employments are not inconsistent with this Charter, and who have served continuously in their respective offices or employments for six months prior to January 1, 1952, shall be, on and after that date, subject in all respects to the classified civil service provisions of this Charter and shall continue in their respective offices or employments without preliminary or probationary tests.

Sec. 78. Prohibitions.

(a) No person shall willfully or intentionally make any false statement, certificate, mark, rating or report in regard to any test, certification, or appointment held or made, or in any manner commit any fraud interfering with the performance of these provisions or the applicable rules and regulations.

(b) No person seeking appointment to or promotion in the classified civil service shall directly or indirectly give, render or pay any money, service or other valuable thing to any person on account of or in connection with any test, appointment or promotion.

(c) No city employee may circulate petitions for city council candidates or city elections, receive or solicit any contribution for any city council candidate or city election other than for their own candidacy or campaign.

(d) No city employee shall make any contribution to the campaign funds of any candidate for City office or take any part in the management or affairs or political campaign of any candidate for City office, other than for their own candidacy or campaign, further than in the exercise of his rights as a citizen to express his opinion and to cast his vote.

(e) No employee of the city may wear city council campaign buttons nor distribute literature at work or in a city uniform or in the offices or building of the City of San Antonio.

(f) City employee organizations shall not be allowed to make any contribution to the campaign funds of any candidate for City office or take part in the management or affairs of a political campaign for City office, further than to express opinions, except as authorized by state law.

(Ord. No. 85965, § 1 (Prop. 4), 5-5-97; Ord. No. 2015-05-20-0423, § 3 (Prop. 4), 5-20-15)

ARTICLE VII. FINANCE*

Sec. 79. Fiscal year.

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 shall constitute the budget year of the City government. The term "budget year" shall mean the fiscal year for which any particular budget is adopted and in which it is administered.

(Ord. No. 85965, § 1 (Prop. 1), 5-5-97)

Sec. 80. The budget.

The budget for the City government shall present a complete financial plan for the ensuing fiscal year. It shall set forth all proposed expenditures for the administration, operation and

***Editor's note**—Ordinance No. 85965, § 1 (Prop. 1), adopted May 5, 1997, amended article VII to read as herein set out. Formerly, such article, §§ 79—111 pertained to similar provisions and derived from an election effective January 1, 1952; Ord. No. 44594, § 1 (Props. 5, 6), 11-07-74; Ord. No. 47586, § 1 (Prop. 2), 1-17-77.

maintenance of all departments and agencies of the City government for which appropriations are required to be made or taxes levied by the City government; all expenditures for capital projects to be undertaken or executed during the fiscal year; a capital program of proposed capital projects for the five fiscal years next succeeding the budget year, provided, however, this requirement shall not apply to the budget year beginning on August 1, 1952; all interest and debt redemption charges during the fiscal year; and the actual or estimated operating deficits from prior fiscal years. The budget shall also set forth the anticipated income and other means of financing the total proposed expenditures of the City government for the fiscal year. (Ord. No. 85965, § 1 (Prop. 1), 5-5-97)

Sec. 81. The budget document.

The budget document shall consist of three parts, as follows:

Part I shall contain (1) a budget message prepared by the City Manager, which shall outline a fiscal policy for the City government, describing therein the important features of the budget with reference both to proposed expenditures and anticipated income, for the current year; (2) a general budget summary with support schedules, which shall exhibit the aggregate figures of the budget in such manner as to show a balanced relationship between the total proposed expenditures and the total anticipated income for the fiscal year covered by the budget, and which shall compare these figures with the corresponding figures of 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 the explanations of increases or decreases recommended as compared with appropriations for the current fiscal year; (2) detailed estimates of anticipated revenues and other income; (3) delinquent taxes for current and preceding years, with estimated percentage collectible; (4) statements of the bonded debt and other indebtedness of the City government, showing the debt

redemption and interest requirements, the debt authorized and unissued, the conditions of the sinking funds, if any, and the borrowing capacity of the City.

Part III shall contain a complete draft of the budget ordinance, including an appropriation ordinance and such other ordinances as may be required to finance the budget.

(Ord. No. 85965, § 1 (Prop. 1), 5-5-97)

Sec. 82. The preparation and adoption of the budget.

Annually, the City Manager shall establish a budget calendar setting key dates for preparation and adoption of the consolidated annual budget. The departments and agencies of the City government shall transmit, in accordance with the calendar, estimates of their budgetary requirements to the Department responsible for preparing the budget, which shall prepare a budget for the City Manager in the form required by the Charter. The City Manager shall transmit the annual budget to the Council in accordance with the calendar. The Council shall arrange for and hold at least one public hearing on the budget during the period of its consideration. Provided, however, that at least ten days prior public notice shall be given of such public hearing; and provided, further, that at least ten days prior to such public hearing, the City Manager shall cause one copy to be made available in the office of the City Clerk for inspection. The Council may revise, alter, increase, or decrease the items of the proposed budget prior to the adoption of the appropriation ordinance, provided that when it shall increase the total proposed expenditures, it shall also increase the total anticipated income so that the total means of financing the budget shall at least equal in amount the aggregate proposed expenditures. When the Council shall make such changes, it shall issue a statement setting forth clearly its action on the budget. Annually, the Council shall approve the budget plan and shall enact, not later than the twenty seventh day of September, the appropriation ordinance, and such other ordinances as may be required to make the budget effective. As soon as possible after the completion of the tax roll the Council shall pass the tax levy ordinance. A copy of the budget, as finally adopted, shall be filed with the City Clerk and the County Clerk of Bexar County. The

final budget shall be made available for the use of all departments, offices and agencies of the City, and for the use of interested persons, agencies and civic organizations.
(Ord. No. 85965, § 1 (Prop. 1), 5-5-97; Ord. No. 2015-05-20-0423, § 3 (Prop. 4), 5-20-15)

Sec. 83. Work program and allotments.

Immediately before 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 responsible Department a work program for the year, which program shall include all appropriations for its operation and maintenance and for the acquisition of property, and which shall show the requested allotments of said appropriations for such department or agency by months for the entire fiscal year. The City Manager, with the assistance of the appropriate Department, shall review the requested allotments in light of the work program of the department or agency concerned, and may, if the City Manager deems necessary, revise, alter, or change such allotments before authorizing the same. The aggregate of such allotment shall not exceed the total appropriation available to said department or agency for the fiscal year. The department responsible for preparing the budget shall authorize all expenditures for the 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 as approved 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 the available income, plus fund balances, for the year will be less than the total appropriations, the City Manager shall reconsider the work programs and allotments of the several departments and agencies and revise them so as to prevent the making of expenditures in excess of the said income and fund balance.
(Ord. No. 85965, § 1 (Prop. 1), 5-5-97; Ord. No. 2015-05-20-0423, § 3 (Prop. 4), 5-20-15)

Sec. 84. Transfer of appropriations.

Upon written recommendation of the City Manager, the City Council may at any time transfer any unencumbered appropriation balance or any portion thereof within a department office or agency to another.

(Ord. No. 85965, § 1 (Prop. 1), 5-5-97)

Sec. 85. Appropriation of excess revenue.

If at any time the total revenues collected by the City shall be in excess of the total estimated revenue, as set forth in the annual budget estimate, the City Manager shall make a recommendation to the City Council of the use of such funds, and the use of such funds are subject to appropriation by subsequent City Council ordinance.

(Ord. No. 85965, § 1 (Prop. 1), 5-5-97; Ord. No. 2015-05-20-0423, § 3 (Prop. 4), 5-20-15)

Sec. 86. Money to be drawn from treasury in accordance with appropriations.

No money shall be drawn from the treasury of the City, nor shall any obligation for the expenditure of money be incurred, except in pursuance of the annual or interim fiscal period appropriation ordinance or such ordinance when changed as authorized by this Charter or by the general laws of Texas. At the close of each fiscal year any unencumbered balance of an appropriation shall revert to the fund from which appropriated and shall be subject to reappropriation as provided by this Charter; but appropriations may be made by the Council, to be paid out of the income of the current year, in furtherance of public improvements, capital or maintenance projects, which will not be completed within such year, and any such appropriation shall continue in force until the purpose for which it was made shall have been accomplished or abandoned.

(Ord. No. 85965, § 1 (Prop. 1), 5-5-97; Ord. No. 2015-05-20-0423, § 3 (Prop. 4), 5-20-15)

Sec. 87. City depositories.

All monies received by any person, department or agency of the City for or in connection with the business of the City and all

funds of the City shall be deposited promptly in the City Depository, 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 interest on monies belonging to the City shall accrue to the benefit of the City.

(Ord. No. 85965, § 1 (Prop. 1), 5-5-97)

Sec. 88. Collection and deposit of revenues.

The Assessor and Collector of Taxes or other designated official(s) shall collect, issue receipts for, and deposit all ad valorem property taxes, all occupational taxes and all fees and dues as may be prescribed by ordinance.

(Ord. No. 85965, § 1 (Prop. 1), 5-5-97)

Sec. 89. Seizure and sale of personal property.

The Assessor and Collector of Taxes shall, by virtue of his tax rolls, have power and authority to seize and levy upon all personal property and sell the same to satisfy all taxes, together with all penalty, interest and costs due on said personal property by said delinquent to the City. When he seizes personal property for such purposes he shall keep the same at the expense of the owner until the sale is made, and shall give notice of the time and place of sale of same by posting a written notice.

A sale of personal property for delinquent taxes shall convey with it an absolute title, and the owner shall have no right to redeem the same.

(Ord. No. 85965, § 1 (Prop. 1), 5-5-97)

Sec. 90. Tax lien.

On January 1 of each year, a tax lien attaches to all real, personal and mobile home property to secure the payment of all taxes, penalties and interest imposed for the year on the property, whether or not the taxes are imposed in the year the lien attaches.

(Ord. No. 85965, § 1 (Prop. 1), 5-5-97)

Sec. 91. The power of the city to assess, bill and collect ad valorem property taxes.

The City shall have power annually to assess, bill and collect ad valorem property taxes at the rate and in the total amount authorized by the Constitution of Texas and the general laws of this State. The ad valorem property taxes hereinabove authorized shall be assessed annually and collected on the taxable value of all real, personal and mobile home property having situs in the corporate limits of the City. There shall be an officer in the Finance Department who shall be known as the Tax Assessor-Collector of Taxes. This officer shall assess, bill and collect ad valorem property taxes in accordance with the Constitution of Texas and the State Property Tax Code. The tax levied by any improvement district in the City shall not exceed twenty-five cents annually.

(Ord. No. 85965, § 1 (Prop. 1), 5-5-97)

Sec. 92. Occupation taxes.

The Council shall have power annually to levy and collect occupation taxes, in accordance with the provisions of the laws of the State of Texas.

(Ord. No. 85965, § 1 (Prop. 1), 5-5-97)

Sec. 93. Method of levy, assessment, and collection of taxes.

All city taxes shall be levied, assessed and collected in the same manner as may be provided by the laws of Texas for the levy, assessment and collections of state and county taxes, unless otherwise provided by this Charter, or by ordinance; provided, however, that no discounts may be granted for the advance payment of taxes. All powers conferred by the general laws of Texas as they now or hereafter may exist for the assessment, levy and collection of taxes by county and city assessors and collectors are hereby adopted and made applicable to the City and shall be in addition to and cumulative of the powers herein expressly granted, including without limitation,

those granted to county and city assessors and collectors of taxes, and to all other persons, bodies or agencies concerned with the assessment and collection of taxes.
(Ord. No. 85965, § 1 (Prop. 1), 5-5-97)

Sec. 94. Tax rate.

The City Council shall adopt a tax rate for the current tax year on the same date the City's Annual Operating Budget is adopted and shall notify the Tax Assessor-Collector of the rate adopted. The tax rate shall consist of two components, each of which must be approved separately. The components are:

The rate that, if applied to the total taxable value, will be used to pay debt service for the fiscal year; and

The rate, that, if applied to the total taxable value, will impose the amount of taxes needed to fund maintenance and operation expenditures for the fiscal year.

The City may not impose property taxes in any year until the City Council has adopted a tax rate for that year, and the annual tax rate must be set by ordinance. The vote on the ordinance setting the tax rate must be separate from the vote adopting the budget.

(Ord. No. 85965, § 1 (Prop. 1), 5-5-97; Ord. No. 2015-05-20-0423, § 3 (Prop. 4), 5-20-15)

Sec. 95. Taxes when due.

All ad valorem property taxes are due on receipt of the tax bill and are delinquent if not paid before February 1 of the year following the year in which imposed. The Council shall have power, by ordinance, to provide for the payment of any taxes due, at the option of taxpayers, in one payment, or two equal installments.

(Ord. No. 85965, § 1 (Prop. 1), 5-5-97)

Sec. 95A. Reserved.

Editor's note—Ord. No. 2015-05-20-0423, § 3 (Prop. 4), adopted May 20, 2015, repealed the former section 95A in its entirety, which pertained to change in tax and fiscal years, and derived from Ord. No. 85965, § 1 (Prop. 1), adopted May 5, 1997.

Sec. 96. Penalties and interest on delinquent taxes.

A delinquent tax incurs a penalty of six percent of the amount of the tax for the first calendar month it is delinquent plus one percent for each additional month or portion of a month the tax remains unpaid prior to July 1 of the year in which it becomes delinquent. However, a tax delinquent on July 1 incurs a total penalty of twelve percent of the amount of the delinquent tax without regard to the number of months the tax has been delinquent. A delinquent tax accrues interest at a rate of one percent for each month or portion of a month the tax remains unpaid.

(Ord. No. 85965, § 1 (Prop. 1), 5-5-97)

Sec. 96A. Additional penalty for collection costs.

Taxes that remain delinquent on July 1 of the year in which they become delinquent incur an additional penalty to defray costs of collection. The amount of the penalty may not exceed the amount provided by state law.

(Ord. No. 85965, § 1 (Prop. 1), 5-5-97; Ord. No. 2015-05-20-0423, § 3 (Prop. 4), 5-20-15)

Sec. 96B. Delinquent tax attorney.

The City Council may contract with any competent attorney to represent the City to enforce the collection of its delinquent taxes.

(Ord. No. 85965, § 1 (Prop. 1), 5-5-97)

Sec. 97. Purchase procedure.

Paragraph 1. Contracts for the purchase of supplies, material, or equipment, or for contractual services shall be in writing and opportunity for competitive bidding shall be given before they are awarded as required by state law. The Council shall have the right to reject any and all bids.

Paragraph 2. Where the contract is for less than the amount required to be bid by state law and the item is one provided for in the budget, the Council by ordinance may authorize designated City officials to approve and execute the contract without

Council approval, after public notice, competitive bids, requests for proposals, or other procedures and safeguards as may be required in such ordinance. This provision would apply to all city contracts.

(Ord. No. 85965, § 1 (Prop. 1), 5-5-97)

Sec. 98. Authority to issue bonds.

The City shall have power to borrow money on the credit of the City and to issue bonds for permanent public improvements or for any other public purpose not prohibited by the Texas Constitution or the general laws of the State of Texas to include affordable housing programs in scope and breadth as determined by ordinance of the City Council, and to fund or refund any bonded indebtedness; provided, however, that any proposition to borrow money and to issue bonds, except as otherwise authorized by the general laws of Texas, shall be first approved by a majority of the qualified electors of the City voting in an election held, as prescribed by ordinance, as nearly in accord with this charter and the laws regulating City elections as may be practicable. The ordinance calling such election shall distinctly specify the purpose thereof; provided, however, that more than one subject or purpose may be included but each shall be separately stated. No election shall be required to authorize the refunding of bonds issued and outstanding. The total bonded debt of the City shall never exceed ten percent of the total assessed valuation of property shown by the last assessment roll, exclusive of any indebtedness secured in whole or in part by special assessments, exclusive of the bonded debt of any improvement district, and exclusive of any indebtedness secured by revenues, other than taxes, of the City or of any department or agency thereof.

(Ord. No. 85965, § 1 (Prop. 1), 5-5-97; Ord. No. 2021-05-12-0327, § 3 (Prop. A), 5-12-21)

Sec. 99. Revenue bonds.

The City shall have power to issue its revenue bonds for the purposes and in the manner and form now or hereafter authorized by any general law of Texas. The City shall also have power to issue its revenue bonds for the acquisition of any other utility or

property for public use and to enlarge, improve, extend or equip the same, and to issue its revenue bonds for any other lawful public purpose, provided such bonds shall never be a debt of the City and shall be a charge upon and payable solely from the designated sources, properties or interest acquired and the income therefrom. The Council shall have authority to provide for the terms and forms 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.

(Ord. No. 85965, § 1 (Prop. 1), 5-5-97)

Sec. 100. Issuance of bonds for improvement districts.

The City shall have power to borrow money on the credit of any improvement district of the City and issue bonds therefor for permanent public improvements in such districts, and the Council may divide the City, or any portion thereof, into improvement districts; but every proposition to borrow money on the credit of any improvement district for permanent public improvements therein shall be first submitted to and approved by a majority of the qualified electors residing within such district, voting in an election held for such purpose and shall distinctly specify the purpose of the loan and the permanent public improvements to be constructed; provided, however, that several improvements of different character may be submitted at one election. All bonds shall specify the purpose for which they were issued. All accrued interest to date of payment of the proceeds of sale shall be deposited in the City depository. Such bonds may be negotiated in lots as the Council may decree. No debt shall be contracted for the payment whereof such bonds are issued until such bonds are sold and no debt shall ever be created against any improvement district unless at the same time provision be made to assess and collect annually upon property in such district a sum sufficient to pay the debt service on such bonds and create a sinking fund thereon as required by law. The tax which shall be collected annually from the owners of property in such improvement district for payment of such bonds shall be in addition to all other current taxes levied by the City, and the fund thus created shall be kept separate by the

City depository from other funds, and shall not be diverted or used for any other purpose than to pay interest and principal on such bonds.

(Ord. No. 85965, § 1 (Prop. 1), 5-5-97)

Sec. 101. Sale of bonds.

No bond issued by the City shall be sold until after the terms have been considered and the sale has been approved by City Council.

(Ord. No. 85965, § 1 (Prop. 1), 5-5-97)

Sec. 102. Sinking fund.

It shall be the duty of the Council each year to levy a tax sufficient to pay the debt service on and provide the necessary sinking fund required by law on all bonds outstanding. The interest and sinking fund, and the funds hereafter created for the retirement of bonds shall be deposited in separate accounts in the City depository and shall not be diverted to any other purpose, or used for any purpose other than to pay interest and principal on such bonds.

(Ord. No. 85965, § 1 (Prop. 1), 5-5-97)

Sec. 103. Sinking fund administration.

The sinking fund for the redemption of any loan or debt may be invested in any investment instruments as authorized by the laws of the State of Texas and any other applicable law, which may include United States interest bearing bonds or bonds of the State of Texas, or Bexar County, Texas, or in bonds of the City, or of any improvement district thereof and the interest of such bonds, shall be reinvested; and such investment instruments shall be sold when necessary to pay the interest or principal of the bonds issued under the provisions of this section. Said sinking fund may be appropriated at any time to reduce the public debt by the purchase and cancellation of outstanding City bonds, or for the investment of such sinking fund.

(Ord. No. 85965, § 1 (Prop. 1), 5-5-97)

Sec. 104. Disbursement of funds.

All checks, vouchers, warrants, wire transfers or ACH transactions for the withdrawal of money from the City depository shall be signed by the Director of Finance, or the Director's designee; provided, however, that checks, vouchers, warrants, wire transfers or ACH Transactions for the withdrawal of sinking funds shall also be signed by the City Manager, or, in the City Manager's absence, by an officer designated by the Council.
(Ord. No. 85965, § 1 (Prop. 1), 5-5-97; Ord. No. 2015-05-20-0423, § 3 (Prop. 4), 5-20-15)

Sec. 105. Borrowing in anticipation of property taxes.

In any tax year, in anticipation of the collection of the ad valorem property tax for such year, whether levied or to be levied in such year, the Council may by resolution authorize the borrowing of money by the issuance of negotiable notes of the City each of which shall be designated "tax anticipation note for the _____" (stating the tax year). Such notes shall mature and be payable not later than the end of the tax year in which issued, and may be secured by the pledge of the ad valorem property taxes for such year.
(Ord. No. 85965, § 1 (Prop. 1), 5-5-97; Ord. No. 2015-05-20-0423, § 3 (Prop. 4), 5-20-15)

Sec. 106. Borrowing in anticipation of other revenues.

In any tax year, in anticipation of the collection or receipt of other revenues of that year, the Council may by resolution authorize the borrowing of money by the issuance of negotiable notes of the City, each of which shall be designated "special revenue note for the year _____" (stating the tax year). Such notes may be renewed from time to time, but all such notes, together with the renewals shall mature and be payable not later than the end of the tax year in which issued, and may be secured by pledge of such other revenues for such year.
(Ord. No. 85965, § 1 (Prop. 1), 5-5-97; Ord. No. 2015-05-20-0423, § 3 (Prop. 4), 5-20-15)

Sec. 107. Independent audit.

As soon as practicable after the close of each fiscal year, an independent audit, in accordance with specifications defined by ordinance, shall be made of all accounts of the City government by a Certified Public Accountant, selected by the Council, who shall have no personal interest directly or indirectly in the financial affairs of the City government, or of any of its officers. The results of this audit shall be published immediately upon its completion.

(Ord. No. 85965, § 1 (Prop. 1), 5-5-97)

Secs. 108—111. Reserved.**ARTICLE VIII. CORPORATION COURT*****Sec. 112. [Established.]**

There are hereby established Municipal courts of the City which shall be courts of record, presided over by judges appointed by the City Council for two year terms. The Judge, at the time of his appointment, shall have resided in the city for at least three years immediately preceding his appointment. The municipal courts shall operate pursuant to applicable state law providing for San Antonio Municipal Courts of Record as they exist and as they may be amended from time to time.

(Ord. No. 85965, § 1 (Prop. 1), 5-5-97)

Secs. 113—116. Reserved.**ARTICLE IX. PLANNING COMMISSION****Sec. 117. Organization.**

There is hereby established a planning commission which shall consist of nine members, who shall be appointed by the

***Editor's note**—Ordinance No. 85965, § 1 (Prop. 1), adopted May 5, 1997, amended article VIII to read as herein set out. Formerly, such article, §§ 112—116 pertained to similar provisions and derived from an election effective January 1, 1952.

State law reference—Municipal courts generally, Vernon's Ann. Civ. St. art. 1194A.

council as nearly as practicable from various areas of the city, for overlapping two year terms; provided, however, that, initially, five members of the commission shall be appointed for terms of two years and four members for terms of one year. The city manager, a member of the council designated by the council, the chairman of the zoning commission and the chairman of the zoning board of adjustment shall be ex officio members of the commission. The council may appoint other ex officio members. Appointive members of the commission, other than those serving in an ex officio capacity, may not hold any other public office for which compensation is paid by the State of Texas or any political subdivision thereof. A majority of appointive members, other than ex officio, shall constitute a quorum. The commission shall elect a chairman from its own membership, and shall meet not less than once each month. Members of the commission, other than those serving in an ex officio capacity, may be paid compensation not to exceed twenty dollars per meeting, and not exceeding \$1,040 per annum, as may be determined by the council. Any vacancy occurring during the unexpired term of an appointive member shall be filled by the council for the remainder of the unexpired term.

Sec. 118. Duties and powers.

Par 1. The commission shall be responsible to and shall act as an advisory body to the council. The commission shall:

- (1) Make, amend, extend and add to a master plan for the physical development of the city.
- (2) Submit annually to the city manager, not less than ninety days prior to the beginning of the budget year, a list of recommended capital improvements to be constructed during the forthcoming five-year period.
- (3) Submit annually its budget estimate to the finance department at the same time and in the same manner as is required of city departments and agencies.
- (4) Keep a public record of its resolutions, findings, and determinations.

Par. 2. The commission shall have power to:

- (1) Prepare, recommend, and administer rules and regulations pertaining to subdivisions and to platting in territory outside the city limits and within the extraterritorial jurisdiction.
- (2) Within its budget appropriation, contract with city planners and other consultants for such services as it may require.
- (3) Make reports and recommendations relating to the plan and development of the city to public officials and agencies, public utility companies, civic, educational, professional and other organizations, and citizens.

Par. 3. The commission shall perform such additional duties and exercise such additional powers as may be prescribed by ordinance.

(Ord. No. 85965, § 1 (Prop. 1), 5-5-97)

Sec. 119. Director.

There shall be a director of planning who shall be appointed and removed by the city manager and who shall receive such compensation as may be fixed by the council. The director shall be qualified in the field of city planning. He shall be the regular technical adviser of the commission, may be designated as its executive secretary, and shall have such other authority and duties as the commission may establish.

Sec. 120. Employees.

The planning commission shall have additional employees as may be provided by ordinance. Such employees shall be in the classified civil service of the city and shall be appointed and may be removed by the city manager, or, with the approval of the city manager, by the director of planning.

Sec. 121. Master plan.

The master plan for the physical development of the city shall contain the commission's recommendations for the growth, development and beautification of city territory. The commis-

sion may adopt the master plan as a whole or in parts and may adopt any amendment thereto. The adoption of the plan or of any such part or amendment shall be by resolution, but before the adoption of the plan or any such part or amendment, the commission shall hold at least one public hearing on the proposed action.

Sec. 122. Procedure.

Par. 1. Master plan. A copy of the master plan, or any part thereof, shall be forwarded to the city manager who shall thereupon submit such plan or part thereof to the council, together with his recommendations, if any. The council may adopt or reject such plan or such part thereof as submitted; provided, however, that if the council should fail to act on such plan or part thereof for sixty days following its submission by the city manager, it shall be deemed thereafter approved. If such plan or part thereof should be rejected by the council, the planning commission may modify such plan or part thereof and again forward it to the city manager for submission to the council.

Par. 2. Rules and regulations. All rules and regulations adopted by the planning commission shall be forwarded to the city manager who shall submit them to the council with his recommendations. The council may adopt or reject any such rules or regulations. If any rules or regulations should be rejected, the planning commission may modify them, and submit such modified rules and regulations or new rules and regulations to the city manager for submission, with his recommendations to the council.

Sec. 123. Legal effect of master plan.

Following the adoption of the master plan by the council, no subdivision, street, park, nor any public way, ground or space, public building or structure and no public utility whether publicly or privately owned, shall be constructed or authorized in the city, nor shall any real property be acquired by the city, until and unless the location and extent thereof shall have been submitted to and approved by the commission; provided, that, in

case of disapproval, the commission shall communicate its reasons to the council, which shall have the power to overrule such disapproval, and, upon such overruling, the council or the appropriate office, department or agency shall have power to proceed. The widening, narrowing, relocation, vacation or change in the use of any street, river, or watercourse, or other public way or ground or the sale of any public building or real property shall be subject to similar submission and approval, and failure to approve may be similarly overruled by the council. The failure of the commission to act within thirty days after the date of official submission to the commission shall be deemed approval, unless a longer period be granted by the council or the submitting official.

Sec. 123A. [Annexed land submitted to Planning Commission.]

No land shall be annexed into the City until and unless the location and extent thereof shall have been submitted to the Planning Commission and the Commission shall have made a recommendation to the City Council on the proposed annexation. In case of disapproval by the Commission, it shall communicate its reasons to the Council. The Council shall have the right to overrule such disapproval. Failure of the Commission to act within thirty days after the date of submission shall be deemed approved, unless a longer period be granted by the Council.

(Ord. No. 85965, § 1 (Prop. 2), 5-5-97)

ARTICLE X. PUBLIC LIBRARY

Sec. 124. Establishment and management of San Antonio Public Library.

There is hereby established the San Antonio Public Library. Its personnel and properties of every description shall be managed by a board of trustees, which shall consist of not less than seven nor more than fifteen members who shall be electors of Bexar County, Texas and who shall be appointed by the council; provided, however, that the number of such members

shall be odd numbered; and provided, further, that such members shall serve without compensation from the city. Appointments to the board shall be made for overlapping two year terms; provided, however, that, initially, a majority shall be appointed for terms of two years and the remainder for terms of one year.

Sec. 125. Officers and employees.

The board of trustees of the public library shall have authority to appoint and remove all officers and employees of the library, subject to the civil service provisions of this Charter. The officers and employees thereof shall be entitled to all rights and benefits under any provisions pertaining to appointive offices and employments of the city which are now or which may hereafter be in the classified civil service of the city.

Sec. 126. Properties.

The board of trustees of the public library shall be exclusively responsible for the management, care, control and maintenance of its properties of every description.

Sec. 127. Finance.

The board of trustees of the public library shall annually submit a budget estimate to the department of finance at the same time and in the same manner as is required of city departments and agencies. Such budget estimate shall thereupon be transmitted to the council in the same manner as the budget estimates of city departments and agencies. The council, in recognition of the public service rendered by the public library, shall give full consideration to its needs as stated in the budget estimate submitted by the board. Upon approval by the council, the budget for the public library shall be included in the municipal budget and shall be subject to the same fiscal controls which apply to city departments and agencies.

ARTICLE XI. FRANCHISES

Sec. 128. Inalienability of public property.

The ownership, right of control and use of the streets, highways, alleys, parks, public places and all other real property

of the city is hereby declared to be inalienable by the city, except by ordinances passed by vote of a majority of the council as hereinafter provided; and no franchise or easement involving the right to use the same, either along, across, over or under the same, shall ever be valid, unless expressly granted and exercised in compliance with the terms hereof, and of the ordinances granting such use. No act or omission of the city, its council, officers or agents shall be construed to confer or extend by estoppel or indirection, any right, franchise or easement not expressly granted by ordinance.

Sec. 129. Franchise power of the city.

The city shall have the power, subject to the terms and provisions hereof, by ordinance to confer upon any person, firm or corporation the franchise or right to use the property of the city, as defined in the preceding section, for the purpose of furnishing to the public any general public service, including, without limitation, however, heat, light, power, telephone service, refrigeration, steam, and the carrying of passengers for hire whether over designated routes or not within the city or its suburbs over the streets, highways and property of the city, or for any other purpose, whereby a general service is to be furnished to the public for compensation or hire, to be paid to the franchise holder, whereby a right to, in part, appropriate or use the streets, highways or other property of the city is necessary or proper. The provisions hereof with references to public utilities shall not apply to those owned by the city.

Sec. 130. Limitations on franchises.

No exclusive franchise or privilege shall ever be granted, nor a franchise nor a privilege to commence at any time after six months subsequent to the taking effect of the ordinance granting the same. No franchise or privilege shall be extended directly or indirectly beyond the term originally fixed by the ordinance granting the same.

An application for the renewal of a franchise or the granting of a new one may be considered and acted upon prior to the expiration date of the current franchise so that the new

franchise may take effect upon the expiration date of the other; provided, however, that the procedure prescribed herein for the original granting of such franchise is followed in all particulars.

Sec. 131. Granting of franchises.

The city shall have the power by ordinance to grant any franchise or right mentioned in the preceding sections hereof, which ordinance shall not be passed finally until its third and final reading, which readings shall be at three separate regular meetings of the council, the last of which shall take place not less than thirty days from the first. After the passage of the ordinance on its first reading, it shall be published once in a newspaper of general circulation in the city, advising all persons that a public hearing will be held on this franchise on the date stated. No ordinance granting a franchise shall pass any reading except by a vote of the majority of the council and such ordinance shall not take effect until sixty days after its adoption on its third and final reading; provided, however, the ordinance shall be subject to referendum as provided by this Charter or now or as hereafter may be provided by the general laws of Texas.

Sec. 132. Powers of city over franchise holders.

The city shall have the right and power, acting through the council, to determine, fix and regulate the charges, fares or rates of any person, firm or corporation enjoying or that may enjoy a franchise or exercise any other public privilege in said city and to prescribe the kind of service to be furnished by such person, firm or corporation, and the manner in which it shall be rendered, and from time to time to alter or change such rules, regulations and compensation. The city shall have the power and authority to require extensions, betterments and improvements of the service that may be rendered by the holder of a franchise and shall likewise have the power to prevent the making of unnecessary or unprofitable extensions.

Sec. 133. Annual reports and statements required of franchise holders.

Every person, firm or corporation holding a franchise or enjoying an easement of any sort through, under or from the city

shall be required to prepare and file annually with the council, within sixty days after the close of a fiscal year, a true, full and correct statement based upon the condition at the close of such fiscal year and the transactions for the current year which shall exhibit:

- (a) The amount of all stock issues of such corporation and the divisions thereof.
- (b) An itemized statement of indebtedness, its nature and division, whether floating or bonded, and the interest payable on each item thereof.
- (c) An itemized statement of income and the amounts derived from each source of income.
- (d) An itemized and detailed statement of expenditures.
- (e) An itemized statement of all property of every kind owned and used in rendering the public service, wherever situated and the location and fair market value of each item thereof.

Said annual statement shall be verified by oath of the person, a member of the firm or a duly authorized officer or agent of the corporation, and upon its filing shall become part of the permanent records of the city.

If any person, firm or corporation required to file such report shall fail to do so as herein provided, such failure shall be ground for forfeiture of the franchise and it shall be the duty of the city attorney, after due notice to the grantee of such intention, to bring suit within a reasonable time in the district court to forfeit the franchise granted and if it shall appear to the court that such person, firm or corporation has wilfully failed to make such report, it shall render judgment in the case decreeing a forfeiture of such franchise and of all rights accruing thereunder.

Sec. 134. Conditions of franchises.

Each franchise granted by the council shall provide:

- (1) For the compensation to be paid to the city for the use and occupancy of the public property, which said compensation may be a fixed fee, or may be measured by

gross receipts, or some other method mutually agreeable to the parties. Such compensation may be changed from time to time by mutual consent.

- (2) For the length of time that such franchise shall continue in effect; provided, however, that no franchise shall be granted for a period longer than twenty-five years.
- (3) That no franchise shall be assigned without the written consent of the council, which consent shall be evidenced by a resolution or an ordinance.
- (4) That the procedure to be followed in ordering the making of extensions, betterments or permanent improvements of the service by the city or considering applications by the grantee for permission to make extensions, enlargement or betterments, be prescribed.
- (5) That no rate of return shall exceed a fair return upon the fair value of the property used in rendering the public service.
- (6) Each franchise shall provide for a method of accounting applicable to the particular business conducted by the grantee.
- (7) Adequate provision shall be made in each franchise for the maintenance of sufficient depreciation reserves so that the integrity of the property used and useful in rendering the public service may be maintained. Each franchise shall specify the purposes for which the depreciation reserves may be used. In determining the amount and character of reserves required it shall be proper to resort to current common practices applicable to the particular utility concerned.
- (8) Each franchise shall provide for a recapture provision whereby the city shall have the right to cancel the franchise and purchase the property of the franchise holder at a price to be determined according to the formula or method agreed upon in the franchise when granted.

- (9) That the grantee may be required, at grantee's expense, to conform its installations in the streets, alleys, and public ways to any changes of grade made by the city.

Sec. 135. Investigations and public hearings.

The council shall have full power to examine or cause to be examined at any time, and at all times the books, papers and records of franchise holders; to take testimony and compel the attendance of witnesses and the production of books, papers, and records and to examine witnesses under oath and under such rules and regulations as it may adopt and should any franchise holder refuse to permit the inspection of such books, papers or records by the council or by any one designated by it to make such inspection or fail to produce the same when notified to do so by the council, or should any officer, agent or employee of such franchise holder refuse to give testimony before the council, the council shall have the power by ordinance, to declare the franchise or privilege enjoyed by such person, firm or corporation in default, and terminated.

The council shall have the power to call a public hearing, giving reasonable notice to the holder of a franchise, to determine whether or not an application to increase rates shall be granted or to determine whether or not the rates currently charged by any holder of a franchise for the service rendered are excessive. In that connection the council shall have full power to examine the books, papers and records of the franchise holder, and to compel the attendance of all witnesses deemed necessary for the ascertainment of the facts in connection with said inquiry. Failure to obey any subpoena to appear as a witness shall be punishable by the council for contempt by any appropriate proceedings permitted by law.

Sec. 136. Supervisor of public utilities.

There is hereby created the office of supervisor of public utilities, who shall be nominated by the city manager and confirmed by the council. He shall serve at the pleasure of the city manager and shall receive such compensation as may be

fixed by the council. The supervisor of public utilities shall have such assistants as may be determined by the council in cooperation with the city manager.

The supervisor shall assemble the facts which are essential to proper determination of cost of service and the fixing of reasonable rates. He shall have and keep up to date an inventory of the property used in public service, the cost of such properties as actually and reasonably incurred or as fixed by appraisal, additions and retirements made each year, the depreciation and all matters that enter into the periodical readjustment of the rate base. He and his assistants under his direction shall have power to make and shall conduct all inspections and examinations of public utility properties, accounts and records. At the close of each calendar or fiscal year, he shall make a comprehensive report and recommendations to the council, which, after receiving them, may proceed with informal negotiations or with formal proceedings. Every public utility operating within the city shall furnish the supervisor regular reports as to capital outlay, property retirements, operating revenues, operating expenses, taxes and other accounting matters according to the standard accounting classifications for each utility. In addition the city may require reports regarding salaries, wages, employees, contracts, service performance and all other records of operation that pertain to proper rate adjustments on the basis of facts and regular administration.

In connection with any application for an increase in rates, fares or charges by a holder of a franchise, or an inquiry initiated by the council as to the reasonableness of the rates charged by any franchise holder, the council may refer the matter to the supervisor for the purpose of affording to the holder a hearing thereon. The supervisor may give such a rate hearing to any such person, firm or corporation provided for hereunder and report his findings and recommendations to the council for their adoption, revision or rejection.

The supervisor, while sitting for the purpose of giving such hearing shall have all the powers herein conferred on the council

to inspect books and compel attendance of witnesses and may prescribe the penalties provided herein for failure or refusal to attend and testify or produce such books.

The council may certify any such hearing to the supervisor whenever it deems it advantageous to have the supervisor sit and give such hearing instead of the council; provided, however, that the evidence at any hearing so held and the findings of the supervisor shall be fully reported to the council for its approval, amendment, revision or rejection.

The supervisor shall perform such other duties and services affecting public utilities as are assigned to him or directed by the city manager or council.

Sec. 137. Miscellaneous provisions.

The council shall have the right by resolution to grant a temporary use of a street, alley, public way or public property for a period not to exceed two years and by ordinance, in the nature of a franchise, for a period not to exceed twenty-five years, and charge therefor such compensation annually as may be proper. The grants contemplated by this section do not include utility franchises as that term is generally understood. In this connection the council shall have the right to grant to the owner of property abutting upon the streets, or other property of the city, the use thereof or to go under or over the same in any manner which may be necessary or proper to the better enjoyment of said abutting property by the owner; provided, however, that such use be not inconsistent with, or does not unreasonably impair the public use to which said street or other property may be dedicated.

The council shall fix the terms and conditions of any such grant and the time for which the same shall exist. The right is expressly reserved to the city, acting through the council to terminate such grant when deemed inconsistent with the public use of the property of the city, or when the same may become a nuisance.

ARTICLE XII. GENERAL PROVISIONS**Sec. 138. Oath of office.**

Every person elected or appointed to office in the city, shall, before entering upon the duties of his office, take and subscribe the official oath prescribed by the state constitution and shall give such bond and security for the faithful discharge of his duties as may be required by ordinance.

Sec. 139. Qualification of elective officers.

All elective officers of the city shall qualify within ten days after election and failure to do so, except in case of sickness, shall vacate said office, and an election shall be immediately called to fill such vacancy.

Sec. 140. Prohibitions on candidates for office or employment.

(a) It shall be unlawful for any candidate or any person who may become a candidate for any office or employment under the government of the City, directly or indirectly, to offer or promise to any person or persons any office or employment under the City government or any benefit to be derived therefrom in the event of the election or appointment of such candidate to any such office or employment; or to promise or agree to use his influence to obtain for any person any office or employment under the government of the city. Any violation of any of the provisions of this section shall be a misdemeanor and shall be grounds for removal from office or employment.

(b) No appointee of any City board or commission shall continue in such position after becoming a candidate for nomination or election to any City or Bexar County elected office.
(Ord. No. 85965, § 1 (Prop. 4), 5-5-97)

Sec. 141. Interest in city contracts prohibited.

No officer or employee of the city shall have a financial interest, direct or indirect, in any contract with the city, or shall be financially interested, directly or indirectly, in the sale to the

city of any land, materials, supplies or service, except on behalf of the city as an officer or employee. Any wilful violation of this section shall constitute malfeasance in office, and any officer or employee guilty thereof shall thereby forfeit his office or position. Any violation of this section, with the knowledge, expressed or implied, of the person or corporation contracting with the council shall render the contract involved voidable by the city manager or the council.

Sec. 142. Limitation on debts incurred.

Any debt hereafter contracted by any officer of the city, or by any person on account of the city, the payment of which has not been previously provided for by ordinance duly adopted by the council, shall be absolutely null and void and uncollectible at law or in equity, and it shall be the duty of the city attorney to plead this provision to defeat the collection or enforcement of any such claim or debt.

Sec. 143. Costs or fees of office.

No officer of the city shall ever be entitled to costs or fees of office except for the use of the city; and all penalties, forfeitures, fines, costs and fees of office to accrue hereafter shall be paid into the city depository, and no money shall be drawn from the depository except in the pursuance of a specific appropriation of the council; nor shall any appropriation for private or individual purposes be made, except as provided in Article I, Section 3, Paragraph 12 of this Charter.

Sec. 144. City records admissible as evidence.

Certified copies of the records, papers and books of city officers or employees shall be admissible in evidence when certified by the custodian of such papers, books and records and attested by him under his seal, if he have one; provided, that for issuing such certified copies the city shall receive such fees as may be provided by ordinance.

Sec. 145. City records open to public.

All records of the City shall be available to the public as provided by state law.

(Ord. No. 2015-05-20-0423, § 3 (Prop. 4), 5-20-15)

Sec. 146. Security or bond not required.

The city shall not be required to give any bond for security or costs or any other security in any suit or action brought by or against it, or in any proceeding to which it may be a party in any court in this state; and 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 the bond, undertaking or security required in other cases had actually been executed and given.

Sec. 147. Execution and garnishment.

No execution shall be issued or levied by virtue of any judgment that may be recovered against the city, but the council shall provide for the payments of judgments in the levying of taxes next after the final recovery of such judgments from the city. All assets of the city, including lands, houses, moneys, debts due the city, personal and real property, and assets of every description belonging to the city, shall be exempt from execution and sale; but the city shall make provisions, by taxation or otherwise, for the payment of any and all indebtedness incurred by the city. No writ of garnishment shall issue against the city to subject or seize any debt to any person or corporation, or any claim or demand upon any fund in the hands of said city or any of its officers; nor shall the city or any of its officers or agents, be required to answer any writ of garnishment.

Sec. 148. Assignments.

The city shall not recognize transfers or assignments of salaries or wages, nor shall any officer of the city receive or honor any drafts or order drawn by any person against his salary or wages, but the warrant or money shall in every instance be delivered or paid to the person entitled thereto according to the city's accounts; nor shall any officer of the city

issue any certificates of indebtedness. Nothing herein contained shall prevent the holder of a warrant from transferring it. If the council so declares by ordinance, a warrant for the total amount of any pay roll may be drawn in favor of the person paying such pay roll, and such warrant shall have the same legal standing and effect as any other warrant.

Sec. 149. Competency of inhabitants or taxpayers.

No person shall be disqualified as a judge, justice or juror by reason of his being an inhabitant in the city or subject to taxation by the city in any action or proceeding in which the city may be a party at interest.

Sec. 150. Liability of the city and limitations thereon.

Before the city 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, the person injured, if living, or his representatives, if dead, or the owner of the property injured or destroyed, shall give the city manager or the city clerk notice in writing of such death, injury or destruction within ninety days after same has been sustained, stating in such written notice when, where and how the death, injury or destruction occurred, and the apparent extent of any such injury, and the amount of damages sustained; provided, however, that in no event shall the city be liable in damages to any one on account of any defect in, obstruction, on or anything else in connection with any sidewalk in the city. And provided, further, that in order to hold the city liable in damages to any one on account of any injury caused by any defect in, obstruction on, or anything else in connection with any street, alley or plaza, bridge, river bank, water course, or any public way, it must be shown that the city manager, a member of the council, or some person having superintendence or control of the work for the city had actual knowledge or actual notice of such defect, obstruction or other thing for a sufficient length of time before such injury was received, to have remedied or guarded against such condition of the street, alley or plaza before the injury was received.

Sec. 151. Liability of officers and employees.

No officer or employee of the city shall be liable for damages for any act committed in the proper discharge of his duties.

Sec. 152. Reserved.

Editor's note—Ordinance No. 85965, § 1 (Prop. 1), adopted May 5, 1997, deleted § 152 in its entirety. Formerly, such section pertained to school district taxes and derived from an election effective January 1, 1952.

Sec. 153. Cemetery lots exempt from taxes, etc.

The cemetery lots which have been or may hereafter be laid out and sold by the city for private places of burial, shall, with the appurtenances, forever be exempt from taxes, exceptions, attachments and forced sales.

Sec. 154. Appointments to boards, commissions and authorities.

The Mayor and City Council shall appoint all members of regulatory and zoning boards or commissions. No member of any such board or commission, may be compensated by the City at a rate in excess of twenty dollars per meeting, or more than \$1,040 per annum.

(Ord. No. 85965, § 1 (Prop. 1), 5-5-97)

Sec. 155. Continuation.

All rights, actions, penalties and forfeitures in suits or otherwise which have accrued prior to adoption of this Charter shall be vested in and possessed by the city and no suit pending shall be affected by the passage of this Charter, but the same shall be prosecuted or defended, as the case may be, by the city.

Secs. 156—158. Reserved.

Editor's note—Ordinance No. 85965, § 1 (Prop. 1), adopted May 5, 1997, deleted §§ 156—158, which no longer have any effect. Formerly, such sections pertained to effect of this charter on existing law, interim government, transitional provisions, special provision for appointments and derived from an election effective January 1, 1952.

Sec. 159. Loyalty oath.

Before entering upon the duties of his or her office or employment, every officer and employee of the city shall swear or affirm to the following:

"I _____ (Name of officer or employee) _____, do solemnly swear (or affirm) that I do not advocate, nor am I a member or affiliate of any organization, group or combination of persons that advocates the overthrow of the government of the United States of America by force or violence; and that during the tenure of my office or employment under the City of San Antonio, Texas, I will not advocate nor become a member or an affiliate of any organization, group or combination of persons that advocates the overthrow of the Government of the United States of America by force or violence." The foregoing oath shall be sworn to or affirmed before a person qualified to administer oaths or affirmations, and shall be attested to by such person. Any person who shall be found guilty, in a public hearing held thereon by the council, of having falsely taken such oath shall immediately forfeit his or her office or employment under the city, and, upon conviction of such offense in any court having jurisdiction, may be punished as provided by the general laws of this state.

Sec. 160. Officers to hold over until their successors are appointed and qualified.

Whenever under the provisions of this Charter any officer of the city, judge or member of any board or commission is appointed for a fixed term, such officer, judge or member shall continue to hold office until his successor is appointed and qualified.

Sec. 161. Public act, liberal construction.

This Charter shall be deemed a public act, and may be read in evidence without pleading or proof, and judicial notice shall be taken thereof in all courts and places. It is intended by this Charter to promote a more efficient and effective government for the city and to secure for the people improved representation in legislation, and greater economy and efficiency in administra-

tion. To that end, it is directed that all provisions of this Charter shall be liberally construed, and the council is hereby vested with all legislative powers required to augment these provisions and to insure at all times the effective operation of this Charter.

Sec. 162. Renumbering and rearrangement of charter provisions.

The council shall have the power, by ordinance, to renumber and rearrange all articles, sections, paragraphs of this Charter or any amendments thereto, as it shall deem appropriate.

Sec. 163. Amendments.

This Charter may be amended at any time in accordance with the applicable provisions contained in statutes and as provided by the constitution of Texas.

(Ord. No. 85965, § 1 (Prop. 1), 5-5-97; Ord. No. 2015-05-20-0423, § 3 (Prop. 4), 5-20-15)

Sec. 164. Separability clause.

Should any article, section, part, paragraph, sentence, phrase, clause or word of this Charter, for any reason, be held illegal, inoperative or invalid, or if any exception to or limitation upon any general provision herein contained be held to be unconstitutional or invalid or ineffective, the remainder shall, nevertheless, stand effective and valid as if it had been enacted without the portion held to be unconstitutional or invalid or ineffective.

Sec. 165. Reserved.

Editor's note—Ordinance No. 85965, § 1 (Prop. 1), adopted May 5, 1997, deleted § 165, which no longer has any effect. Formerly, such section pertained to submission of charter to electors and derived from an election effective January 1, 1952.

ARTICLE XIII. ETHICS REVIEW BOARD

Sec. 166. Organization.

(a) The City Council shall appoint an Ethics Review Board, to exercise the powers and duties established by this Charter. The Ethics Review Board shall consist of eleven members. The

Mayor and each member of the City Council shall nominate one member of the Board. Each nominee shall be confirmed by a majority vote of the City Council. Nomination and confirmation of Board members shall be conducted at separate open meetings of the City Council. Initial board appointments shall be made so that terms are staggered, with six members to serve an initial term of two years and five members to serve an initial term of three years, determined after appointment by lottery. Subsequent appointments shall be for a term of two years beginning on the day after the expiration of the preceding full term. No member of the Board shall serve for more than three full terms.

(b) Members of the Board shall have good moral character and shall be residents of the city. No person appointed to the Board may be: a salaried city official or employee; an elected public official; a candidate for elected public office; an officer of a political party; or a person required by ordinance to register as a lobbyist. A member of the Ethics Review Board may be removed from office for cause by a majority vote of the City Council after a public hearing at which the member is provided the opportunity to be heard. Grounds for removal are: a failure to satisfy or to continue to satisfy the qualifications set forth in this section; a substantial neglect of duty; gross misconduct in office; inability to discharge the powers or duties of office; a violation of any provision of the ethics ordinance; or a conviction of a felony or crime of moral turpitude.

(c) The City Council shall fill any vacancy on the Board by a person who will serve the remainder of the unexpired term. The nomination to fill a vacancy shall be made by the member of the City Council (or his or her successor) who had nominated the person whose successor is to be selected to fill the vacancy.
(Ord. No. 99252, 5-27-04)

Sec. 167. Jurisdiction and powers.

(a) *Jurisdiction.* The Ethics Review Board shall have jurisdiction to investigate and make findings and conclusions concerning:

- (1) An alleged violation of an ethics code enacted from time to time by ordinance;

- (2) An alleged violation of regulations governing lobbying enacted from time to time by ordinance;
- (3) An alleged violation of local campaign finance regulations enacted from time to time by ordinance; and
- (4) An alleged violation of Section 141 of this Charter; provided, however, that the Ethics Review Board has no jurisdiction to find or conclude that a city officer or employee has forfeited his or her office or position.

(b) *Termination of city official's or employee's duties.* The termination of a city official's or employee's duties does not affect the jurisdiction of the Ethics Review Board with respect to alleged violations occurring prior to the termination of official duties.

(c) *Powers.* The Ethics Review Board has the power:

- (1) To establish, amend, and rescind rules and procedures governing its own internal organization and operations, consistent with ordinances;
- (2) To meet as often as necessary to fulfill its responsibilities;
- (3) Designate panels with the power to render decisions on complaints or issue advisory opinions on behalf of the Board;
- (4) To request from the City Manager the assignment of staff necessary to carry out its duties;
- (5) To review, index, maintain on file, and dispose of sworn complaints;
- (6) To make notifications, extend deadlines, and conduct investigations, both on referral or complaint;
- (7) To compel the production of sworn testimony, witnesses and evidence;
- (8) To recommend cases for prosecution by appropriate authorities and agencies;
- (9) To enforce its decisions by assessing civil fines and other sanctions authorized by ordinance;

- (10) To request the City Attorney to provide an independent counsel to advise and represent the Board, when appropriate or necessary to avoid a conflict of interest;
 - (11) To provide assistance in the training and education of city officials and employees with respect to their ethical responsibilities;
 - (12) To prepare an annual report and to recommend to the City Council needed or desirable changes in ordinances under its jurisdiction; and
 - (13) To exercise such other powers and duties as may be established by ordinance.
- (Ord. No. 99252, 5-27-04)

Sec. 168. Appeal.

A decision of the Ethics Review Board is final unless the person aggrieved by the decision appeals to the State District Court in Bexar County no later than thirty days after the date the Board renders the decision. An appeal of a Board decision is initiated by filing a verified petition setting forth the specific points of error alleged. The District Court shall review an appeal under this section under the substantial evidence rule and shall base its decision on the court's review of the record of the hearing before the Board. The District Court will affirm the findings and decision of the Ethics Review Board and may not substitute its judgment for that of the board unless the Board's decision was arbitrary, capricious, unlawful, or not supported by substantial evidence. If the decision of the Ethics Review Board is not supported by substantial evidence, the District Court may reverse or affirm the Board's decision in whole or in part, or may modify the Board's decision if substantial rights of the aggrieved person have been prejudiced. The procedures and remedies of said appeals will be governed by the rules and regulations promulgated by the ordinance. Costs of an appeal may not be assessed against the Board, individual board members, or the City of San Antonio.

(Ord. No. 99252, 5-27-04)

**ARTICLE XIV. BINDING ARBITRATION WITH THE
INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS
LOCAL 624.**

Sec. 169. Impasse.

If the City and the International Association of Fire Fighters Local 624 have reached an impasse regarding the negotiation of a collective bargaining agreement as determined by the Association through written notice to the City:

- (1) The Association, after written notice to the City containing specifications of the issues in dispute, may request arbitration and, in such event, the City and the Association shall submit all issues in dispute to arbitration within 45 days of the City's receipt of the Association's written arbitration request. The arbitration ruling shall be final, binding, and enforceable against both parties.
- (2) Both parties shall select one arbitrator within 15 days of the Association's original request to arbitrate and provide written notification to the other party of the name and selected contact information for the selected arbitrator. The selected arbitrators shall attempt to select a third (neutral) arbitrator within 10 days of their selection in order to form a three-person Arbitration Board. If the arbitrators are unable to agree on a third arbitrator, either party may request the American Arbitration Association select the third arbitrator, according to its fair and regular procedures. The third arbitrator shall preside over the Board. Any decisions made by the Board at any stage of the arbitration process will be determined by simple majority vote of the selected arbitrators.
- (3) Arbitration shall be conducted by the City and the Association pursuant to the procedures, time lines, duties, requirements and rights as set forth in the following provisions of Chapter 174 of the V.T.C.A., Local Government Code, §§ 174.155, 174.157—174.162, 174.164 and 174.253, or any successor to these statutory provisions.

- (4) In making its decision, the Board may consider only the following: (a) compensation and conditions of employment that prevail in comparable public sector employment in other cities; (b) the rate of increase or decrease in the cost of living for the San Antonio area as determined by the Consumer Price Index; (c) any of the following conditions: (i) hazards of employment, (ii) physical qualifications, (iii) educational qualifications, (iv) mental qualifications, (v) job training, (vi) skills, and (vii) any other factors the Board determines to be relevant to the issues raised by the parties; and (d) revenues available to the City and the impact of any arbitration ruling on the taxpayers of the City.
- (Ord. No. 2018-11-15-0900, § 3, 11-15-18)

CHARTER COMPARATIVE TABLE

The original charter, §§ 1—165 is set out as adopted on January 1, 1952. The following tables show the disposition of amendments adopted subsequently.

Ordinance Number	Adoption Date	Section	Disposition
44594	11-07-74	1 (Prop. 7)	5
		(Prop. 2)	8, 9
		(Prop. 4)	21
		(Prop.)	
		(Prop. 5)	90
		(Prop.)	
		(Prop. 6)	101
47586	1-17-77	1 (Prop.1)	4, 13, 15, 26
		(Prop. 2)	99
73584	5- 6-91		21a
85965	5- 5-97	1 (Prop. 1)	3 ¶ 1
			3 ¶ 8, 9
			4, 5
			25
			34, 35
			49
			56(5)
		Dltd	79-111
		Added	79-107
		Dltd	112—116
		Added	112
			118 ¶ 2(1)
		Dltd	152
			154
		Dltd	156—158
			163
		Dltd	165
		(Prop. 2)	3 ¶ 2
		Added	123A
		(Prop. 3)	11
		(Prop. 4)	78
			140
		(Prop. 5)	Dltd 19—25
		Added	19, 20
94956	11-15-01		53
		Added	53a
			54
			69

SAN ANTONIO CODE

Ordinance Number	Adoption Date	Section	Disposition
			70, par. 1
			Added
99252	5-27-04	(Prop 3)	Added
			Art. V.A.
			Art. XIII,
			§§ 166—168
2008-11-17-1010	11-17-08	4 (Prop. 1)	20
		5	Added
2012-05-17-0348	5-17-12	9	20 (note)
			8
			32
2015-05-20-0423	5-20-15	1 (Prop. 1)	Added
		(Prop. 2)	3a
			6
			9
		(Prop. 3)	8
		(Prop. 4)	17
			41
			47
			50
			60—62
			76
			78
			82, 83
			85, 86
			94
			Rpld
			95A
			96A
			104—106
			145
			163
2018-11-15-0900	11-15-18	3	45
			Added
2021-05-12-0327	5-12-21	3 (Prop. A)	Art. XIV, § 169
			98

CHARTER INDEX

	Section
A	
ABANDONMENT	
Street abandonment, abolishment, closing	
Powers of city	3(Par. 7)
ABATTOIRS	
Miscellaneous powers of city	3(Par. 13)
See: POWERS OF CITY	
ACCIDENTS	
Liability of city, limitations, etc.	150
ACCOUNTS	
Finance director, duties	56
Independent audits	107
See: FINANCES	
AD VALOREM TAXES. See: TAXATION	
ADMINISTRATIVE SERVICE	
Administrative departments	50
See: DEPARTMENTS AND OTHER AGENCIES OF CITY	
Boards, commissions and committees	49
See: BOARDS, COMMITTEES AND COMMISSIONS	
City manager	45 et seq.
See: CITY MANAGER	
AFFIRMATION. See: OATH, AFFIRMATION, SWEAR OR SWORN	
AGENCIES OF CITY. See: DEPARTMENTS AND OTHER AGENCIES OF CITY	
AIRPORTS AND AIRCRAFT	
Aviation department	
Administrative departments created, etc.	50
See: DEPARTMENTS AND OTHER AGENCIES OF CITY	
Director of aviation as head of department	66
Powers and duties	67
ALLEYS	
Street powers	3(Par. 7)
See: STREETS AND SIDEWALKS	
AMENDMENTS	
Charter amendments	163
Publication of repealed ordinances	44
See: INITIATIVE, REFERENDUM AND RECALL	

SAN ANTONIO CODE

	Section
AMUSEMENTS AND AMUSEMENT PLACES	
Miscellaneous powers of city	3(Par. 13)
See: POWERS OF CITY	
ANIMALS AND FOWL	
Licenses and fees	
Miscellaneous powers of city	3(Par. 13)
See: POWERS OF CITY	
Running at large	
Miscellaneous powers of city	3(Par. 13)
See: POWERS OF CITY	
ANNEXATIONS	
General powers of city	3(Par. 2)
Planning commission	
Annexed land submitted to	123A
ANNUAL BUDGET	
City manager, duties.....	56
See: FINANCES	
APPEALS	
Boards, commissions, etc., establishment.....	49
Ethics Review Board.....	168
APPOINTMENTS	
Civil service provisions	69 et seq.
See: CIVIL SERVICE	
APPROPRIATIONS	
Fiscal powers of city	3(Par. 6)
See: FINANCES	
Transfer of.....	84
ASSEMBLIES	
Miscellaneous powers of city	3(Par. 13)
See: POWERS OF CITY	
ASSESSMENTS	
Fiscal powers of city	3(Par. 6)
See: FINANCES	
Taxes generally. See: TAXATION	
ASSESSOR	
Collection and deposit of tax revenues	88
See: TAXATION	
ASSIGNMENTS	
Personnel compensation.....	148

CHARTER INDEX

	Section
ASSOCIATIONS	
Miscellaneous powers of city	3(Par. 13)
See: POWERS OF CITY	
ATTACHMENTS	
Cemetery lots exempt.	153
ATTORNEYS	
City attorney	53 et seq.
See: CITY ATTORNEY	
Delinquent tax attorney.	96B
See: FINANCES	
AUDITS	
Civil internal audit department	Art. V.A
See: FINANCES	
AVENUES	
Street powers	3(Par. 7)
See: STREETS AND SIDEWALKS	
AVIATION	
Administrative departments created, etc.	50
See: DEPARTMENTS AND OTHER AGENCIES OF CITY	
Aviation department	
Director as head of department	66
Powers and duties	67
B	
BAKERIES	
Miscellaneous powers of city	3(Par. 13)
See: POWERS OF CITY	
BANKS	
City depositories	87
See: FINANCES	
BLIGHTED AREAS	
Urban redevelopment.	3(Par. 5)
Powers generally. See: URBAN REDEVELOPMENT	
BOARDS, COMMITTEES AND COMMISSIONS	
Appointments	154
Approval	154
City attorney, powers and duties	53
Civil service provisions	69 et seq.
See: CIVIL SERVICE	
Compensation limitations	154
Cooperation with state and federal governments	3(Par. 3)
Establishment, administrative service generally.	49

SAN ANTONIO CODE

	Section
BOARDS, COMMITTEES AND COMMISSIONS (Cont'd.)	
Ethics Review Board.....	166 et seq.
See: ETHICS REVIEW BOARD	
Investigations into conduct of office.....	48
Oath of office.....	138
Planning commission	117 et seq.
See: PLANNING COMMISSION	
BONDS	
Authority to issue	98
Borrowing in anticipation of property taxes	105
Borrowing in anticipation of other revenues	106
City finances generally. See: FINANCES	
Finance director, duty to keep	56
Fiscal powers of city	3(Par. 6)
See: FINANCES	
Improvement district, issuance for.....	100
Independent audits	107
Revenue bonds	
Power to issue	99
Sale of bonds	101
Security or bond not required of city.....	146
Sinking funds	102
Administration	103
Disbursement of funds	104
BOOKKEEPING	
Independent audit	107
BOOKS	
City records admissible as evidence.....	144
Power to compel production of books, papers, etc.....	48
BORROWING	
Fiscal powers of city	3(Par. 6)
Generally	105 et seq.
See: FINANCES	
BOUNDARIES	
Annexations, powers.....	3(Par. 2)
Council districts or wards	4
BRIDGES	
Public works or successor department powers and duties ...	61
Street powers	3(Par. 7)
See: STREETS AND SIDEWALKS	
BUDGET	
Finance director, duties	56
Generally	80 et seq.
See: FINANCES	

CHARTER INDEX

	Section
BUILDINGS	
Miscellaneous powers of city	3(Par. 13)
See: POWERS OF CITY	
Public works or successor department powers and duties ...	61
Urban redevelopment powers.....	3(Par. 5)
Zoning powers.....	3(Par. 9)
See: ZONING	
BURIAL GROUNDS. See: CEMETERIES	
BUSES	
Miscellaneous powers of city	3(Par. 13)
See: POWERS OF CITY	
BUSINESS ESTABLISHMENTS	
Zoning powers.....	3(Par. 9)
See: ZONING	
BUTCHER SHOPS	
Miscellaneous powers of city	3(Par. 13)
See: POWERS OF CITY	
C	
CALLINGS	
Occupation tax levy, powers	3(Par. 6)
CANDIDATES FOR OFFICE	
Council districts or wards	4
Elections generally. See: ELECTIONS	
CEMETERIES	
Cemetery lots exempt from taxes, etc.....	153
General powers of city	3(Par. 1)
See: POWERS OF CITY	
CERTIFICATES OF INDEBTEDNESS	
Finance director, duties	56
See: FINANCES	
CHARTER	
Amendments	163
Charter provisions	
Renumbering and rearrangement	162
Continuation of rights, actions, penalties, forfeitures, etc. ...	155
Liberal construction	161
Officers to hold over until successors qualify, etc.	160
Public act	161
Separability clause	164
Status of appointive personnel under civil service, etc.	77

SAN ANTONIO CODE

	Section
CHECKS	
Disbursement of funds	104
See: FINANCES	
CITY ATTORNEY	
Appointment, qualifications, general duties	53
Assistants to have all powers and duties	54
Term, removal, absence or disability	53a
CITY CLERK	
Selection, generally	10
CITY COMMISSION	
Interest in city contract	141
Oath of office	138
CITY COUNCIL	
Appointments or removals	
Council interfering in administrative service	47
Compensation of members	6
Composition	4
Creation	4
Districts or wards, as to	4
Elections, generally	19 et seq.
See: ELECTIONS	
Felony, misdemeanor involving moral turpitude, etc.	
Forfeiture of office	7
Interference with administrative service	47
Investigations	48
Mayor and mayor pro tem	9
See: MAYOR AND MAYOR PRO TEM	
Meetings	
City clerk, selection	10
City manager, powers and duties	46
Council rules, determining	12
Minutes	
Recording	16
Ordinances, resolutions, etc.	14 et seq.
See: ORDINANCES, RESOLUTIONS, ETC.	
Quorum	13
Time and place	11
Ordinances, resolutions, etc.	14 et seq.
See: ORDINANCES, RESOLUTIONS, ETC.	
Powers enumerated	4
See also: POWERS OF CITY; See also specific powers as alphabetically, topically, etc., indexed	
Presiding officer	
Mayor designated	9
Recall	26 et seq.
See: INITIATIVE, REFERENDUM AND RECALL	

CHARTER INDEX

	Section
CITY COUNCIL (Cont'd.)	
Terms of office.	5
Vacancies	8
CITY LAWS	
Ordinances, resolutions, etc.....	14 et seq.
See: ORDINANCES, RESOLUTIONS, ETC.	
CITY LIMITS	
Annexations, powers.....	3(Par. 2)
CITY MANAGER	
Appointment	45(Par. 2)
Boards, committees and commissions, etc.....	49
See: BOARDS, COMMITTEES AND COMMISSIONS	
Council interference in appointments or removals	47
Investigations	48
Powers and duties	46
Removal	45(Par. 2)
Selection of	45(Par. 1)
Shuttle service, authority re.....	33-406
CITY OF SAN ANTONIO	
Incorporation.....	1
Municipality generally. See: MUNICIPALITY	
CIVIL PROCESSES	
Generally, See: WRITS, WARRANTS AND OTHER PROCESSES	
CIVIL SERVICE	
Appointive officers and employees	
Status when provisions become effective.....	77
Appointments	
Generally.....	73
Boards, commissions, etc.	49
See: BOARDS, COMMITTEES AND COMMISSIONS	
Charter becomes effective	
Status of appointive personnel when	77
City manager, powers and duties	46
Compensation	74
Other matters regarding compensation. See: OFFICERS AND EMPLOYEES	
Demotions, promotions, removals, reductions, etc.	
Civil service rules	72
Elections, nominations, candidates, etc.	
Prohibitions	78
Employment, promotions, suspension	
Civil service rules	72
Establishment.....	69

SAN ANTONIO CODE

	Section
CIVIL SERVICE (Cont'd.)	
Information, reports	75
Municipal civil service commission	
Boards, commissions, etc., appointed	50
See: BOARDS, COMMITTEES AND COMMISSIONS	
Generally, powers, functions, duties, etc.....	70
Other provisions relative to personnel. See: OFFICERS AND EMPLOYEES	
Personnel director	
Appointment, functions and duties	71
Political campaign, prohibitions	78
Premises and records	
Access to	75
Probationary period	
Suspensions, etc., during	76
Prohibitions relative to employment	78
Promotions	
Prohibitions	78
Reductions	
Generally.....	76
Removals	
Generally.....	76
Rules and regulations	
Establishment, administration.....	72
Suspensions	
Generally.....	76
CLASSIFIED SERVICE. See: CIVIL SERVICE	
CLERK. See: CITY CLERK	
CODES OF ORDINANCES	
City manager, powers and duties	46
Ordinances and resolutions generally	14 et seq.
See: ORDINANCES, RESOLUTIONS, ETC.	
COMPENSATION	
Council members	6
Officers. See: OFFICERS AND EMPLOYEES	
COMPLAINTS	
Boards, commissions, etc., establishment.....	49
CONDEMNATION	
Eminent domain powers	3(Par. 4)
See: EMINENT DOMAIN	
General powers of city	3(Par. 1)
See: POWERS OF CITY	
Property acquisition generally, See: PROPERTY	

CHARTER INDEX

	Section
CONDUITS	
Street improvements, powers.....	3(Par. 8)
Street improvements generally. See: STREETS AND SIDEWALKS	
CONFLICTING INTERESTS	
Interests of personnel in city contracts.....	141
CONSTITUTION	
General powers of city	3(Par. 1)
See: POWERS OF CITY	
CONSTRUCTION	
Miscellaneous powers of city	3(Par. 13)
See: POWERS OF CITY	
CONTRACTS AND AGREEMENTS	
City attorney, duties	53
Finance director, duties	56
Franchises	128 et seq.
See: FRANCHISES	
General powers of city	3(Par. 1)
See: POWERS OF CITY	
Interest in city contracts	141
Purchasing, other. See: PURCHASING	
CONVEYANCES	
General powers of city	3(Par. 1)
Miscellaneous powers of city	3(Par. 13)
See: POWERS OF CITY	
Property, generally. See: PROPERTY	
CORPORATE SEAL	
General powers of city	3(Par. 1)
See: POWERS OF CITY	
CORPORATION COURT (Municipal court)	
Applicable and related provisions, other. See: OFFICERS AND EMPLOYEES	
Established	112
Jury, judge, justice, etc.	
Competency of inhabitants or taxpayers	149
CORPORATIONS	
Miscellaneous powers of city	3(Par. 13)
See: POWERS OF CITY	
COUNCIL. See: CITY COUNCIL	
COUNSEL	
Delinquent tax attorney.....	96B
See: FINANCES	

SAN ANTONIO CODE

	Section
COURTS	
Corporation court.	112
General powers of city	3(Par. 1)
Miscellaneous powers of city	3(Par. 13)
See: POWERS OF CITY	
COURTS AND OPEN SPACES	
Zoning powers.	3(Par. 9)
See: ZONING	
COWS, CATTLE, ETC.	
Miscellaneous powers of city	3(Par. 13)
See: POWERS OF CITY	
CREDIT	
Fiscal powers of city	3(Par. 6)
See: FINANCES	
CREEKS	
Public works or successor department powers and duties ...	61
CRIMES	
Police authority and duties of policemen	58
See: POLICE DEPARTMENT	
CRIMINAL PROCESSES	
Generally. See: WRITS, WARRANTS AND OTHER PROCESSES	
D	
DAIRIES	
Miscellaneous powers of city	3(Par. 13)
See: POWERS OF CITY	
DAMAGES	
Liability of city, limitations, etc.	150
DEATH	
Liability of city, limitations, etc.	150
DEBTS	
Fiscal powers of city	3(Par. 6)
See: FINANCES	
DEMOTIONS	
Civil service provisions	69 et seq.
See: CIVIL SERVICE	
DEPARTMENTS AND OTHER AGENCIES OF CITY. See also:	
BOARDS, COMMITTEES AND COMMISSIONS	
Administrative departments created, control of.	50
City attorney, powers and duties	53

CHARTER INDEX

	Section
DEPARTMENTS AND OTHER AGENCIES OF CITY (Cont'd.)	
Civil internal audit department	Art. V.A
See: FINANCES	
Civil service provisions	69 et seq.
See: CIVIL SERVICE	
Cooperation with state and federal governments	3(Par. 3)
Corporation court	112
Departmental offices and employees	68
Directors of departments	51
Divisions of departments	52
Investigations into conduct of office	48
Oath of office	138
DEPOSITORIES	
City depositories	87
See: FINANCES	
Collection and deposit of tax revenues	88
See: TAXATION	
DEVELOPMENTS	
Master plan	121
See: PLANNING COMMISSION	
Miscellaneous powers of city	3(Par. 13)
See: POWERS OF CITY	
Urban redevelopment powers	3(Par. 5)
See: URBAN DEVELOPMENT	
Zoning powers	3(Par. 9)
See: ZONING	
DISTRICTS	
Council districts or wards generally	4
DITCHES	
Public works or successor department powers and duties ...	61
DOCTORS	
Public health department director to be licensed physician ..	62
DOCUMENTS	
City records admissible as evidence	144
Power to compel production of books, papers, etc.	48
DRAFTS	
Disbursement of funds	104
See: FINANCES	
DWELLINGS	
Zoning powers	3(Par. 9)
See: ZONING	

SAN ANTONIO CODE

Section

E

ELECTIONS

Candidates for office or employment	
Prohibitions re.....	140
Council districts or wards	4
Initiative.....	26 et seq.
See: INITIATIVE, REFERENDUM AND RECALL	
Mayor and mayor pro tem.....	9
Municipal elections	
Regular and special elections	19
Terms of office	
Limitation	20
Oath of office.....	138
Powers of city	
Limitation on powers; streetcar or light rail	3a
Qualification of elective officers	139
Recall.....	26 et seq.
See: INITIATIVE, REFERENDUM AND RECALL	
Referendum	26 et seq.
See: INITIATIVE, REFERENDUM AND RECALL	
Revenue bond issues.....	99
Vacancies in council office.....	8

ELECTRICITY

Franchise regulations.....	128 et seq.
See: FRANCHISES	
General powers of city	3(Par. 1)
Miscellaneous powers of city	3(Par. 13)
See: POWERS OF CITY	
Public works or successor department powers and duties ...	61

EMERGENCY MEASURES

Enactment	15
See: ORDINANCES, RESOLUTIONS, ETC.	

EMINENT DOMAIN

Powers of city	3(Par. 4)
----------------------	-----------

EMPLOYEES. See: OFFICERS AND EMPLOYEES

ENABLING ACT

General powers of city	3(Par. 1)
See: POWERS OF CITY	

ENCROACHMENTS

Street powers	3(Par. 7)
See: STREETS AND SIDEWALKS	

EQUIPMENT, SUPPLIES AND MATERIALS, ETC.

Finance director, duties	56
--------------------------------	----

CHARTER INDEX

	Section
ETHICS	
Interest in city contracts	141
ETHICS REVIEW BOARD	
Appeal	168
Jurisdiction and powers	167
Organization	166
EVIDENCE	
City records admissible as evidence	144
Investigations by city authorities	48
EXECUTION	
Garnishment and execution	147
EXPENSES	
Fiscal powers of city	3(Par. 6)
See: FINANCES	
F	
FEDERAL GOVERNMENT	
Cooperation with	3(Par. 3)
FINANCE DEPARTMENT	
Administrative departments created, etc.	50
See: DEPARTMENTS AND OTHER AGENCIES OF CITY	
Director	
Powers and duties	56
Qualifications	55
FINANCES	
Appropriations	
Excess revenue	85
Money to be drawn from treasury in accordance with	86
Transfer of	84
Assignments of personnel compensation	148
Audit	
Independent audit	107
Board, trustee, committee, etc., finances. See specific boards, committees and other authorities as alphabetically indexed, etc.	
Bonds	
Authority to issue	98
Issuance of for improvement districts	100
Revenue bonds	99
Sale of	101
Borrowing	
In anticipation of other revenues	106
In anticipation of property taxes	105

SAN ANTONIO CODE

	Section
FINANCES (Cont'd.)	
Budget	
Adoption	82
Document	81
Generally	80
Preparation	82
City depositories	87
City manager, other powers and duties. See: CITY MANAGER	
Financial responsibilities	56
Civil internal audit department	
Appointment and removal of assistant auditors	Art. V.A (Par. 4)
City internal auditor	
Appointment; qualifications; compensation	Art. V.A (Par. 2)
Term, removal, absence or disability	Art. V.A (Par. 3)
Generally	Art. V.A (Par. 1)
Costs or fees of office	143
See: OFFICERS AND EMPLOYEES	
Execution and garnishment policy	147
Fiscal powers of city	3(Par. 6)
Fiscal year	79
Independent audit	107
Liability of city, limitations re	150
Limitation on debts incurred by personnel	142
Other matters regarding finances. See: TAXATION	
Personal property	
Seizure and sale of	89
Purchase procedure	97
Revenues	
Borrowing in anticipation of other revenues	106
Collection and deposit	88
Security or bond not required of city	146
Sinking fund	
Administration	103
Disbursement of funds	104
Generally	102
Taxes	
Ad valorem property taxes	
Power of city to assess, bill and collect	91
Additional penalty for collection costs	96A
Assessment	93
Borrowing in anticipation of property taxes	105
Collection	93
Delinquent tax attorney	96B
Levy	93

CHARTER INDEX

	Section
FINANCES (Cont'd.)	
Lien.....	90
Occupation taxes.....	92
Penalties and interest on delinquent taxes.....	96
Rate.....	94
When due	95
Work program and allotments.....	83
FINES, FORFEITURES AND OTHER PENALTIES	
Continuation of rights, actions, penalties, forfeitures, etc. ...	155
Miscellaneous powers of city	3(Par. 13)
See: POWERS OF CITY	
Police authority and duties of policemen	58
See: POLICE DEPARTMENT	
FIRE DEPARTMENT	
Administrative departments created, etc.	50
See: DEPARTMENTS AND OTHER AGENCIES OF CITY	
Binding arbitration with the International Association of Fire Fighters Local 624	
Impasse	169
Chief	59
FIRE ZONES	
Miscellaneous powers of city	3(Par. 13)
See: POWERS OF CITY	
FISH AND SEAFOOD	
Miscellaneous powers of city.....	3(Par. 13)
See: POWERS OF CITY	
FOOD AND FOOD SERVICES	
Miscellaneous powers of city	3(Par. 13)
See: POWERS OF CITY	
FORFEITURES. See also: FINES, FORFEITURES, ETC.	
Continuation	155
FRANCHISES	
City attorney, duties	53
Conditions of.....	134
Contractual procedures of city generally. See: CONTRACTS AND AGREEMENTS	
Franchise holders	
Annual reports and statements	133
Powers of city over	132
Granting	131
Inalienability of public property	128
Incorporation of city, general powers.....	1
Interest in city contracts	141
Investigations and public hearings	135
Limitations	130

SAN ANTONIO CODE

	Section
FRANCHISES (Cont'd.)	
Miscellaneous provisions	137
Power of initiative, as to granting	34
Powers of city	129
Supervisor of public utilities	136
See: UTILITIES	
Tax assessments and procedures	93
FRUITS AND VEGETABLES	
Miscellaneous powers of city	3(Par. 13)
See: POWERS OF CITY	
G	
GARBAGE AND TRASH	
Collection and disposal	
Public works or successor department powers and duties .	61
Disposal, collection, handling, etc.	
Powers of city	3(Par. 11)
GARDENS	
Miscellaneous powers of city	3(Par. 13)
See: POWERS OF CITY	
GARNISHMENT	
Execution and garnishment	147
GAS	
General powers of city	3(Par. 1)
Miscellaneous powers of city	3(Par. 13)
See: POWERS OF CITY	
GENERAL POWERS	
Powers of city	3
See: POWERS OF CITY	
GOVERNMENT	
Form of government	2
Other matters regarding government. See: MUNICIPAL- ITY	
Governing body. See: CITY COUNCIL	
State and federal governments	
Cooperation with	3(Par. 3)
GRAVEYARDS. See: CEMETERIES	
H	
HEALTH AND SANITATION	
Garbage disposal, powers	3(Par. 11)
See: GARBAGE AND TRASH	

CHARTER INDEX

	Section
HEALTH AND SANITATION (Cont'd.)	
General powers of city	3(Par. 1)
Miscellaneous powers of city	3(Par. 13)
See: POWERS OF CITY	
Public health department	
Administrative departments created, etc.	50
See: DEPARTMENTS AND OTHER AGENCIES OF CITY	
Director, qualifications	62
Powers and duties	63
HEARINGS. See also: NOTICES, ORDERS, HEARINGS, ETC.	
Franchise regulations	128 et seq.
See: FRANCHISES	
HOME RULE	
General powers of city	3(Par. 1)
See: POWERS OF CITY	
I	
IMMUNITIES	
General powers of city	3(Par. 1)
See: POWERS OF CITY	
Incorporation, general powers	1
IMPROVEMENT DISTRICTS	
Issuance of bonds for	100
IMPROVEMENTS. See: PUBLIC WORKS AND IMPROVEMENTS	
INDEBTEDNESS	
Fiscal powers of city	3(Par. 6)
See: FINANCES	
INITIATIVE, RECALL AND REFERENDUM	
Elections	
Recall elections ordered. See herein: Recall Elections	
Results of initiative ordinance. etc.	43
Initiative	
Form of ballot for initiative ordinances	42
Petitions	
Form of	36
Power of initiative	34
Legislative generally. See: ORDINANCES, RESOLUTIONS, ETC.	
Petitions	
Amendment of recall petition	29
Filing, examining, certification of recall petitions	28
Forms of initiative or referendum petitions	36

SAN ANTONIO CODE

	Section
INITIATIVE, RECALL AND REFERENDUM (Cont'd.)	
Limitations on recall petitions	33
Power of initiative	34
Recall	26
Referendum petition	
Council consideration	40
Effect of certification on.....	39
Submission to electors	41
Signatures to recall petitions	27
Recall	
Petitions. See herein that subject	
Recall elections	
Ballots, form	31, 42
Order	30
Results	32
Submission of petition.....	41
Referendum	
Petitions. See herein that subject	
Power of referendum	35
Repealing ordinances, publication	44
INJURY	
Liability of city and limitations, etc.	150
INVESTIGATIONS	
City manager, city council, committees, etc.	48
City records admissible as evidence.....	144
Franchise regulations.....	128 et seq.
See: FRANCHISES	
J	
JUDGES	
Competency of inhabitants or taxpayers	149
JURISDICTION	
Miscellaneous powers of city	3(Par. 13)
See: POWERS OF CITY	
Police authority and duties of policemen	58
See: POLICE DEPARTMENT	
Street powers	3(Par. 7, 8)
JURY	
Competency of inhabitants or taxpayers	149
JUSTICE	
Competency of inhabitants or taxpayers	149

CHARTER INDEX

	Section
L	
LAWSUITS. See also: SUITS AND PLEAS	
Execution and garnishment policy	147
LAWYERS	
Delinquent tax attorney.	96B
See: FINANCES	
LEASES	
General powers of city	3(Par. 1)
See: POWERS OF CITY	
LEGAL DEPARTMENT	
Administrative departments created, etc.	50
See: DEPARTMENTS AND OTHER AGENCIES OF CITY	
LEGAL PROCEEDINGS	
City attorney, powers and duties	53
LEGISLATION	
Initiative. See: INITIATIVE, REFERENDUM AND RECALL	
Ordinances and resolutions	14 et seq.
See: ORDINANCES, RESOLUTIONS, ETC.	
LEVY OF TAXES	
Fiscal powers of city	3(Par. 6)
See: FINANCES. See also: TAXATION	
LIABILITY	
Incorporation, general powers	1
Officers and employees	151
LIBRARIES	
San Antonio Public Library	
Board of trustees.	125
Establishment	124
Finances	127
Management.	124
Officers and employees	125
Properties	126
Trustees	
Board, commissions, etc., appointed	50
See: BOARDS, COMMITTEES AND COMMISSIONS	
LICENSES AND PERMITS	
Collection and deposit of tax revenues	88
See: TAXATION	
Fiscal powers of city	3(Par. 6)
See: FINANCES	
Miscellaneous powers of city	3(Par. 13)
See: POWERS OF CITY	

SAN ANTONIO CODE

	Section
LICENSES AND PERMITS (Cont'd.)	
Occupational tax levy	92
Other tax levies. See: TAXATION	
LIENS	
Tax liens	90
See: TAXATION	
LIGHT AND POWER	
General powers of city	3(Par. 1)
Miscellaneous powers of city	3(Par. 13)
See: POWERS OF CITY	
LITIGATION	
City attorney, powers and duties	53
LOCAL IMPROVEMENTS. See: PUBLIC WORKS AND IMPROVEMENTS	
LOYALTY OATH	
Designated	159

M

MANAGER. See: CITY MANAGER	
MARKETS AND MARKET PLACES	
Miscellaneous powers of city	3(Par. 13)
See: POWERS OF CITY	
Public works or successor department powers and duties ...	61
MASTER PLAN	
Development	121
See: PLANNING COMMISSION	
MATERIALS, SUPPLIES AND EQUIPMENT, ETC.	
Finance director, duties	56
MAYOR AND MAYOR PRO TEM	
Absence or disability	9(Par. 2)
Election, generally	9
Expenses	9(Par. 3)
MEAT AND MEAT PRODUCTS	
Miscellaneous powers of city	3(Par. 13)
See: POWERS OF CITY	
MERCHANTS	
Occupation tax levy, powers	3(Par. 6)
MILK AND MILK PRODUCTS	
Miscellaneous powers of city	3(Par. 13)
See: POWERS OF CITY	

CHARTER INDEX

	Section
MISDEMEANORS	
Police authority and duties of policemen	58
See: POLICE DEPARTMENT	
MONEY OF CITY	
Fiscal powers of city	3(Par. 6)
See: FINANCES	
MORALS	
General powers of city	3(Par. 1)
Miscellaneous powers of city	3(Par. 13)
See: POWERS OF CITY	
MORTGAGES	
General powers of city	3(Par. 1)
See: POWERS OF CITY	
MOTOR VEHICLES AND OTHER VEHICLES	
Miscellaneous powers of city	3(Par. 13)
See: POWERS OF CITY	
MUNICIPAL SEAL	
General powers of city	3(Par. 1)
See: POWERS OF CITY	
MUNICIPAL UTILITIES. See: UTILITIES	
MUNICIPALITY	
Form of government	2
Governing body. See: CITY COUNCIL	
Incorporation of city	1
Liability of city and limitations re	150
Powers of city	3
See: POWERS OF CITY	
Security or bond not required	146
N	
NEEDY PERSONS	
Public assistance, providing	3(Par. 12)
NOMINATIONS	
Council districts or wards	4
Elections generally. See: ELECTIONS	
NOTES	
Fiscal powers of city	3(Par. 6)
See: FINANCES	
NOTICES, ORDERS AND HEARINGS	
Civil service commission powers	70

SAN ANTONIO CODE

	Section
NOTICES, ORDERS AND HEARINGS (Cont'd.)	
Franchise regulations	128 et seq.
See: FRANCHISES	
NUISANCES	
Miscellaneous powers of city	3(Par. 13)
See: POWERS OF CITY	
O	
OATH, AFFIRMATION, SWEAR OR SWORN	
Loyalty oath	159
Oath of office	138
OBSTRUCTIONS	
Street powers	3(Par. 7)
See: STREETS AND SIDEWALKS	
OCCUPATIONS	
Occupation tax levy, powers	3(Par. 6)
OFFENSES	
City manager, powers and duties	46
Miscellaneous powers of city	3(Par. 13)
See: POWERS OF CITY	
Police authority and duties of policemen	58
See: POLICE DEPARTMENT	
OFFICERS AND EMPLOYEES	
Assignments of compensation	148
Chief of fire department	59
See: FIRE DEPARTMENT	
Chief of police	57
See: POLICE DEPARTMENT	
City attorney	53 et seq.
See: CITY ATTORNEY	
City clerk	10
See: CITY CLERK	
City council generally	4 et seq.
See: CITY COUNCIL	
City internal auditor	Art. V.A (Par. 2, 3)
City manager	45 et seq.
See: CITY MANAGER	
City records admissible as evidence	144
Civil service provisions	69 et seq.
See: CIVIL SERVICE	
Compensation, salaries, etc.	
Assignments	148
Civil service personnel	74

CHARTER INDEX

	Section
OFFICERS AND EMPLOYEES (Cont'd.)	
Costs or fees of office	143
Council members	6
Fees or other compensations prohibited to certain officers	58
Other requirements for compensation of personnel. See specific officers, etc., as indexed	
Competency of inhabitants or taxpayers	149
Cooperation with state and federal governments	3(Par. 3)
Costs are fees of office	143
Departmental offices and employees	68
Director of planning	119
See: PLANNING COMMISSION	
Elections, generally	19 et seq.
See: ELECTIONS	
Interest in city contracts	141
Investigations into conduct of office	48
Liability	151
Liability of city	150
Limitation on debts incurred	142
Oath of office	138
Police authority and duties of policemen	58
See: POLICE DEPARTMENT	
Prohibitions on candidates for office or employment	140
Qualifications of elected officers	139
Security or bond not required of city	146
Successors appointed and qualified	
Officers to hold over until	160
Supervisor of public utilities	136
ORDERS. See: NOTICES, ORDERS, HEARINGS, ETC.	
ORDINANCES, RESOLUTIONS, ETC.	
Amendments	
Publication of repealed ordinances	44
Amendments to charter	163
See: CHARTER	
City attorney, powers and duties	53
City manager, powers and duties	46
Continuation of rights, actions, penalties, forfeitures, etc. ...	155
Emergency measures	15
Enactment of resolutions	18
Enforcement	
Police authority and duties of policemen	58
See: POLICE DEPARTMENT	
General powers of city	3(Par. 1)
See: POWERS OF CITY	
Initiative and referendum	26 et seq.
See: INITIATIVE, REFERENDUM AND RECALL	
Introduction and passage	14

SAN ANTONIO CODE

	Section
ORDINANCES, RESOLUTIONS, ETC. (Cont'd.)	
Publication of ordinances	17
Recording	16
Repealing ordinances, publication	44
Resolutions and minutes, recording	16
When to take effect	15
P	
PAPERS	
City records admissible as evidence	144
Power to compel production of books, papers, etc.	48
PARKS AND RECREATION	
Department	
Administrative departments created, etc.	50
See: DEPARTMENTS AND OTHER AGENCIES OF CITY	
Director as head of department	64
Powers and duties	65
Franchise regulations	128 et seq.
See: FRANCHISES	
Miscellaneous powers of city	3(Par. 13)
See: POWERS OF CITY	
Street powers	3(Par. 7)
See: STREETS AND SIDEWALKS	
PARTNERSHIPS	
Miscellaneous powers of city	3(Par. 13)
See: POWERS OF CITY	
PEACE OFFICERS	
Police authority and duties of policemen	58
See: POLICE DEPARTMENT	
PERMITS. See: LICENSES AND PERMITS	
PERPETUAL SUCCESSION	
Corporate rights of city	1
PERSONAL INJURIES	
Liability of city, limitations, etc.	150
PERSONAL PROPERTY	
General powers of city, incorporation of city	1
See: PROPERTY	
Seizure and sale for taxes	89
See: TAXATION	

CHARTER INDEX

	Section
PERSONNEL	
Civil service provisions	69 et seq.
See: CIVIL SERVICE	
PHYSICIANS	
Director of public health department to be licensed physician	62
PLANNING COMMISSION	
Annexed land submitted to.....	123A
Boards, commissions, etc., appointed.....	50
See: BOARDS, COMMITTEES AND COMMISSIONS	
Director of planning	119
Employees	120
Master plan	121
Legal effect of.....	123
Procedure	122
Organization, membership	117
Powers and duties	118
Procedure	122
Rules and regulations.....	122
PLEAS. See: SUITS AND PLEAS	
PLUMBING	
Public works or successor department powers and duties ...	61
POLES AND WIRES	
Franchise regulations.....	128 et seq.
See: FRANCHISES	
General powers of city	3(Par. 1)
See: POWERS OF CITY	
Street improvements, powers.....	3(Par. 8)
Other powers. See: STREETS AND SIDEWALKS	
POLICE DEPARTMENT	
Administrative departments created, etc.	50
See: DEPARTMENTS AND OTHER AGENCIES OF CITY	
Chief of police	
Appointment and removal	57
Policemen	
Authorities and duties.....	58
POLICE REGULATIONS	
Miscellaneous powers of city	3(Par. 13)
See: POWERS OF CITY	
POLLING PLACES	
Council districts or wards	4
See: ELECTIONS	
POVERTY	
Public assistance, providing	3(Par. 12)

SAN ANTONIO CODE

	Section
POWER AND LIGHT	
General powers of city	3(Par. 1)
See: POWERS OF CITY	
Miscellaneous powers of city	3(Par. 13)
See: POWERS OF CITY	
POWERS OF CITY	
Cumulative powers	3(Par. 14)
Established	3
Limitation on powers; streetcar or light rail	3a
Miscellaneous powers	3(Par. 13)
Other powers. See specific subjects as alphabetically, topically, etc., index	
PRISONS AND PRISONERS	
Miscellaneous powers of city	3(Par. 13)
See: POWERS OF CITY	
PRIVILEGES	
Franchise regulations	128 et seq.
See: FRANCHISES	
General powers of city	3(Par. 1)
See: POWERS OF CITY	
Incorporation, general powers	1
PROCESSES. See: WRITS, WARRANTS AND OTHER PROCESSES	
PRODUCE MARKETS, ETC.	
Miscellaneous powers of city	3(Par. 13)
See: POWERS OF CITY	
PROFESSIONS	
Occupation tax levy, powers	3(Par. 6)
PROMOTIONS	
Civil service provisions	69 et seq.
See: CIVIL SERVICE	
PROPERTY	
Annexations, power	3(Par. 2)
Eminent domain powers	3(Par. 4)
Franchise regulations	128 et seq.
See: FRANCHISES	
General powers of city	3(Par. 1)
See: POWERS OF CITY	
Incorporation of city, general powers	1
Public works or successor department powers and duties ...	61
Tax collection	91
See: TAXATION	
Urban redevelopment powers	3(Par. 5)

CHARTER INDEX

	Section
PUBLIC ACT	
Charter deemed	161
See: CHARTER	
PUBLIC ASSISTANCE	
Providing for	3(Par. 12)
PUBLIC BUILDINGS	
Public works or successor department powers and duties ...	61
PUBLIC HEARINGS	
Franchise regulations	128 et seq.
See: FRANCHISES	
PUBLIC LIBRARY	
Establishment.	124
See: LIBRARIES	
Trustees	
See: BOARDS, COMMITTEES AND COMMISSIONS	
PUBLIC NOTICE AND HEARING. See: NOTICES, ORDERS, HEARINGS, ETC.	
PUBLIC PLACES	
Liability of city, limitations, etc.	150
PUBLIC PROPERTY	
Franchise regulations	128 et seq.
See: FRANCHISES	
PUBLIC RECORDS	
City manager, powers and duties	46
City records admissible as evidence	144
City records open to public	145
Independent audits	107
See: FINANCES	
Production of books, papers, etc.	
Investigations, power	48
Recording of ordinances, resolutions, minutes	16
See: ORDINANCES, RESOLUTIONS, ETC.	
PUBLIC SCHOOLS. See: SCHOOLS	
PUBLIC TRANSPORTATION SYSTEM	
Miscellaneous powers of city	3(Par. 13)
See: POWERS OF CITY	
PUBLIC UTILITIES. See: UTILITIES	
PUBLIC WAYS	
Street powers	3(Par. 7)
See: STREETS AND SIDEWALKS	

SAN ANTONIO CODE

	Section
PUBLIC WORKS AND IMPROVEMENTS	
Bonds for improvement districts, issuance	100
Department	
Administrative departments created, etc.	50
See: DEPARTMENTS AND OTHER AGENCIES OF CITY	
Fiscal powers of city	3(Par. 6)
See: FINANCES	
Miscellaneous powers of city	3(Par. 13)
See: POWERS OF CITY	
Public works or successor department	
Director as head of	60
Powers and duties	61
Street improvements.	3(Par. 8)
PUBLICATION	
Repealed ordinances	44
See: INITIATIVE, REFERENDUM AND RECALL	
PURCHASING	
Contractual powers, etc. See: CONTRACTS AND AGREEMENTS	
Finance director, duties	56
Fiscal powers of city	3(Par. 6)
See: FINANCES	
General powers of city	3(Par. 1)
See: POWERS OF CITY	
Interest in city contract	141
Property acquisition generally. See: PROPERTY	
Purchase procedure, generally	97
R	
RAILROADS AND TRAINS	
Miscellaneous powers of city	3(Par. 13)
See: POWERS OF CITY	
REAL PROPERTY	
Incorporation of city, general powers	1
See: PROPERTY	
RECALL	
Generally	26 et seq.
See: INITIATIVE, RECALL AND REFERENDUM	
RECORDS	
Power to compel production of books, papers, etc.	48
REDEVELOPMENT	
Urban redevelopment, powers	3(Par. 5)
See: URBAN REDEVELOPMENT	

CHARTER INDEX

	Section
REFERENDUM	
Generally	26 et seq.
See: INITIATIVE, RECALL AND REFERENDUM	
REFUSE	
Garbage disposal	3(Par. 11)
See: GARBAGE AND TRASH	
RENTALS. See: LEASES	
REPEALED ORDINANCES	
Publication.....	44
See: INITIATIVE, REFERENDUM AND RECALL; See also: ORDINANCES, RESOLUTIONS, ETC.	
RESIDENCES	
Zoning powers.....	3(Par. 9)
See: ZONING	
RESOLUTIONS. See: ORDINANCES, RESOLUTIONS, ETC.	
REVENUE OF CITY	
Fiscal powers of city	3(Par. 6)
See: FINANCES	
RIGHTS OR PRIVILEGES	
Franchise regulations.....	128 et seq.
See: FRANCHISES	
RIGHTS	
General powers of city	3(Par. 1)
See: POWERS OF CITY	
Incorporation of city, general powers.....	1
RUBBISH, RUBBLE, ETC.	
Garbage disposal	3(Par. 11)
See: GARBAGE AND TRASH	
S	
SAFETY	
General powers of city	3(Par. 1)
Miscellaneous powers of city	3(Par. 13)
See: POWERS OF CITY	
SALARIES	
Compensation of council members	6
Compensation generally. See: OFFICERS AND EMPLOYEES	
SAN ANTONIO, CITY OF	
Incorporation.....	1
Municipality generally. See: MUNICIPALITY	

SAN ANTONIO CODE

	Section
SAN ANTONIO PUBLIC LIBRARY. See: LIBRARIES	
SANITARY SEWERS	
Power of city to provide	3(Par. 10)
See: SEWERS AND SEWAGE DISPOSAL	
SEAFOOD AND FISH	
Miscellaneous powers of city	3(Par. 13)
See: POWERS OF CITY	
SEAL	
General powers of city	3(Par. 1)
See: POWERS OF CITY	
SECURITY	
Security or bond not required of city	146
SEPARABILITY CLAUSE	
Charter separability	164
SEWERS AND SEWAGE DISPOSAL	
Boards, commissions, etc., establishment	49
General powers of city	3(Par. 1)
See: POWERS OF CITY	
Public works or successor department powers and duties ...	61
Sanitary sewer system	
Power of city to provide, etc.	3(Par. 10)
SIDEWALKS	
Street powers	3(Par. 7)
See: STREETS AND SIDEWALKS	
SINKING FUND	
Disbursement of funds	104
SLAUGHTERHOUSES	
Miscellaneous powers of city	3(Par. 13)
See: POWERS OF CITY	
SLUM DISTRICTS	
Urban redevelopment, powers	3(Par. 5)
See: URBAN REDEVELOPMENT	
SOLID WASTE	
Garbage disposal	3(Par. 11)
See: GARBAGE AND TRASH	
SPECIAL ASSESSMENTS	
Fiscal powers of city	3(Par. 6)
See: FINANCES	

CHARTER INDEX

	Section
SQUARES	
Street powers	3(Par. 7)
See: STREETS AND SIDEWALKS	
STATE GOVERNMENT	
Cooperation with	3(Par. 3)
STATE LAWS	
General powers of city	3(Par. 1)
See: POWERS OF CITY	
STREETS AND SIDEWALKS	
Damages	
Liability of city and limitations, etc.	150
Franchise regulations	128 et seq.
See: FRANCHISES	
Master plan	121
See: PLANNING COMMISSION	
Miscellaneous powers of city	3(Par. 13)
See: POWERS OF CITY	
Opening, altering, widening, lowering, extending, etc.	
Street powers	3(Par. 7)
Paving, repaving, maintaining, improving, etc.	
Street powers	3(Par. 7)
Powers of city	
Limitation on powers; streetcar or light rail	3a
Public works or successor department powers and duties ...	61
Street improvements, powers	3(Par. 8)
Street powers	3(Par. 7)
STRUCTURES. See also: BUILDINGS	
Zoning powers	3(Par. 9)
See: ZONING	
SUBDIVISIONS	
Master plan	121
See: PLANNING COMMISSION	
Miscellaneous powers of city	3(Par. 13)
See: POWERS OF CITY	
Zoning powers	3(Par. 9)
See: ZONING	
SUBPOENAS, SUMMONS	
Generally. See: WRITS, WARRANTS AND OTHER PROCESSES	
SUITS AND PLEAS	
City attorney, powers and duties	53
Continuation of rights, actions, penalties, forfeitures, etc. ...	155
General powers of city	3(Par. 1)
See: POWERS OF CITY	

SAN ANTONIO CODE

	Section
SUPPLIES, MATERIALS AND EQUIPMENT, ETC.	
Finance director, duties	56
SURVEYS, MAPS AND PLATS	
Master plan	121
See: PLANNING COMMISSION	
Miscellaneous powers of city	3(Par. 13)
See: POWERS OF CITY	
Zoning powers	3(Par. 9)
See: ZONING	
SWEAR OR SWORN. See: OATH, AFFIRMATION, SWEAR OR SWORN	

T

TAXATION	
Assessments	
Method	93
Borrowing in anticipation of property taxes	105
Borrowing in anticipation of other revenues	106
Cemetery lots exempt	153
Collection and deposit of revenues	88
Collection of taxes	
Ad valorem property taxes	
Power of city to assess, bill and collect	91
Collection	93
Levy	93
Delinquent taxes	
Penalties	96
Fiscal powers of city	3(Par. 6)
See: FINANCES	
Independent audit of finances	107
Levy of taxes	
Method	93
Liens for taxes	90
Miscellaneous powers of city	3(Par. 13)
See: POWERS OF CITY	
Occupational taxes	92
Personal property	
Seizure and sale	89
Taxes due and payable, when	95
TAXICABS	
Miscellaneous powers of city	3(Par. 13)
See: POWERS OF CITY	
TELEPHONE AND TELEGRAPH SYSTEMS	
Miscellaneous powers of city	3(Par. 13)
See: POWERS OF CITY	

CHARTER INDEX

	Section
TRADES	
Occupation tax levy, powers	3(Par. 6)
TRANSPORTATION; SYSTEMS	
Miscellaneous powers of city	3(Par. 13)
See: POWERS OF CITY	
TRASH. See: GARBAGE AND TRASH	
TREASURY	
City depositories	87
See: FINANCES	
Disbursement of funds	104
TRUSTEES	
Boards, commissions, etc., establishment	49
U	
URBAN REDEVELOPMENT	
Master plan	121
See: PLANNING COMMISSION	
Powers of city	3(Par. 5)
UTILITIES	
Boards, commissions, etc., establishment	49
Franchise regulations	128 et seq.
See: FRANCHISES	
General powers of city	3(Par. 1)
Miscellaneous powers of city	3(Par. 13)
See: POWERS OF CITY	
Sanitary sewer system, providing	3(Par. 10)
See: SEWERS AND SEWAGE DISPOSAL	
Street improvements, powers	3(Par. 8)
Other powers re streets. See: STREETS AND SIDEWALKS	
Supervisor of public utilities	136
V	
VACATION OF PUBLIC WAYS	
Street powers	3(Par. 7)
VEGETABLES	
Miscellaneous powers of city	3(Par. 13)
See: POWERS OF CITY	
VEHICLES FOR HIRE	
Miscellaneous powers of city	3(Par. 13)
See: POWERS OF CITY	
VIOLATIONS	
City manager, powers and duties	46

SAN ANTONIO CODE

	Section
VIOLATIONS (Cont'd.)	
Miscellaneous powers of city	3(Par. 13)
See: POWERS OF CITY	
Police authority and duties of policemen	58
See: POLICE DEPARTMENT	
VOTING PLACES	
Council districts or wards	4
See: ELECTIONS	
VOUCHERS	
Disbursement of funds	104
See: FINANCES	
W	
WARDS	
Council wards or districts in general	4
WARRANTS	
Disbursement of funds	104
See: FINANCES	
Generally. See: WRITS, WARRANTS AND OTHER PROCESSES	
WASTES	
Garbage disposal	3(Par. 11)
See: GARBAGE AND TRASH	
WATER SUPPLY AND DISTRIBUTION	
Boards, commissions, etc., establishment	49
General powers of city	3(Par. 1)
See: POWERS OF CITY	
Miscellaneous powers of city	3(Par. 13)
See: POWERS OF CITY	
WATERWAYS, WATERCRAFT AND WATERFRONT STRUCTURES	
Public works or successor department powers and duties ...	61
WEIGHTS AND MEASURES	
Miscellaneous powers of city	3(Par. 13)
See: POWERS OF CITY	
Public works or successor department powers and duties ...	61
WELFARE	
General powers of city	3(Par. 1)
Miscellaneous powers of city	3(Par. 13)
See: POWERS OF CITY	
Public assistance, providing	3(Par. 12)

CHARTER INDEX

	Section
WITNESSES	
Power of city authorities to subpoena	48
WORK PROGRAM AND ALLOTMENTS	
Fiscal year, during	83
See: FINANCES	
WRITS, WARRANTS AND OTHER PROCESSES	
City attorney, powers and duties	53
City records admissible as evidence	144
Criminal warrant or warrants of arrest	
Police authority and duties of policemen	58
See: POLICE DEPARTMENT	
Investigations by city authorities	48
Municipal civil service commission powers	70
 Y 	
YARDS AND OPEN SPACES	
Zoning powers	3(Par. 9)
See: ZONING	
YEAR	
Fiscal year	79
See: FINANCES	
 Z 	
ZONING	
Fire zones	
Miscellaneous powers of city	3(Par. 13)
See: POWERS OF CITY	
General powers of municipality	3(Par. 9)
Master plan	121
See: PLANNING COMMISSION	
Miscellaneous powers of city	3(Par. 13)
See: POWERS OF CITY	
Planning commission	
Annexed land submitted to	123A
Boards, commissions, etc., establishment	49

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