

**REPORT OF THE 2007-08
KERRVILLE
CHARTER REVIEW COMMITTEE**

**Ollie Brown, Chair
Sara Hendricker, Vice-Chair
Ross Clemmensen
Greg Jones
Floy Jung
Ben Modisett
Don Schma**

January 22, 2008

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Honorable Mayor Smith and City Council Members:

We, the members of the 2007-08 Charter Review Committee, held a series of meetings to review the Kerrville City Charter and consider whether any amendments are necessarily or desirable. Our review was in strict conformance with the *City Council Charge to and Schedule for the Charter Review Committee*, dated September 25, 2007. Pursuant to the Charge, we held fifteen meetings, which included two meetings which were held as public hearings. At each meeting, however, we allowed public input.

We have now concluded our work and present this report to you. As you will see, the report identifies various amendments that we believe should be submitted to City voters for consideration at the May 10, 2008, election.

This report begins with a summary of our recommendations. The summary is followed by the actual text of each of the proposed substantive amendments. Within the text of the amendments, blue underlining is used to indicate language proposed to be added, and ~~red overstrike~~ indicates language proposed to be deleted. Each of the proposed text changes is followed by a brief statement of the CRC's rationale for proposing the change. References within the "rationale" sections to "Model City Charter" or "MCC" mean the 8th Edition of the Model City Charter, as published by the National Civic League.

We appreciate the opportunity to serve you and the citizens of our community through the Charter review process.

Respectfully submitted,

Members of the Kerrville 2007-08 Charter Review Committee

Ollie Brown, Chair

Sara Hendricker, Vice-Chair

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I. SUMMARY OF RECOMMENDATIONS

1. Amend Section 1.01 to emphasize the City's home-rule status.
2. Amend Section 2.02 regarding the qualifications for Council members to prevent a councilmember from holding either another elective office or employment with the City.
3. Amend Section 2.03 to increase the term of office for Councilmembers from 2 years to 3 years.
4. Amend Section 2.04 regarding the process for filling vacancies of the City Council.
5. Amend Section 2.05 regarding the compensation for Councilmembers.
6. Amend Section 3.01 regarding the canvass of elections and Council meetings.
7. Amend Section 3.02 regarding the mayor and appointment of the mayor pro tem.
8. Amend Section 3.03 to change the title of City Clerk to City Secretary.
9. Amend Section 3.05 regarding a quorum of Council.
10. Amend Section 3.07(b) regarding the requirement of public notice.
11. Delete Section 3.08 regarding the official newspaper of the City.
12. Amend Section 4.02 regarding municipal elections.
13. Amend Section 4.03 regarding the process for becoming a candidate for Council.
14. Amend Section 4.04 regarding ballots.
15. Amend Section 4.05 regarding the election of Councilmembers by majority vote.
16. Amend Article V through Article VIII regarding the provisions of recall, initiative, and referendum.
17. Amend Section 7.07 regarding the publication requirement of ordinances subject to a referendum.
18. Amend Sections 9.04, 9.05, and 9.06 regarding the powers and duties of the City Manager.
19. Change the title of Article XI from Director of Finance to Financial Management.
20. Delete Section 11.01 regarding the powers and duties of the Director of Finance.
21. Amend Section 11.03 regarding the City budget and the process involved in its preparation and introduction.
22. Add a new Section 11.0_ regarding the City Manager's budget message.
23. Amend Section 11.04 regarding the adoption of the budget.
24. Amend Section 11.05 regarding the budget process.
25. Add a new Section 11.___ regarding ordinances necessary to implement the budget.

26. Amend Section 11.06 regarding budget amendments.
27. Delete Sections 11.07 through 11.11 regarding the financial operations of the City.
28. Amend Article XIII to provide for the creation and use of City Boards, Commissions, and Committees.
29. Amend Section 16.10 regarding the City's financial accounting of its utilities.
30. Adopt a new Section 17.0__ to require periodic review of the Charter and to establish a Charter Review Commission.
31. Add a new Section 17.0__ regarding providing notices to the public via electronic media.
32. Amend Section 17.02 regarding conflict of interests.
33. Delete Section 17.03 regarding the budget's reference to compensation.
34. Delete Section 17.05 regarding the oath of office.
35. Delete Sections 17.06, 17.07, 17.09, 17.14, and 17.16 concerning various carry-over provisions at the time of the adoption of the original Charter.
36. Amend Section 17.08 regarding the process of amending the Charter.
37. Delete Section 17.10 regarding garbage disposal.
38. Delete Section 17.15 regarding the applicability of state law to the City.
39. Add a new section 17.___ to authorize City Council to rearrange and renumber the Charter.

II. SUBSTANTIVE REVISIONS

1. Amend Section 1.01 to emphasize the City's home-rule status as follows:

Section 1.01. ~~Corporate name and status~~ Establishment and purpose of the Charter.

~~The inhabitants of the City of Kerrville, in Kerr County, Texas, residing within its territorial limits, as these limits are now established or are hereafter established in the manner provided by law, shall continue to be and are hereby constituted a body politic and corporate by the name of the City of Kerrville, and under that name shall have perpetual succession; may use a corporate seal, may sue and be sued; may acquire property within or without its boundaries for any municipal purpose, in fee simple or lesser interest or estate, by purchase, gift, devise, lease, or condemnation and may sell, lease, hold, manage, and control such property as its interest may require; may cooperate with the federal government or any agency of the government of the United States or the government of the State of Texas, or any agency of the government of the State of Texas, or any political subdivision of the State of Texas, to accomplish any lawful purpose for the advancement of the interest, welfare, health, morals, comfort, safety, and convenience of the City or its inhabitants; and may pass such ordinances as may be expedient for maintaining and promoting the peace and government and welfare of the City, and for the performance of the functions thereof; and except as prohibited by the Constitution and Laws of the State of Texas or restricted by this Charter, the City shall have and may exercise all municipal powers, functions, rights, privileges, and immunities of every nature whatsoever, and be governed by a City Council/City Manager type of government.~~

We the people of the City of Kerrville, Texas, under the constitution and laws of the State of Texas, in order to secure the benefits of local self-government and to provide for an honest and accountable council-manager government do hereby adopt this Charter and confer upon the City the following powers, subject to the following limitations, and prescribed by the following procedures and government structure. By this action, we secure the benefits of home-rule and affirm the values of representative democracy, professional management, strong leadership, citizen participation, and regional cooperation.

Rationale: The Charter Review Commission believes that this introductory section of the Charter presents a great opportunity to emphasize the nature of the Charter as the creation of the community's people, and to explain the basic role and functions of the Charter, similar to the preamble to the United States Constitution. The proposed wording seeks to take advantage of this opportunity and replaces the current wording of this section. The CRC also believes that it is important to acknowledge, affirm, and emphasize the benefits of local self governance and the City's status as a home-rule municipality.

2. Amend Section 2.02 regarding the qualifications for Councilmembers as follows:

Section 2.02. Qualifications for ~~Council Persons~~ Councilmembers.

~~Members of the Council shall be qualified electors of the City and not hold any other public office, other than that of Notary Public, or as a member of the State or Federal militia. A member of the Council ceasing to possess any of the qualifications specified in this section, or convicted of a felony while in office, or failing to attend three consecutive regular council meetings without being excused by the Council, shall immediately forfeit his office.~~

Each member of the City Council, in addition to having other qualifications required by law:

- a. Shall be a qualified voter of the state of Texas;
- b. Shall be at least eighteen (18) years of age;
- c. Shall be a resident of the City for at least twelve (12) consecutive months preceding the election; provided, however, that any person who shall have been a resident for a period of not less than twelve (12) consecutive months immediately preceding the election of any territory not formerly within the corporate limits of the City, but which is annexed under the provision of this charter, shall be eligible for said office;
- d. Shall not hold any other elected office or employment under the City government while a member of the Council, except a member of the City Council may be appointed by the City Council to represent the Council on any board, commission, committee, organization or entity in the Council's sole discretion so long as that person's service does not extend beyond the person's term of office.
- e. Shall not be an officer or director of any public service company within the City, or outside the City but serving inhabitants of the City, nor be the owner or proprietor of any public service company in the City. "Public service company" is defined as any company, individual, partnership, corporation or entity recognized by law that uses any of the City's streets, alleys, highways or other public property to carry out its principal purposes, including by not limited to water, wastewater, gas, electricity and, telecommunications utilities, commercial railway or street railway services, public transit services, solid waste collection, and vehicles for hire.

Rationale: The Charter Review Commission acknowledges and confirms that a place on City Council is a public office with significant decision-making responsibilities. Thus, pursuant to the proposed changes above, the CRC seeks to ensure that anyone considering running for this office seriously considers their decision. In addition, the

CRC recommends changing “council person” to “councilmember” throughout the Charter.

3. Amend Section 2.03 to increase the term of office for Councilmembers from 2 years to 3 years as follows:

Section 2.03. Term of office.

~~The Five~~ members of the City Council shall ~~hold their offices~~ be elected for ~~a three-year~~ terms, ~~which shall begin with the general election to be held in 2009, of two years and the terms shall be staggered such that two Councilmembers are elected in one year, two Councilmembers are elected in the following year, and the Mayor is elected the third year. For the staggering of the initial three-year terms, the following procedure shall apply:~~

- a. In 2009, the Councilmembers for Place 1 and Place 2 shall be elected for three-year terms.
- b. In 2010, the Mayor shall be elected for a one-year term and Councilmembers for Place 3 and Place 4 shall be elected for three-year terms.
- c. In 2011, the Mayor shall be elected for a three-year term.

~~Unless removed under the provisions of this Charter, each member shall hold office and until their a successors have been is elected and duly qualified in accordance with this Charter. Elected candidates shall take office at a regular City Council meeting following the election and after the election returns are canvassed and the result of the election is officially declared. Five Councilpersons will be elected, two in one year for Places One and Two, and the following year, the Mayor three will be elected for Places Three, Four and Mayor respectively.~~

Rationale: The Charter Review Committee recommends increasing the term of office for each Councilmember from 2 to 3 years. Under the current 2 year term, a Councilmember must begin deciding whether to run for re-election after only 19 or 20 months in office. The CRC believes that increasing the term for each Councilmember, including the Mayor, will greatly benefit the office holder as they will gain more than two and a half years of experience before deciding whether to run again. The CRC notes that should this change be approved, 1) the “resign to run” constitutional provision will apply; 2) a candidate would need a majority of votes, instead of the current plurality requirement, which may mean that a run-off election is required; and 3) vacancies would need to be filled by elections, as opposed to an appointment by Council (*see* change to §2.04 below).

4. Amend Section 2.04 regarding the process for filling vacancies of the City Council as follows:

Section 2.04. Vacancies.

~~Vacancies in the City Council shall be filled by the Council for the remainder of the unexpired term, but any vacancy resulting from a recall election shall be filled in the manner provided in such cases. The Council may appoint a qualified elector to fill a vacancy within ten (10) days after such vacancy occurs, provided, that there was prior notification of such vacancy. If there is no prior notification, the City Council may fill the vacancy within thirty (30) days of such vacancy. In the absence of such Council action, a special municipal election shall be called within seventy (70) days after the occurrence of such vacancy. The order for election shall be called by the Mayor, or in his absence or incapacity, the Mayor Pro Tem, or in his absence or incapacity, the City Manager.~~
Should a vacancy occur in the Council, the vacancy shall be filled at the next authorized election date in accordance with state law.

Rationale: The Charter Review Committee recommends extending the term of office for Councilmembers from two to three years (*see* §2.03 above). One of the consequences of such a change is that Council will no longer have the option of appointing someone to fill the vacancy. Instead, pursuant to state law (*see* Tx. Constitution Art. 11, §11(b)), the vacancy must be filled pursuant to a special election. As such, this section must be changed to conform with state law due to the CRC's recommendation of changing to a three-year term.

5. Amend Section 2.05 regarding the compensation for Councilmembers as follows:

Section 2.05. Compensation.

Council ~~persons~~members shall serve without an established salary; however, they will be authorized to receive the sum of \$25.00 for each ~~regular~~Council meeting in which they attend to off-set the "out-of-pocket" expenses incurred. The expense fees ~~to be authorized~~ is are not to be construed as being a salary, but an authorized allowance for each regular meeting. Councilmembers may be reimbursed for other reasonable expenses directly associated with their service to the City, subject to controls established by the Council.

Rationale: The Charter Review Commission recognizes that Councilmembers frequently hold many other official meetings besides their two regular meetings each month. This is especially true during the budget-adoption process where Council sometimes meets several times per week. The CRC believes that Councilmembers should receive a nominal payment for each meeting, as opposed to only "regular" meetings, as a means of covering "out-of-pocket" expenses. Providing a per-meeting payment may make service on the Council more attractive to potential candidates and may even foster meeting attendance.

6. Amend Section 3.01 regarding the canvass of elections and Council meetings as follows:

Section 3.01. Canvass of election; Mmeetings of the council, boards, and commissions; compliance with Open Meetings Act.

~~At ten o'clock in the morning on the first Tuesday f~~Following each a regular municipal election, the Council shall meet at the usual place for holding its meetings, canvass the election in accordance with state law, and the newly elected members shall assume the duties of office without party or partisan mark or designation. ~~Thereafter, the~~ Council shall meet at such times as may be prescribed by ordinance or resolution, but not less frequently than once each month. Special meetings shall be called by the City ~~Clerk~~ Secretary upon request of the Mayor, the City Manager, or a majority of the members of the Council. Any such notice shall state the subject or subjects that shall be considered. All meetings of the Council shall be open to the public, and the rules of the Council shall provide that the citizens of the City shall have a reasonable opportunity to be heard at any such meetings in regard to any matter considered ~~thereat~~; but the Council may by a majority vote of all the members authorize ~~an executive~~ a closed meeting. Council and its boards, commissions, and committees shall comply fully with the provisions of the Texas Open Meeting Law as ~~they now exist or as they may hereafter be~~ amended. ~~All meetings of all boards, commissions and committees of the Council shall be open to the public if and as provided by State law.~~

Rationale: Based upon changes in state law and information provided by the City Clerk, the Charter Review Committee recommends changing the meeting date of when the Council canvasses its election.

7. Amend Section 3.02 regarding the mayor and appointment of the mayor pro tem as follows:

Section 3.02. Mayor and mayor pro tem.

~~On the first Tuesday f~~Following the canvass of a regular election, the Council shall choose one of its members (other than the Mayor) as Mayor Pro Tem.

The Mayor shall preside at meetings of the Council and shall exercise such other powers and perform such other duties as are or may be conferred and imposed upon him by this Charter and the ordinances of the City. He shall be recognized as the head of the City government for all ceremonial purposes, by the courts for serving civil processes, and by the Governor for purposes of military law. In time of public danger or emergency, the Mayor shall, if so authorized and directed by vote of the Council, take command of the police, maintain order, and enforce the law. If a vacancy occurs in the Office of Mayor, the Council shall appoint a successor Mayor for the remaining term. If the Mayor is absent or disabled, the Mayor Pro Tem shall act as Mayor for the duration of the period

of such absence or disability. If the Mayor Pro Tem is also absent or disabled, then the Council shall elect a Presiding Officer to act in the place of the Mayor Pro Tem.

Rationale: Based upon changes in state law regarding the time to canvas elections, the Charter Review Committee recommends changing the meeting date for when the Council chooses the Mayor Pro Tem.

8. Amend Section 3.03 to change the title of City Clerk to City Secretary as follows:

Section 3.03. City ~~clerk~~ Secretary.

The City Manager shall appoint a City Clerk Secretary who shall perform such administrative duties as may be delegated by the City Manager.

Rationale: Based upon information provided by the City Clerk, the Charter Review Committee recommends changing the title of this position from “Clerk” to “Secretary.” This change would be more consistent with how the term is used by the Texas Election Code, the Texas Secretary of State, and the vast majority of Texas cities. All other references to City Clerk within the Charter should also be changed.

9. Amend Section 3.05 regarding a quorum of Council as follows:

Section 3.05. Quorum.

Except as otherwise allowed by state law, A a majority of all the members of the Council shall constitute a quorum to do business, but a less number may adjourn from time to time and compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance. The affirmative vote of a majority of all the members of the Council shall be necessary to adopt any ordinance, resolution, or order; except that a vote to adjourn, or an action regarding the attendance of absent members, may be adopted by a majority of the members present. No member may be excused from voting except when such member has a conflict of interest as defined by law.

Rationale: State law allows a meeting of only 2 Councilmembers to canvass a meeting. Thus, the Charter Review Committee recommends amending this section to take into account the state law provision.

10. Amend Section 3.07(b) regarding the requirement of public notice as follows:

Section 3.07. Publication of penal ordinances.

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b. ~~A~~ Each adopted penal ordinance, or its caption and penalty, shall ~~after passage thereof,~~ be published ~~in one issue of the official paper~~ one time in a newspaper of general circulation which is published in the City. ~~Proof of such publication shall be made by the printer or publisher of such paper, making affidavit before some officer authorized by law to administer oaths, and filed with the person performing the duties of City Clerk. Such affidavit shall be prima facie evidence of publication and promulgation of such ordinance.~~ The City shall also provide notice of the adoption of the ordinance at the City's website. Such ordinance so published in the newspaper shall take effect and be in force, from and after ten (10) days after publication thereof, unless a later time is expressly provided.

Rationale: The Charter Review Committee believes that where the Charter requires public notice and the dissemination of information to the public, the City's website should be used.

11. Delete Section 3.08 regarding the official newspaper of the City as follows:

~~**Section 3.08. Official newspaper.**~~

~~The Council shall, as soon as practicable after the commencement of each fiscal year or municipal year, enter into contract with a public newspaper of the City as the official paper thereof, and to continue as such until another is selected, and shall cause to be published therein all ordinances, notices, and other matter required by this Charter or by the ordinances of the City to be published.~~

Rationale: The City is not legally required to establish an official newspaper. There are, however, a number of state laws that require the City to publish notice in a newspaper. Examples include budget actions and zoning changes. Thus, because no legal requirement exists to adopt an official newspaper, and in light of the fact that the City is using and will continue to use and expand the use of its website and other electronic means of providing public notice, the Charter Review Committee recommends deleting this section from the Charter.

12. Amend Section 4.02 regarding municipal elections as follows:

Section 4.02. ~~Regulations of e~~lections.

The Council shall make all needful rules and regulations, not inconsistent with this Charter or with the election laws of the State of Texas, for the conduct of elections, for the prevention of frauds in elections, and for the recount of the ballots in case of doubt or fraud. ~~The City shall conduct all elections in accordance with state law.~~

Rationale: State law controls municipal elections. Thus, the Charter Review Committee recommends amending this section as a way to clarify the City's election requirements.

13. Amend Section 4.03 regarding the process for becoming a candidate for Council as follows:

Section 4.03. ~~Nominations and acceptances thereof~~ Application for candidacy.

Any person who lawfully qualifies, and is, a registered voter ~~at the time of filing the petition,~~ may ~~be nominated for the City Council~~ file an application for election for a Place on the City Council. The name of such candidate and Place for which he is filing will be affixed by the City ~~Clerk~~ Secretary at the time of issuance of an ~~petition application~~ form. Such application shall include a petition ~~shall be~~ signed by not less than ~~25~~ 75 qualified and registered voters of the City. The ~~application for the petition~~ and the signatures thereon as well as the affidavits of the circulators shall meet the requirements of ~~the state laws of the State of Texas.~~ All papers comprising an application ~~Nomination-Petition~~ shall be assembled and filed with the City ~~Clerk~~ Secretary in accordance with state law ~~as one instrument, not later than 5:00 p.m. on the 45th-62nd day before election day and not earlier than the 30th day before the date of the filing deadline and shall include a filing fee of \$25.00. The filing fee shall be waived where the petition includes the signatures of not less than 100 qualified and registered voters of the City. The City Clerk Secretary shall make a record of the exact time at which each petition is filed and shall take and preserve the name and address of the person by whom it is filed.~~

The City ~~Clerk~~ Secretary shall review the petition as required by ~~the state laws of the State of Texas and within the time limits set therein and~~ If a petition is found to be insufficient, the City ~~Clerk~~ Secretary shall return it immediately to the person who filed it, with a written statement certifying why the petition is found to be "insufficient." Within the ~~regular~~ time ~~allowed for filing of petitions authorized by state law~~ such a petition may be amended and filed again as a new petition, or a different petition may be filed for the same candidate. If the ~~Nomination-Petition~~ application complies with this section and state law, the ~~Clerk~~ City Secretary shall place such name on the ballot. Application forms shall be obtained from the City ~~Clerk~~ Secretary, as they are promulgated by the Texas Secretary of State.

Rationale: The Charter Review Committee recommends amending this section to comply with state law. In addition, the CRC recommends increasing the number of signatures required for a candidate to be placed on the ballot for City Council and to impose a nominal filing fee. The filing fee may be waived for any reason upon the submission of 25 additional signatures.

14. Amend Section 4.04 regarding ballots as follows:

Section 4.04. Ballots.

The ~~full~~ names of candidates ~~nominated for the Council in accordance with the provisions of this Charter shall be placed on the ballot in accordance with state law except such as may have withdrawn, died, or become ineligible, shall be printed on the official ballots for designated place without party or partisan mark or designation. Position on the ballot shall be by lot as conducted by the City Secretary.~~

Rationale: State law establishes the requirements that the City must follow with respect to creating a ballot. Subject to certain conditions, state law permits a candidate to use a name other than their full name. The Charter Review Committee recommends amending this section to conform with state law.

15. Amend Section 4.05 regarding the election of Councilmembers by majority vote as follows:

Section 4.05. Election of councilpersons by plurality.

At the regular municipal election, the voters shall vote for one candidate for each place listed on the ballot. The candidate for each place listed on the ballot ~~who shall have received the greatest number~~ receiving a majority, meaning more than fifty percent (50%) of the votes ~~for that place~~ cast, ~~in such election~~ shall be declared elected; ~~and in case of a tie vote, by lot.~~ In the event that no candidate receives a majority of all votes cast at such election, the City Council shall, upon completion of the official canvass of the ballots, issue a call for a runoff election to be held within thirty (30) days following the issuance of such call, or in accordance with the Texas Election Code.

Rationale: Based the recommendation from the Charter Review Committee to increase the term of office for Councilmembers from 2 to 3 years (*see* §2.02 above), state law requires that the winner of an election for a three-year term office be elected by a majority vote, as opposed to a plurality, or merely the most number of votes. In addition, should none of the candidates receive a majority of the votes, then the top 2 finishers for that election would be subject to a runoff election.

16. Amend Article V through Article VIII regarding the provisions of recall, initiative, and referendum as follows:

ARTICLE V. INITIATIVE, REFERENDUM AND RECALL

~~Section 5.01. Scope of recall.~~

~~a. The mayor and members of the Council, whether elected to office by qualified voters or appointed by the Council to fill a vacancy, shall be subject to recall and removal from office by the qualified voters of the City on grounds of incompetency, misconduct, or malfeasance in office.~~

~~b. In this section:~~

~~(1) "Incompetence" means:~~

~~(a) Gross ignorance of official duties;~~

~~(b) Gross carelessness in the discharge of official duties; or~~

~~(c) Inability or unfitness to promptly and properly discharge official duties because of a serious mental or physical defect that did not exist at the time of the election or appointment of the person against whom recall is sought. Such mental defect or physical defect must be certified as existing by a court of competent jurisdiction.~~

~~(2) "Official misconduct" means intentional unlawful behavior relating to the official duties by an officer entrusted with the administration of justice or the execution of the law. The term includes an intentional or corrupt failure, refusal, or neglect of the mayor or a council member to perform a duty imposed on the person by law. To be recalled for official misconduct, the mayor or council member must have been convicted of such official misconduct by a court of competent jurisdiction.~~

~~(3) "Malfeasance" means the unlawful performance of an act which the mayor or council member has no right to perform. An act of malfeasance may also constitute an act that is defined by state or federal law as official misconduct.~~

~~Section 5.02. Commencement of proceeding; petitioner's committee; affidavit.~~

~~a. Any five (5) citizens who are registered voters and were qualified to vote in the last regular City election may commence recall proceedings by filing with the City Clerk an affidavit stating they will constitute the petitioners' committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses and specifying the address to which all notices to the~~

~~committee are to be sent, and setting out in detail the reasons the Council member named in the petition should be recalled and removed from office on the basis of incompetence, official misconduct, or malfeasance.~~

~~b. Not later than (2) City business days after the affidavit of the petitioners' committee is filed with the City Clerk, the City Clerk shall issue the appropriate petition blanks to the petitioners' committee, which shall be signed by the City Clerk, addressed to the Council, and shall contain the names of the petitioners' committee, the date the petition blanks were issued by the City Clerk, the person to whom the petition blanks were issued, the number of petition blanks issued, the name and title of the Council member whose removal is sought, and the full text of each and every ground upon which removal is predicated as set forth in the petitioners' committee affidavit. A copy of the petition shall be entered in a record book for that purpose to be kept in the office of the City Clerk.~~

~~c. A separate petitioners' committee affidavit and set of petition blanks shall be filed and prepared, respectively, for each person whose removal from the Council is sought.~~

Section 5.03. Number of signatures on petition.

~~Before the question of recall of the mayor or council member shall be submitted to the qualified voters of the City, a petition demanding such question be submitted shall first be filed with the City Clerk, which petition must be signed by registered voters eligible to vote in the City equal in number to the greater of (a) five (5) percent of the registered voters entitled to vote at the last regular election of council members or (b) thirty five (35) percent of the number who voted in the most recent regular City election, but in no case fewer than the signatures of three hundred (300) registered voters eligible to vote in the City. The signatures on each petition shall conform with, and be verified in accordance with, Section 8.01 of this Charter.~~

Section 5.04. Time for filing petition.

~~To be effective, a recall petition bearing the number of signatures required by Section 5.03, above, must be filed with the City Clerk not later than the thirtieth (30th) day after issuance of the petition blanks by the City Clerk, or, in the case of an amended petition as described in Section 8.03, within the time required by Section 8.03.~~

Section 5.05. Recall election ordered.

~~If a recall petition, or an amended recall petition as defined in Section 8.03, shall be certified by the City Clerk to be sufficient or insufficient, the City Clerk shall not later than the next City business day after making such certification submit the certificate to each member of the City Council and notify the member(s) whose removal is sought. If the petition is certified to be sufficient, and a member of the Council whose removal is sought does not resign on or before the fifth (5th) day following the date the City Clerk delivers the certification of a sufficiently signed petition to the Council or the fifth (5th) day after the conclusion of the public hearing requested by the member whose removal is sought, whichever is later, the Council shall thereupon fix a day for holding a special~~

~~election for purpose of considering the question of recall. Any such election shall be held not earlier than the forty fifth (45th) day nor later than the sixtieth (60th) day after the petition has been presented to the Council, and at such time as any other special or general election held within such period; however, if no such election is to be held within such period, the Council shall call a special election to be held within the aforesaid time. In the event the election laws of this State prohibit a recall election to be held during the aforesaid time period, said recall election shall be held on the next available election date allowed by state law following the end of the aforesaid period.~~

~~Section 5.06. Public hearing.~~

~~The Council member whose removal is sought may, not later than the fifth (5th) day after such recall petition has been presented to the Council, request that a public hearing be held to permit the Council member to present facts pertinent to the charges specified in the recall petition. In that event, the Council shall order such public hearing to be held not earlier than the fifth (5th) day nor later than the fifteenth (15th) day after receiving the request for a public hearing.~~

~~Section 5.07. Ballots in recall election.~~

~~Ballots used at recall shall conform to the following requirements: With respect to each person whose removal is sought, the question shall be submitted "Shall (name of person) be removed from the Office of (name of Council position) by recall?" Immediately below each such question there shall be printed the following words, one above the other, in the order indicated:~~

~~"Yes"~~

~~"No"~~

~~Section 5.08. Result of recall election.~~

~~If a majority of the votes cast at a recall election shall be "No", that is, against the recall of the person named on the ballot, such person shall continue in office for the remainder of the unexpired term, subject to recall as before. If a majority of the votes cast at such an election be "Yes", that is, for the recall of the person named on the ballot, such person shall, regardless of any technical defects in the recall petition, be deemed removed from office and the vacancy shall be filled in the manner prescribed in Section 2.04; provided, however, the Council member(s) recalled shall not be eligible for appointment to the vacancy created by the recall election or for any subsequent vacancy on the Council occurring prior to the next regular City election of officers.~~

~~Section 5.09. Limitations on recall petitions.~~

~~No recall petitions shall be filed against a member of the Council within six (6) months after he takes office, within the last six (6) months of a Council member's term, nor, in respect to a member subjected to a recall election and not removed thereby, until at least six (6) months after such election. Furthermore, no council member shall be subjected to a recall election more than once during each term of office.~~

~~ARTICLE VI. INITIATIVE~~

~~Section 6.01. Power to initiate ordinances.~~

~~The electors shall have power to propose any ordinance, except an appropriation ordinance or an ordinance making a tax levy, and to adopt or reject the same at the polls, such power being known as the initiative. Any initiated ordinance may be submitted to the Council by petition signed by electors of the city equal in number to at least ten percent (10%) of those who voted at the last regular municipal election; provided, however, that the petition must bear the signatures of at least one hundred (100) electors of the City. All petition papers circulated with respect to an initiated resolution or ordinance shall be uniform in character and shall contain the proposed resolution or ordinance in full.~~

~~Section 6.02. Consideration of initiated ordinance by council.~~

~~If an initiative petition, or amended petition as defined in Section 8.03, be found sufficient by the City Clerk, he shall immediately so certify and promptly submit the ordinance therein set forth to the Council, which shall at once read the proposed ordinance and refer it to an appropriate committee, which may be a committee of the whole. Provisions shall be made for a public hearing upon the proposed ordinance before the committee to which it is referred. Thereafter the committee shall report the ordinance to the Council, with its recommendations thereon, not later than sixty (60) days after the date on which such ordinance was submitted to the Council by the City Clerk. Upon receiving the ordinance from the committee, the Council shall proceed at once to consider it and to take final action thereon within thirty (30) days from the date of such committee report.~~

~~Section 6.03. Submission of initiated ordinances to electors.~~

~~If the Council fails to pass an ordinance proposed by initiative petition, or pass it in a form different from that set forth in the petition therefor, the committee of the petitioners hereinafter provided for may, by an additional petition signed by electors, in no case less than fifty (50) in number and equal in number to at least five percent (5%) of the number who voted at the last regular municipal election, who did not sign the petition by which the ordinance was originally proposed to the Council, require that it be submitted to a vote of the electors either in its original form or with any change or amendment which was presented in writing during the consideration thereof by the Council or its committee. If the committee of petitioners require the submission of a proposed ordinance to a vote of the electors, they shall certify that fact to the City Clerk and file in his office a certified copy of the measure, in the form in which it is to be submitted, together with the additional petition as provided in this section, within ten (10) days after final action on such ordinance by the Council.~~

~~Section 6.04. Election on initiated ordinance.~~

~~Upon receipt of the certified copy of a proposed ordinance and the additional petition presented in accordance with the foregoing section from the committee of the petitioners, the City Clerk shall, if he finds the additional petition sufficient, certify that fact to the Council at its next regular meeting. If any election is to be held not more than one year and not less than forty five (45) days after the receipt of the Clerk's certificate by the~~

~~Council, the proposed ordinance shall be submitted to a vote of the electors at the first such election unless the Council provides for submitting the proposed ordinance to the electors at a special election to be held within the time aforesaid. If no other election be held within one year and not less than forty five days after the receipt of the Clerk's certificate as aforesaid, the Council shall provide for submitting the proposed ordinance to the electors at a special election to be held within that time. If, when submitted to the electors, a majority of those voting on the proposed ordinance shall vote in favor thereof, it shall thereupon be an ordinance of the municipality.~~

~~**Section 6.05. Initiated ordinances passed by the council in amended form.**~~

~~When an ordinance proposed by initiative petition is passed by the Council in a changed or amended form, and the committee of the petitioners require that such proposed ordinance be submitted to a vote of the electors as provided in Section 6.03, hereof, the ordinance as passed by the Council shall not take effect until after such vote and, if the proposed ordinance so submitted be approved by a majority of the electors voting thereon, the ordinance as passed by the Council shall be deemed repealed.~~

~~**Section 6.06. Initiated repealing ordinances.**~~

~~Proposed ordinances for repealing any existing ordinance or ordinances, in whole or in part, may be submitted to the Council as provided in the preceding sections for initiating ordinances. Initiated ordinances adopted by the electors shall be published, and may be amended or repealed by the Council, as in the case of other ordinances.~~

~~**ARTICLE VII. THE REFERENDUM**~~

~~**Section 7.01. Power of referendum.**~~

~~The electors shall have power to approve or reject at the polls any ordinance passed by the Council, or submitted by the Council to a vote of the electors, except an appropriation ordinance or an ordinance making the annual tax levy, such power being known as the referendum. Ordinances submitted to the Council by initiative petition and passed by the Council without change, or passed in an amended form and not required by the committee of the petitioners to be submitted to a vote of the electors, shall be subject to the referendum in the same manner as other ordinances.~~

~~**Section 7.02. Referendum petition.**~~

~~Within thirty (30) days after the final passage by the Council of any ordinance which is subject to referendum, a petition signed by the electors of the City equal in number to at least twenty percent (20%) of those who voted at the last preceding regular municipal election, in no case less than one hundred fifty (150) electors, may be filed with the City Clerk requesting that any such ordinance, or any specified part thereof, be either repealed or submitted to a vote of the electors.~~

~~**Section 7.03. Consideration of referred ordinance by council--Referendum election.**~~

~~If a referendum petition or amended petition as defined in Section 8.03 be found sufficient by the City Clerk, he shall certify that fact to the Council at the next regular meeting and the ordinance or part thereof specified in the petition shall not go into effect,~~

~~or further action thereunder shall be suspended if it shall have gone into effect, until and unless approved by the electors, as hereinafter provided. Upon receipt of the Clerk's certificate, the Council shall proceed to reconsider the ordinance or part thereof and its final vote upon such consideration shall be upon the question "Shall the ordinance (or part of the ordinance) specified in the referendum petition be repealed?" If upon such reconsideration the ordinance, or part thereof, be not repealed, it shall be submitted to the electors at the next election held not less than forty five (45) days after such final vote by the Council. The Council may submit the ordinance, or part thereof, to the electors at a special election to be held not sooner than forty five days after such reconsideration. If when submitted separately to the electors, any ordinance or part thereof be not approved by a majority of those voting thereon, it shall be deemed repealed.~~

Section 7.04. Form of ballot for initiated and referred ordinances.

~~Ordinances, or parts thereof, submitted to vote of the electors in accordance with the initiative and referendum provisions of this Charter shall be submitted by ballot title which shall be prepared in all cases by the City attorney or as directed by the Council. The ballot title may be distinct from the legal title of any such initiated or referred ordinance and shall be a clear, concise statement, without argument or prejudice, descriptive of the substance of such ordinance or part thereof, shall have below the ballot title the following propositions, one above the other, in the order indicated:~~

~~"For the ordinance"~~

~~"Against the ordinance"~~

~~Any number of ordinances, or parts thereof, may be voted on at the same election and may be submitted on the same ballot, but the ballot used for voting thereon shall be for that purpose only.~~

Section 7.05. Preliminary action under referred ordinances.

~~In case a petition be filed requiring that an ordinance passed by the Council involving the expenditures of money, a bond issue, or a public improvement be submitted to a vote of the electors, all steps preliminary to such actual expenditure, actual issuance of bonds, or actual execution of the contract for such improvement, may be taken prior to the election.~~

Section 7.06. Referendum on emergency ordinances.

~~Any emergency ordinance or other ordinance which, in accordance with the provisions of this Charter, shall have gone into effect prior to the filing of a referendum petition thereon shall be subject to referendum as in the case of other ordinances, and further action thereunder shall be suspended from the date of the Clerk's certification to the Council that a sufficient referendum petition has been filed. If, when submitted to a vote of the electors, any such ordinance be not approved by a majority of those voting thereon it shall be considered repealed and void, except that any such ordinance so repealed shall be deemed sufficient authority for any payments made or expense incurred in accordance therewith prior to the date of the Clerk's certification to the Council that a sufficient referendum petition had been filed.~~

[NOTE: Section 7.07. is not deleted and is addressed below.]

Section 7.08. Conflict of ordinances adopted or approved.

If two (2) or more ordinances adopted or approved at the same election conflict in respect of any of their provisions, they shall go into effect in respect of such of their provisions as are not in conflict and the one receiving the highest affirmative vote shall prevail insofar as their provisions conflict.

ARTICLE VIII. INITIATIVE, REFERENDUM, AND RECALL PETITIONS

Section 8.01. Signatures to petitions.

The signatures to initiative, referendum or recall petitions need not all be appended to one paper, but to each separate petition there shall be attached an affidavit of the circulator thereof as provided by this section. 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 place. There shall appear on each petition the names and addresses of five (5) electors of the City, and on each paper the names and addresses of the same five (5) electors, who, as a committee of the petitioners, shall be regarded as responsible for the circulation and filing of the petition.

The affidavit attached to each petition shall be as follows:

TABLE INSET:

STATE OF TEXAS)
COUNTY OF KERR)ss.

_____, being duly sworn, deposes and says that he, and he only, 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.

TABLE INSET:

____	Signed _____ (Signature of Circulator)
------	---

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

TABLE INSET:

____	_____ Notary Public (or other officer authorized to administer oaths)
------	--

The foregoing affidavit shall be strictly construed and any affiant convicted of swearing falsely as regards to any particular thereof shall be punishable in accordance with existing law.

Section 8.02. Filing, examination and certification of petitions.

~~All petition papers comprising an initiative, referendum or recall petition shall be assembled and filed with the City Clerk as one instrument. Within ten (10) days after a petition is filed, 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 electors. The City Clerk shall declare any petition paper entirely invalid which is not attested by the circulator thereof as required by Section 8.01 of this Charter. Upon completing his examination of the petition, the City Clerk shall certify the result of his examination to the Council. 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 committee of the petitioners of his finding.~~

~~**Section 8.03. Amendment of petitions.**~~

~~An initiative, referendum, or recall petition may be amended at any time within ten (10) days after the making of a certificate 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 five (5) days after such an amendment is filed, make examination of the amended petition and, if his certificate shall show the petition still to be insufficient, he shall file it in his office and notify the committee of the petitioners of his findings and no further action shall be had on such insufficient petition. The finding of the insufficiency of a petition shall not prejudice the filing of a new petition for the same purpose.~~

Section 4.01. General Authority.

a. **Initiative.** The qualified voters of the City shall have power to propose ordinances to the City Council. Such power shall not extend to the budget or any capital program, or relating to appropriation of money, issuing of bonds, setting of utility rates and levy of taxes or salaries of City officers or employees, or any other ordinance not subject to initiative as provided by state statute or case law.

b. **Referendum.** The qualified voters of the City shall have power to require reconsideration by the City Council of any adopted ordinance. Such power shall not extend to the budget or any capital program, or relating to appropriation of money, issuing of bonds, setting of utility rates and levy of taxes or salaries of City officers or employees, or any other ordinance not subject to referendum as provided by state statute or case law.

c. **Recall.** The qualified voters of the City shall have the power to petition for recall of the Mayor or any member of the City Council.

Section 4.02. Commencement of Petition; Petitioners' Committee; Affidavit.

Any three (3) qualified voters may commence initiative, referendum, or recall proceedings by filing with the City Secretary an affidavit stating they will constitute the petitioners committee and be responsible for circulating the petition and filing it in proper

form, stating their names and addresses and specifying the address to which all notices to the committee are to be sent and setting out in full the proposed initiative ordinance or citing the ordinances sought to be reconsidered, or the name of the Councilmember(s) to be recalled.

Section 4.03. Scope of Recall.

Each Councilmembers shall be subject to recall and removal from office by the qualified voters of the City.

Section 4.04. Petitions for Recall.

Before the question of recall of a Councilmember shall be submitted to the qualified voters of the City, a petition demanding such question to be so submitted shall first be filed with the City Secretary. The petition must contain the number of valid signatures of qualified voters totaling the greater of (a) five percent (5%) of the registered voters entitled to vote at the last City election, (b) thirty-five percent (35%) of the number of persons who voted in the most recent City election, but in no case fewer than the signatures from three-hundred (300) qualified voters registered to vote in the City. Each signer of such recall petition shall personally sign their name thereto and shall write after their name their place of residence, giving the name of the street and the number, and shall also write thereon the day, the month, and the year their signature was affixed.

Section 4.05. Form and Content of Recall Petition.

All papers of a petition shall be uniform in size and style and shall be assembled as one instrument for filing. Each signature shall comply with Chapter 277 of the Texas Election Code as it may be amended. The petition shall be addressed to the City Council and the content shall distinctly and specifically point to the ground(s) upon which such petition for removal is predicated. Further, said petition shall state distinctly and specifically the alleged action(s) and the factual circumstance(s) surrounding such action(s) taken by the Councilmember that warrant the charge as to give the Councilmember sought to be removed notice of the matter(s) and thing(s) with which the officer is charged. The signatures shall be verified by oath in the following form:

STATE OF TEXAS
COUNTY OF KERR

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

Signature _____

Sworn and subscribed before me this _____ day of _____ 20-
NOTARY PUBLIC, STATE OF TEXAS

My commission expires: _____

Section 4.06. Certificate of City Secretary; Amendment; Presentation to Council; Council Review

a. Certificate of City Secretary. Within thirty (30) days after the petition is filed, the City Secretary shall complete a certificate as to its sufficiency or insufficiency as mandated herein, specifying, if it is insufficient, the particulars wherein it is defective and shall within that thirty (30) day period send a copy of the certificate to the petitioners committee by certified mail or by hand delivery to a committee member.

b. Amendment. A petition certified insufficient for lack of the required number of valid signatures may be amended once if the petitioners committee files a notice of intention to amend it with the City Secretary within five (5) days after receiving the copy of the certificate and files a supplementary petition upon additional papers within ten (10) days after receiving the copy of such certificate. Such supplementary petition shall comply with the requirements of Section 4.05, and within five (5) days after it is filed, the Secretary shall complete a certificate as to the sufficiency of the petition as amended and send a copy of such certificate to the petitioners committee by certified mail or by hand delivery to a committee member as in the case of an original petition.

c. Presentation to Council. When a recall petition has been fully determined sufficient, the City Secretary shall present the petition to City Council at its next regular meeting. If a petition or amended petition is certified insufficient and the petitioners committee does not elect to amend within the time required, the City Secretary shall at the next regular Council meeting present such certificate to the Council and the certificate shall then be a final determination as to the sufficiency of the petition.

Section 4.07. Public Hearing to be Held.

The Councilmember whose removal is sought may, within five (5) days after such recall petition has been presented to the City Council, request that a public hearing be held to permit the Councilmember to present the facts pertinent to the charges specified in the recall petition. In this event, the City Council shall order such public hearing to be held, not less than five (5) days nor more than fifteen (15) days after receiving such request for a public hearing.

Section 4.08. Calling of Recall Election.

If the Councilmember whose removal is sought does not resign, then the City Council shall for the next available election date, order an election for holding such recall election. If, after the recall election date is established, the Councilmember vacates the office, the election shall be cancelled, in accordance with state law.

Section 4.09. Ballots in Recall Election.

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

a. With respect to the Councilmember whose removal is sought, the question shall be submitted:

“Shall _____ be removed from the office of _____ by recall?”

b. Immediately below each such question, there shall be printed the following words, one above the other, in the order indicated:

“Yes”

“No”

Section 4.10. Result of Recall Election.

If a majority of the votes cast at a recall election shall be "No", that is against the recall of the Councilmember named on the ballot, the Councilmember shall continue in office for the remainder of his/her unexpired term, subject to recall as provided herein. If a majority of the votes cast at such election be "Yes", that is for the recall of the Councilmember named on the ballot, the Councilmember shall, regardless of any technical defects in the recall petition, be deemed removed from office upon passing of the resolution canvassing the election, and the vacancy shall be filled in accordance with Section 2.04 above. A Councilmember who is recalled shall not be qualified for placement on the ballot for the immediately ensuing election.

Section 4.11. Recall Restrictions.

No recall petition shall be filed against any Councilmember within six (6) months after the Councilmember's election, within the last six (6) months of the Councilmember's term, nor within six (6) months after an election for such Councilmember's recall.

Section 4.12. Initiative; petition; procedure.

a. Qualified voters of the City may initiate legislation by ordinance by submitting a petition addressed to the City Council, which requests the submission of the proposed ordinance to a vote of the qualified voters of the City. The City Attorney shall review the petition for enforceability and legality. Said petition must contain the number of valid signatures totaling the greater of (a) five percent (5%) of the registered voters entitled to vote at the last City election, (b) thirty-five percent (35%) of the number of persons who voted in the most recent City election, but in no case fewer than the signatures from three-hundred (300) qualified voters registered to vote in the City. Each copy of the petition shall have attached to it a copy of the full text of the proposed ordinance. The petition, its form and content, shall be the same as for recalls as provided in Section 4.05 above. The certification of the City Secretary, and any amendment to the petition and its presentation to City Council shall be the same as for recalls as provided in Section 4.06 above.

b. When an initiative petition has been fully determined sufficient, City Council shall at its next regular meeting consider the proposed initiative ordinance. Upon presentation to the Council, Council shall, within sixty (60) days after the date the petition was finally determined sufficient and in accordance with the procedure required in Section 3.06 above, either pass and adopt such ordinance without alteration as to meaning or effect, or call for an election, to be held on a date allowed under the Texas Election Code, at which the qualified voters of the City shall vote on the question of adopting or rejecting the proposed ordinance. Unless otherwise provided by law, any election for an initiative under this Charter shall be held on the first authorized uniform election date that occurs after the

seventieth (70th) calendar day after the City Council's decision to submit the ordinance to the voters.

c. If a majority of the qualified electors voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification of the election results and shall be treated in all respects in the same manner as ordinances of the same kind adopted by the Council. If conflicting ordinances are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

Section 4.13. Referendum; petition; procedure; effect prior to election.

a. Qualified voters of the City may require that any ordinance, with the exception of ordinances dealing with any budget or any capital program, or relating to appropriation of money, issuing of bonds, setting of utility rates and levy of taxes or salaries of City officers or employees, or any other ordinance not subject to referendum as provided by state statute or case law, passed by the City Council be submitted to the voters of the City for approval or disapproval, by submitting a petition for this purpose within ten (10) days after the date the ordinance sought to be reconsidered was adopted. Said petition must contain the number of valid signatures totaling the greater of (a) five percent (5%) of the registered voters entitled to vote at the last City election, (b) thirty-five percent (35%) of the number of persons who voted in the most recent City election, but in no case fewer than the signatures from three-hundred (300) qualified voters registered to vote in the City. The petition, its form and content, shall be the same as for recalls as provided in Section 4.05 above. The certification of the City Secretary, any amendment to the petition and its presentation to City Council shall be the same as for recalls as provided in Section 4.06 above. Council shall either repeal the referred ordinance or submit the referred ordinance to the qualified voters of the City within thirty (30) days after the date the petition was finally determined sufficient.

b. Pending the holding of such election, the ordinance shall be suspended from taking effect and shall not later take effect unless a majority of the qualified voters voting thereon at such election shall vote in favor thereof. Unless otherwise provided by law, any election for a referendum under this Charter shall be held on the first authorized uniform election date that occurs after the seventieth (70th) day after the decision by the City Council.

c. If a majority of the qualified electors voting on a referred ordinance vote against it, it shall be considered repealed upon certification of the election results.

Section 4.14. Voluntary Submission of Legislation by the City Council.

The City Council, upon its own motion and by the affirmative vote of a majority of the full membership of the Council, may submit to popular vote at an election for adoption or rejection any proposed ordinance or resolution or measure, or may submit for repeal any existing ordinance, or resolution, or measure, in the same manner and with the same force and effect as provided in this Article for submission of initiative and referendum petitions, and may, at its discretion, call for an election for this purpose on an authorized uniform election date as provided by state law.

Section 4.15. Form of Ballots.

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

“For the Ordinance”

“Against the Ordinance”

Section 4.16. Ordinances Passed by Popular Vote, Repeal or Amendment.

No ordinance which may have been passed by the City Council upon a petition or adopted by popular vote under the provisions of this Article may be repealed or amended by the City Council for a period of six (6) months from the date said ordinance became effective. An ordinance which may have been passed by the City Council upon a petition or adopted by popular vote under the provisions of this Article may be repealed or amended at any time in response to a referendum petition or by submission as provided by Section 4.14 above.

Rationale: The Charter Review Committee affirms that the Articles regarding recall, initiative, and referendum – which provide for direct citizen participation in City government – are extremely important and valuable to the citizens of Kerrville. However, the CRC believes that the process for each can and should be simplified, which is the main intent of the proposed amendments. In addition, the CRC recommends the following: (1) that the signature requirements for each of the three types of petitions be the same; (2) that a petition to recall a Councilmember, while required to specify the grounds or reasons for the recall, should not be required to be based upon any defined reason or reasons (*e.g.*, incompetence, misconduct, or malfeasance); (3) that a recalled Councilmember not be eligible to run for City office until after the next election; and (4) that Council have the authority to place issues on the ballot on its own initiative for referendum.

17. Amend Section 7.07 regarding the publication requirement of ordinances subject to a referendum as follows:

Section 7.07. Publicity for ordinances ~~and amendments~~ submitted to voters.

The City ~~Clerk~~ Secretary, at least fifteen (15) days before any election at which any ordinance ~~or charter amendment~~ is to be submitted to the voters, shall have printed in ~~the official~~ a newspaper of general circulation published in the City the ~~full text caption~~ of all ordinances ~~or charter amendments~~ submitted, ~~with their respective ballot titles, together with the arguments, for or against such ordinances or charter amendments, which may have been filed with the City Clerk not less than twenty (20) days before such election. Such arguments shall be signed by the person, persons, or officers of organizations authorized by such organizations to submit and sign the same, who shall deposit with the City Clerk at the time of filing a sum of money sufficient to cover the proportionate cost of the publishing for the space taken by the arguments. The full text of all ordinances shall be made available for public review in the office of the City Secretary, at the City's library, and prominently linked on the City's website.~~ The text of every ordinance ~~or charter amendment~~ shall also be displayed at the polling place in such election; but the validity of an ordinance ~~or charter amendment~~ approved by the electors shall not be questioned because of errors or irregularities in publication or display.

Rationale: Due to the significant cost of newspaper publication and the accessibility of information via the internet, the Charter Review Committee recommends doing away with the full publication of ordinances in a newspaper and instead requiring the publication of the ordinance's caption and that such ordinances be published on the City's website, in addition to being made available at the City Secretary's office and the City's library. As for Charter amendments, state law (*see* §9.004, Texas Local Government Code) provides publication requirements.

18. Amend Sections 9.04, 9.05, and 9.06 regarding the powers and duties of the City Manager as follows:

Section 9.04. General powers and duties of the manager.

~~It shall be the duty of the City Manager to act as chief conservator of the peace within the City; to supervise the administration of the affairs of the City; to see that the ordinances of the City and the Laws of the State are enforced; to make such recommendations to the Council concerning the affairs of the City as may seem to him desirable; to keep the Council advised of the financial condition and future needs of the City; to prepare and submit to the Council the annual budget estimate; to prepare and submit to the Council such reports as may be required by that body; and to perform such other duties as may be prescribed by this Charter or required of him by ordinance or resolution of the Council, not inconsistent with this Charter.~~

The City Manager shall be the chief executive officer of the City, responsible to the Council for the management of all City affairs placed in the manager's charge by or under this Charter. The City Manager shall:

- a. Appoint and suspend or remove all City employees and appointive administrative officers provided for by or under this Charter, except as otherwise provided by law or this Charter. The City Manager may authorize any administrative officer subject to the manager's direction and supervision to exercise these powers with respect to subordinates in that officer's department, office, or agency;
- b. Direct and supervise the administration of all departments, offices and agencies of the City, except as otherwise provided by this Charter or by law;
- c. Attend all City Council meetings. The City Manager shall have the right to take part in discussion but shall not vote;
- d. See that all laws, provisions of this Charter and acts of the City Council, subject to enforcement by the City Manager or by officers subject to the manager's direction and supervision, are faithfully executed;
- e. Prepare and submit the annual budget and capital program to the City Council, and implement the final budget approved by Council to achieve the goals of the City;
- f. Submit to the City Council and make available to the public a complete report on the finances and administrative activities of the City as of the end of each fiscal year;
- g. Make such other reports as the City Council may require concerning operations;
- h. Keep the City Council fully advised as to the financial condition and future needs of the City;
- i. Make recommendations to the City Council concerning the affairs of the City and facilitate the work of the City Council in developing policy;
- j. Provide staff support services for the Mayor and Council members;
- k. Assist the Council to develop long-term goals for the City and strategies to implement these goals;
- l. Encourage and provide staff support for regional and intergovernmental cooperation;

- m. Promote partnerships among Council, staff, and citizens in developing public policy and building a sense of community; and
- n. Perform such other duties as are specified in this Charter or may be required by the City Council.

~~Section 9.05. Responsibility of manager--Powers of appointment and removal.~~

~~The City Manager shall be responsible to the Council for the proper administration of all affairs of the City placed in his charge, and to that end, subject to such personnel provisions as may be authorized by the Council, and except as otherwise provided herein, he shall have the power to appoint and remove all officers and employees in the administrative service of the City; but the Manager may authorize the head of a department or office responsible to him to appoint and remove subordinates in such department or office. Appointments made by, or under the authority of, the City Manager shall be on the basis of executive and administrative ability and of the training and experience of such appointees in the work which they are to perform. All such appointments shall be without definite term unless for provisional, temporary, emergency service not to exceed the maximum periods prescribed by such regulations as may be imposed under the authority of this Charter.~~

~~Section 9.06. Removal of officers and employees.~~

~~Any officer or employee to whom the City Manager, or a head of a department or office, may appoint a successor, may be removed by the Manager or other appointing officer at any time. Except as may be otherwise provided under the terms of this Charter, the decision of the manager or other appointing officer shall be final.~~

Rationale: The Charter Review Committee recommends deleting Sections 9.04 through 9.06 of the Charter and adding a new Section 9.04 as a means of clarifying and condensing the powers and duties of the City Manager. The new wording comes from the Model City Charter (“MCC”). The proposed wording is consistent with the language used in the current Charter and does not add to or take away from any of the City Manager’s current powers or duties. However, the CRC believes that the language used by the MCC more clearly and precisely delineates the powers and duties of the City Manager. The duties reflect the complex responsibilities assigned to managers to make the processes of governance work within the community. Constructive interactions among the local government, businesses, non-profits, faith-based and special interest organizations and neighborhood groups define a successful community.

19. Change the title of Article XI as follows:

ARTICLE XI. ~~DIRECTOR OF FINANCE~~ FINANCIAL MANAGEMENT

Rationale: The Charter Review Committee recommends changing the title of this article to reflect the purpose and goal of the sections within this article. The obvious purpose and goal of the sections is the financial management of the City, not the creation of the position of Director of Finance.

20. Delete Section 11.01 regarding the powers and duties of the Director of Finance as follows:

~~Section 11.01. Organization, powers, and duties of director of finance.~~

~~The Director of Finance, who may be the City Manager himself, may delegate the administration of such financial matters as he may regard expedient and in the best interests of the City. The City Manager shall designate a person from the Finance Department, to be "Ex-officio Assessor & Collector of Taxes", or this role may be delegated to some other agency with the approval of the City Council. The Director of Finance shall have the authority and shall be required to:~~

~~a. Prepare the budget, as outlined in this section, and to assist the City Manager in its execution after authorization by the City Council.~~

~~b. Maintain accounting control over finances of the City government, for which purpose it is empowered to operate a set of general accounts embracing all financial transactions of the City, and such subsidiary accounts and cost records as may be required by ordinance or resolution or by the City Manager for purposes of administrative direction and financial control; to prescribe the forms of receipts, vouchers, bills, or claims to be filled by all departments and agencies of the City government; to examine and approve all contracts, orders, and other documents by which the City incurs financial obligations, having ascertained before approval that monies have been appropriated and allotted to meet such obligations and will become available when the obligations have become due and payable; to audit and approve all bills, invoices, payrolls, and other evidence of claims, demands, or charges against the City government and to determine the regularity, legality, and correctness of such claims, demands, or charges; to make monthly reports on all receipts and expenditures of the City government, to make reports on funds, appropriations, allotments, encumbrances, and authorized payments, to the City Manager, the Council, and head of the department or agency directly concerned; to inspect and audit any accounts or records of financial transactions which may be maintained by any department or agency of the City government apart from or subsidiary to the general accounts; and to perform such other duties pertaining to the financial records of the City government as the City Council may require by ordinance or resolution.~~

~~c. Control the purchase, storage, and distribution of all supplies, materials, equipment, and contractual services required by the City government, or by any department or agency thereof, in the manner provided by ordinance or resolution; to establish and enforce standard specifications with respect to such supplies, materials, and equipment; to inspect or supervise the inspection of all deliveries of supplies, materials, and equipment, to determine their quality, quantity, and conformance with specifications; to have charge of such general storerooms and warehouses as the City Council may provide by ordinance; and to transfer to or between City departments, or upon approval of the City Council, to sell surplus, obsolete, or unused supplies, materials and equipment.~~

~~d. Assess, or cause to have assessed, all property within the City for taxation, to prepare tax maps, to make all special assessments for public improvements, and to give such notice of these assessments to the property owners as may be required by law.~~

~~e. Collect, or cause to be collected, have custody of, and disburse all taxes, licenses, fees and other monies belonging to the City government, subject to the provisions of this Charter, ordinances, or resolutions enacted thereunder; to have custody of all investments and invested funds of the City government, or in possession of the City in a fiduciary capacity, and to keep a record of such investments, and to have custody of all bonds and certificates of City indebtedness, including such bonds and certificates unissued or cancelled, and the receipt and delivery of City bonds and certificates for transfer, registration, or exchange.~~

Rationale: The Charter Review Committee recommends deleting Section 11.01 as the CRC does not believe that the Charter should include the job description of the Director of Finance. The CRC notes that other than Council appointees (*i.e.*, City Manager, City Attorney), no similar provision exists within the Charter for any other City position.

21. Amend Section 11.03 regarding the City budget and the process involved in its preparation and introduction as follows:

Section 11.03. ~~City budget~~ Submission of City Budget and Budget Message.

The City Manager shall prepare each year a budget to cover all proposed expenditures of the government of the City for the succeeding year. Such budget shall be carefully itemized so as to make as clear a comparison as practicable between expenditures included in the proposed budget and actual expenditures for the same or similar purposes for the preceding year. The budget ~~must~~ shall also ~~be so prepared as to~~ show as definitely as possible each of the various projects for which appropriations are set up in the budget, and the estimated amount of money carried in the budget for each of these projects. The budget shall also contain a complete financial statement of the City showing all outstanding obligations of the City, the cash on hand to the credit of each and every fund, the funds received from all sources during the previous year, the funds available from all sources during the ensuing year, the estimated revenue available to cover the proposed budget, and the estimated rate of tax which will be required.

~~The budget prepared or caused to be prepared by the City Manager in the manner hereinbefore described shall be filed with the City Clerk not less than sixty (60) days prior to the beginning of the fiscal year, and such budget shall be available for the inspection of any citizen.~~

On or before the 31st day of July of each year, the City Manager shall submit to the City Council and City Secretary a budget for the ensuing fiscal year and an accompanying budget message. The full text of the proposed budget and message shall be made available for public review in the office of the City Secretary, at the City's library, and prominently linked on the City's website.

Rationale: The Charter Review Committee recommends amending this section to better reflect current practice and to provide for the specific methods for public dissemination of the proposed budget. The CRC notes that the Model City Charter includes provisions regarding a city's capital program. Based upon input from the City Manager and the Director of Finance, the CRC understands that the City uses such a program to adhere to goal-oriented, long-range planning of capital programs. However, the CRC believes that such a program is not necessary to include as a charter provision but instead can be adopted as a financial policy of the City Council.

22. Add a new Section 11.0_ regarding the City Manager's budget message as follows:

Section 11.0¹. Budget Message.

The City Manager's budget message shall explain the budget both in fiscal terms and in terms of the work programs, linking those programs to organizational goals and community priorities. It shall outline the proposed financial policies of the City for the ensuing fiscal year and the impact of those policies on future years. It shall describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures, and revenues together with the reasons for such changes, summarize the City's debt position, including factors affecting the ability to raise resources through debt issues, and include such other material as the City Manager deems desirable.

Rationale: The Charter Review Committee recommends adding this section to the Charter to better reflect the City's current budget process and the information that the City Manager already provides. The CRC submits that the budget message should clearly present the City Manager's program for accomplishing the Council's goals and priorities for the coming year as translated into financial terms. Programs of the various City departments should be explained and the City's debt position summarized. From a careful reading of the budget message, Councilmembers and citizens should be able to obtain a clear and concise picture of what the manager expects to accomplish in the coming year, the estimated cost, sources of revenue, and changes in the City debt.

¹ The numbering of this amendment will be determined, if necessary, following the Charter election.

23. Amend Section 11.04 regarding the adoption of the budget as follows:

Section 11.04. ~~Action to be taken on city budget~~ City Council Action on Budget.

~~The City Council shall each year provide for a public hearing on the budget proposed and filed by the City Manager as provided in Section 11.03, which hearing shall take place on some date to be fixed by the City Council, not less than thirty days subsequent to the time such budget is filed as provided in Section 11.03 above, and prior to the beginning of the fiscal year. Public notice of the hour, date, and place of such hearing shall be given by the City Council by publication in the `official' newspaper for general circulation at least two issues immediately preceding the date of such hearing, and any citizen of the City, or owner of property within the City Limits shall have the right to be present and participate in such hearing. At the conclusion of such hearing, the budget as prepared by the City Manager shall be acted upon by the City Council. Prior to approval of such proposed budget, the City Council shall have the authority to make such changes in the proposed budget prepared and filed by the City Manager as in their judgment (1) the law warrants and (2) is in the best interests of the taxpayers of the City. Formal City Council approval of the budget must be accomplished as early as possible, and before the receipt of assessment and certification of City Tax Rolls if at all possible. When the budget has been approved by the City Council, the budget as approved will be filed with the City Clerk and taxes levied only in accordance therewith. No expenditures of the funds of the City shall be made except in strict compliance with the budget approved as herein provided or as amended or provided in Section 11.06.~~

~~After the budget is so approved by the City Council, the budget may be changed and amended as provided in Section 11.06.~~

~~Immediately after the adoption of said budget, or any amendment thereto, the City Manager shall file, or cause to have filed, a true copy of such approved budget and all amendments thereto, in the Office of the City Clerk, and one copy in the Office of the County Clerk of Kerr County, Texas. In the preparation of the budget, the City Manager shall have the authority to require the heads of all departments to furnish such information as may be necessary for him to work with in the development of his budget.~~

a. **Notice and Hearing.** The City Council shall publish the general summary of the budget and a notice stating:

- (1) The times and places where copies of the message and budget are available for inspection by the public, and
- (2) The time and place, not less than two weeks after such publication, for a public hearing(s) on the budget.

b. **Amendment Before Adoption.** After the public hearing, the City Council may adopt the budget with or without amendment. In amending the budget, it may add or increase programs or amounts and may delete or decrease any programs or amounts, except expenditures required by law or for debt service or for an estimated cash deficit, provided that no amendment to the budget shall increase the authorized expenditures to an amount greater than total estimated income.

c. **Adoption.** The City Council shall adopt the budget on or before the 30th day of September of the fiscal year currently ending. If it fails to adopt the budget by this date, the budget proposed by the City Manager shall go into effect.

d. **“Publish” defined.** As used in this section, the term “publish” means to print in the contemporary means of information sharing, which includes, a newspaper of general circulation which is published in the City, and on the City’s website. In addition, the budget shall be made available in the office of the City Secretary and in the City’s library.

Rationale: The Charter Review Committee submits that the Model City Charter (“MCC”) provides a more reasonable and logical progression of the budget process than the current Charter. In addition, the CRC recommends including precise, specific and unmistakably direct and clear language with respect to the Charter’s financial operation provisions and to move away from broad, general language. When amendments are made following the public hearing but before adoption that result in significant changes in the budget which the public would not have anticipated, the Council should consider holding an additional public hearing to consider the amendments.

The MCC promotes a favored course of action for dealing with the failure of the Council to adopt the budget by the prescribed deadline. It recommends that the budget as submitted by the manager be deemed adopted. Among other possibilities in such a situation are (1) for the amounts appropriated for operations in the current fiscal year to be deemed adopted; (2) for the manager’s budget to be deemed adopted but with amendments by the Council being permitted during the first month of the new fiscal year; (3) to authorize the Council to make temporary appropriations for a period not to exceed one month, during which time it would presumably complete adoption of the budget for the remainder of the fiscal year; and (4) to provide that the budget of the preceding fiscal year should be applicable automatically for the first month of the ensuing year, with the presumption that action will be completed during that time.

The City is required to publish and make the budget publicly available. Toward this end, the CRC recommends taking whatever steps are necessary, including newspaper and website publication, to provide citizens with the opportunity to review and understand the City’s finances.

24. Amend Section 11.05 regarding the budget process as follows:

Section 11.05. ~~Work program and line items~~ Budget.

~~Immediately before the beginning of the fiscal year, the head of each department or agency of the City government shall submit to the Department of Finance a work program for the year, which program shall include all requested appropriations for its operation and maintenance and for acquisition of property, and shall show the line items of said requested appropriations for such department for the entire fiscal year. The Manager, with the assistance of other officials in the Department of Finance, shall review the requested line items in the light of the work program of the department or agency concerned, and may, if he deems necessary, revise, alter, or change such line items before authorizing the same. The aggregate of such line items shall not exceed the total appropriation available to said department or agency for the fiscal year. The Department of Finance shall authorize all expenditures for the departments and agencies to be made from the appropriations on the basis of approved line items and not otherwise. If at any time during the fiscal year the Manager shall ascertain that the available income, plus fund balances for the year, will be less than the total appropriations, he shall reconsider the work programs and line items of the several departments and agencies and revise them so as to forestall the making of expenditures in excess of the said income and fund balances.~~

The budget shall provide a complete financial plan of all City funds and activities for the ensuing fiscal year and, except as required by law or this Charter, shall be in such form as the City Manager deems desirable or the City Council may require for effective management and an understanding of the relationship between the budget and the City's strategic goals. The budget shall begin with a clear general summary of its contents; shall show in detail all estimated income, indicating the proposed property tax levy, and all proposed expenditures, including debt service, for the ensuing fiscal year; and shall be so arranged as to show comparative figures for actual and estimated income and expenditures of the current fiscal year and actual income and expenditures of the preceding fiscal year. It shall indicate in separate sections:

- a. The proposed goals and expenditures for current operations during the ensuing fiscal year, detailed for each fund by department or by other organization unit, and program, purpose or activity, method of financing such expenditures, and methods to measure outcomes and performance related to the goals;
- b. Proposed longer-term goals and capital expenditures during the ensuing fiscal year, detailed for each fund by department or by other organization unit when practicable, the proposed method of financing each such capital expenditure, and methods to measure outcomes and performance related to the goals; and

- c. The proposed goals, anticipated income and expense, profit and loss for the ensuing year for each utility or other enterprise fund or internal service fund operated by the City, and methods to measure outcomes and performance related to the goals. For any fund, the total of proposed expenditures shall not exceed the total of estimated income plus carried forward fund balance exclusive of reserves.

Rationale: The Charter Review Committee recommends amending this section to reflect a budget development sequence that is more appropriate and effective. The proposed language comes from the Model City Charter. The budget is the translation of disparate and often conflicting community aspirations into a comprehensive financial document that reflects the City Council’s policies and goals. It is a complete financial plan for all funds and activities that includes both revenues and expenditures. Expenditures for current operations and capital outlays should be shown separately with the source of financing indicated.

25. Add a new Section 11. __ regarding ordinances necessary to implement the budget as follows:

Section 11.0 ². Appropriation and Revenue Ordinances.

To implement the adopted budget, the City Council shall adopt, prior to the beginning of the fiscal year.

- a. an appropriation ordinance making appropriations by department, fund, or other organizational unit and authorizing an allocation for each program or activity;
- b. a tax levy ordinance authorizing the property tax levy or levies and setting the tax rate or rates; and

Rationale: The Charter Review Committee recommends adding this section, which comes from the Model City Charter, to clearly provide the process required to implement the annual budget. The new section specifically calls for appropriation ordinances and revenue ordinances and that appropriations be by department or major organizational unit within each fund. The appropriations for each department would not be broken down in the same detail as the budget. This section requires the adoption of a property tax levy ordinance.

26. Amend Section 11.06 regarding budget amendments as follows:

Section 11.06. ~~Amendment of budget~~ Amendments after adoption.

² The numbering of this amendment will be determined, if necessary, following the Charter election.

~~The budget may be changed and amended, upon the recommendation of the City Manager, as follows:~~

~~a. In case of grave public necessity, or for emergency expenditures to meet unusual and unforeseen conditions, which could not by reasonable diligent thought and attention have been included in the original budget, a change and amendment may from time to time be authorized by the City Council as amendments to the original budget without other notice or hearing.~~

~~b. The budget may be changed and amended from time to time as deemed appropriate by the City Council if such change and amendment is in the best interest of the citizens of the City of Kerrville, but if such change and amendment increases the budget, the City Council shall provide for a public hearing thereon. Public notice of the hour, date, and place of such hearing regarding any such budget amendment shall be given by the City Council by publication in the 'official' newspaper for general circulation at least two issues immediately preceding the date of such hearing, and any citizen of the City, or owner of property within the City Limits shall have the right to be present and participate in such hearing.~~

~~c. In all cases where such amendment to the original budget is made, a copy of the order or resolution of the City Council amending such budget shall be filed with the City Clerk and attached to the budget originally adopted.~~

a. Supplemental Appropriations. If during or before the fiscal year the City Manager certifies that there are available for appropriation revenues in excess of those estimated in the budget, the City Council by ordinance may make supplemental appropriations for the year up to the amount of such excess.

b. Emergency Appropriations. To address a public emergency affecting life, health, property, or the public peace, the City Council may make emergency appropriations. Such appropriations may be made by emergency ordinance in accordance with the provisions of Section 3.06 above. To the extent that there are no available unappropriated revenues or a sufficient fund balance to meet such appropriations, the Council may by such emergency ordinance authorize the issuance of emergency notes, which may be renewed from time to time, but the emergency notes and renewals of any fiscal year shall be paid or refinanced as long-term debt not later than the last day of the fiscal year next succeeding that in which the emergency appropriation was made.

c. Reduction of Appropriations. If at any time during the fiscal year it appears probable to the City Manager that the revenues or fund balances available will be insufficient to finance the expenditures for which appropriations have been authorized, the manager shall report to the City Council without delay, indicating the estimated amount of the deficit, any remedial action taken by the manager and recommendations as to any other steps to be taken. The Council shall then take such further action as it deems

necessary to prevent or reduce any deficit and for that purpose it may by ordinance reduce or eliminate one or more appropriations.

d. Transfer of Appropriations. At any time during or before the fiscal year, the City Council may by resolution transfer part or all of the unencumbered appropriation balance from one department, fund, or organizational unit to the appropriation for other departments or organizational units or a new appropriation. The manager may transfer funds among programs within a department, fund, or organizational unit and shall report such transfers to the Council in writing in a timely manner.

(e) Limitation; Effective Date. No appropriation for debt service may be reduced or transferred, except to the extent that the debt is refinanced and less debt service is required, and no appropriation may be reduced below any amount required by law to be appropriated or by more than the amount of the unencumbered balance thereof. The supplemental and emergency appropriations and reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption.

Rationale: The Charter Review Committee recommends amending this section, which amending language comes from the Model City Charter (“MCC”). The CRC believes that the MCC provides a clearer, more concise process for budget amendments. Supplemental appropriations, which can be the bane of any good budget procedure, are restricted to situations in which the City Manager certifies to Council the availability of money in excess of the total revenues estimated in the budget. Another possibility for use of such “windfall” sums is to require their use in the succeeding year’s budget as revenue, which would have the effect of reducing the tax levy. Supplemental appropriations may be made only by ordinance and all the provisions regarding publication, notice of hearing, etc., applicable to other ordinances must be followed. Emergency appropriations may be budgeted in accordance with the procedure for emergency ordinances.

Provision is made for reduction of appropriations when the City Manager believes available revenues will not cover appropriations and a deficit is likely. The primary responsibility is clearly the manager’s but it is his or her duty to inform the Council and then implement any ordinances or resolutions the Council may enact.

With appropriations being made by departments, funds, services, strategies and major organizational units and not by objects, the manager has the freedom to make transfers from unencumbered balances within departments of units but must notify the Council of transfers. When an unencumbered balance exists in one department or unit, all or part of it may be transferred to the appropriation of another department or unit by Council resolution.

27. Delete Sections 11.07 through 11.11 regarding the financial operations of the City as follows:

~~**Section 11.07. Money to be drawn from treasury in accordance with appropriation.**~~

~~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 budget as approved by ordinance or of such budget when changed as authorized by Section 11.04 or as authorized by Section 11.06 of this Charter. 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; but appropriations may be made by the Council, to be paid out of the income of the current year, in furtherance of improvements or other objects or works 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.~~

~~**Section 11.08. Contract and bid requirements.**~~

~~The City may make no purchase, or contract for, supplies, materials equipment, contractual services, or improvements in excess of the dollar amount provided by State statutes, unless:~~

~~a. Opportunity shall be given for bid competition under such rules and regulations as the City may establish; and~~

~~b. Is accomplished by contract in writing.~~

~~The City Council may, by ordinance, make exceptions to the bidding and written contract requirements set forth herein, if prior thereto, the same exception has been granted for bidding by State Law. This authority of the Council, however, to make exceptions, is limited to the subject matter of the purchase or contract, and not to the dollar amount thereof.~~

~~Grave public necessity, or emergency expenditures to meet unusual and unforeseen conditions shall be exceptions to the bidding requirement.~~

~~The Council may reject any or all bids as the best interests of the City may require. All monies received by any department or agency of the City for or in connection with the business of the City government shall be paid promptly into the treasury, and shall be deposited in a responsible banking institution. The institutions shall be designated by the City Manager, with the approval of the City Council, in accordance with such regulations and subject to such requirements as to security for deposits and interest thereon as may be established by ordinance or by State laws. All interest on monies belonging to the City shall accrue to the benefit of the City Government.~~

~~**Section 11.09. Issuance of bonds:**~~

~~The City may issue bonds to pay for any property or public improvement which it may lawfully acquire or construct, to pay for any improvement the cost of which is to be assessed wholly or in part against abutting or benefiting property, or to fund or refund any indebtedness outstanding at the time this Charter takes effect for which inadequate~~

~~provision for payment has been made; but no bonds shall be issued to pay current expenses. The enumeration, in the preceding sentence, of particular powers of the City in connection with the issuance of bonds shall not be held or deemed to be exclusive; and, in addition to the powers enumerated or implied in the preceding sentence, or appropriate to the exercise of such powers, it is intended that the City of Kerrville shall have and may exercise the authority to issue revenue bonds for the purchase of utilities or any other self liquidating asset for which revenue bonds may lawfully be issued. It is intended that the City of Kerrville shall have and may exercise the authority to issue bonds for the construction and maintenance of dams or airports or comparable improvements or facilities within or without the City limits. All tax bonds of the City shall be authorized by ordinance passed by an affirmative vote of at least a majority of the members of the Council, and approved by a majority of the qualified voters of the City of Kerrville voting at the election called for the purpose of authorizing the issuance of tax bonds. Such election shall be ordered by the City Council and notice thereof shall be given by the Mayor, at least thirty (30) days prior to the date of the election, through publication, in accordance with the manner prescribed by State law, in some newspaper published in the City. Bonds for the acquisition of property, or the construction of improvements, shall be issued for a period not to exceed the probable usefulness of the property or improvement for which they are used; but in no case shall bonds be issued for a longer period than forty years. All bonds hereafter issued by the City shall mature in annual installments and the first installment of principal shall fall due and be payable not later than two (2) years after the date of issue.~~

~~**Section 11.10. Temporary borrowing.**~~

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

~~**Section 11.11. Contracts extending beyond one year.**~~

~~No contract involving the payment of money out of the appropriations of revenues of more than one year (other than renewals of continuing appropriations), shall be regarded as valid unless made or approved by ordinance. No ordinance providing for such a contract shall be valid unless notice of the intention to pass the same was published in a newspaper of general circulation within the City at least ten (10) days before its passage by the Council.~~

Rationale: The Charter Review Committee recommends deleting Sections 11.07 through 11.11. Each of these sections is covered by state law or is covered by the proposed additions to the Charter which the CRC is recommending. Thus, it is unnecessary and redundant for these sections to remain in the Charter.

<p>28. Amend Article XIII to provide for the creation and use of City Boards, Commissions, and Committees as follows:</p>
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~~**ARTICLE XIII. CITY PLANNING AND ZONING COMMISSION BOARDS, COMMISSIONS AND COMMITTEES**~~

~~The City Council may at any time after the adoption of this Charter establish and maintain a City Planning and Zoning Commission of seven (7) members, to serve without compensation, and to have such powers and duties as the City Council may prescribe relative to City Planning and Zoning, under the authority of Article 1011A to 1011J, Revised Civil Statutes of Texas. The City Manager and member of the City Council shall serve as ex officio members of the Commission, without vote; the remaining five (5) members shall be appointed by the City Council upon recommendation of the City Manager. The term for each of the five appointed members shall be for three years. No member shall serve more than two terms (total of six years) on the commission without having at least one full year off of the commission between terms. Any vacancy in and during the unexpired term of an appointed member shall be filled by the City Council, upon the recommendation of the City Manager. The City Manager shall provide the Commission with the necessary clerical help, office equipment, and supplies.~~

Section 13.01 Creation of Boards, Commissions, and Committees.

The City Council may create and provide for such Boards, Commissions, and/or Committees as the City Council may deem appropriate or necessary to accomplish and further any lawful purpose for the advancement of the interest, welfare, health, morals, comfort, safety, and convenience of the City or its inhabitants.

In establishing any such Board, Commission, or Committee, the Council shall prescribe and define (1) the purposes, powers, and duties of the entity; (2) the terms of the Members appointed to such entity; (3) the number of terms that an appointee may serve; (4) number of persons to be appointed to the entity and the number which constitutes a quorum for each meeting of the entity; and (5) the number, times, and places of meetings.

Persons appointed to Boards, Commissions, or Committees shall serve without compensation, at the will of the Council, and shall continue to serve until their replacement is appointed by the Council, notwithstanding the expiration of their term of office.

The meetings of all Boards, Commissions, and/or Committees shall comply in all respects with the Texas Open Meeting law.

Section 13.02 Qualifications for Members of Boards, Commissions and Committees.

All persons appointed to serve on Boards, Commissions, and Committees by the City Council shall have the qualifications which are required for Councilpersons as set forth in Section 2.02 above. Any appointed Member ceasing to possess any of the qualifications specified, or convicted of a felony while in office, or failing to attend three consecutive meetings of the Board, Commission or Committee without being excused, shall immediately forfeit his appointment.

Section 13.03 Appointments by the City Council.

The City Secretary shall accept applications by qualified applicants for each of the Boards, Commissions, and Committees and shall maintain lists of such applicants for each entity. The City Council may review the applications on file before making appointments to fill any vacancy on any of the City's Boards, Commissions, and/or Committees, but shall not be required to fill any such vacancy from such applicant list.

In making appointments to Boards, Commissions, and Committees, the Council shall strive to include as members on each such entity qualified persons of varied backgrounds and experiences, education, training, interests, and occupations to the end that the membership of each such entity shall provide and offer broad perspectives and expertise with respect to the matters to be considered and addressed by such entity.

Section 13.04 Specified Boards and Commissions.

Provided for below are specific City Boards and Commissions which are sovereign rather than advisory in nature in that such Boards and Commission are authorized to make some decisions which, when made, are final and not reviewable by the City Council. Unless otherwise specified, the Mayor, Councilpersons and the City Manager shall not be appointed to serve, nor shall they serve, as Members, ex-officio or otherwise, on such specified Boards or Commissions.

a. The Planning and Zoning Commission: the City Council shall establish a City Planning and Zoning Commission comprised of seven (7) members, to have such powers and duties as the City Council may prescribe relative to City Planning and Zoning, under the authority of and pursuant to state law. The term for each of the seven (7) appointed members shall be for three years. No member shall serve more than two terms (total of six years) without having at least one full year off of the Commission between terms. Any vacancy in and during the unexpired term of an appointed member shall be filled by the City Council for the remainder of the unexpired term.

b. The Zoning Board of Adjustment: the City Council shall establish a Zoning Board of Adjustment comprised of five (5) members and two (2) alternate members. The alternate members shall serve on the Board in place of an absent member when requested to do so by the chairperson of the Board so that all cases heard by the Board, a minimum of four (4) Board members shall be present. The Board shall hear and decide upon on those matters which are prescribed by the provisions of Section 211.008 of the Texas Local Government Code, as amended.

c. The Economic Improvement Corporation: The Economic Improvement Corporation shall be composed of seven (7) Directors, at least three (3) of whom must be persons who are not employees, officers, or members of the City Council, in accordance with the provisions of state law. The Economic Improvement Corporation shall have and perform the duties as prescribed by the Texas Development Corporation Act of 1979, as amended.

d. **The Kerrville Public Utility Board:** The Kerrville Public Utility Board shall be composed of five (5) members, one of whom shall be the Mayor of the City of Kerrville acting as an ex-officio voting member. All members of the Kerrville Public Utility Board shall serve at the will of the City Council. The members of the Kerrville Public Utility Board shall be appointed by the City Council for a term of five (5) years. All vacancies in membership on the Board shall be filled by appointment of the Council of persons who reside or conduct business on a full-time basis in Kerr County and who use the Kerrville Public Utility Board electric system for personal, residential, or commercial purposes. Appointments to fill vacancies of the Board shall be made by the Council without regard to nominations or recommendations for appointment made by the members or staff of the Board.

Rationale: The Charter Review Committee recommends the above amendments for the following reasons: (1) The City currently has over twenty (20) Boards, Commissions, and Committees, whose members are appointed by City Council to perform various specified duties essential to the efficient and effective conduct of our City government. These entities include over 100 persons as members, who in turn take actions and provide recommendations which address and/or impact many activities and responsibilities of the City, such as Planning and Zoning, Parks and Recreation, Golf Course, Library, and many others. Yet, the current City Charter addresses only one such Commission. It is the belief of the CRC that the above changes be adopted into the Charter to recognize and address the significant and vital roles that such Boards, Commissions, and Committees play in the efficient and effective operation of City government.

(2) The CRC recommends that the Planning and Zoning Commission (the “P&Z”) not include a Councilperson or the City Manager as members, even in an ex-officio capacity. This recommendation is based upon the belief that the P&Z should be as independent from Council as possible, as the P&Z often makes recommendations to the Council or similarly, Council acts to hear appeals from the P&Z. The CRC also recommends that the P&Z maintain seven (7) members.

(3) Clearly, at the time of the acquisition of the facilities and operations of LCRA electricity operations in Kerrville and other areas of Kerr County by the City, it was intended that such facilities and operations would be conducted by an independent board known as the Kerrville Public Utility Board (“KPUB”). Many distinguished citizens of Kerrville and Kerr County and the successive Mayors of the City have served and are serving on the Board and, in coordination with the original and continuing Executive Director of KPUB, the system has apparently worked very well. However, the egregious and well-known excesses of entities such as Enron and the Pedernales Electric Cooperative and others have clearly demonstrated that independence, without the time-honored democratic systems of “checks and balances” and “oversight”, may not be very desirable and may lead to, and be responsible for, extremely unsatisfactory results. At the end of the day, KPUB’s employees are employees of the citizens of the City, similar to the City’s staff. This being the case, it is the unanimous opinion and recommendation

of the CRC that steps be taken to provide to the citizens of Kerrville the ability to act, through their elected representatives, the Mayor and the City Council, to lessen the “independence” of KPUB and more directly exercise “oversight” over the operations of KPUB and, just as vital, to be able to act quickly and decisively to correct any problems which may arise by summarily dismissing one or more members of KPUB.

The CRC believes that the amendments as proposed above are minimal in nature and will work to (1) eliminate the current system whereby the Council must make appointments to KPUB only from a list of persons first nominated by KPUB; (2) provide that KPUB members serve at the will of the elected representatives of the voters of the City; and (3) to make the accounts of KPUB more readily available to the public (*see* recommendations to Section 16.10, below)

An additional recommendation beyond the purview of the charge to this Charter Review Committee:

The CRC has larger and more extensive concerns regarding the operations of KPUB vis a’vis its owners and the citizens of Kerrville. These concerns relate to matters such as:

- KPUB’s budget authority;
- the setting of rates for electric services;
- the returns to the general fund of the City from KPUB operations;
- the equity of benefits and salaries of KPUB’s employees versus City employees and the economies of scale that could take place if these two groups were managed and administered together; and
- the potential for liabilities for the citizens of Kerrville and the City arising from KPUB’s operations, despite any real control or oversight by the City.

Since the acquisition of the KPUB electric system by the City, the State of Texas has “de-regulated” electric utilities in Texas, thereby, it is assumed, reducing, if not eliminating, “oversight” activities which had been performed by the State. The apparent consequence is that any “oversight” of electric utility operations in Texas perhaps must be conducted by the owners of each public electricity operation, *i.e.*, by elected Boards of Directors representing stockholder-owners in privately owned companies or by elected Councilmembers representing citizen/qualified voter owners in publicly owned operations. “De-regulation” by the State may have made that which was “independent” even more so.

It is the considered recommendation of the CRC that the City Council initiates and conducts a more extensive study of the entire relationship between the operations of KPUB and its owners to discern what further changes, if any, should be made to the current system.

29. Amend Section 16.10 regarding the City’s financial accounting of its utilities as follows:

Section 16.10. Accounts of municipally owned utilities.

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

The City Council shall publish annually ~~cause to be made and published in the official newspaper of the City of Kerrville, a report showing financial results of such City ownership and operation, giving the information specified in this section, or such data as the City Council shall deem expedient~~ a summary of the reports and information specified in this section, and shall display the entirety of such reports and information on the City’s website, at its library, and in the office of the City Secretary.

Rationale: The Charter Review Commission recommends amending this section as a means of clarifying, condensing, and conforming to current practice. In addition, the CRC recommends adding changes to provide the public with greater and more complete information and knowledge of municipally owned or operated public utilities by utilizing the newer technology of the City’s website.

30. Adopt a new Section 17.0__ to require periodic review of the Charter and to establish a Charter Review Commission as follows:

Section 17.0 ³ Review of Charter; Charter Review Commission.

a. The Charter shall be reviewed at five (5) year intervals, or sooner where the City Council believes it necessary. For each five-year review, the City Council shall appoint a Charter Review Commission of seven (7) residents of the City. The Commission shall have the following duties:

1. Consider the operation of the City government under the Charter and determine whether any Charter sections require revision. To this end, at least one public hearing shall be held and the Commission shall have the power to compel the attendance of any officer or employee of the City and to require the

³ The numbering of this amendment will be determined, if necessary, following the Charter election.

submission of any of the City records which it may deem necessary to the conduct of such hearing.

2. Propose recommendations, if any, it deems desirable to ensure compliance with the Charter by the City government.

3. Propose amendments, if any, to the Charter to improve the effective application of the Charter to current conditions and operations.

4. Report its finding and present its proposed amendments, if any, to the City Council.

b. The term of office of the Charter Review Commission shall be six months but may be extended as necessary by City Council.

Rationale: The Charter Review Committee recommends that the City review the Charter at least every 5 years or, earlier where the City Council deems it necessary. The CRC recommends the creation of a Charter Review Commission every 5 years. The CRC notes that there is no duty or requirement that such Commission, upon its review, actually recommend any amendments to the Charter.

31. Add a new Section 17.0__ regarding providing notices to the public via the electronic media as follows:

Section 17. ⁴. Notices to the public.

Whenever a provision of this Charter requires the City to publish notice of a meeting, event, or action, such notice shall occur through electronic media such that the information is made available for public notice and review on the City's website and on television channels over which the City has control of programming.

Rationale: The Charter Review Committee believes that where the Charter requires public notice and the dissemination of information to the public, the City's website site, and the City's television channels, to the extent that the City has complete authority over the channel's programming, should be used.

⁴ The numbering of this amendment will be determined, if necessary, following the Charter election.

32. Amend Section 17.02 regarding conflict of interests as follows:

Section 17.02. Personal interest.

No ~~member of the~~ Councilmember nor any officer or employee of the City shall have a financial interest, direct or indirect, in any contract with the City, or be financially interested, directly or indirectly, in the sale to the City of any land, materials, supplies, or services, ~~without the express knowledge and approval of the Council.~~ Any violation of this section ~~shall constitute malfeasance in office, and by~~ any Councilmember, officer, or employee of the City ~~found guilty thereof~~ shall require such Councilmember, officer, or employee to immediately ~~thereby~~ forfeit his/her office or position. Any violation of this section, with the knowledge expressed or implied, of the person or corporation contracting with the City, shall render the contract voidable by the City Manager or the Council.

Rationale: State law sets out “conflict of interest” provisions both in the Texas Local Government Code and also generally, in various sections of the penal code. The Charter Review Committee recommends amending this section as it seems to provide an exception to the law, where no such exception exists. In other words, if the Council is aware of and approves of a conflict of interest, then the current Charter language essentially waives the conflict. State law does not authorize this. In addition, the CRC recommends making other changes to remove the reference to “malfeasance” which may have been added based upon the Charter’s recall provision, and the reference to a finding of guilt, which the CRC believes should not have to occur prior to the removal from office.

33. Delete Section 17.03 regarding the budget’s reference to compensation as follows:

~~**Section 17.03. Compensation of officers and employees.**~~

~~The amount of salary or compensation of officers and employees shall be provided for in the budget, which shall provide, as nearly as conditions allow, uniform compensation for like services. An increase in compensation of any officer or employee in the administrative service, within the limits provided for the class, may be granted at any time by the City Manager or other appointing authority upon the basis of efficiency. Also, employees may receive additional compensation for seniority as permitted by the budget process.~~

Rationale: The Charter Review Committee recommends deleting this section as it is provided for within Article XI and the budget process.

34. Delete Section 17.05 regarding the oath of office:

~~**Section 17.05. Oath of office.**~~

~~Every officer of the City shall, before entering upon the duties of his office, take and subscribe to an oath or affirmation, as provided by state law, to be filed and kept in the office of the City Clerk.~~

Rationale: The Charter Review Committee recommends deleting Section 17.05 oaths are required by state law.

35. Delete Sections 17.06, 17.07, 17.09, 17.14, and 17.16 concerning various carry-over provisions at the time of the adoption of the original Charter as follows:

~~**Section 17.06. Continuance of present officers.**~~

~~All persons holding administrative office at the time this Charter takes effect shall continue in office and in the performance of their duties until provision shall have been made in accordance therewith for the performance of such duties or the discontinuance of such office. The powers conferred and the duties imposed upon any officer, commission, board, or department of the City by the Laws of the State shall, if such office, commission, board or department be abolished by this Charter, be thereafter exercised and discharged by the office or department designated by the Council unless otherwise provided herein. Pending the passage of an ordinance or ordinances distributing the work of departments and offices under the supervision and control of the City Manager among specific divisions thereof, the manager may establish temporary divisions therefor.~~

~~**Section 17.07. Continuance of contracts.**~~

~~All contracts entered into by the City, or for its benefit, prior to the taking effect of this Charter, shall continue in full force and effect. Public improvements for which legislative steps have been taken under laws or ordinances existing at the time this Charter takes effect may be carried to completion in accordance with the provisions of such existing laws and ordinances.~~

~~**Section 17.09. When provisions take effect.**~~

~~For the purpose of nominating and electing members of the Council, the provisions of this Charter shall be in effect for any regular municipal election as soon as the Charter shall have been approved by the qualified voters of the city. For all other purposes, this Charter shall be in effect from and after the first day on which the new officers are seated and qualified.~~

~~Section 17.14. Ordinances and acts continued in force.~~

~~Except as provided in Section 17.13, nothing in this Charter shall be taken in anywise to affect or repeal any law heretofore legally passed by the Council of the City of Kerrville nor to affect any other act of the Manager, Mayor, Council or other officer or officers of the City of Kerrville legally performed, under which any rights have been vested, and all ordinances, orders, laws, and grants shall be continued in full force and effect.~~

~~Section 17.16. Submission of Charter to electors.~~

~~This Charter shall be submitted to the qualified voters of the City of Kerrville at an election to be held for that purpose on the twenty-fourth day of February, 1942, and if a majority of the qualified voters voting in such election shall vote in favor of the adoption of this Charter, it shall become the Charter of the City of Kerrville, and after the returns have been canvassed, the same shall be declared adopted and the City Clerk shall file an official copy of the Charter with the records of the City. The Clerk shall furnish the Mayor a copy of said Charter which copy of the Charter so adopted, authenticated, and certified by his signature and the seal of the City, shall be forwarded by the Mayor to the Secretary of State of the State of Texas and shall show the approval of such Charter by majority vote of the qualified voters voting at such election.~~

~~In not less than thirty (30) days prior to such election the City Commission (Council) shall cause the City Clerk to mail a copy of this Charter to each qualified voter of the City of Kerrville as appears from the tax collectors' latest roll.~~

Rationale: The Charter Review Committee recommends deleting all of the sections as they provided guidance and authority for the period immediately following the adoption of the original Charter. However, they no serve a purpose or are necessary for inclusion within the Charter.

36. Amend Section 17.08 regarding the process of amending the Charter as follows:

Section 17.08. Amending the Charter.

Amendments to this Charter may be framed and submitted to the ~~electors~~ voters of the City ~~by a Charter Commission in the~~ any manner provided by state ~~law for framing and submitting a new Charter.~~ Amendments may also be proposed and submitted by ordinance in the manner prescribed by law for framing and submitting amendments, passed by a majority vote of the full membership of the City Council, or by a petition signed by not less than five (5) percent of those persons who are qualified to vote in any City election. ~~When a Charter amendment petition shall have been filed with the City Council in conformity with the provisions of this Charter as to petitions for initiated~~

~~ordinances, the City Council shall forthwith provide by ordinance for submitting such proposed amendment to a vote of the electors. The ordinance providing for the submission of such amendment or amendments shall require the submission thereof at an election to be held not less than forty five (45) days nor more than ninety (90) days after the passage of the ordinance. If the next regular municipal election is to be held during said period, the submission of said amendment or amendments shall be at such election. Otherwise, a special election shall be called for such purpose. Notice of the election for the submission of said amendment or amendments shall be given by publication thereof in the official newspaper of the City of Kerrville, on the same day for two successive weeks; the date of the first publication to be not less than fourteen (14) days prior to the date set for the election. The form of such notice shall be as prescribed by the City Council or as may be otherwise prescribed by law, and shall include a substantial copy of the proposed amendment, or amendments. Every amendment submitted must contain one subject, and in preparing the ballot for such amendment, it shall be done in such manner that the voter may vote "Yes" or "No" on any amendment or amendments without voting "Yes" or "No" on all such amendments. Each such proposed amendment, if approved by the majority of the qualified voters voting at said election, shall become a part of the Charter at the time as fixed in said ordinance. No amendment shall be considered adopted until an official order has been entered upon the records of the City by the City Council declaring the same adopted.~~

Rationale: State law (*see* Chapter 9, Texas Local Government Code) sets out the authority and process for amending municipal charters. Thus, the Charter Review Committee, as a means of condensing and clarifying sections within the Charter, recommends amending this section to reference state law and to remove all other unnecessary language.

37. Delete Section 17.10 regarding garbage disposal as follows:

~~**Section 17.10. Special provisions for garbage disposal.**~~

~~The City Council shall further have the right by ordinance to adopt and prescribe rules and regulations for the handling and disposition of all garbage, trash, and rubbish within the City of Kerrville and shall further have the right to prescribe that the City alone shall remove, or cause to have removed all such trash, garbage and rubbish, and shall have the right to fix charges and compensation to be charged by the City for the removal of same, providing rules and regulations for the collection thereof, making same a personal obligation of the person for whom the same is hauled and disposed of, and providing for a full and adequate system of covering the City of Kerrville or such portions thereof as the City Council may determine for the removal and disposition of all such garbage, trash, and rubbish.~~

Rationale: It is unclear, at least to the Charter Review Committee, why this section exists within the Charter. The City has the necessary authority, without this Charter

section, to provide for the disposal of garbage; as such, the CRC recommends deleting this section.

38. Delete Section 17.15 regarding the applicability of state law to the City as follows:

~~**Section 17.15. Applicability of general laws.**~~

~~All general Laws of the State applicable to municipal corporations now or hereafter enacted and which are not in conflict with the provisions of this Charter shall be applicable to the City of Kerrville, provided that the Council may adopt and enforce ordinances in compliance with the provisions of this Charter which shall control in relation to municipal affairs as against general laws of the State.~~

Rationale: It is a basic and fundament tenet of the home-rule concept that home-rule is the right of the citizens at the grassroots level to manage their own affairs with minimum interference from the state. However, home-rule cities are subject to restrictions and limitations imposed by state and federal law. Every city must adhere to the Texas Constitution as well as Texas statutes. In addition, a home-rule city's governing body cannot act on any matter that has been pre-empted by the state, an example being the regulation of alcohol. Finally, when a city's charter provision conflicts with a state law, state law controls. That being said, this section does not correctly state the law and is not necessary for inclusion within the Charter. Thus, the Charter Review Committee recommends deleting this section.

39. Add a new section 17.____ regarding the rearrangement and renumbering of the Charter as follows:

Section 17. ⁵. Rearrangement and renumbering.

The City Council shall have the power, by ordinance, to renumber and rearrange all articles, sections and paragraphs of this Charter or any amendments thereto, as it deems appropriate, and upon the passage of such ordinance, a copy thereof certified by the City Secretary shall be forwarded to the Secretary of State for filing.

Rationale: The Charter Review Committee recommends adding this section to authorize Council to rearrange and renumber the Charter as it deems appropriate.

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⁵ The numbering of this amendment will be determined, if necessary, following the Charter election.