

PART I

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CHARTER OF THE CITY OF KILLEEN

ARTICLE I. INCORPORATION: FORM OF GOVERNMENT: TERRITORY

INCORPORATION

Section 1. The inhabitants of the City of Killeen, within the corporate limits as now established or as hereafter established in the manner provided by this charter, shall continue to be a municipal body politic and corporate in perpetuity, under the name of the "City of Killeen."

FORM OF GOVERNMENT

Section 2. The municipal government provided by this charter shall be known as the "council-manager government." Pursuant to its provisions and subject only to the limitations imposed by the state constitution and by this charter, all powers of the city shall be vested in an elective council, hereinafter referred to as "the council," which shall enact local legislation, adopt budgets, determine policies, and employ the city manager, who shall execute the laws and administer the government of the city. All powers of the city shall be exercised in the manner prescribed by this charter, or if the manner be not prescribed, then in such manner as may be prescribed by ordinance.

BOUNDARIES

Section 3. The bounds and limits of the City of Killeen shall be established and described by ordinance passed and approved by the city council.

***Editor's note**—Printed in this part is the home rule charter for the City of Killeen, Texas. The charter was adopted by the voters of the city on March 3, 1949 and amended on April 1, 1958 and May 4, 1971. This part is derived from a copy of the charter furnished by the city in which such amendments had been included in the text. The charter is printed as found in such copy, except that obvious spelling errors have been corrected. Any other change is encased in brackets.

CREATION OF DISTRICT BOUNDARIES

Section 4. Until and unless changed as provided by this Charter, the City of Killeen shall be divided into four (4) districts for voting purposes. Districts 1, 2, 3, and 4 shall be single member districts, and their boundaries shall be established by ordinance passed and approved by the City Council. (Amend. of 5-3-97; Amend. of 5-7-05)

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ARTICLE II. CORPORATE AND GENERAL POWERS

POWERS OF THE CITY

Section 5. The City shall have all the powers granted to municipal corporations and to cities by the constitution and laws of the State of Texas, together with all the implied powers necessary to carry into execution all the powers granted. The city may acquire property within or without its corporate limits for any city purposes in fee simple or any lesser interest or estate, by purchase, gift, devise, lease, or condemnation, and may sell, lease, mortgage, hold, manage and control such property as its interests may require; and, except as prohibited by the constitution of this state or restricted by this charter, the city shall and may exercise all municipal powers, functions, rights, privileges and immunities of every name and nature whatsoever. The city may use a corporate seal; may sue and be sued, may contract and be contracted with; may implead and be impleaded in all courts and places and in all matters whatever; may cooperate with the government of the State of Texas or any agency thereof, the Federal Government or any agency thereof, or any political subdivision of the State of Texas, 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, welfare and government of the city, and for the performance of the functions thereof. The enumeration of particular powers by this charter shall not be deemed to be exclusive, and in addition to the powers enumerated therein or implied thereby, or appropriate to the exercise of such powers, it is intended that the City of Killeen shall have, and may exercise, all powers of local self-government, and all powers enumerated in Chapter 13, Title 28, Revised Civil Statutes of the State of Texas of 1925, and the acts amendatory thereof and supplementary thereto, now or hereafter enacted, or any other powers which, under the constitution and laws of the State of Texas, it would be competent for this charter specifically to enumerate, and also such further powers as may hereafter be granted under the constitution and laws of Texas.

EXTENSION OF CITY LIMITS UPON PETITION

Section 6. When a majority of the inhabitants, qualified to vote for members of the Texas State Legislature, of any territory adjoining Killeen, as said territory may be designated by the City Council desire the annexation of such territory to Killeen, they may present a written petition to that effect to the City Council and shall attach to said petition the affidavit of one or more of their number to the effect that said petition is signed by a majority of such qualified

voters, and thereupon, the City Council at the next regularly scheduled session held not sooner than twenty (20) days after the presentation of said petition may, by ordinance, annex such territory to Killeen. On the effective date of the ordinance, the area becomes a part of the City of Killeen and the inhabitants thereof shall be entitled to all the rights and privileges of other citizens of the City of Killeen and shall be bound by the acts, ordinances, resolutions and regulations of the city.

Should there be no such qualified voters in said territory, the owners may petition the City Council in accordance with Texas Local Government Code, § 43.028 or any successor statute thereto, and the City Council by ordinance consistent with State law, may annex the area. (Amend. of 5-4-91)

EXTENSION OF CITY LIMITS BY THE CITY COUNCIL

Section 7. The City Council shall have power, by ordinance, to fix and extend the boundaries of Killeen and to exchange area with other municipalities, with or without the consent of the territory and inhabitants annexed or relinquished. Upon the introduction of such ordinance by the city council, the procedures for annexation set forth by state law shall be followed, as found in Chapter 43, Local Government Code, and as may hereafter be amended. Once annexed, the territory and inhabitants shall be a part of Killeen, entitled to all rights and privileges and shall be bound by the acts, ordinances, resolutions and regulations of Killeen. (Amend. of 5-3-97; Amend. of 5-5-01)

CHANGE OF DISTRICT BOUNDARIES

Section 8. The City Council may, by ordinance, alter or change the district boundaries of the City of Killeen, and resubdivide the City into districts, designating and describing same by metes and bounds or other adequate means, provided there shall at all times be four districts within the city. Each district now existing or that may hereafter be established shall be designated so that each district shall contain as nearly as possible the same number of qualified electors. The City Council shall review such districts for possible boundary changes every ten (10) years, after the federal decennial census has been conducted and reported; or the City Council, at its discretion, may review and change such districts within said ten (10) year period. Said ten (10) year period shall begin with the effective date of the ordinance establishing said districts following the report of the 1990 census and subsequent ten (10) year periods shall begin with each change of district boundaries. All amendments of existing district boundaries shall be effective only upon preclearance approval under Section 5, Federal Voting Rights Act, 42 U.S.C. Section 1973c and the acts amendatory thereof and supplementary thereto, now or hereafter enacted. (Amend. of 5-4-91; Amend. of 5-7-05)

EMINENT DOMAIN

Section 9. The City shall have the full right, power and authority to exercise the power of eminent domain when necessary and desirable to carry out any of the powers conferred upon it by this charter, or by the constitution or laws of the state of Texas. (The City shall have and possess this power of condemnation of property within or without the corporate limits for any municipal or public purpose, even though not specifically enumerated herein or in this charter.) (Amend. of 5-3-97)

ESTABLISHMENT AND CONTROL OF STREETS

Section 10. The City of Killeen, shall have the power to lay out, establish, open, alter, widen, lower, extend, grade, abandon, discontinue, abolish, close, care for, pave, supervise, maintain and improve streets, alleys, sidewalks, park, squares, public places and bridges; and regulate the use thereof and require the removal from streets, sidewalks, alleys and other public property or places of all obstructions and all fruit stands, show cases and encroachments of every nature or character upon any of said streets and sidewalks.

STREET IMPROVEMENTS

Section 11. The City of Killeen shall have exclusive dominion, control and jurisdiction in, upon, and over and under the public streets, avenues, alleys and highways of the city, and may provide for the improvement thereof by paving, re-paving, raising, draining, or otherwise. The provisions of Chapter 106, Fortieth Legislature, First Called Session, Acts 1927, being Article 1105b, Vernon's Annotated Civil Statutes of Texas, together with existing amendments and all such amendments as hereafter may be made, and acts supplementary thereto, now or thereafter enacted, are expressly adopted and made a part of this charter. Such exclusive dominion, control and jurisdiction in, upon, over and under the public streets, avenues, alleys and highways of the city shall also include, but not be limited to, the right to regulate, locate, relocate, remove or prohibit the location of, all utility pipes, lines, wires, or other property.

GARBAGE DISPOSAL

Section 12. The city council shall have the right by ordinance to adopt and prescribe rules and regulations for the handling and disposition of all garbage, trash, refuse and rubbish within the City of Killeen, and shall further have the right to fix charges and compensation to be charged by the city for the removal of garbage, trash, refuse and rubbish, providing rules and regulations for the collection thereof.

MUNICIPAL COURT

Section 13. There shall be a court for the trial of misdemeanor offenses known as the Municipal Court of the City of Killeen, with such powers and duties as are given and prescribed by the laws of the State of Texas, with a Municipal Court judge and a Municipal Court clerk whose duties shall be in accordance with the laws of the State of Texas.

HOSPITAL: OPERATION

Section 14. The City shall have the authority to acquire, establish and own, either by purchase, donation, bequest or otherwise all property that may be useful or necessary for the purpose of establishing and maintaining a municipal hospital. The City shall also have the authority to participate in a public health facility in cooperation with the County and State, or the United States. Such hospital shall be operated by a hospital board, to be appointed by the City Council subject only to such direction and supervision as shall be contained in any ordinance or ordinances duly enacted by the governing body of said City.

HOSPITAL: FINANCES

Section 15. All funds belonging to said hospital whether classed as funds received in course of operation, or otherwise, shall be kept in a separate hospital fund, and shall be used only for the operation and maintenance of said hospital and for no other purpose, except that such funds may be used by the City for general operating purposes with the express consent of the hospital board. The hospital board shall submit a quarterly operating statement to the council, and the hospital's books shall be audited at least once each year by the auditors retained to perform the annual post-audit for the City of Killeen, unless otherwise ordered by the council.

For budget purposes, the hospital shall be considered as a department of the City of Killeen and the appropriations therefor shall comply with all the budgetary requirements as outlined in this charter and as may be prescribed from time to time by the City Council. Annual appropriations for the hospital will not be continuing, but will revert to the general fund in the same manner as the underspent appropriations of the other departments.

SANITARY SEWER SYSTEM

Section 16. The City of Killeen shall have the power to provide for a sanitary sewer system and to require property owners to connect their premises with such sewer system; to provide for fixing penalties for failure to make sanitary sewer connections; and shall further have the right to fix charges and compensation to be charged by the City for sewerage services, providing rules and regulations for the collection thereof. In the event any property owner fails or refuses to connect his property with the sanitary sewer system in accord with the requirements of the City then the city may itself connect such premises to the sewer system and the cost thereof shall be assessed and levied against the property so connected and the City of Killeen shall have a lien against such property for such cost plus interest and such lien shall be paramount and prior to any and all other liens against such property except State, County, City and School taxes and any prior assessment made against such property by the City of Killeen.

POLICE FORCE

Section 17. The City of Killeen shall have power to maintain a city police force, prescribe the duties, powers and compensation of policemen and regulate their conduct; to appoint watchmen and prescribe their duties, powers and compensation; to suppress and prevent any riot, affray, disturbance or disorderly assembly within the city; to prevent, prohibit and suppress immoderate riding and driving in the streets; to police all parks, grounds, speedways, boulevards, cemeteries and all other property or places owned by the city and lying either within or without the city limits and used for municipal purposes.

NUISANCES

Section 18. The City of Killeen shall have the power to define and regulate any nuisance which may be created or occur within five thousand feet of the city limits of the City of Killeen, except on the Military Reservation of Fort Hood, Texas.

OCCUPATION AND LICENSE TAXES

Section 19. The City of Killeen shall have power to levy and collect occupation and license

taxes, subject only to constitutional or legal limitations; and to direct the manner of issuing and registering licenses and the fees and charges to be paid therefor.

REMOVAL OF DANGEROUS STRUCTURES

Section 20. The City of Killeen shall have power to condemn and cause to be torn down and removed, any building, fence, shed, awning, sign or any erection of any kind whatsoever, or any part thereof which in the judgment of said city is liable to fall, or from any other cause to endanger the safety of persons or property, and may order the owner or his agent or other persons using the same, to take down or remove it, or any part thereof, within such time as said city may direct, and to pass such ordinances as may be necessary to punish by fine any neglect, failure, or refusal to comply therewith.

ADOPTING STATE LAWS

Section 21. The City of Killeen adopts and shall have all the benefits conferred by and powers extended by state law. (Amend. of 5-3-97)

ARTICLE III. THE COUNCIL

NUMBER, SELECTION, TERM MAYOR AND THE COUNCIL

Section 22. The members of the City Council of the City of Killeen shall be composed of a mayor and seven councilmembers. Four (4) of the councilmembers shall represent "single member districts," such districts being numbered and designated 1, 2, 3, and 4, and defined in this charter or by ordinance hereafter passed. The mayor and three (3) of the councilmembers shall represent the city at large. Such council shall be elected in the following manner:

At the election to be held in May of 2006, and every two (2) years thereafter, a mayor and three councilmembers shall be elected by a plurality vote of the city at large for a term of two (2) years. The four ward councilmembers who were elected in May 2005 shall be retained on the council until May 2007. During the May 2007 election, and every two (2) years thereafter, there shall be elected one councilmember from each of the single member districts 1, 2, 3, and 4, by a plurality vote of the registered voters residing within each district, to serve a term of two (2) years. All elections are to be held in a manner provided in Article IX of this charter.

The members of the City Council shall serve not more than three (3) terms in succession, in whole or in part, whether appointed (to fill an unexpired portion of a term) or elected, and until their successors shall have been elected and qualified and they shall be ineligible to succeed themselves for an additional successive term; except if any member of the City Council holding office desires to run for a different office than that which the member holds, at the next election, the member must resign and vacate their present office at least forty (40) days prior to such election and his resignation shall be effective on the date of such resignation. For the purposes of this provision there shall be only two offices: the office of the mayor and the office of the councilmember. (Amend. of 5-3-97; Amend. of 5-7-05)

QUALIFICATIONS

Section 23. The mayor and each of the seven councilmembers shall be a citizen of the United

States of America, a qualified voter of the State of Texas, and shall reside within the corporate limits of the City of Killeen. In addition to the foregoing, the four district councilmembers herein above provided shall be bona fide residents of the district from which they seek election. A member of the council ceasing to possess any of the qualifications specified in this section or any other section of this charter or convicted of a felony while in office shall immediately forfeit his office. (Amend. of 5-4-91)

COMPENSATION OF MEMBERS

Section 24. The compensation for the city councilmen shall not exceed \$100.00 per month and compensation for the mayor shall not exceed \$200.00 per month. Said compensation shall be fixed by the city council. (Amend. of 5-5-01)

PRESIDING OFFICER: MAYOR

Section 25. The mayor shall preside at the meetings of the council and shall be recognized as head of the City of Killeen government for all ceremonial purposes, and by the governor for purposes of military Law; but he shall have no regular administrative duties. The mayor shall only be entitled to vote upon matters considered by the council in the event there is a tie vote resulting from absence of a member or members or failure or refusal of a member to vote. However the mayor shall have no veto power. The council shall elect a mayor protem from their number, who shall act as mayor during the absence or disability of the mayor, and, if a vacancy should occur, shall become mayor until the next regular election.

VACANCIES

Section 26. A vacancy in the council of the City of Killeen, except the office of Mayor, shall be filled by a majority vote of the remaining members of the council, by the selecting of a person possessing all the qualifications prescribed by Section 23 of this Article, and who shall be a bona fide resident of the district in which the vacancy occurs; unless the vacancy in office is that of a councilmember at large, in which case the person selected to fill the vacancy shall be a bona fide resident of the City of Killeen without regard to the district in which he resides. However, if the vacancy occurs within 90 days of a regular municipal election, the vacancy is not required to be filled. Where more than one vacancy shall develop at any one time, then a special election shall be called on the first authorized uniform election date prescribed by the Election Code that allows sufficient time to comply with the other requirements of law, and that occurs on or after the 30th day after the date the ordinance calling the election is adopted, and any vacancy shall be filled in the same manner as herein provided for general election. If the Mayor protem succeeds to the office of Mayor under the provisions of Section 25 of this Article, then his office of councilmember shall be considered vacant within the meaning of this Section. (Amend. of 5-4-91; Amend. of 5-7-05)

POWERS

Section 27. All powers of the City of Killeen and the determination of all matters of policy shall be vested in the City council. Except where in conflict with and otherwise expressly provided by this charter the city council shall have all powers authorized to be exercised by the city council by Chapter 4 of Title 28, Vernon's Annotated Civil Statutes, and acts amendatory thereof and supplementary thereto, now or hereafter enacted. Without limitation of the foregoing

and among the other powers that may be exercised by the council, the following are hereby enumerated for greater certainty:

- (1) Appoint and remove the city manager.
- (2) Establish other administrative departments and distribute the work of divisions.
- (3) Adopt the budget of the city.
- (4) Authorize the issuance of bonds by a bond ordinance.
- (5) Inquire into the conduct of any office, department or agency of the city and make investigations as to municipal affairs.
- (6) Provide for a planning commission, a zoning commission and a zoning board of adjustment, and appoint the members of all such commissions and boards, and as well the members of the hospital board, if a hospital is established. The planning [and] zoning commissions may be combined. Such boards and commissions shall have all powers and duties now and hereafter conferred and created by this charter, by city ordinance or by law.
- (7) Adopt plats.
- (8) Adopt and modify the official map of the city.
- (9) Adopt, modify and carry out plans proposed by the planning commission for the clearance of slum districts and rehabilitation of blighted areas.
- (10) Adopt, modify and carry out plans proposed by the planning commission for the replanning, improvement, and redevelopment of neighborhoods and for the replanning, reconstruction or redevelopment of any area or district which may have been destroyed in whole or in part by disaster.
- (11) Regulate, license and fix the charges or fares made by any person owning, operating or controlling any vehicle of any character used for the carrying of passengers for hire or the transportation of freight for hire on the public streets and alleys of the city.
- (12) Provide for the establishment and designation of fire limits and to prescribe the kind and character of buildings or structures or improvements to be erected therein, and to provide for the erection of fireproof buildings within certain limits, and to provide for the condemnation of dangerous structures or buildings or dilapidated buildings or buildings calculated to increase the fire hazard, and the manner of their removal or destruction.
- (13) Provide for creation of the following departments: Finance, Police, Fire, and Public Works, and such other departments as may be established by the council as hereinafter provided. The council may create, change, and abolish offices, departments and agencies other than those established by this charter.

APPOINTMENT AND REMOVAL OF CITY MANAGER

Section 28. The Council shall appoint a City Manager who shall have the powers and perform the duties in this charter provided. No councilman shall receive such appointment during the term for which he shall have been elected, nor within one year after the expiration of his term.

The salary of the City Manager shall be fixed by the City Council, and he shall hold office at its will; but if removed at any time after six months from his appointment, he may demand written charges and a public hearing thereon before the City Council prior to the date on which his final removal shall take effect, but during such hearing the Council may suspend him from office. The action of the Council in suspending or removing the City Manager shall be final, it being the intention of this charter to vest all authority and fix all responsibility for such

suspension or removal in the City Council. During the absence or disability of the City Manager, the Council shall designate some properly qualified person to perform the duties of the office; except in case of his temporary absence of disability.

COUNCIL NOT TO INTERFERE IN APPOINTMENTS OR REMOVALS

Section 29. Neither the council nor any of its members shall direct the appointment of any person to, or his removal from office, by the city manager or by any of his subordinates; provided, however, that the appointment of department heads shall be subject to the approval of the council. Except for the purpose of inquiry the council and its members shall deal with the administrative service solely through the city manager and neither the council nor any member thereof shall give orders to any subordinates of the city manager, either publicly or privately.

RIGHTS OF THE CITY MANAGER AND OTHER OFFICERS IN COUNCIL

Section 30. The City manager, and such other officers of the city as may be designated by vote of the council, shall be entitled to seats in the council, but shall have no vote therein. The city manager shall have the right to take part in the discussion of all matters coming before the council, and other officers shall be entitled to take part in all discussions of the council relating to their respective offices, departments or agencies.

CITY SECRETARY

Section 31. The council shall designate a person who shall be recommended by the city manager to serve as city secretary who shall be the city clerk. He shall give notices of council meetings, shall keep the journal of its proceedings, shall authenticate by his signature and record in full in a book kept and indexed for the purpose all ordinances and resolutions, and shall perform such other duties as the city manager shall assign to him, and those elsewhere provided for in this Charter.

MUNICIPAL JUDGE

Section 32. There shall be a Municipal Court for Killeen. The City Council shall appoint a magistrate as a presiding judge for the court, and associates judges, as deemed necessary for the benefit and conduct of the court. The initial appointments of the presiding judge and associate judges shall be by resolution of the City Council at their first regular meeting in June, following the May 3, 1997, election and their initial terms shall be staggered, not to exceed 4 years, as may be decided by the City Council. Thereafter, all judges shall serve terms of 4 years, but may be removed by the city council at any time for incompetency, misconduct, malfeasance, or disability. Judges shall receive such salary as may be fixed by the council from time to time.

When the municipal judge and the associate judge(s) are absent at the same time, the Mayor shall appoint a temporary municipal judge. All costs and fines imposed by the Municipal Court, or by any court in cases appealed from judgments of the Municipal Court, shall be paid into the City treasury for the use and benefit of the city. (Amend. of 5-3-97; Amend. of 5-7-05)

LEGAL DEPARTMENT

Section 33. The City Manager, with the approval of the council, shall appoint a competent

and duly licensed attorney who shall be its City Attorney. The City Attorney shall represent the city in all litigation. He shall be the legal advisor of and attorney and counsel for the city and all offices and departments thereof.

INDUCTION INTO OFFICE: MEETINGS

Section 34. On the next regular meeting following each regular municipal election held under this Charter, or any special election for the purpose of filling vacancies in the council, or as soon thereafter as practicable, the council shall meet at the usual time and place for holding meetings, and the newly elected members shall qualify and assume the duties of office. Thereafter, the council shall meet regularly at such times as may be prescribed by its rules but not less frequently than twice each month. All meetings shall be open to the public, in accordance with the Texas Government Code; special meetings shall be called by the city clerk upon request of the mayor, or a majority of the members of the council. (Amend. of 1-15-94)

COUNCIL TO BE JUDGE OF QUALIFICATIONS OF ITS MEMBERS

Section 35. The council shall be the judge of the election and qualifications of its members and for such purpose shall have power to subpoena witnesses and require the production of records, but the decision of the council in any such case shall be subject to review by the courts.

RULES OF PROCEDURE: JOURNAL

Section 36. The council shall determine its own rules and order of business. It shall keep an indexed journal of its proceedings and the journal shall be open to the public inspection.

ORDINANCES

Section 37. In addition to such acts of the council as are required by statute or by this charter to be by ordinance, every act of the council establishing a fine or other penalty or providing for the expenditure of funds or for the contracting of indebtedness shall be by ordinance. The enacting clause of the ordinances shall be "BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KILLEEN."

PROCEDURE FOR PASSAGE OF ORDINANCES

Section 38. Every ordinance shall be introduced in written or printed form and, upon passage, shall take effect at the time indicated therein; provided that any ordinance imposing a penalty, fine or forfeiture for a violation of its provisions shall become effective not less than ten days from the date of its passage; subject to the provisions of Article X of this charter. The city clerk shall give notice of the passage of every ordinance imposing a penalty, fine or forfeiture for a violation of the provisions thereof, by causing the caption or title, including the penalty, of any such ordinance to be published in a newspaper of general circulation published in the city of Killeen at least twice within ten days after the passage of said ordinance. He shall note on every ordinance, the caption of which is hereby required to be published, and on the record thereof, the fact that same has been published as required by the charter, and the date of such publication, which shall be prima facie evidence of the legal publication and promulgation of such ordinance; provided that the provisions of this correction, amendment, revision and codification of the ordinances of the city for publication in book or pamphlet form. Except as otherwise provided by

Article XI of this charter, it shall not be necessary to the validity of any ordinance that it shall be read more than one time or considered at more than one session of the City Council. Every ordinance shall be authenticated by the signature of the mayor and city clerk and shall be systematically recorded and indexed in an ordinance book in a manner approved by the council. It shall only be necessary to record the caption or title of ordinances in the minutes or journal of council meetings. The city council shall have power to cause the ordinances of the city to be corrected, amended, revised, codified and printed in code form as often as the council deems advisable, and such printed code, when adopted by the council, shall be in full force and effect without the necessity of publishing the same or any part thereof in a newspaper. Such printed code shall be admitted in evidence in all courts and places without further proof.

INVESTIGATION BY COUNCIL

Section 39. The council shall have power to inquire into the conduct of any office, department, agency, or officer of the city and to make investigations as to municipal affairs, and for that purpose may subpoena witnesses, administer oaths, and compel the production of books, papers and other evidence. Failure to obey such subpoena or to produce books, papers or other evidence as ordered under the provisions of this section shall constitute a misdemeanor and shall be punishable by fine not to exceed a hundred dollars.

INDEPENDENT ANNUAL AUDIT

Section 40. Not less than thirty nor more than sixty days prior to the end of each fiscal year the council shall designate qualified public accountants who, as of the end of the fiscal year, shall make an independent audit of accounts and other evidences of financial transactions of the city government and shall submit their report to the council. Notice shall be given by publication in some newspaper of general circulation in the City of Killeen that the annual audit is on file at the city hall for inspection. Such accountant shall have no personal interest, direct or indirect, in the fiscal affairs of the city government. They shall not maintain any accounts or record of the city business, but, within specifications approved by the council, shall post-audit the books and documents kept by the department of finance and any separate or subordinate accounts kept by any other office, department or agency of the city government.

PUBLIC LIBRARY

Section 41. The City Council shall have the authority to establish and maintain a free public library within the City and to cooperate with any person, firm, association or corporation under such terms as the City Council may prescribe for the establishment or maintenance of such public library. For the budget purposes, the library shall be considered as a department of the City and the appropriations therefor shall comply with all the budgetary requirements as outlined in this charter and as may be prescribed from time to time by the City Council. Annual appropriations for the library will not be continuing, but will revert to the general fund in the same manner as the underspent appropriations of the other departments.

HOUSING AUTHORITY

Section 42. The City Council may create a housing authority of such number, terms and compensation of members as the Council may determine and may delegate to the housing authority such powers relating to the planning, construction, reconstruction, alteration, repair,

maintenance or operation of housing projects and housing accommodations as the Council may determine.

DISABLED EMPLOYEES' PENSIONS AND INSURANCE

Section 43. The City Council shall have authority to provide for rules and regulations for maintaining employees when injured and disabled while performing their duties, or it may provide for such plan of insurance as it deems proper. The City Council shall have authority to establish a pension and retirement system for any or all groups of officers and employees in the service of the City. Any such pension and retirement system shall be established on a jointly contributory basis, with the officers and employees sharing the cost equally with the city, if feasible, except as to prior service charges at the time of establishment, which shall be borne entirely by the City. The cost of the system shall be determined actuarially on the basis of such mortality and service tables as the City Council shall approve. The provisions of the ordinance establishing such a pension and retirement system shall require periodic actuarial evaluations, which shall serve as the basis of any changes in the rates of contributions and shall also provide for the maintenance at all times of adequate reserves to meet all accrued liabilities. Any officer or employee of the city at the time of establishment of such system shall for ninety (90) days thereafter have the privilege of becoming a member of the system so established and to share its benefits. Officers and employees thereafter appointed in the classified service shall be required to join the system as a condition of employment. The City Council shall have authority, on behalf of the City of Killeen and its officers and employees, to join or participate in any district or statewide pension and retirement system which has been established by the Legislature of the State of Texas.

When and if a pension and retirement system is established under the provisions of this section, the City Council shall also make provision for its administration either by the creation of a Department of Personnel, with a Director and a Personnel Board, or otherwise, as it may see fit, with such power and duties and compensation as the City Council by ordinances may prescribe and delegate; and such administrative agent or agency shall also have charge of the collection, investment, payment and custody of funds of the pension and retirement system. If necessary to the maintenance of a financially sound system, the City Council may by ordinance provide for as much as three-fourths (3/4) of the cost of its maintenance to be borne by the City.

ARTICLE IV. THE CITY MANAGER

QUALIFICATIONS

Section 44. The city manager shall be chosen by the city council solely on the basis of his executive and administrative qualifications with special reference to his actual experience in, or his knowledge of, accepted practice in respect to the duties of his office as hereinafter set forth. At the time of his appointment, he need not be a resident of the city or state, but during his tenure of office he shall reside within the city.

POWERS AND DUTIES

Section 45. The city manager shall be the chief executive officer and the head of the administrative branch of the city government. He shall be responsible to the council for the proper administration of all affairs of the city and to that end he shall have power and shall be

required to:

- (1) Appoint and, when necessary for the good of the service, remove all officers and employees of the city except as otherwise provided by this charter and except as he may authorize the head of a department to appoint and remove subordinates in such department.
- (2) Prepare the budget annually and submit it to the council and be responsible for its administration after adoption.
- (3) Prepare and submit to the council at the end of the fiscal year a complete report on the finances and administrative activities of the city for the preceding year.
- (4) Keep the council advised of the financial condition and future needs of the city and make such recommendations as may seem to him desirable.
- (5) Perform such other duties as may be prescribed by this charter or required of him by the council, not inconsistent with this charter.

ABSENCE OF CITY MANAGER

Section 46. To perform his duties during his temporary absence or disability, the manager may designate by letter filed with the city clerk a qualified administrative officer of the city.

DIRECTORS OF DEPARTMENTS

Section 47. At the head of each administrative department there shall be a director, who shall be an officer of the city and shall have supervision and control of the department subject to the city manager.

Two or more departments may be headed by the same individual, the manager may head one or more departments, and directors of departments may also serve as chiefs of divisions.

DEPARTMENTAL DIVISIONS

Section 48. The work of each administrative department may be distributed among such divisions thereof as may be established by ordinance upon the recommendation of the manager. Pending the passage of an ordinance or ordinances distributing the work of departments under the supervision and control of the manager among specific divisions thereof, the manager may establish temporary divisions.

ARTICLE V. THE BUDGET

FISCAL YEAR

Section 49. The fiscal year of the City of Killeen shall begin the 1st day of October and shall end on the last day of September of each calendar year. Such fiscal year shall also constitute the budget and accounting year.

PREPARATION AND SUBMISSION OF BUDGET

Section 50. The city manager, between forty-five and ninety days prior to the beginning of each fiscal year, shall submit to the council a proposed budget, which budget shall provide a

complete financial plan for the fiscal year, and shall contain the following:

- (1) A budget message, explanatory of the budget, which message shall contain an outline of the proposed financial policies of the city for the fiscal year, shall set forth the reasons for salient changes from the previous fiscal year in expenditures and revenue items, and shall explain any major changes in financial policy.
- (2) A consolidated statement of receipts and expenditures of all funds.
- (3) An analysis of property valuations.
- (4) An analysis of tax rate.
- (5) Tax levies and tax collections by years for at least five years or, if records for five years are not available, then for as many years as are available.
- (6) General fund resources in detail.
- (7) Summary of proposed expenditures by function, department, and activity.
- (8) Summary of proposed expenditures by character and subject.
- (9) Detailed estimates of expenditures shown separately for each activity to support the summaries No. 7 and 8 above. Such estimates of expenditures are to include an itemization of positions showing the number of persons having each title and the rate of pay.
- (10) A revenue and expense statement for all types of bonds.
- (11) A description of all bond issues outstanding, showing rate of interest, date of issue, maturity date, amount and authorized, amount issued, and amount outstanding.
- (12) A schedule of requirements for the principal and interest of each issue of bonds.
- (13) A special funds section.
- (14) The appropriation ordinance.
- (15) The tax levying ordinance.

ANTICIPATED REVENUES COMPARED WITH OTHER YEARS IN BUDGET

Section 51. In preparing the budget, the City Manager shall in the preparation of the budget place in parallel columns opposite the several items of revenue the actual amount of each item for the last completed fiscal year, the estimated amount for the current fiscal year, and the proposed amount for the ensuing fiscal year.

PROPOSED EXPENDITURES COMPARED WITH OTHER YEARS

Section 52. The City Manager in the preparation of the budget shall in parallel columns opposite the various items of expenditures place the actual amount of such items of expenditures for the last completed fiscal year, the estimated amount for the current fiscal year, and the proposed amount for the ensuing fiscal year.

BUDGET A PUBLIC RECORD

Section 53. The budget and all supporting schedules shall be filed with the City Clerk when submitted to the Council and shall be a public record for inspection by anyone. The City Manager shall cause copies to be made for distribution to all interested persons.

NOTICE OF PUBLIC HEARING ON BUDGET

Section 54. At the meeting of the Council at which the budget is submitted, the Council shall

fix the time and place of a public hearing on the budget and shall cause to be published a notice of the hearing setting forth the time and place thereof at least five days before the date of hearing.

PUBLIC HEARING ON BUDGET

Section 55. At the time and place set forth in the notice required by Section 54, or at any time and place to which such public hearing shall from time to time be adjourned, the council shall hold a public hearing on the budget submitted and all interested persons shall be given an opportunity to be heard for or against any item or the amount of any item therein contained.

PROCEEDINGS ON BUDGET AFTER PUBLIC HEARING AMENDING OR SUPPLEMENTING BUDGET

Section 56. After the conclusion of such public hearing, the Council may insert new items or may increase or decrease the items of the Budget, except items in proposed expenditures fixed by law. Before inserting any additional item or increasing any item of appropriation, it must cause to be published a notice setting forth the nature of the proposed increases and fixing a place and time, not less than five days after publication, at which the Council will hold a public hearing thereon.

PROCEEDINGS ON ADOPTION OF BUDGET

Section 57. After such further hearing, the Council may insert the additional item or items, and make the increase or increases, to the amount in each case indicated by the published notice, or to a lesser amount, but where it shall increase the total proposed expenditures, it shall also provide for an increase in the total anticipated revenue to at least equal such total proposed expenditures.

VOTE REQUIRED FOR ADOPTION

Section 58. The budget shall be adopted by the favorable vote of a majority of the members of the whole Council.

DATE OF FINAL ADOPTION: FAILURE TO ADOPT

Section 59. The budget shall be finally adopted not later than the twentieth day of the last month of the fiscal year. Should the council take no action on or prior to such day, the budget as submitted by the city manager shall be deemed to have been finally adopted by the council.

EFFECTIVE DATE OF BUDGET: CERTIFICATION: COPIES MADE AVAILABLE

Section 60. Upon final adoption, the budget shall be in effect for the fiscal year. A copy of the budget, as finally adopted, shall be filed with the City Clerk, the County Clerk of Bell County, and the State Comptroller of Public Accounts at Austin. The final budget shall be printed, mimeographed or otherwise reproduced and a reasonable number of copies shall be made available for the use of all offices, departments and agencies, and for the use of interested persons and civic organizations.

BUDGET ESTABLISHES APPROPRIATIONS

Section 61. From the effective date of the budget, the several amounts stated therein as proposed expenditures shall be and become appropriated to the several objects and purposes therein named.

BUDGET ESTABLISHES AMOUNT TO BE RAISED BY PROPERTY TAX

Section 62. From the effective date of the budget, the amount stated therein as the amount to be raised by property tax shall constitute a determination of the amount of the levy for the purposes of the City in the corresponding tax year.

CONTINGENT APPROPRIATION

Section 63. Provision shall be made in the annual budget and in the appropriation ordinance for a contingent appropriation in an amount not more than three (3) per centum of the total general fund expenditure, to be used in case of unforeseen items of expenditures. Such contingent appropriation shall be under the control of the city Manager and distributed by him, after approval by the City Council. Expenditures from this appropriation shall be made only in case of established emergencies and a detailed account of such expenditures shall be recorded and reported. The proceeds of the contingent appropriation shall be disbursed only by transfer to other departmental appropriation, the spending of which shall be charged to the departments or activities for which the appropriations were made.

ESTIMATED EXPENDITURES SHALL NOT EXCEED ESTIMATED RESOURCES

Section 64. The total estimated expenditures of the general fund and debt service fund shall not exceed the total estimated resources of each fund (Prospective income plus cash on hand.) The classification of revenue and expenditure accounts shall conform as nearly as local conditions will permit to the uniform classification as promulgated by the National Committee on Municipal Accounting, or some other nationally accepted classification.

EMERGENCY APPROPRIATIONS

Section 65. The city budget may be amended and appropriations altered in accordance therewith in cases of grave public necessity the actual fact of which shall have been certified to in writing by not less than one hundred (100) resident qualified voters owning real property within the corporate limits of the city which has been personally rendered for current city taxes.

ARTICLE VI. ISSUANCE AND SALE OF BONDS

POWER TO BORROW

Section 66. The City of Killeen shall have the right and power to issue its general obligation bonds on the full faith and credit of the City, payable from ad valorem taxes not to exceed the maximum rate permitted by the Texas Constitution, for the purpose of providing permanent public improvements or for any other public purpose. The City also shall have the right and power to issue its revenue bonds payable from the revenues of any municipally owned utility or utilities, and may secure such revenue bonds by a mortgage or deed of trust on the physical

properties of such utility or utilities. The City also shall have the right and power to issue interest bearing time warrants pursuant to Article 2368a, Vernon's Annotated Civil Statutes.

ISSUANCE OF BONDS AND TIME WARRANTS

Section 67. All bonds and warrants of the City of Killeen shall be issued pursuant to the procedures and requirements established by the general laws of the State of Texas.

ARTICLE VII. FINANCE ADMINISTRATION

DIRECTOR OF FINANCE: APPOINTMENT

Section 68. There shall be a department of finance, the head of which shall be the director of finance, who shall be appointed by the city manager.

DIRECTOR OF FINANCE: QUALIFICATIONS

Section 69. The director of finance shall have the proper knowledge of municipal accounting and sufficient experience in budgeting and financial control to properly perform the duties of the office.

DIRECTOR OF FINANCE: POWER AND DUTIES

Section 70. Under the direction of the city manager, the director of finance shall have charge of the administration of the financial affairs of the city and to that end he shall have authority and shall be required to:

- (1) Supervise and be responsible for the disbursement of all monies and have control over all expenditures to ensure that budget appropriations are not exceeded;
- (2) Maintain a general accounting system for the city government and each of its offices, departments, and agencies, keep books for and exercise financial budgetary control over each office, department and agency; keep separate accounts for the items of appropriation contained in the city budget, each of which accounts shall show the amount of the appropriation, the amounts paid therefrom, the unpaid obligations against it and the unencumbered balance; require reports of receipts and disbursements from each receiving and spending agency of the city government to be made daily or at such intervals as may be deemed expedient;
- (3) Submit to the council through the city manager a monthly statement of all receipts and disbursements in sufficient detail to show the exact financial condition of the city;
- (4) Prepare, as of the end of each fiscal year, a complete financial statement and report;
- (5) Collect license fees and other revenues of the city or for whose collection the city is responsible and receive all money receivable by the city from state or federal government, or from any court, or from any office, department or agency of this city;
- (6) Have custody of all public funds belonging to or under the control of the city, or any office, department or agency of the city government, and deposit all funds coming into his hands in such depository or depositories as may be designated by the city council, subject to the requirements of law in force from time to time as to the furnishing of bond or the deposit of securities and the payment of interest on deposits. All such interest shall be the property of the city and shall be accounted for and credited to the proper account;

- (7) Have custody of all investments and invested funds of the city government, or in possession of such government in a fiduciary capacity, and have the safekeeping of all bonds and notes of the city and the receipt and delivery of city bonds and notes for transfer, registration or exchange;
- (8) Supervise and be responsible for the purchase, storage and distribution of all supplies, materials, equipment and other articles used by any office, department or agency of the city government;
- (9) Approve all proposed expenditures; unless he shall certify that there is an unencumbered balance of appropriation and available funds, no expenditure shall be made.

TRANSFERS OF APPROPRIATIONS

Section 71. The city manager may at any time transfer any unencumbered appropriation balance or portion thereof between general classifications of expenditures within an office, department or agency. At the request of the city manager and within the last three months of the fiscal year, the council may by resolution transfer any unencumbered appropriation balance or portion thereof from one office, department or agency to another.

ACCOUNTING SUPERVISION AND CONTROL

Section 72. The director of finance shall have power and shall be required to:

- (1) Prescribe the forms of receipts, vouchers, bills or claims to be used by all the offices, departments or agencies of the city government;
- (2) Examine and approve all contracts, orders and other documents by which the city government incurs financial obligations, having previously ascertained that moneys have been appropriated and allotted and will be available when the obligations shall become due and payable;
- (3) Audit and approve before payment all bills, invoices, payrolls and other evidences of claims, demands or charges against the city government and with the advice of the city attorney determine the regularity, legality and correctness of such claims, demands or charges;
- (4) Inspect and audit any accounts or records of financial transactions which may be maintained in any office, department or agency of the city government apart from or subsidiary to the accounts kept in his office.

LAPSE OF APPROPRIATIONS

Section 73. All appropriations shall lapse at the end of the fiscal year to the extent that they shall not have been expended or lawfully encumbered.

FEES SHALL BE PAID TO CITY

Section 74. All fees received by any officer or employee shall belong to the city government and shall be paid to the department of finance at such times as required by the director of finance.

SALE OF CITY PROPERTY

Section 75. Any sale or contract for the sale of any property belonging to the City, either in

the form of land, real estate or other real or personal properties, shall be in accordance with the Texas Constitution, Texas Local Government Code, Chapters 252, 253, 271, 272, 273, and 280, and the acts amendatory thereof and supplementary thereto, now or hereafter enacted, and all other applicable State law. (Amend. of 5-4-91)

PURCHASE PROCEDURE

Section 76. The Director of Finance shall have authority to make expenditures from one or more municipal funds without the approval of the City Council for all budgeted items up to that amount which, under State law, triggers the competitive Procurement process. All contracts or purchases requiring expenditures from one or more municipal funds in the amount involving more than the dollar amount which, according to Section 252.021 of the Local Government Code, or any successor statute thereto, triggers the competitive procurement process, shall be let in compliance with the procedures prescribed by Chapter 252 of the Local Government Code and the acts amendatory thereof and supplementary thereto, now or hereafter enacted. (Amend. of 5-4-91; Amend. of 5-5-01; Amend. of 5-7-05)

CONTRACTS FOR IMPROVEMENTS

Section 77. Any city contract requiring an expenditure by, or imposing an obligation or liability on the City of more than the amount provided in Section 271.054 of the Texas Local Government Code and the acts amendatory thereof and supplementary thereto, must comply with the competitive bidding process of the Local Government Code. These contracts shall include contracts for the construction of public works or the purchase of materials, equipment, supplies, or machinery for which competitive bidding is required by the Local Government Code. Change orders made in accordance with State law, may be approved by the City Council upon the written recommendation of the City Manager. (Amend. of 5-4-91; amend. of 5-5-01)

DISBURSEMENT OF FUNDS

Section 78. All checks, vouchers or warrants for the withdrawal of money from the city depository shall be signed by the director of finance, or his deputy, and countersigned by the city manager. In the event the city manager is the director of finance, all checks signed by him shall be countersigned by the city tax assessor and collector or the city clerk.

ACCOUNTING CONTROL OF PURCHASES

Section 79. All purchases made shall be pursuant to a written requisition from the head of the office, department or agency whose appropriation will be charged, and no contract or order shall be issued to any seller unless and until the director of finance certifies that there is to the credit of such office, department or agency a sufficient unencumbered appropriation balance to pay for the supplies, materials, equipment or contractual services for which the contract or order is to be issued.

BORROWING IN ANTICIPATION OF PROPERTY TAXES

Section 80. 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 and notes in anticipation of the collection of taxes and of special assessments.

SALE OF NOTES: REPORT OF SALE

Section 81. All notes issued pursuant to this article may be sold at not less than par and accrued interest at private sale by the director of finance without previous advertisement, but such sale shall be authorized by the Council.

SURETY BONDS

Section 82. The directors of all administrative departments whose duties include the handling of moneys, and all employees whose duties include the handling of moneys, belonging to the City of Killeen, shall before entering upon the duties of their office or employment make bond in some responsible surety company, acceptable to the City Council for such amount as the council may prescribe, the premium of which bond shall be paid by the city; and the City Council may also require any such surety bond to be further conditioned that the principal thereon will faithfully perform and or [and/or] discharge the duties of his office, and if there are provisions of state law bearing upon the functions of his office under which the execution of a surety bond is required, it shall be further conditioned to comply therewith.

ARTICLE VIII. TAX ADMINISTRATION

DIRECTOR OF TAXATION: APPOINTMENT

Section 83. There shall be a department of taxation, the head of which shall be the director of taxation, who shall be appointed by the city manager. The director of taxation, who may also be referred to as the city assessor-collector of taxes, shall have the proper experience and knowledge of municipal taxation to properly perform the duties of the office. He shall collect taxes and special assessments and supervise and be responsible for the assessment of all property within the corporate limits of the city for taxation, make all assessments for the city government, prepare tax maps and give such notice of taxes and special assessments as may be required by law.

POWER TO TAX

Section 84. The City Council shall have the power under the provisions of State Law to levy, assess and collect an annual tax upon taxable property within the city to the maximum provided by the Constitution and general laws of the State of Texas.

PROPERTY SUBJECT TO TAX: METHOD OF ASSESSMENT

Section 85. All property, real, personal or mixed, lying and being within the corporate limits of the City of Killeen on the first day of January, not expressly exempted by law, shall be subject to annual taxation at its true market value. Each person, partnership, corporation, association or other legal entity so owning property within the limits of the City of Killeen shall, between the first day of January and the thirtieth day of April of each year, hand to the city assessor-collector a full and complete sworn inventory of the property possessed or controlled by him, her, it or them, within said limits on the first day of January of the current year. In all cases of failure to obtain a statement of real and personal property from any cause, the assessor-collector shall ascertain the amount and value of such property and assess the same as he believes to be the true and full value thereof; and such assessment shall be as valid and binding as if such property had

been rendered by the owner thereof.

BOARD OF EQUALIZATION: APPOINTMENT: QUALIFICATIONS

Section 86. The City Council shall each year prior to the first day of June appoint three residents, who shall be qualified voters and real property owners, as the board of equalization. Such board shall choose from its membership a chairman. The city tax assessor-collector shall be ex-officio secretary of the board; provided the city tax assessor-collector, with the consent of the City Council, may designate some other officer or employee of the city to act in his stead. A majority of said board shall constitute a quorum for the transaction of business. Members of the board while serving shall receive such compensation as may be provided for them by the City Council.

BOARD OF EQUALIZATION: PUBLIC HEARINGS: NOTICE TO OWNER

Section 87. At the same meeting that the council appoints the board of equalization it shall by ordinance fix the time of the first meeting of the board, which shall be on the first day of June or as soon thereafter as practicable. After such first meeting, the board may reconvene and adjourn from time to time, and as long thereafter as may be necessary it shall hear and determine the complaint of any person in relation to the assessment roll, provided said board shall be finally adjourned by the last day of said month. Whenever, said board shall find it their duty to raise the value of any property appearing on the tax lists or tax records of the city, it shall, after having examined such lists and records and corrected all errors appearing therein, adjourn to a day not less than ten nor more than fifteen days from the date of adjournment, and shall cause the secretary of said board to give written notice to the owner of such property or to the person rendering same of the time to which said board has adjourned, and that such owner or person rendering said property may at that time appear and show cause why the value of said property should not be raised. Such notice may be served by depositing the same, properly addressed, and postage paid, in the city post office.

BOARD OF EQUALIZATION: POWER AND DUTIES

Section 88. It shall be the duty of such board to examine and, if necessary, revise the assessments as returned by the City Assessor-Collector, to the end that all property within the city shall be assessed as fairly and as uniformly as possible. The board of equalization shall also have the power to:

- (1) Review on complaint of property owners assessments for the purpose of taxation of both real and personal property within the city made by the City Assessor-Collector;
- (2) Administer oaths;
- (3) Take testimony;
- (4) Hold hearings;
- (5) Adopt regulations regarding the procedure of assessment review;
- (6) Compel the production of all books, documents, and other papers pertinent to the investigation of the taxable values of any person, firm or corporation having or owning property within the corporate limits of the city subject to taxation.

BOARD OF EQUALIZATION: RECORDS: APPROVAL OF ROLLS

Section 89. The board shall be required to keep an accurate record of all its proceedings, which shall be available for public inspection. Immediately upon completion of its work the board shall certify its approval of the assessment rolls, which shall be returned to the city council, which shall thereupon approve the said rolls as returned to it and thereupon adopt the same as the assessment rolls to be used for the collection of taxes for the current year.

TAXES: WHEN DUE AND PAYABLE

Section 90. All taxes due the City of Killeen shall be payable at the office of the City Assessor-Collector and may be paid at any time after the tax rolls for the year have been completed and approved, which shall be not later than October 1. The city council may by ordinance provide that current taxes paid prior to December 31 of the tax year shall be subject to discounts as follows:

Three per cent if paid on or before October 31, two per cent if paid after October 31 and on or before November 30, and one per cent if paid after November 30 and on or before December 31.

The City Council may by ordinance provide that all taxes, either current or delinquent, due the city, may be paid in installments (as to current taxes over a period not exceeding one year.) Taxes which are not delinquent on the date of the first installment payment shall not be deemed delinquent so long as each installment is paid on the date due, failing in which such taxes shall at once, without grace, demand or notice, be subject to such penalty and interest as are imposed by state law (in case of delinquent State and County taxes) and be deemed and become delinquent as of February 1 of the year following assessment. Delinquent taxes paid in installments shall as to time, amount, prematurity in event of default and all other pertinent matters be governed by the ordinance providing for installment payment of taxes, except to the extent otherwise controlled by state law.

SEIZURE AND SALE OF PERSONAL PROPERTY

Section 91. The assessor-collector of taxes shall, by virtue of the tax rolls of the city, have power and authority to seize and levy upon all personal property and sell the same to satisfy all delinquent taxes together with all penalty, interest and costs due on said personal property to the city. When he seizes personal property for such purposes he shall keep the same at the expense of the owner until the sale is made, and shall give notice of the time and place of sale of same by posting a written notice at the city hall door and one at another public place within the city at least ten days before the date of sale. He shall sell the same to the highest bidder for cash for all taxes, interest, cost and expense of caring for said property, and shall make an entry in the book of sales of the amount realized. All such sales shall be made at the front door of the city hall. A sale of personal property for delinquent taxes shall convey with it an absolute title, and the owner shall have no right to redeem the same.

TAX LIENS

Section 92. The tax levied by the city is hereby declared to be a lien, charge, or encumbrance upon the property upon which the tax is due, which lien, charge, or encumbrance the city is

entitled to enforce and foreclose in any court having jurisdiction over the same, and the lien, charge and encumbrance on the property in favor of the city, for the amount of the taxes due on such property is such as to give the state courts jurisdiction to enforce and foreclose said lien on the property on which the tax is due, not only as against any resident of this state or person whose residence is unknown, but also as against non-residents. All taxes upon real estate shall especially be a lien and a charge upon the property upon which the taxes are due, which lien may be foreclosed in any court having jurisdiction. The city's tax lien shall exist from January 1 in each year until the taxes are paid. Such lien shall be prior to all other claims, and no gift, sale, assignment or transfer of any kind, or judicial writ of any kind, can defeat such lien.

All persons or corporations owning or holding personal property or real estate in the City of Killeen on the first day of January of each year shall be liable for all municipal taxes levied thereon for such year.

The personal property of all persons owing any taxes to the City of Killeen is hereby made liable for all of said taxes, whether the same be due upon personal or real property, or upon both.

ARTICLE IX. NOMINATIONS AND ELECTIONS

MUNICIPAL ELECTIONS

Section 93. The regular election for the choice of members of the council as provided in Section 22 of Article III of this Charter, shall be held each year on the authorized uniform Election Date provided for in the Texas Election Code that is nearest to the first Saturday in May. The council may, by resolution, order a special election on the first authorized uniform election date prescribed by the Election Code that allows sufficient time to comply with other requirements of law as may be authorized by law. The Council shall set the date of all other elections in accordance with applicable provisions of the Election Code, Local Government Code, Constitution and other general laws of the State of Texas. (Amend. of 5-4-91)

REGULATIONS OF ELECTIONS

Section 94. The council shall make all regulations which it considers needful or desirable, not inconsistent with this charter or the laws of the State of Texas, for the conduct of municipal elections, for the prevention of fraud in such elections and for the recount of ballots in case of doubt or fraud. Municipal elections shall be conducted by the appointed election authorities, who shall also have power to make such regulations not inconsistent with this charter, with any regulations made by the council or the laws of the State of Texas.

HOW TO GET NAME ON BALLOT

Section 95. Any qualified person may have his or her name placed on the official ballot as a candidate for Mayor or Councilmember at any election held for the purpose of electing a Mayor or Councilmember by filing with the City Secretary, in accordance with the Texas Election Code, a sworn application on a form prepared by the City Secretary in conformance with Section 141.031 of the Texas Election Code or any successor statute thereto. (Amend. of 5-4-91)

COUNCIL BALLOTS

Section 96. The full names of all candidates for the council as hereinbefore provided, except such as may have withdrawn, died, or become ineligible, shall be printed on the official ballots without party designations. If two candidates with the same surnames or with names so similar as to be likely to cause confusion are nominated, the addresses of their places of residence shall be placed with their names on the ballot. The order of the names on the ballot shall be determined by lot. The official ballots shall be printed not less than twenty (20) days before the date of the election.

ELECTION OF MAYOR & COUNCILMEMBERS BY PLURALITY

Section 97. At the regular municipal election (or any special election held to fill vacancies on the City Council) the candidates for the office of mayor or councilmember, to the number to be elected, who shall have received the highest number of votes cast in such election for each office to be filled shall be declared elected.

In case of a tie vote a new election shall be ordered and held conformably to the following section of this charter; at which the only persons eligible to have their names printed on the ballot shall be those whose votes were tied in the election at which they were candidates. (Amend. of 5-3-97)

LAWS GOVERNING CITY ELECTIONS

Section 98. All city elections shall be governed, except as otherwise provided by the charter, by the laws of the State of Texas governing general and municipal elections, so far as same may be applicable thereto; and in event there should be any failure of the general laws or this charter to provide for some feature of the city elections, then the city council shall have the power to provide for such deficiency, and no informalities in conducting a city election shall invalidate the same, if it be conducted fairly and in substantial compliance with the general laws, where applicable, and the charter and ordinances of the city.

CANVASSING ELECTIONS

Section 99. Returns of elections following general or special elections shall be made in accordance with state law. (Amend. of 5-3-97)

ARTICLE X. INITIATIVE, REFERENDUM AND RECALL

POWER OF INITIATIVE

Section 100. The electors shall have power to propose any ordinance except an ordinance appropriating money or authorizing the levy of taxes, and to adopt or reject the same at its polls, such power being known as the initiative. Any initiative ordinance may be submitted to the council by a petition signed by qualified electors of the city equal in number to at least twenty-five per cent of the number of votes cast in the last regular municipal election.

POWER OF REFERENDUM

Section 101. The electors shall have power to approve or reject at the polls any ordinance passed by the council, or submitted by the council to a vote of the electors, such power being known as the referendum, except in cases of bond ordinances and ordinances making the annual tax levy. Ordinances submitted to the council by initiative petition and passed by the council without change shall be subject to the referendum in the same manner as other ordinances. Within twenty days after the enactment by the council of any ordinance which is subject to a referendum, a petition signed by qualified electors of the city equal in number to at least twenty-five per centum of the number of votes cast at the last preceding regular municipal election may be filed with the city clerk requesting that any such ordinance be either repealed or submitted to a vote of the electors.

FORM OF PETITIONS: COMMITTEE OF PETITIONERS

Section 102. Initiative petition papers shall contain the full text of the proposed ordinance. The signatures to initiative or referendum petitions need not be appended to one paper, but to each separate petition there shall be attached a statement of the circulator thereof as provided by this section. Each signer of any 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 electors, who, as a committee of the petitioners, shall be regarded as responsible for the circulation and filing of the petition. Attached to each separate petition paper there shall be an affidavit of the circulator thereof that he and he only, personally circulated the foregoing paper, that it bears a stated number of signatures, that all 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.

FILING, EXAMINATION AND CERTIFICATION OF PETITIONS

Section 103. All petition papers comprising an initiative or referendum petition shall be assembled and filed with the city clerk as one instrument. Within ten days after the petition is filed, the city clerk shall determine whether each paper of the petition has a proper statement of the circulator and whether the petition is signed by a sufficient number of qualified electors. The city clerk shall declare any petition paper entirely invalid which does not have attached thereto an affidavit signed by the circulator thereof. If a petition paper is found to be signed by more persons than the number of signatures certified by the circulator, the last signatures in excess of the number certified shall be disregarded. If a petition paper is found to be signed by fewer persons than the number certified, the signatures shall be accepted unless void on other grounds. After completing his examination of the petition, the city clerk shall certify the result thereof to the council at its regular meeting. If he shall certify that the petition is insufficient he shall set forth in his certification the particulars in which it is defective and shall at once notify the committee of the petitioners of his findings.

AMENDMENT OF PETITIONS

Section 104. An initiative or referendum petition may be amended at any time within ten days after the notification of insufficiency has been sent by the city clerk, by filing a supplementary petition upon additional papers and filed as provided in case of an original

petition. The city clerk shall, within five days after such an amendment is filed, make examination of the amended petition and, if the petition is still insufficient, he shall file his certificate to that effect in his office and notify the committee of 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.

EFFECT OF CERTIFICATION OF REFERENDUM PETITION

Section 105. When a referendum petition, or amended petition as defined in Section 104 of this article, has been certified as sufficient by the city clerk, the ordinance 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.

CONSIDERATION BY COUNCIL

Section 106. Whenever the council receives a certified initiative or referendum petition from the city clerk, it shall proceed at once to consider such petition. A proposed initiative ordinance shall be read and provision shall be made for a public hearing upon the proposed ordinance. The council shall take final action on the ordinance not later than sixty days after the date on which such ordinance was submitted to the council by the city clerk. A referred ordinance shall be reconsidered by the council and its final vote upon such reconsideration shall be upon the question, "Shall the ordinance specified in the referendum petition be repealed?"

SUBMISSION TO ELECTORS

Section 107. If the council shall fail to pass an ordinance proposed by the initiative petition, or shall pass it in a form different from that set forth in the petition thereof, or if the council fails to repeal a referred ordinance, the proposed or referred ordinance shall be submitted to the electors not less than thirty days nor more than sixty days from the date the council takes its final vote thereon. The council may, in its discretion, and if no regular election is to be held within such period shall, provide for a special election.

FORM OF BALLOT FOR INITIATED AND REFERRED ORDINANCES

Section 108. Ordinances 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. The ballot title may be different 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, if a paper ballot, shall have below the ballot title the following propositions, one above the other in the order indicated: "FOR THE ORDINANCE" and "AGAINST THE ORDINANCE." Any number of ordinances may be voted on at the same election and may be submitted on the same ballot, but any paper ballot used for voting thereon, shall be for that purpose only. If voting machines are used, the ballot title of any ordinance shall have below it the same two propositions, one above the other or one preceding the other in the order indicated, and the elector shall be given an opportunity to vote for either of the two propositions and thereby to vote for or against the ordinance.

RESULTS OF ELECTION

Section 109. If a majority of the electors voting on a proposed initiative ordinance shall vote in favor thereof, it shall thereupon be an ordinance of the city. A referred ordinance which is not approved by a majority of the electors voting thereon shall thereupon be deemed repealed. If conflicting ordinances are approved by the electors at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

REPEALING ORDINANCES: PUBLICATION

Section 110. Initiative and referendum ordinances adopted or approved by the electors shall be published, and may be amended or repealed by the council, as in the case of other ordinances.

RECALL: GENERAL

Section 111. Any member of the City Council, including the mayor, may be removed from office by recall.

RECALL PROCEDURE

Section 112. Any elector of the City of Killeen may make and file with the city clerk an affidavit containing the name or names of the officer or officers whose removal is sought and a statement of the grounds for removal. The clerk shall thereupon deliver to the elector making such affidavit copies of petition blanks demanding such removal. The city clerk shall keep a sufficient number of such printed petition blanks on hand for distribution. Such blanks when issued by the city clerk shall bear the signature of that officer and be addressed to the city council, and shall be numbered, dated, and indicate the name of the person to whom issued. The petition blanks when issued shall also indicate the number of such blanks issued and the name of the officer whose removal is sought. The city clerk shall enter in a record to be kept in his office the name of the elector to whom the petition blanks were issued and the number issued to said person.

RECALL PETITIONS

Section 113. The recall petition to be effective must be returned and filed with the city clerk within thirty days after the filing of the affidavit required in Section 112 of this Article and it must be signed by qualified electors of this city equal in number to at least fifty-one per cent (51 per cent) of the total number of votes cast in the last municipal election at which four councilmen were elected; provided however, that the petition shall conform to the provisions of Section 102 of this Article. No petition papers shall be accepted as part of a petition unless it bears the signature of the city clerk as required in Section 112 of this Article.

RECALL ELECTION

Section 114. The city clerk shall at once examine the recall petition and if he finds it sufficient and in compliance with the provisions of this article of the charter, he shall within five (5) days submit it to the city council with his certificate to that effect and notify the officer sought to be recalled of such action. If the officer whose removal is sought does not resign within five (5) days after such notice the city council shall thereupon order and fix a date for holding a

recall election. Any such election shall be held not less than thirty nor more than sixty days after the petition has been presented to the city council at the same time as any municipal election held within such period; but if no such municipal election be held within such period, the city council shall call a special election to be held within the time aforesaid.

BALLOTS IN RECALL ELECTION

Section 115. Ballots used at recall elections shall conform to the following requirements:

- (1) With respect to each person whose removal is sought the question shall be submitted
“Shall (name of person) be removed from the office of councilman by recall?”
- (2) Immediately below each question there shall be printed the two following propositions, one above the other, in the order indicated:

“For the recall of (name of person)”

“Against the recall of (name of person)”

RESULTS OF RECALL ELECTION

Section 116. If a majority of the votes cast at a recall election shall be against the recall of the officer named on the ballot, he shall continue in office for the remainder of his unexpired term, subject to recall as before, if a majority of the votes cast at such an election be for the recall of the officer named on the ballot, he shall, regardless of any technical defects in the recall petition, be deemed removed from office and the vacancy shall be filled by the City Council as in other vacancies.

LIMITATIONS OF RECALLS

Section 117. No recall petition shall be filed against a councilman within six months after he takes office nor in respect to an officer subjected to a recall election and not removed thereby, until at least six months after such election.

DISTRICT JUDGE MAY ORDER ELECTION

Section 118. Should the city council fail or refuse to order any of the elections as provided for in this charter, when all the requirements for such election have been complied with by the petitioning electors in conformity with this article of the charter, then it shall be the duty of any one of the District Judges of Bell County, Texas, upon proper application being made therefor, to order such elections and to enforce the carrying into effect of the provisions of this article of the charter.

ARTICLE XI. FRANCHISES AND PUBLIC UTILITIES

CONTROL OVER AND POWERS WITH REFERENCE TO CITY PROPERTY

Section 119. The ownership, right of control and use of streets, highways, alleys, parks, public places and all other real property of the City of Killeen is hereby declared to be inalienable to said City, except by ordinances passed by vote of the majority of the governing body of the city, as hereinafter provided; and no franchise or easement involving the right to use

same, either along, across, over or under the same, shall ever be valid unless expressly granted and exercised in compliance with the terms hereof, and of the ordinances granting the same. No act or omission of the city, its governing body, officers or agents shall be construed to confer or extend by estoppel or indirection, any right, franchise or easement not expressly granted by ordinance.

The City of Killeen shall have the power, subject to the terms and provisions hereof, by ordinance to confer upon any person or corporation the franchise or right to use the property of the City, as defined in the preceding paragraph, for the purpose of furnishing to the public any general public service, including heat, light, power, telephone service, refrigeration, steam and manufacture and distribution of ice, and the carriage of passengers or freight, with the said City and its suburbs, over the streets, highways, and property of said City, or for any other purpose whereby a general service is to furnish to the public for compensation or hire, to be paid to the franchise holder, whereby a right to, in part, appropriate or use the streets, highways or other property of the City is necessary or proper; and generally to fix and regulate the rates, tolls and charges of all public utilities of every kind operating within the corporate limits of the City of Killeen.

LIMITATIONS

Section 120. No exclusive franchise or privilege shall ever be granted nor a franchise, nor a privilege to commence at any time after six months subsequent to the taking effect of the ordinance granting the same and no franchise shall be directly or indirectly extended beyond the term originally fixed by the ordinance granting the same, except as provided by the terms of the City Charter; nor, except as hereinafter provided, shall any franchise be granted to any person, firm or corporation, their associates, assigns or successors, to acquire the physical property, rights or franchise of another person, firm or corporation to whom or which a franchise has already been granted by the City, whereby the rights and properties held and used under such franchise are assigned to any other person, firm or corporation which holds a franchise from the City extending beyond the time of the expiration of the franchise of the person, firm or corporation selling such physical properties, rights or franchises; provided, however, that when it shall appear that the public welfare will be promoted by permitting or requiring the properties of two or more companies doing the same character of business to be under one common ownership the City may, in granting a franchise for such properties, allow or require the ownership of such properties to become vested in one ownership or one corporation, provided that no debts or obligations of any of the said companies so consolidated shall be assumed by the corporation, person or association or persons acquiring the ownership of such properties except such debts and obligations of said companies, or either of them as could at the time of the creation of such indebtedness, lawfully be created under the Constitution and laws of the State of Texas, and only to the extent that the assumption of such indebtedness is permitted under the provisions of the ordinance granting such franchise and the amount of such indebtedness shall be fixed or limited in such ordinance and the same shall not thereafter be increased except by such actual moneys as may hereafter be expended pursuant to the rules and regulations to be formulated by the City Council from time to time.

PROCEDURE

Section 121. The City of Killeen shall have the power by ordinance to grant any franchise or right mentioned in the preceding sections hereof, which ordinances shall not be passed finally

until its third and final reading shall be at three separate regular meetings of the City Council of the City of Killeen, the last of which shall take place not less than thirty days from the first. No ordinance granting a franchise shall pass any reading except by a vote of the City Council, and such ordinance shall not take effect until sixty days after its adoption on its third and final reading; provided, however, that if at any time before such ordinance shall finally take effect a petition shall be presented to the City Council signed by not less than five hundred of the bona fide qualified voters of the City, then the City Council shall submit the question of the granting of said franchise to a vote of the qualified voters of the City of Killeen at the next succeeding general election to be held in said City, provided that notice thereof shall be published at least twenty days successively in an official newspaper of the City of Killeen prior to the holding of said election. Ballots shall be used briefly describing the franchise to be voted on and the terms thereof and containing the words, "For the granting of a franchise," and "Against granting a franchise." The vote shall be canvassed by the governing body, and should it result in a majority of those voting thereon casting their votes "For the granting of a franchise," then by order entered in its minutes, the City Council shall so declare said franchise at once take effect. But should a majority of such votes be cast "Against granting a franchise," as ascertained by the City Council, then said City Council by order entered in its minutes shall so declare and such franchise shall not take effect. In case a franchise is refused by the City Council, then the matter may be submitted to the qualified voters on petition, as hereinbefore provided, and a failure to finally pass on an application within six months after the filing of such application shall be construed as a refusal. The City Council in passing an ordinance granting a franchise may provide therein that it shall not take effect until the same shall have been submitted to and approved by a majority of the qualified voters voting therein at a general election. All expenses of publication shall be borne by the applicant for the franchise, who shall make a deposit in advance to cover the estimated cost of publication, to be determined by the City Manager.

TERMS AND CONDITIONS

Section 122. No determinate or fixed term franchise shall ever be granted for a longer term than twenty-five years; nor shall any right, privilege or franchise now in existence be extended beyond the period now fixed for its termination, directly or indirectly, or through any means whatsoever, and any ordinance in violation or evasion of this prohibition shall be absolutely void; provided, however, that any corporation, person or association of persons now holding any franchise under any charter or charters or ordinances of the City of Killeen may, with the consent of the City Council of the City surrender such franchise or franchises, subject to the provisions of the City Charter then in force, and take a new franchise under such charter or a new franchise may be granted to a new company or another person with the privilege of acquiring the properties of such franchise holder upon the surrender of the franchise rights then held. No subsidiary franchise or franchises of any character appertaining or relating to any other franchise holder, or to any person, firm or corporation acting directly or indirectly for such franchise holder, shall be granted and such grant in violation of this prohibition shall be absolutely void to the extent of the excess in time beyond the life of such main franchise. No franchise, privilege or easement shall ever be used or operated so as to extend or enlarge any other franchise or privilege granted by said city except upon surrender of such original franchise as herein provided, and any violation of this prohibition shall operate as a forfeiture of each and all such franchise privileges or easements. No holder of a franchise heretofore or hereafter granted shall have a right (unless such right is granted in the franchise) to transfer or assign its properties and franchise to any other person, firm or corporation without the consent of the city, and such consent when given shall not operate as the granting of a franchise or as a new franchise.

The City Council shall have the power to compel all persons, firms or corporations operating any public utilities in this City, whether operating under existing franchises, or franchises that may be hereafter granted, to extend their service, lines, pipes, etc., if the person to be benefited by such extension will pay the costs thereof, or if it can be shown that the revenue resulting from such extension will, within a reasonable time after same is made, pay a reasonable return on the investment, after making the customary allowance for depreciation.

All public utility franchises in the City of Killeen shall be held whether expressed in the ordinance or not, subject to the right of the City (each of the following being a condition):

- (1) To repeal the same by ordinance at any time for failure to begin construction or operation within the time prescribed or otherwise to comply with the terms of the franchise, such power to be exercised only after due notice and hearing.
- (2) To require an adequate extension of plant and service, and the maintenance of the plant and fixture at the highest reasonable standard of efficiency.
- (3) To establish reasonable standards of service and quality of products and prevent unjust discrimination in service or rates.
- (4) To prescribe the form of accounts kept by each such utility; provided, that if the utility shall keep its accounts in accordance with the uniform system of accounts for said utility prescribed by the National Association of Railroad and Public Utility Commissioners, the Federal Power Commission, the Federal Communications Commission, the Railroad Commission of Texas, their successor, or successors, this shall be deemed sufficient compliance with this paragraph.
- (5) At any time to examine and audit the accounts and other records of any such utility and to require annual and other reports, including on local operations by each such public utility.
- (6) To impose such reasonable regulations and restrictions as may be deemed desirable or conducive to the safety, welfare, and accommodation of the public.
 - (7) To fix and regulate the price and rates for the service to be performed under the franchise.
- (8) To require such compensation and rental as may be permitted by the laws of the State of Texas.

Every public utility franchise hereafter granted shall be subject to the terms and conditions of this Charter, whether such terms and conditions are specifically mentioned in the franchise or not.

UTILITY RATES AND CHANGES

Section 123. The City Council shall have the power by ordinance to fix and regulate the price of water, gas, electric lights, electric power and steam heat, and to regulate and fix the fares, tolls, and charges of local telephone service and charge of all public busses, carriages, hacks and vehicles of every kind, whether transporting passengers, freight or baggage, and generally to fix and regulate the rates, tolls and charges of all public utilities of every kind operating within the corporate limits of the City of Killeen.

APPLICABLE TO STREETS AND HIGHWAYS

Section 124. The right to use the public streets, highways, alleys and thoroughfares of this city, which necessitates the digging up, or displacement thereof, for the installation of

equipment, appliances or appurtenances, either on, above or below the surface of same, to make the intended use thereof practicable, shall be deemed and considered “A franchise” granting of which shall be governed and controlled in the manner herein provided.

The use of the said public streets, highways, alleys and thoroughfares of this City, which does not require the digging up or similar interference with said streets, alleys or highways for the installation of equipment, appliances or appurtenances, to make the intended use possible, shall be treated and considered as “a privilege,” subject to the control and disposition of the City Council, and such privilege over and upon the said public streets, alleys, highways and thoroughfares of the City shall not be granted to any person or corporation excepting when public necessity and convenience may require such use and when given by ordinance passed by a two-thirds vote of the City Council.

All franchises for the use and occupancy of public streets, highways, alleys and thoroughfares of this City, shall, in event public necessity and convenience so require, be subject to cancellation by the City Council; and the City reserves the right to require all public utilities holding franchises from the City of Killeen to conform to street grades, and alter or lower their underground structures to meet changing conditions.

PUBLIC SERVICE CORPORATIONS TO FILE ANNUAL REPORTS

Section 125. It shall be the duty of the City Council to pass an ordinance requiring all public service corporations operating within the corporate limits of the city to file a sworn annual report of the receipts from the operation of the said business for the current year, how expended, how much therefor for betterments or improvements, the rate of tolls and charges for services rendered to the public, and any other facts or information that the council may deem pertinent for its use in intelligently passing upon any question that may arise between the City and the said public service corporations; and reports to be filed with the City Clerk, and preserved for the use of the City Council.

OPTION TO PURCHASE

Section 126. Any public utility franchise may be terminated by ordinance after ten years after the beginning of operation, whenever the City shall determine to acquire by condemnation or otherwise the property of such utility necessarily used in or conveniently useful for the operation thereof within the city limits.

CONSENT OF PROPERTY OWNERS

Section 127. The consent of abutting and adjacent property owners shall not be required for the construction, extension, maintenance or operation of any public utility; but nothing in this charter or in any franchise granted thereunder shall ever be construed to deprive any such property owner of any right of action for damage or injury to his property as now or hereafter provided by law.

EXTENSIONS

Section 128. All extensions of public utilities within the city limits shall become a part of the aggregate property of the public utility, and shall be operated as such, and shall be subject to all

the obligations and reserved rights contained in this charter and in any original grant hereafter made. The right to use and maintain any extension shall terminate with the original grant and shall be terminable as provided in this Charter. In case of an extension of a public utility operated under a franchise hereafter granted, such right shall be terminable at the same time and under the same conditions as the original grant.

OTHER CONDITIONS

Section 129. All franchises heretofore granted are recognized as contracts between the City of Killeen and the grantee, and the contractual right as contained in any such franchise shall not be impaired by the provisions of this charter, except that the power of the City of Killeen to exercise the right of eminent domain in the acquisition of any utility property is in all things reserved, and except the general power of the city heretofore existing and herein provided for to regulate the rates and services of a grantee which shall include the right to require proper and adequate extension of plant and service and the maintenance of the plant and fixtures at the highest reasonable standard of efficiency. Every public utility franchise hereinafter granted shall be held subject to all the terms and conditions contained in the various sections of this article whether or not such terms are specifically mentioned in the franchise. Nothing in this Charter shall operate to limit in any way, as specifically stated, the discretion of the council or the voters of the city in imposing terms and conditions as may be reasonable in connection with any franchise grant.

FRANCHISE RECORDS

Section 130. Within six months after this charter takes effect every public utility and every owner of a public utility franchise shall file with the city, as may be prescribed by ordinance, certified copies of all franchises owned or claimed, or under which such utility is operated in the City of Killeen. The city shall compile and maintain a public record of public utility franchises.

ARTICLE XII. GENERAL PROVISIONS

PUBLICITY OF RECORDS

Section 131. All records and accounts of every office, department or agency of the city shall be open for inspection, pursuant to state law, to any citizen. (Amend. of 5-3-97)

PERSONAL INTEREST

Section 132. The City of Killeen hereby adopts chapter 171 of the Texas Local Government Code, as currently written and as may be amended in the future. Any violation of such state law shall constitute malfeasance in office and any officer or employee guilty thereof shall thereby forfeit the office or position. Any violation of such state law with the knowledge express or implied of the person or corporation contracting with the governing body of the city shall render the contract voidable by the City Manager or Council. (Amend. of 5-7-05)

NO OFFICER OR EMPLOYEE TO ACCEPT GIFTS

Section 133. No officer or employee of the City of Killeen shall ever accept, directly or indirectly, any gift, favor, privilege or employment from any public utility corporation enjoying

the grant of any franchise, privilege or easement from the city during the term of office of such officer, or during such employment of such employee except as may be authorized by law or ordinance; provided, however, that policemen and firemen in uniform or wearing their official badges may accept such free service where the same is permitted by ordinance. Any officer or employee of the city who shall violate the provisions of this section shall be guilty of a misdemeanor and may be punished by any fine that may be prescribed by ordinance for this offense, and shall forthwith be removed from office.

RELATIVES OF OFFICERS SHALL NOT BE APPOINTED OR EMPLOYED

Section 134. No person related within the second degree of affinity, or within the third degree of consanguinity, to members of the city council or city manager shall be appointed to any office, position or service in the city, but this provision shall not affect officers or employees who are already employed by the city at the time when any officer who may be related within the named degree takes office.

PERSONS INDEBTED TO THE CITY SHALL NOT HOLD OFFICE OR EMPLOYMENT

Section 135. Deleted from the Charter. (Amend. of 5-5-01)

OATH OF OFFICE

Section 136. Every elected and appointed officer of the city shall take and subscribe to the oaths or affirmations prescribed by Article XVI, Section 1, of the Texas Constitution, as it may be amended. Such oaths or affirmations shall be filed as required by the Constitution and with the City Secretary. (Amend. of 5-4-91)

DAMAGE SUITS

Section 137. Before the city shall be liable to damage claim or suit for personal injury, or damage to property, which does not constitute a taking or damaging of property under Article I, Section 17 of the Constitution of Texas, the person who is injured or whose property is damaged or someone in his behalf shall give the city manager or the city secretary notice in writing, duly verified, within thirty days after the occurring of the alleged injury, or damage stating specifically in such notice when, where and how the injury or damage was sustained, and setting forth the extent of the injury or damage as accurately as possible, and giving the names and addresses of all witnesses upon whose testimony such person is relying to establish the injury or damage. No action at law for damages shall be brought against the city for personal injury or damage to property prior to the expiration of sixty days after the notice herein described has been filed with the city manager or the city secretary. After the expiration of the sixty days aforementioned, the complainant may then have two years in which to bring action of law. In case of injuries resulting in death, before the city shall be liable in damages therefor the person or persons claiming such damages shall within thirty days after the death of the injured person give notice as above required in case of personal injury.

POWER TO SETTLE CLAIMS

Section 138. The city council shall have the power to compromise and settle any and all claims and lawsuits of every kind and character in favor of or against the city, including suits by

the city to recover delinquent taxes.

SERVICE OF PROCESS AGAINST THE CITY

Section 139. All legal process against the city shall be served upon the Mayor, or Mayor pro-tem.

CITY NOT REQUIRED TO GIVE SECURITY OR EXECUTE BOND

Section 140. It shall not be necessary in any action, suit or proceeding in which the City of Killeen is a party, for any bond, undertaking or security to be demanded or executed by or on behalf of said city in any of the State courts, but in all such actions, suits, appeals or proceedings same shall be conducted in the same manner as if such bond, undertaking or security had been given as required by law, and said city shall be just as liable as if security of [or] bond had been duly executed.

LIENS AGAINST CITY PROPERTY

Section 141. No lien of any kind shall ever exist against any property, real or personal, owned by the city except that the same be expressly created by this Charter, the Texas Constitution or other laws of the State of Texas. (Amend. of 5-4-91)

PROVISIONS RELATING TO ASSIGNMENT, EXECUTION AND GARNISHMENT

Section 142. The property, real and personal, belonging to the city shall not be liable to be sold or appropriated under any writ of execution or cost bill. The funds belonging to the city, in the hands of any person, firm or corporation, shall not be liable to garnishment, attachment, or sequestration; nor shall the city be liable to garnishment on account of any debt it may owe or funds or property it may have on hand or owing to any person. Neither the city nor any of its officers or agents shall be required to answer any such writ or garnishment on any account whatever. The city shall not be obligated to recognize any assignment of wages or funds by its employees, agents or contractors.

POWER TO REMIT PENALTIES

Section 143. The city council shall have the right to remit in whole or in part any fine or penalty belonging to the city, which may be imposed under any ordinance or resolution passed in pursuance of this charter.

CHURCH AND SCHOOL PROPERTY NOT EXEMPT FROM SPECIAL ASSESSMENTS

Section 144. No property of any kind, church, school, or otherwise, in the city of Killeen, shall be exempt from any of the special taxes and assessments authorized by this charter for local improvements unless the exemption is required by State law.

SALE OR LEASE OF PROPERTY OTHER THAN PUBLIC UTILITIES OR ACQUIRED BY TAX SALE

Section 145. Any real property owned by the City of Killeen may be sold or leased by the

City Council when in its judgment such sale or lease will be for the best interests of the city; provided, however, a sale or a lease for more than five (5) years shall never become effective until thirty (30) days after passage of the ordinance of [or] resolution affecting same. If, during such thirty day period, a referendum petition is presented to the City Clerk which in all respects conforms to the referendum provisions of Article X of this charter, and same is found sufficient, then the clerk shall certify the sufficiency of same to the City Council, and an election shall be called submitting the question of whether or not the sale or lease shall be consummated. Provided, further, however, the provisions of this section shall not apply to public utilities, nor to property purchased by the city at tax sales.

EFFECT OF THIS CHARTER ON EXISTING LAW

Section 146. All ordinances, resolutions, rules and regulations now in force under the city government of Killeen and not in conflict with the provisions of this charter, shall remain in force under this charter until altered, amended or repealed by the council after this charter takes effect; and all rights of the City of Killeen under existing franchises and contracts are preserved in full force and effect to the City of Killeen. Upon adoption of this charter it shall constitute the charter of the City of Killeen.

CONTINUANCE OF CONTRACTS AND SUCCESSION OF RIGHTS

Section 147. 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 provision of such existing laws or ordinances.

All suits, taxes, penalties, forfeitures and all other rights, claims and demands, which have accrued under the laws heretofore in force governing the City of Killeen, shall belong to and be vested in and shall be prosecuted by and for the use and benefit of the corporation hereby created, and shall not in anywise be diminished, effected or prejudiced by the adoption and taking effect of this charter.

CONSTRUCTION AND SEPARABILITY CLAUSE

Section 148. The charter shall be liberally construed to carry out its intents and purposes. If any section or part of section of this charter shall be held invalid by a court of competent jurisdiction such holding shall not affect the remainder of this charter nor the context in which such section or part of section so held invalid may appear, except to the extent that an entire section or part of section may be inseparably connected in meaning and effect with the section or part of section to which such holding shall directly apply.

AMENDING THE CHARTER

Section 149. Amendments to this Charter may be framed and submitted to the qualified electors of the city by a Charter commission in the manner provided by law for framing and submitting a new Charter. Amendments may also be proposed and submitted by ordinance, passed by a majority vote of the full membership of the council, or by a petition signed by not less than a number equal to at least five percent (5%) of the number of qualified voters of the municipality or 20,000, whichever is the smaller. When a Charter amendment petition shall have

been filed with the council in conformity with the provisions of this Charter as to petitions for initiated ordinances, the council shall forthwith provide by ordinance for submitting such proposed amendment to a vote of the qualified electors. Any ordinance for submitting a Charter amendment to the qualified electors shall provide that such amendment be submitted at the next authorized uniform election date prescribed by the Election Code, or on the earlier of the date of the next municipal general election or presidential general election. The election date must allow sufficient time to comply with other requirements of law and must occur on or after the 30th day after the date the ordinance is adopted. Notice of the election for the submission of said amendment or amendments shall be given by publication thereof, in some newspaper of general circulation published in said city, on the same day in each of two (2) successive weeks; the date of the first publication to be not less than fourteen (14) days prior to the date set for said election. If a proposed amendment be approved by a majority of the qualified electors voting thereon it shall become a part of the Charter at the time fixed therein. Each amendment shall be confined to one subject; and when more than one amendment shall be submitted at the same time, they shall be so submitted as to enable the qualified electors to vote on each amendment separately. (Amend. of 5-5-01)

EFFECTIVE DATE AND INTERIM GOVERNMENT

Section 150. This charter shall take effect from and after the date of its adoption and the date of the special election held for the purpose of voting upon the acceptance or rejection of this charter shall be considered the date of adoption if said charter is accepted at such election. From and after the effective date of this charter and until the completion of the first election under this charter and the qualifications of the mayor and councilmen thereby elected, the present qualified and acting mayor and the five councilmen shall constitute the city council of the City of Killeen and the present city marshal and city secretary shall remain in office and continue to conduct the same until said new council is elected and qualified. During the interim period the present city council shall have and possess all of the powers provided by this charter except the power to appoint a city manager, establish governmental departments and appoint heads thereof. During said interim period the office of city manager shall be vacant.

DEFINITIONS

Section 151.

(A) The term “City of Killeen,” “City,” or “said City” as used in this charter shall in all cases mean and refer to the City of Killeen, Bell County, Texas.

(B) The term “Mayor” or “said Mayor” as used in this charter shall in all cases mean and refer to the duly elected and qualified mayor of the City of Killeen, Bell County, Texas.

(C) The terms “Councilman,” “Councilmember,” “Council,” and “City Council” as used in this charter shall in all cases mean and refer to the city council of the City of Killeen, Bell County, Texas, and the duly elected and qualified members thereof.

(D) The term “City Manager” or “Manager” as used in this charter shall in all cases mean and refer to the duly appointed City Manager of the City of Killeen, Bell County, Texas.

(E) Wherever the term “man,” “men,” “him,” or “he” is used shall be construed as gender neutral. (Amend. of 5-3-97)

CORRECTIONS: NUMBERING SECTION

Section 152. The City Council shall have the power to have corrected typographical errors and have the sections of this Charter numbered consecutively; provided such corrections shall have no effect on the meaning and intent of this Charter.