

Article III THE CITY COUNCIL

Section 3.1 CREATION; COMPOSITION; POWERS AND DUTIES.

There shall be a City Council consisting of District Representatives and the Mayor. The Council shall have legislative powers, and the power and duty to select, direct, and regularly evaluate the City Manager, as well as such other and specific powers and duties as may be provided by law or this Charter. Each Representative shall have the discretion and sole authority to appoint and remove a legislative aide.

Section 3.2 SALARIES.

Prior to September 1, 2019, the annual base salary of the District Representatives shall be set at twenty-nine thousand dollars, and the annual base salary of the Mayor shall be set at forty-five thousand dollars.

Commencing on September 1, 2019, the annual base salary of the District Representatives shall be set at the amount equal to the 2017 El Paso County area median household income as established by the United States Department of Housing and Urban Development or successor agency (\$45,300), and the annual base salary of the Mayor shall be set at one and one-half this amount (\$67,950). Thereafter, on September 1, the base salaries will be revised annually and be set according to the above formula based on the prior fiscal year median income for El Paso County.

Section 3.3 PROHIBITIONS.

A. Other Public Employment. No Council member may hold any other compensated public office or public employment, and no former Council member shall hold any compensated City position until one year has elapsed following the expiration of the term for which that member was elected to the Council.

B. Nepotism. No person shall be appointed as City Manager or to any City board or commission who, at the time of appointment, is related in the first or second degree of consanguinity or in the first or second degree of affinity to a member of the Council. The words “consanguinity” and “affinity” are, in popular usage, often referred to, respectively, as “blood” and “marriage.”

C. “Lame Duck” Elected Officers Not to Make Appointments. From the date of any City general election until inauguration of those elected, neither the Mayor nor the City Council shall make any appointment of a City Manager, or any appointments to any standing or special public boards, commissions or committees of the City, except when in conflict with State law or when due process rights of employees or citizens would be compromised.

Section 3.4 DETERMINATION OF ELECTIONS AND QUALIFICATIONS.

Except as provided in Article II, Section 2.1 C, the Council shall be the judge of the election and qualifications of its members and of other elected City officials and of the grounds for removal from office and for that purpose shall have the power to subpoena witnesses, administer oaths, and require the production of evidence. An officer, including a Representative or the Mayor, charged with conduct constituting grounds for removal from office shall be entitled to

a public hearing, and notice shall be published in one or more newspapers of general, daily circulation in the city at least one week in advance of the hearing. Decisions made by the Council under this section shall be subject to review by the courts.

Section 3.5 CITY COUNCIL PROCEDURES AND RULES.

A. Meetings. Regular meetings of the Council shall be held in Council chambers no less than once every other week at such times as may be prescribed by resolution, except that Council may reschedule meetings by resolution to allow for City holidays, but must have no less than two regular meetings per month. The Mayor may cancel a meeting if necessary due to a Federal, State or Local declared emergency. Special meetings and informal work sessions of the Council shall be called by the Mayor or a majority of the entire Council by giving written notice to the City Clerk. All meetings of the Council and of any committees thereof shall be held as permitted by the Texas Open Meetings Act.

B. Parliamentary Procedure. At the beginning of each term the Council shall adopt rules of order, and should the Council fail to do this, then Roberts Rules of Order, Revised, shall control until such time as the Council adopts some other rules of order. In any event, copies of rules of order employed by the Council shall be available, in the office of the City Clerk, for examination by interested persons. The Mayor, with the advice and consent of the Representatives, shall designate a Municipal Parliamentarian and Alternate Municipal Parliamentarians, but no members of the Council may hold those offices. The Council must keep minutes of its open proceedings, and these shall be a public record. It shall also have power to compel the attendance of absent members and, by the favorable vote of a majority of the entire Council, may expel a member from a Council meeting for disorderly conduct or serious violation of its rules and may order that member to be physically removed from the meeting.

C. Quorum. Except as otherwise provided in this Charter, a quorum to do business shall consist in more than one-half of the number of members of the Council, including the Mayor; provided, however, that a lesser number may adjourn until a specific time and compel the attendance of absent members, in the manner prescribed by ordinance.

D. Voting. No action of the Council, except as otherwise provided in this Charter, shall be valid or binding unless adopted by the affirmative vote of a majority of the members present and voting. Ordinances or resolutions that impose taxes, grant franchises or leases, or authorize conveyances shall not be valid unless adopted by a majority of the entire Council.

E. Veto. Ordinances and resolutions finally adopted by the Council shall be filed in the office of the City Clerk and signed by the Mayor before they take effect. If the Mayor vetoes the ordinance or resolution, reasons shall be set forth by the Mayor in writing, and the ordinance or resolution with those reasons shall be returned to the Council. However, the Mayor shall not have any veto power over any City Council action which removes the City Manager or the City Attorney. To override the Mayor's veto, three fourths of all of the Representatives must vote in favor of the returned ordinance or resolution, in which event the adopted ordinance or resolution shall become law. If the Mayor shall either fail to approve or object in writing to any adopted ordinance or resolution within five days after it has been filed with the City Clerk,

exclusive of the day of filing, it shall become law.

Section 3.6 LEGISLATIVE COMMITTEES.

A. The Representatives may resolve themselves into committees, both standing and special, when this is convenient for the conduct of legislative business, including the investigative powers described in Section 3.8. Rules governing the organization and procedures of these committees shall be made by the Council, and the Mayor shall have no power to veto any of those rules except upon grounds of illegality.

B. The Council shall establish a Financial Oversight and Audit Committee “FOAC” for the purpose of providing legislative oversight of the function of the Internal Auditor, to review the financial policies of the City, and to formulate recommendations for the City Council regarding City finances and other matters referred by the City Council or City Manager. The FOAC shall be comprised of four members of the City Council, the Chief Internal Auditor, and the City Manager or designee and shall meet when needed, at least quarterly.

Section 3.7 APPOINTMENTS.

A. **Appointment and Removal of the City Attorney.** The City Council by a majority vote of its total membership shall appoint a City Attorney and fix the City Attorney’s compensation. The City Attorney shall be appointed solely on the basis of legal experience and qualifications. The City Attorney may be removed by a resolution approved by a majority vote of the total membership of the City Council. Assistant City Attorneys shall be appointed by, and will report to and work at the direction and under the supervision of the City Attorney.

B. **Boards and Commissions.** Except where otherwise provided in this Charter, or by the laws of Texas, or of the United States, appointments to and removals from standing or special public boards, commissions or committees of the City shall be made by the Council. The Council is required to ensure that appointments are distributed uniformly among Representatives.

Section 3.8 INVESTIGATIVE POWERS.

The Council shall have the express power to inquire into the official conduct of any department, officer or employee of the City, and for that purpose shall have the power to administer oaths, subpoena witnesses, and compel the production of evidence material to the inquiry. The Council shall provide by ordinance penalties for contempt in failing or refusing to obey any such subpoena or to produce any such evidence, and shall have the power to punish any such contempt in the manner provided by such ordinance. The Council must respect the dignity, rights and liberties of all persons in exercising these investigative powers. These investigative powers shall not extend to those matters covered under Civil Service nor shall this power be used to pursue criminal matters, other than those over which the Council has legislative power.

Section 3.9 ORDINANCES IN GENERAL.

A. **Form and Introduction.** Ordinances and resolutions shall be introduced at Council meetings only in written form; but amendments to ordinances and resolutions may be made orally at the same meetings. No ordinance shall concern more than one subject, and that shall be expressed clearly in the title. The enacting clause of all ordinances shall read: “Be it ordained by the City Council of the City of El Paso.” Any ordinance which repeals or amends an existing

ordinance or other part of the City Code shall summarize the ordinance, sections or subsections to be repealed or amended.

B. Legislative Procedure. Except as provided in Section 3.13, an ordinance may be introduced by any Council member at any meeting of the Council. A proposed ordinance must be filed with the City Clerk in sufficient time for inclusion on the agenda for the Council meeting at which it is to be introduced. Upon such filing the City Clerk shall distribute copies to each member of the Council and to the City Manager. No ordinance shall be adopted finally except at a regular open meeting of the Council following notice, publication, and a public hearing. The notice shall contain:

1. The proposed ordinance or a brief summary thereof;
2. The places where copies of it have been filed and the times when they are available for public examination; and
3. The time and place for the public hearing. The notice shall be published by any contemporary means of information sharing, including but not limited to publication in a newspaper of general circulation in the City or placement on a website at least five days prior to the public hearing. The hearing may be held by a designated Council committee or the Council separately or in connection with any Council meeting and may be adjourned to a specified time. All interested persons present shall have an opportunity to be heard. As soon as practicable after adoption of any ordinance, the City Clerk shall publish it again, with notice of its adoption, in abstract form, by any contemporary means of information sharing. These abstracts must state, at a minimum, the purpose of the ordinance and, where penal, the penalty provided. In any event, the publication must be written so as to be understood by an average person.

C. Actions Requiring Ordinances. The Council may exercise the following powers by ordinance only:

1. Authorize the conveyance of any City real property;
2. Adopt or amend any administrative code and establish, abolish, alter or combine any City departments, so long as such action is not in conflict with this Charter;
3. Amend, extend, or repeal any ordinance previously adopted;
4. Prescribe a fine or penalty or establish any rule or regulation for the violation of which a fine or other penalty is imposed;
5. Adopt Civil Service Rules.

Section 3.10 EMERGENCY ORDINANCES.

A. Limitation. To meet a public emergency affecting life, health, property, or the public peace, the Council may adopt one or more emergency ordinances, but such ordinances may not levy taxes, grant, renew or extend a franchise, authorize a conveyance of real property, or authorize the borrowing of money.

B. Procedures. An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it may be introduced on one-hour public notice, and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing the emergency in clear and specific terms. An emergency ordinance may be adopted

with or without amendment or rejected at the meeting at which it is introduced, but the unanimous vote of the Council members present shall be required for adoption.

C. Adoption, Re-enactment, Repeal. After its adoption the ordinance shall be published and printed as prescribed for other adopted ordinances. It shall become effective upon adoption or at such later time as the ordinance may specify. Every emergency ordinance shall stand repealed automatically as of the 31st day following the date on which it was adopted, but this shall not prevent the re-enactment of the ordinance, in the manner specified in this section, if the emergency still exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance, in the same manner specified in this section for adoption of emergency ordinances.

Section 3.11 INITIATIVE.

Whenever a number of registered voters equal to at least five percent of the voters who voted in the last general City election sign a petition setting forth the precise content of an ordinance desired by the signers, the Council must place that ordinance on the agenda of a Council meeting to be held within thirty working days of the receipt, by the City Clerk, of the petition bearing the authenticated names and addresses of the petitioners. Such an item shall be treated by the Council exactly as any other proposed ordinance.

Should an ordinance proposed by such petition not be enacted by the Council, or should it be enacted in an amended form, a second petition, signed by a number of registered voters equal to at least five percent of the voters who voted in the last general City election, may be submitted to the City Clerk and that official shall have twenty working days in which to authenticate the signatures and thereafter must place the repropounded ordinance on the ballot at the next general election specified in State law, if the proposal received the favorable vote of a majority of those voting in that election it shall thereupon become a City ordinance.

The Council is not obliged to consider the same ordinance initiated by petition, or one that is substantially the same, more often than once in two years.

Section 3.11A REFERENDUM.

A referendum election may be called by the City Council when a collective bargaining agreement between the City and an employee organization so provides.

Section 3.12 RESOLUTIONS.

The Council may act by resolution in all cases unless an ordinance is required by this Charter.

Section 3.13 CODES OF TECHNICAL REGULATIONS.

A. The Council may adopt any standard code of technical regulations by referring to that code in an adopting ordinance.

B. The procedure and requirements governing such an adopting ordinance shall be as prescribed for ordinances generally except that:

1. The requirements of Section 3.9A and B of this Charter, for distribution and filing of copies of the ordinance, shall be construed to include copies of the code of technical regulations as well as of the adopting ordinance;

2. A copy of each adopting code of technical regulations as well as of the adopting ordinance shall be authenticated and recorded by the City Clerk pursuant to Section 3.14A of this Charter; and,
3. Copies of any adopted code of technical regulations shall be made available in the office of the City Clerk for examination by interested persons.

Section 3.14 AUTHENTICATION AND RECORDING; CODIFICATION; PRINTING.

A. All ordinances and resolutions of the Council shall be authenticated by the City Clerk and recorded in an indexed public record.

B. The Council shall provide for the preparation of a general codification of this Charter and its amendments, and of those ordinances selected by the Council. This codification shall be known and officially cited as the **El Paso City Code**. Copies of the Code shall be furnished to City officers and placed in libraries and public offices within the El Paso City limits, for free public reference.

Section 3.15 CONSERVATION.

The Council must, in consultation with the Public Service Board, and within two years following the adoption of this Charter, enact and maintain a comprehensive plan for the conservation of water and other natural resources. The plan shall take into consideration the impact on natural resources resulting from any governmental action, including, but not limited to, land use, zoning regulations, building code requirements, and development and operation of public facilities. The City shall continue to implement the plan by using such means as the Council makes available to acquire, conserve and preserve natural resources for future generations.

Section 3.16 BORDER RELATIONS.

The Council must, within one year following the adoption of this Charter, provide for the duties, appointment, structure, terms of office and filling of vacancies on a standing Committee on Border Relations, comprised of El Paso citizens.

The Committee on Border Relations shall propose, promote and, from time to time, revise a program to enhance relations with Ciudad Juarez and with the border area in proximity to El Paso.

Section 3.17 ANNEXATION OF TERRITORY.

The Council may, by ordinance, fix or extend the boundaries of the City and may also, by ordinance, annex or exchange territory adjoining or abutting upon the territory of the City. The territory so annexed shall, in all respects and for all purposes, be part of the City. In no event shall an annexation ordinance be passed without notice, published in accordance with state law, to the residents of the City and of the territory to be annexed, nor without a meeting of the Council at which proponents and opponents of the annexations must be given ample opportunity to express their views.

Section 3.18 LEASE; FRANCHISE; AND CONVEYANCE.

The right of control, ownership and use of streets, alleys, parks and public places of the City is declared to be inalienable except as provided by ordinance passed by the Council and except for uses of less than thirty days which may have a separate approval process as established by ordinance.

Any ordinance providing for the conveyance, lease, or grant of a franchise regarding the property of the City shall provide for payment to the City of a reasonable fee as consideration for that conveyance, lease, or franchise. In addition, any ordinance providing for the lease or franchise shall provide that:

1. At the termination of the lease or franchise, the property involved, together with any improvements thereto, made or erected during the term of the lease or franchise, shall (either without further compensation or upon payment of a fair valuation therefore as determined by the terms of the ordinance), become the property of the City; and
2. Every lease or franchise may be revoked by the City if necessary to secure efficiency of public service at a reasonable rate, or to assure that the property is maintained in good order throughout the life of the grant.

Section 3.19 PROHIBITING THE SALE OF ALCOHOLIC BEVERAGES IN RESIDENTIAL SECTIONS OF THE CITY.

The sale of beer and liquor is hereby prohibited in residential areas of the City.

Section 3.20 ETHICS AND ACCOUNTABILITY.

A. Ethics Review Commission. The Council shall, by ordinance, establish an independent ethics review commission to administer and enforce the ethics section of the City Code. To the extent permitted by Texas law, the Council shall authorize the commission to issue advisory opinions, conduct investigations, request witness testimony and production of evidence, and make determinations on whether a violation has occurred, and issue decisions and appropriate sanctions. The commission shall have the power to enforce its decisions by assessing civil fines and other sanctions as authorized by ordinance. The Council shall provide sufficient resources to the commission to enable it to perform the duties assigned to it under the Charter and City Code.

B. Internal Audit Function.

1. The Council shall establish and create an internal audit function to ensure that appropriate internal audits will be performed in accordance with professionally recognized auditing standards of the operations of all City departments, offices, agencies and programs.
2. The function shall be staffed by a Chief Internal Auditor and such other appropriate positions as are authorized by the Council who shall report to the Chief Internal Auditor.
3. Consistent with the provisions of this Charter, the Council shall by ordinance or resolution provide for the powers and duties of the Chief Internal Auditor as needed for the performance of the function.
4. The Financial Oversight and Audit Committee shall maintain legislative oversight over the internal audit function as provided in Section 3.6 B.
5. On and after the effective date of this amendment, the Chief Internal Auditor shall be appointed and removed by, and report to the Council. The Chairman of the Financial

Oversight and Audit Committee shall maintain operational oversight over the internal audit function. The City Manager shall be responsible for the implementation of any audit recommendations for changes to City administrative procedures and operations as requested by the Council.