



NOTICE OF MEETING OF THE GOVERNING BODY OF THE CITY OF BURNET

Notice is hereby given that a **Workshop Meeting** of the governing body of the above named City will be held on the **9th day of January, 2018** at **5:00 p.m.** in the Council Chambers, Burnet Municipal Airport, 2402 S. Water, Burnet, at which time the following subjects will be discussed, to-wit:

This notice is posted pursuant to the Texas Government Code, Chapter §551-Opening Meetings.

1. CALL TO ORDER:

2. DISCUSS AND REVIEW:

2.1) City Charter proposed changes: D. Vaughn

3. ADJOURN:

Dated this the 5th day of January, 2018

**CITY OF BURNET
CRISTA GOBLE BROMLEY, MAYOR**

I, the undersigned authority, do hereby certify that the above NOTICE OF MEETING of the governing body of the above named City, BURNET, is a true and correct copy of said NOTICE and that I posted a true and correct copy of said NOTICE on the bulletin board, in the City Hall of said City, BURNET, TEXAS, a place convenient and readily accessible to the general public at all times, and said NOTICE was posted on January 5th, 2018 at or before 6 o'clock p.m. and remained posted continuously for at least 72 hours preceding the scheduled time of said Meeting.

Kelly Dix, City Secretary

NOTICE OF ASSISTANCE AT THE PUBLIC MEETINGS:

The City Council Chamber is wheelchair accessible. Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services, such as interpreters for persons who are deaf or hearing impaired, readers, or large print, are requested to contact the City Secretary's office (512.756.6093) at least two working days prior to the meeting. Requests for information may be faxed to the City Secretary at 512.756.8560.

RIGHT TO ENTER INTO EXECUTIVE SESSION:

The City Council for the City of Burnet reserves the right to adjourn into executive session at any time during the course of this meeting to discuss any of the matters listed above, as authorized by Texas Government Code Sections 551.071 (Consultation with Attorney), 551.072 (Deliberations about Real Property), 551.073 (Deliberations about Gifts and Donations), 551.074 (Personnel Matters), 551.076 (Deliberations about Security Devices) and 551.087 (Economic Development).

Article I. - Form of Government and Boundaries

Section 1.01. - Incorporation.

The City of Burnet, Burnet County, Texas, as the boundaries and limits are established in this Charter, or may hereafter be established, shall be a body politic, incorporated under and known by the name and style of the City of Burnet, Texas (the "City") with such powers, rights, and duties as provided by this Charter.

Section 1.02. - Form of Government.

The municipal government provided by this Charter shall be the Council-Manager form of government consisting of a Mayor and Council Members, elected by and responsible to the people, and a City Manager, appointed by and responsible to the City Council for proper administration of the affairs of the City.

Section 1.03. - Boundaries.

The boundaries of the City shall be the same as have previously been established, and as may be established by ordinance consistent with this Charter and not inconsistent with State law, as reflected on the official map of the City on file with the City Secretary.

Section 1.04. - Annexation.

- a. Additional territory may be annexed to the city in any manner and by any procedure that may now be provided by law or that may be hereafter provided by law.
- b. Any area of the City may be disannexed pursuant to any procedure allowed under state law or by adoption of an ordinance after notice and a public hearing.

(Ord. No. 2015-09, § 3, 5-19-15)

Article II. - Powers of the City

Section 2.01. - General Powers.

The City shall have all powers possible for a city to have under the Constitution and laws of the State of Texas as fully and completely as though they were specifically enumerated in this Charter.

(Ord. No. 2015-09, § 3, 5-19-15)

Section 2.02. - Reserved.

Editor's note- Ord. No. 2015-09, § 3, adopted May 19, 2015, repealed § 2.02, in its entirety. Former § 2.02 pertained to "Specific Powers," and was derived from Original Code.

Section 2.03. - Reserved.

Editor's note- Ord. No. 2015-09, § 3, adopted May 19, 2015, repealed § 2.03, in its entirety. Former § 2.03 pertained to "Eminent Domain," and was derived from Original Code.

Section 2.04. - Reserved.

Editor's note- Ord. No. 2015-09, § 3, adopted May 19, 2015, repealed § 2.04, in its entirety. Former § 2.04 pertained to "Zoning in General," and was derived from Original Code.

Section 2.05. - Construction.

The powers of the City under this Charter shall be construed liberally in favor of the City and the specific mention of particular powers in this Charter shall not be construed as limiting in any way the general power granted in this Article.

Section 2.06. - Intergovernmental Relations.

The City may exercise any of its powers or perform any of its sections and may participate in the financing of these powers and functions jointly or in cooperation, by contract otherwise, with any one or more states or any political subdivision or agency of the states, or the United States or any of its agencies.

Article III. - The City Council

Section 3.01. - Number, Selection and Term.

The City Council shall be composed of the Mayor and six (6) Council Members elected from the City at large. The Mayor and Council Members shall be elected in the manner provided in Article V of this Charter to serve for two (2) year terms and for no more than three (3) consecutive terms. Terms served as Council Member shall be considered separately from those served as Mayor; however, no person may serve more than six consecutive terms as Mayor and Council Member. A Mayor or City Council Member elected at a special election or appointed by City Council to serve a vacated place shall be elected or appointed to serve the remainder of the unexpired term of the office without the time counting against a full two-year term.

(Ord. No. 2015-09, § 3, 5-19-15)

Section 3.02. –

The City Council is elected to carry-out the duties of the office as provided for in state law and this Charter including, but not limited to; strategic planning, establishing service levels and financial goals, land use, and capital improvements. The City Council shall review the Charter, establish annual goals and objectives for the budget, and conduct performance reviews on the City Manager, Municipal Judge and other positions reporting directly to the City Council on an annual basis.

Editor's note- Ord. No. 2015-09, § 3, adopted May 19, 2015, repealed § 3.02, in its entirety. Former § 3.02 pertained to "Transition," and was derived from Original Code.

Section 3.03. - Qualifications.

A citizen who desires to become a candidate for an elective City office shall file with the City Secretary a signed, sworn application for the citizen's name to appear on the ballot. The application shall represent that the citizen meets each qualification for the office.

Each candidate for an elective City office shall have the following qualifications as of the time and date the candidate files the application:

- A. Shall be a U.S. citizen.
- B. Shall be a registered voter of the City, and twenty-one (21) years of age or over.
- C. Shall have resided for at least twelve (12) months preceding the election within the corporate limits of the City or within an area having been annexed into the City.
- D. Shall not be Delinquent in the payment of any Property Taxes or other liabilities due the City. "Delinquent", as it relates to Property Taxes, is defined herein as that term is defined in the Texas Property Code. With regards to other liabilities due the City "Delinquent" is defined herein to mean that payment has not been received within ninety (90) days from due date.
- E. Shall not have been finally convicted of a felony from which the candidate has not been pardoned or otherwise released from the resulting disabilities.
- F. Shall be disqualified by reason of having been judged incompetent by a final judgment of court, or by reason of any provision of any other section of this Charter or by any provision of State law.
- G. Shall not be a candidate for any other office in the same election.
- H. Shall not be an employee of the City at the time of filing for office.

(Ord. No. 2013-01, § 2, 1-22-13; Ord. No. 2015-09, § 3, 5-19-15)

Section 3.04. - Judge of Election Qualifications.

The City Council shall be the judge of the election and qualifications of its new members. The City Council shall also, at the first meeting after the filing deadline, by majority vote either approve or disapprove the Section 3.03 qualifications of each candidate. If the City Council finds that a candidate does not meet all qualifications set forth in Section 3.03, such candidate's name shall not be placed on the ballot.

Section 3.05. - Compensation.

The Mayor and Council Members shall be entitled to compensation. The rate of compensation may be established or changed by the City Council; however, no increase in the rate of compensation shall take effect unless ratified by a majority of the voters in the next regular City election. The Mayor and Council Members shall be entitled, with approval by the City Council, to be reimbursed for reasonable expenses incurred in the performance of specific duties. Levels of reimbursement shall be determined by the City Council.

Section 3.06. - Mayor and Mayor Pro-tem.

The Mayor shall be the official head of the City government. The Mayor shall be the Chair and shall preside at all meetings of the City Council. The Mayor may make motions and may vote on every proposition before the City Council. While the Mayor or alternate presiding officer shall have no power to veto, he/she shall have the power to declare a delay of vote until the next regular Council meeting on matters related to City Ordinances. The Mayor shall, except as provided otherwise by the City Council, sign all official documents such as ordinances, resolutions, conveyances, grant agreements, official plats, contracts and bonds. The Mayor shall appoint special committees as advisable and as instructed by the City Council. The Mayor shall perform such other duties consistent with this Charter or as may be imposed by the City Council.

A Mayor Pro-tem shall be elected by the City Council as soon as practicable after each regular City election, or in the event of a vacancy in the Mayor Pro-tem position. The Mayor Pro-tem shall act as Mayor during the disability or absence of the Mayor, and in this capacity shall have the rights conferred upon the Mayor.

Section 3.07. - Vacancies, Forfeiture, and Filling of Vacancies.

- A. Vacancies. The office of a City Council Member or the Mayor shall become vacant upon the death, incapacity, resignation, or removal from office in any manner authorized by law, or forfeiture of office by the office holder.
- B. Forfeiture of Office. If the Mayor or any City Council Member
 - 1. fails to maintain the qualifications set forth in Section 3.03 of this Charter (unless the residence of a member of the Council is de-annexed, then the member shall serve the remainder of his/her term of office), or
 - 2. has been found by at least five (5) affirmative votes of the City Council to have violated any express prohibition of this Charter, or
 - 3. is convicted of a crime involving moral turpitude or a felony, or
 - 4. fails to attend three (3) consecutive regular Council meetings without being excused by the City Council, then the City Council shall, at its next regular meeting, declare the office to be vacant and shall fill such vacancy as set forth below, or
 - 5. has more than one year remaining on their term and files to run for another elected position within the city government.

the City Council shall, at its next regular meeting, declare the office to be vacant and shall fill such vacancy as set forth below.

- C. Filling of Vacancies.
 - 1. When a single or double vacancy occurs in the City Council, the remaining members of the City Council may:
 - a. Appoint a qualified person to fill the unexpired term(s). An appointment must be approved by an affirmative vote of at least five (5) members of the City Council members; or
 - b. Order an election to fill the unexpired term(s) at the next regular general election.
 - 2. Should three (3) vacancies exist on City Council at the same time then City Council shall order an election to fill the vacancies on the next available uniform election date as provided by law.

3. All appointments to City Council shall serve until the next regular election.
4. All appointments to City Council shall be qualified to serve pursuant to Section 3.03 of this Charter and shall take office immediately upon appointment.

(Ord. No. 2006-02, § 1, 2-28-06; Ord. No. 2013-01, § 2, 1-22-13; Ord. No. 2015-09, § 3, 5-19-15)

Editor's note- Ord. No. 2006-13, adopted May 18, 2006, declared passage of §§ 3.07 and 9.02 in the special election held on May 13, 2006.

Section 3.08. - General Powers and Duties of Elected Officials.

The City Council shall be the legislative and governing body of the City and, except as otherwise provided by State law or this Charter, all powers of the City shall be vested in the City Council which shall provide for the exercise of all powers and for the performance of all duties and obligations imposed on the City by law.

The City Council shall have control of all the City finances, property, streets, functions, services, affairs and programs, and shall have the power to ordain, alter, amend or repeal and enforce ordinances, resolutions, rules, orders, and regulations, for any public purpose, including but not limited to recreation; the regulation, licensing and control of streets; public property; municipal finances; the preservation of the public peace and good order; the security and protection of the public health, safety and welfare of the citizenry; the promotion of trade, commerce and economic development; the beautification and quality of life within the City; and to provide for any other public service or program provided by any city within the State of Texas.

(Ord. No. 2015-09 § 3 5-19-15)

Section 3.09. - Prohibitions

A. Holding Other Office. Except as authorized by law; no Mayor or Council Member shall hold any other City Office or City employment during a term as Mayor or Council Member. No former Mayor or Council Member shall hold any compensated appointive City Office or City employment until one year after the expiration of term as Mayor or Council member except as provided in Section 3.01 of this Charter.

B. Appointments and Removals. Neither the Mayor, nor any member of the City Council shall in any manner dictate the appointment or removal of any City administrative officers or employees whom the City Manager or the Manager's subordinates are empowered to appoint. However, the City Council may express its views and fully and freely discuss with the City Manager anything pertaining to appointment and removal of such officers or employees.

C. Interference with Administration. Except for the purpose of inquiries or investigations under Section 3.16, the Mayor, the City Council or its members shall not direct City officers or employees who are subject to the direction and supervision of the City Manager, except through the City Manager. The Mayor, the City Council nor its members shall give orders to any officer or employee supervised by the City Manager, either publicly or privately, except as otherwise provided in this chapter.

(Ord. No. 2015-09, § 3, 5-19-15)

Editor's note- Ord. No. 2015-09, § 3, adopted May 19, 2015, amended § 3.09 to read as set out herein. Former § 3.09 pertained to "Prohibitions," and was derived from Original Code.

Section 3.10. - Meetings of the Council.

- A. Monthly Council Meeting. The City Council shall hold at least one (1) regular meeting each month at a time and place the City Council shall designate.
- B. Regular Meetings. Regular meetings are council meetings required to be held at least monthly and designated as regular.
- C. Special Meetings. Special meetings may be called by the City Secretary at the request of the Mayor, the City Manager or two (2) members of the City Council. The City Manager and each member of the City Council shall be notified of all special meetings.
- D. Public Meetings. All meetings shall be open to the public except as authorized by law and shall be held at the City Council Chambers of the City, or other places within or outside of the City that will permit the attendance of the general public.

Section 3.11. - Quorum.

Four (4) Council Members, whether or not inclusive of the Mayor or Mayor Pro Tern, shall constitute a quorum for the purpose of transacting business. Any action of the City Council, except as provided in this Charter, shall be valid or binding when adopted by majority vote of the Council Members in attendance. A Council Member that is present but not voting shall be in attendance for purposes of the quorum.

Section 3.12. - Rules of Procedure.

The City Council shall, by ordinance, determine its own rules and order of business and the rules shall provide that Citizens of the City shall have a reasonable opportunity to be heard at any meeting in regard to any matter under consideration.

A citizen of the City of Burnet who wishes to recommend an agenda item for a City Council meeting shall submit a request only to the Mayor, the City Manager or a City Council Member. These individuals are the only ones empowered to set an agenda item.

Section 3.13. - Voting.

The City Council shall provide for the taking and recording of minutes for all open meetings, and such minutes shall be a public record. There shall also be provision for a certified agenda or recording of meetings held in executive or closed session in accordance with applicable law. The "ayes" and "nays" of each Council Member, on every vote taken by the City Council shall be recorded in the minutes. All members of the City Council present, including the Mayor, shall vote upon every resolution or ordinance, except where there is a conflict of interest, the reason for which shall be stated concisely in the minutes.

Section 3.14. - Ordinances and Resolutions.

The enacting clause of all ordinances shall be: "Be it ordained by the City Council of the City of Burnet, Texas..." Ordinances, and formal resolutions that establish programs, adopt policy, provide any rule or regulation applicable to the general public, or establish requirements for any general administrative function of the City, shall be introduced in

the City Council only in written or printed form and shall contain only one subject each.

Resolutions that give directions to the City Manager on a business matter, approve an administrative action, contract or bid, and that approve plans and actions in the course of the day-to-day business of the City, will be sufficient if shown by recording the motion and vote in the minutes of the City Council. Ordinances making appropriations shall be confined to appropriations.

Any reference to the reading of an ordinance made in this Charter shall be understood to mean the reading of the caption of the ordinance only unless a specific request is made by any Council Member for the ordinance to be read in part or in full. Any ordinance that levies a fine or penalty or deals with the budget, taxes, franchises or public utilities or the setting of their rates shall be read at two (2) regular meetings. Such Ordinances shall be published in full or by caption with a summary in two (2) successive issues of a newspaper of general circulation in the City of Burnet and as files available for download via the Internet with the first publication at least fourteen (14) days before the final reading and passage of the Ordinance.

Exceptions may be made to the provisions of the previous paragraph for any ordinance introduced pursuant to, and which complies with, all requirements of Section 7.14 of this Charter, entitled "Bonds," and may be voted on for adoption or rejection at the meeting at which it is introduced without need for a second reading.

No ordinance that is not an emergency ordinance or an ordinance related to Section 7.14 of this Charter, shall be finally passed until it has been read on two (2) separate days not less than twenty-four (24) hours apart.

Section 3.15. - Emergency Ordinances.

In order to meet a public emergency affecting life, health, property, the public peace, or to prevent a material financial loss to the City, the City Council may adopt emergency ordinances. Such ordinances shall not levy taxes, grant or renew or extend a franchise, or regulate the rate charged by any public utility for its services. The City Council shall not by Emergency Ordinance authorize the borrowing of money, except as provided in Section 7.07, B titled, "Emergency Appropriations." An emergency ordinance shall be introduced in the form and manner generally prescribed for ordinances, except that it shall be plainly designated in the title as an "Emergency Ordinance" and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing the emergency in clear and specific terms. Such emergency clause shall require the affirmative vote of at least five (5) members of the City Council. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced. After adoption, the ordinance shall be published in two (2) successive issues of a newspaper of general circulation in the City, and as files available for download via the Internet.

Every emergency ordinance so adopted, except one authorizing the borrowing of money for emergency appropriations, shall automatically be repealed after sixty (60) days following the day on which it became effective. The ordinance may be reenacted.

Section 3.16. - Investigative Body.

The City Council shall have the power to inquire into the official conduct of any department, agency, office, officer, employee, or contract service provider of the City, and for that purpose shall have the power to administer oaths and subpoena witnesses, compel the attendance of witnesses and the production of books, papers and other evidence material to the inquiry. The City Council shall by ordinance provide the process, procedures and requirements for

the subpoena of persons, books, papers and other evidence, the giving of notice, and the fine or penalty for the failure or refusal of any person to comply with a subpoena, and shall have the power to punish the misconduct in the manner provided by the ordinance.

Article IV. - Administrative Service

Section 4.01. - City Manager.

- A. Appointment and Qualifications.** The City Manager shall be appointed by an affirmative vote of five (5) or more City Council Members. The method of selection shall be left to the discretion of the City Council. The City Manager shall reside within the City of Burnet within forty-five (45) days of assuming his/her duties. The City Manager shall be bonded at City expense in an amount consistent with current need as established by the City Council.
- 8. Compensation.** The City Manager shall receive compensation as fixed by the City Council. The compensation shall be agreed upon before appointment. The City Council may increase but not reduce the compensation of the City Manager at their discretion.
- C. Term and Removal.** The City Manager shall be appointed for an indefinite term. An affirmative vote of five (5) or more City Council Members may remove the City Manager. The action of the City Council in suspending or removing the City Manager shall be final. It is the intention of this Charter to vest all authority and fix all responsibilities of such suspension or removal in the City Council.
- D. Powers and Duties.** The City Manager shall be the chief administrative officer of the City, and shall be responsible to the City Council for the proper administration of all the affairs of the City and to that end shall be required to
1. see that all State laws and City ordinances are enforced.
 2. appoint, suspend and remove, direct and supervise the directors of departments, except as otherwise provided in this Charter.
 3. attend all meetings of the City Council except when excused by the City Council, and shall have the right to take part in the discussions.
 4. prepare an annual budget, submit it to the City Council and be responsible for its administration after its adoption.
 5. prepare and submit to the City Council at the end of the fiscal year a complete report on the finances and administrative activities of the City for the preceding year.
 6. keep the City Council advised of the financial condition and future needs of the City and make such recommendations as may seem advisable.
 7. make other reports as the Council may require concerning the operations of City departments, offices and agencies subject to the City Manager's direction and supervision, and
 8. perform duties as may be prescribed by this Charter or required by the City Council.
- E. Acting City Manager.** The City Manager, within sixty (60) days after taking office, shall designate by letter filed with the City Secretary, an administrative officer of the City to perform the duties of the City Manager in the absence or disability of the City Manager. The designee shall be subject to the consent of the City Council. The designee may be changed at the discretion of the City Manager, with the consent of the City Council.

Section 4.02. - Departments.

There shall be such departments as established by this Charter and as established by ordinance. The City Manager shall direct and supervise all departments, unless this Charter directs otherwise. The City Council shall have power by ordinance to establish departments not herein provided by this Charter and may discontinue, redesignate or combine any of the departments created by ordinance. No changes shall be made by the City Council in the organization of the departments of the City until the recommendations of the City Manager shall have been heard by the City Council.

(Ord. No. 2015-09, § 3, 5-19-15)

Editor's note- Ord. No. 2015-09, § 3, adopted May 19, 2015, amended § 4.02 to read as set out herein. Formerj_4.02 pertained to "Administrative Departments," and was derived from Original Code.

Section 4.03. - Municipal Court.

- A. Municipal Court Established. There shall be established and maintained a court, designated as the Municipal Court for the trial of misdemeanor offenses and other matters as provided by State law or ordinance. The Municipal Court shall perform such other duties and functions appropriate for the Municipal Court as are established by ordinance not inconsistent with State law. The Municipal Court shall have all such other powers and duties as are now, or may in the future be prescribed by laws of the State of Texas, relative to municipal courts.
- B. Presiding judge. The Presiding judge of the Municipal Court shall be appointed by the City Council and shall hold office for two years from the date of appointment unless sooner removed by a majority of the members of the City Council as provided for herein. The Presiding judge shall have such qualifications as are required by the City Council and State law, shall report to the City Council, shall be required to participate in training programs available for municipal judges, and shall receive such salary as fixed by the City Council.
- C. Court Clerk. There shall be a clerk of the Municipal Court, and such deputies as the City Council may deem advisable, who shall be appointed by the City Manager.
- D. Duties of Clerk. The Clerk and Deputies of the Municipal Court shall have the power to administer oaths and affidavits, make certificates, affix the seal of the Municipal Court and generally do and perform any and all acts usual and necessary to be performed by the clerks of courts in issuing process and conducting business.
- E. Additional judges. The City Council shall have the power to appoint alternate judges who may serve in the temporary absence of the Presiding judge. Alternate judges serve at the pleasure of the City Council.
- F. Removal of Presiding judge. The Presiding judge may, subject to the other provisions of this subsection, be removed from office for willful or persistent violation of rules promulgated by the Supreme Court of Texas, incompetence in performing the duties of the office, willful violation of the Code of judicial Conduct, or willful or persistent conduct that is clearly inconsistent with the proper performance of his duties or casts public discredit upon the judiciary or administration of justice. Any person holding such office may be disciplined or censured, in lieu of removal from office, as provided by this section. Any person holding an office specified in this subsection may be suspended from office with or without pay by the City Council immediately on being indicted by a State or Federal grand jury for a felony offense or charged with a misdemeanor involving official misconduct. Upon the motion of the City Council or on the filing of a sworn complaint charging a person holding such office with willful or persistent violation of rules promulgated by the Supreme Court of Texas,

incompetence in performing the duties of the office, willful violation of the Code of judicial Conduct, or willful and persistent conduct that is clearly

inconsistent with the proper performance of his duties or casts public discredit on the judiciary or on the administration of justice, the City Council, after giving the person notice and an opportunity to appear and be heard before the City Council may, after considering the record of such appearance may, suspend with or without pay, censure, or otherwise discipline the judge; or remove the judge from office.

(Ord. No. 2013-01, § 2, 1-22-13)

Section 4.05. - City Secretary.

The City Manager shall, with the consent of the City Council, appoint and may remove the City Secretary and any assistant City Secretaries as the City Council shall deem advisable. The duties of the City Secretary or an assistant City Secretary shall be as follows:

- A. Gives Public Notice. Gives notice of City Council meetings, the meetings of all other City boards and commissions and public hearings.
- B. Keeps Minutes and Records. Keeps the minutes and records of the proceedings of such meetings.
- C. Maintains Documents and Records. Authenticates by signature and record in full in a book kept and indexed for the purpose, all ordinances and resolutions, and
- D. Performs Additional Duties. Performs such other duties as the City Manager shall assign and Those elsewhere provided for in this Charter or by ordinance.

Section 4.06. - Reserved.

Editor's note- Ord. No. 2015-09, § 3, adopted May 19, 2015, repealed § 4.06, in its entirety. Former § 4.06 pertained to "Director of Public Safety," and was derived from Original Code.

Section 4.07. - Reserved.

Editor's note- Ord. No. 2015-09, § 3, adopted May 19, 2015, repealed § 4.07 in its entirety. Former § 4.07 pertained to "Police Department," and was derived from Original Code.

Section 4.08. - Reserved.

Editor's note- Ord. No. 2015-09, § 3, adopted May 19, 2015, repealed § 4.08, in its entirety. Former § 4.08 pertained to "Fire Department," and was derived from Original Code.

Section 4.09. - Reserved.

Editor's note- Ord. No. 2015-09, § 3, adopted May 19, 2015, repealed § 4.09, in its entirety. Former § 4.09 pertained to "Director of Public Works," and was derived from Original Code.

Section 4.10. - Boards and Commissions.

The City Council shall have authority to establish by ordinance such boards and commissions as it may deem necessary

for the conduct of City business and management of municipal affairs. The authority, functions, qualifications and responsibilities of such boards and commissions shall be delineated in the establishing ordinances.

(Ord. No. 2013-01, § 2, 1-22-13)

Article V. - Elections

Section 5.01. - Election of Mayor and City Council Members.

At the regular election held in odd numbered years a Mayor shall be elected, and three (3) City Council Members shall be elected to serve in the City Council positions for which the term of office expires in that year. At the regular election in even numbered years, three City Council Members shall be elected to serve in the three City Council positions for which the term of office expires in that year. The term of each office shall be two (2) years and the office holders shall serve until their successors are elected and take office.

Each qualified voter of the City may vote for one (1) Mayoral candidate and three (3) City Council candidates in odd numbered years, and for three City Council candidates in even numbered years. The candidate for Mayor that receives the highest number of votes cast shall be elected, and in each election the three (3) candidates for City Council Member that individually receive the highest number of votes shall be elected. The election shall be ordered by the City Council. The City Secretary shall give notice of the election in the manner required by the laws of the State of Texas.

(Ord. No. 2015-09, § 3. 5-19-15)

Section 5.02. - Notice and Order for Elections.

- A. The regular City election shall be held annually on the uniform election date in May, or at such other times as may be specified by State Law, at which time officers will be elected to fill those offices which become vacant that year.
- B. The City Council shall fix the place for holding such election.
- C. The City Council may, by ordinance or resolution, order a special election, fix the date and place for holding same, and provide all means for holding such special election.
- D. Notice of elections shall be published in a newspaper of general circulation of the City of Burnet, such publication to follow the requirements of the Election Code and any applicable law.
- E. Early voting shall be governed by the general election laws of the State of Texas.

(Ord. No. 2015-09, § 3. 5-19-15)

Section 5.03. - Regulation of Elections.

- A. All elections shall be held in accordance with the laws of the State of Texas regulating the holding of municipal elections and in accordance with the ordinances adopted by the City Council for the conduct of elections.
- B. The City Council shall appoint the election judges and other election officials.

(Ord. No. 2015-09, § 3. 5-19-15)

Editor's note- Ord. No. 2015-09, § 3, adopted May 19, 2015, amended § 5.03 to read as set out herein. Former JL 5.03 pertained to "General Elections." and was derived from Original Code.

Section 5.04. - Special Elections.

The City Council may call special elections as required or authorized by the laws of the State of Texas or this Charter, fix the time and place of holding these elections, and provide all means for holding such special elections, provided that every special election shall be held on a Saturday, or a uniform election date, unless otherwise provided by law or this Charter. Except as required by this Charter or State law, every special election shall be called and held as nearly as practicable according to the provisions governing regular elections.

(Ord. No. 2015-09 § 3 5-19-15)

Section 5.05. - Official Ballot.

The names of all candidates for office, except such as may have withdrawn, died or become ineligible, shall be placed on official ballots without party designations specifying the council place for which each is seeking election.

(Ord. No. 2015-09 § 3 5-19-15)

Editor's note- Ord. No. 2015-09, § 3, adopted May 19, 2015, amended § 5.05 to read as set out herein. Former § 5.5 pertained to "Voter Registration List." and was derived from Original Code.

Section 5.06. - Filing for Office.

- A. Any person having the qualifications set forth under Section 3.03 of this Charter shall have the right to file an application to have their name placed on the official ballot as a candidate for any elective office.
 - 1. Any such application shall be in writing, signed by such candidate, and filed with the City Secretary in accordance with the Texas Election Code and this Charter.
 - 2. An application filed in accordance herewith shall entitle such applicant to a place on the official ballot.
- B. A candidate of City Council shall specify the place number or position the candidate is seeking.

(Ord. No. 2015-09, § 3, 5-19-15)

Editor's note- Ord. No. 2015-09, § 3, adopted May 19, 2015, amended § 5.06 to read as set out herein. Former § 5.6 pertained to "Conduct of Elections," and was derived from Original Code.

Section 5.07. - Taking of Office.

Each newly elected person to the City Council shall be inducted into office at the first regular City Council meeting following the canvass of the votes.

(Ord. No. 2015-09 § 3 5-19-15)

Editor's note- Ord. No. 2015-09, § 3, adopted May 19, 2015, amended § 5.07 to read as set out herein. Former JL 5.7 pertained to "Official Ballots," and was derived from Original Code.

Section 5.08. - Votes Required and Canvassing of Returns.

At the regular City election in odd-numbered years, the candidate for Mayor who receives the highest number of votes shall be declared elected. In each regular City election, the three (3) candidates for Council Member who individually receive the highest number of votes shall be declared elected. At a special election to fill more than one Council Member office, if two Council Member positions are to be filled, the two candidates that receive the highest number of votes cast for individual candidates shall be declared elected. If three such offices are to be filled, the three candidates that receive the highest number of votes cast for individual candidates shall be declared elected, etc. The returns of every municipal election shall be recorded in the minutes of the City Council, by totals for each candidate, or for and against each issue submitted. City Council shall canvass the returns of all elections pursuant to state law.

(Ord. No. 2013-01, § 2, 1-22-13)

Section 5.09. - Run-Off Elections.

Run-off elections shall be conducted pursuant to state law.

The candidate(s) receiving the highest number of votes cast for the office being filled in the run-off election shall be declared elected, and if the run-off results in a tie vote, the tie shall be broken in a manner authorized by the Texas Election Code, or by lot or chance as agreed by and between the candidates. The following circumstances require a run-off election that shall be conducted as prescribed by State election laws:

- A. Tie Vote For Mayor. If two (2) or more candidates for Mayor tie with the highest number of votes cast, a run-off election shall be ordered for the office of Mayor. Only the candidates who tied for the highest number of votes shall have their names on the ballot to determine the winner of the Mayoral election.
- B. Tie Vote for Council Member. If in a regular election one (1) or more ties between two (2) or more candidates for Council Member make it impossible to determine the three candidates that received the highest number of votes cast for Council Member, each candidate that received a higher number of votes than the candidates that are tied shall be declared elected, and a run-off election shall be held between the candidates that are tied. If one candidate receives a higher number of votes than all the other candidates, a run-off election shall be held between the candidates tied for the second highest vote. If no candidate receives a higher number of votes than any other candidate, a run-off election shall be held between the candidates tied for the highest number of votes. If a special election is held to fill one Council Member office, and two or more candidates tie for the highest vote, a run-off election shall be held between the tied candidates. If more than one Council Member office is to be filled in the special election and one or more tie votes make it impossible to determine the candidates that received the highest number of votes, then run-off elections shall be held as provided for regular elections to fill the vacant positions.

(Ord. No. 2015-09, § 3, 5-19-15)

Article VI. - Initiative, Referendum and Recall

Section 6.01. - General.

The citizens reserve the powers of Initiative, Referendum and Recall, which may be exercised in the manner and subject to the limitations provided in this Article.

Section 6.02. - Power of Initiative.

Subject only to the limitations provided in this Article, the people of the City shall have the power to propose legislation on any local government issue, except legislation appropriating money, levying taxes, affecting zoning, annexing land, or setting rates, fees or charges, and, if the City Council fails to adopt an ordinance so proposed, to adopt or reject the proposed legislation at an election. An initiated ordinance may be submitted to the City Council by a petition signed by at least two hundred (200) registered voters of the City or twenty percent (20%) of the number of voters in the previous municipal election whichever number is greater.

Section 6.03. - Power of Referendum.

The voters of this City shall have the power to approve or reject at the polls any ordinance enacted by the City Council that is subject to the Referendum process under this Charter, except for bonds that have been legally awarded to a successful bidder or other legal obligations. The petition for Referendum shall require the signatures of at least two hundred (200) registered voters or twenty percent (20%) of the number of voters in the previous municipal election whichever number is greater.

Section 6.04. - Requirements of Petition.

Any five (5) registered voters may begin Initiative or Referendum proceedings by filing with the City Secretary an affidavit stating they constitute the petitioners' committee and will be responsible for circulating the petition and filing it in proper form, stating their names and addresses, and setting out in full the proposed initiative ordinance or the ordinance sought to be reconsidered. Petitions shall contain, or have attached to them, the full text of the ordinance proposed or sought to be reconsidered. The signatures to the Initiative or Referendum need not all be appended to one paper, but signers shall sign their names in ink and shall add their printed name, place of residence by street and number, date of birth, voter registration number and date of signing. The circulators of each petition page shall make an affidavit stating they personally circulated that page of the petition, and that each signature is the genuine signature of the person as is written, and further, that no signatures shall have been placed there more than forty-five (45) days prior to filing the petition. Petitions shall be returned to the City Secretary for filing within forty-five (45) days after the issuance of the appropriate forms to the petitioners' committee.

Section 6.05. - Filing, Examining and Certifying Petitions.

Within fifteen (15) business days after an Initiative or Referendum petition is filed, the City Secretary shall determine whether it is properly signed by the requisite number of registered voters residing within the City. The City Secretary shall declare void any petition paper which does not have both the required information and an affidavit attached

thereto as required. The City Secretary shall examine the petition and indicate the names of signers found not qualified. The City Secretary shall certify the results of the petition examination to the City Council at its next regular meeting. If the certificate of the City Secretary shows an Initiative or Referendum petition to be insufficient, the City Secretary shall notify in writing the persons filing the petition. The written notification shall detail the defects that must be corrected if the petition is to be found sufficient. The petition may then be amended within fifteen (15) days from the date of such notice by the filing of a supplementary petition with any additional papers that are signed and filed as prescribed for the original petition. Within fifteen (15) business days after the amendment is filed, the City Secretary shall examine the amended petition and certify as to its sufficiency. If the amended petition is then found to be insufficient, no further proceedings shall be had with regard to it.

Section 6.06. - Publication of Initiated and Referred Ordinances.

The City Secretary shall publish at least once in a newspaper of general circulation in the City of Burnet and as files available for download via the internet any initiated or referred ordinance. Such publication shall be within fifteen (15) days prior to the date of the election and shall give other notices and do other things that are required in general municipal elections or by the ordinance or resolution calling such elections.

Section 6.07. - Council Consideration and Submission to Voters.

If the City Council receives an authorized Initiative petition certified by the City Secretary to be sufficient, the City Council shall

- A. Adopt Without Amendment. adopt the initiated ordinance without amendment within thirty (30) days after the date of the certification to the City Council, or
8. Order Special Election. submit the initiated ordinance without amendment to a vote of the qualified voters of the City at a special election to be held on the first available uniform election date, for which the required election notice may be given, that is sixty (60) days or more after the date of the certification to the City Council, or as soon thereafter as permitted by the laws of the State of Texas, or
- C. Submit Alternative Ordinance. at an election, as described in subsection 6.07, 8, submit to a vote of the qualified voters of the City the initiated ordinance without amendment along with an alternative ordinance on the same subject proposed by the City Council. The ordinance receiving the higher number of affirmative votes shall be effective as an ordinance of the City. The other ordinance shall be considered rejected and shall not be effective.

If the City Council receives an authorized Referendum petition certified by the City Secretary to be sufficient, the City Council shall reconsider the referred ordinance. If upon reconsideration the ordinance is not repealed within thirty (30) days, it shall be submitted to the qualified voters of the City at a special election. Such special election shall be held on the first available uniform election date for which the required election notice may be given that is sixty (60) days or more after the date of the certification to the City Council or as soon thereafter as permitted by the laws of the State of Texas.

Special elections on initiated or referred ordinances shall be held as required by this Charter and not inconsistent with State law. No ordinance on the same subject as an initiated ordinance that has been defeated or on the same subject as a referred ordinance that has been approved at any election may be initiated by the voters within two (2)

years from the date of that election.

Section 6.08. - Ballot Form and Results of Elections.

The ballot used in voting upon an initiated or referred ordinance shall state the caption of the ordinance and below the caption shall set forth on separate lines the words: "For the Ordinance" and "Against the Ordinance." Any number of ordinances may be voted upon at the same election in accordance with the provisions of this Charter. An ordinance submitted and receiving an affirmative majority of the votes cast shall then become effective as an ordinance of the City. An ordinance so adopted may be repealed or amended at any time after the expiration of two (2) years by an affirmative vote of five (5) or more of the City Council Members. A referred ordinance that is not approved by a majority of the voters is repealed.

Section 6.09. - Franchise Ordinances Exempt From Initiative and Referendum.

Franchise ordinances of the City are exempt from Initiative and Referendum petitions.

Section 6.10. - Power of Recall.

The people of the City reserve the power to recall any elected officer of the City and may exercise the power by filing with the City Secretary a petition stating cause for the removal of the elected officer. Such petitions shall be signed by at least thirty percent (30%) of the registered voters of the City. Within fifteen (15) business days after a recall petition is filed, the City Secretary shall determine whether it is properly signed by the requisite number of registered voters residing within the City and shall verify the petition as sufficient or insufficient. If the certificate of the City Secretary shows a Recall Petition to be insufficient, the City Secretary shall notify in writing the persons filing the petition. The written notification shall detail the defects that must be corrected if the petition is to be found sufficient. The petition may then be amended within fifteen (15) business days from the date of such notice by the filing of a supplementary petition and the submitting of additional papers that are signed and filed as prescribed for the original petition. Within fifteen (15) business days after the amendment is filed, the City Secretary shall examine the amended petition and certify as to its sufficiency. If the amended petition is then found to be insufficient, no further proceedings shall be had with regard to it. A separate petition shall be required for each officer to be recalled.

Section 6.11. - Recall Election.

If a Recall petition is certified by the City Secretary to be sufficient, the City Council shall order and hold an election within sixty (60) days or as soon thereafter as shall be permitted by State law to determine whether the officer shall be recalled.

Section 6.12. - Results of Recall Election.

If the majority of the legal votes cast at a Recall election favor the recall of the officer named on the ballot, the City Council shall immediately declare the office vacant and call a special election to fill the vacancy as soon thereafter as shall be permitted by State law.

Section 6.13. - Limitation on Recall.

No Recall petition shall be filed against an elected officer within six (6) months after taking office, and no officer shall be subjected to more than one (1) Recall election during the term of office.

Section 6.14. - Public Hearing on Recall.

The officer whose removal is sought may, within five (5) days after such Recall petition has been presented to the City Council, request that a public hearing be held to permit the officer to present facts pertinent to the cause specified in the Recall petition. If requested, the City Council shall order such public hearing to be held but in not fewer than five (5) days nor more than fifteen (15) days after receiving such request for a public hearing.

Section 6.15. - Ballots in Recall Election.

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

- A. **Officer Subject to Recall.** With respect to each person whose removal is sought, the question shall be submitted, "Shall (name of person) be removed from the office of (Mayor) (City Council Member) by recall?"
- B. **Recall Proposition.** Immediately below the question, there shall be printed the two (2) following propositions, one above the other, in the order indicated: "For the recall of (name of person)" "Against the recall of (name of person)", each with a place in which the voter may cast a vote.

Section 6.16. - Failure of City Council to Order Election.

When **all** the requirements of this Charter shall have been met and the City Council shall fail or refuse to receive a Recall, Initiative or Referendum petition, or order such Recall, Initiative or Referendum election, or discharge other duties imposed upon the City Council by the provisions of this Charter with reference to such Recall, Initiative or Referendum, then any voter registered to vote in City elections shall be entitled to petition the District Court of Burnet County Texas for a Declaratory judgment, Mandatory Injunction or other relief to order the City Council to call the election and to enforce the carrying into effect the provisions of this Article.

Article VII. - Municipal Finance

Section 7.01. - Fiscal Year.

The fiscal year of the City shall begin on October 1, each year and end on the following September 30. The fiscal year may be changed by the City Council by ordinance, provided that no change shall be effective until six (6) months after the passage of such ordinance.

Section 7.02. - Submission of Budget and Budget Message.

On or before the 15th day of August of each fiscal year, the City Manager shall submit to the City Council a budget for the ensuing fiscal year, a five (5) year projected operating budget and an accompanying message.

(Ord. No. 2013-01, § 2, 1-22-13)

Section 7.03. - Budget Message.

The City Manager's message shall explain the budget both in fiscal terms and in terms of the work programs. It shall outline the proposed financial policies of the City for the ensuing fiscal year, describe the important features of the budget and indicate any major changes from the current year in financial policies, expenditures and revenues together with the reasons for such changes. The message shall also summarize the City's debt position and include such other material as the City Manager deems desirable.

Section 7.04. - Budget.

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

- A. Goals and Objectives. The proposed goals, objectives and expenditures for current operations during the ensuing fiscal year, detailed for each fund by organization unit and program, purpose or activity, and the method of financing such expenditures;
- B. Capital Budget. Proposed capital expenditures during the ensuing fiscal year, detailed for each fund by organization unit when practicable, and the proposed method of financing each capital expenditure; and
- C. Enterprise Funds. The anticipated income and expense and profit and loss for the ensuing year for each public utility or other proprietary enterprise fund, as defined in Section 8.01 of this Charter, operated by the City. For any fund, the total of proposed expenditures shall not exceed the total of estimated income plus any fund balance carried forward, exclusive of reserves.

Section 7.05. - City Council Action on Budget.

Adoption. The City Council shall comply with state law in the adoption of the budget and, unless otherwise in conflict with state law, shall adopt the budget on or before the last day of the last month of the current fiscal year. If the City Council fails to adopt the budget by this date, the budget proposed by the City Manager shall go into effect.

(Ord. No. 2015-09, § 3, 5-19-15)

Section 7.06. - Appropriation and Revenue Ordinances.

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

- A. **Ordinance Adopting Budget.** An ordinance shall be made adopting the budget and making the appropriations set forth therein by department or major organizational unit and authorizing a single appropriation for each program, capital project or activity.

Tax Levy Ordinance. A tax levy ordinance shall be made authorizing the property tax levy or levies and setting the tax rate or rates.

- B. Revenue Ordinances.** Any other ordinances required to authorize new revenues or to amend the rates or other features of existing taxes or other revenue sources shall be made.

Section 7.07. - Amendments after Adoption.

- A. Supplemental Appropriations.** City Council shall comply with any requirements of state law in amending the budget after adoption.

(Ord. No. 2015-09, § 3, 5-19-15)

Section 7.08. - Lapse of Appropriations.

Every appropriation, except an appropriation for a capital expenditure, shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered. An appropriation for a capital expenditure shall continue in force until expended, revised or repealed. The purpose of any such appropriation shall be deemed abandoned if three years pass without any disbursement from or encumbrance of the appropriation.

Section 7.09. - Administration of the Budget.

The City Council shall provide by ordinance the procedures for administering the budget.

Section 7.10. - Overspending of Appropriations Prohibited.

No payment shall be made or obligation incurred against any allotment or appropriation except in accordance with authorized appropriations and unless the City Manager or his designee first certifies that there is a sufficient unencumbered balance in such allotment or appropriation and that sufficient funds are or will be available to cover the claim or meet the obligation when it becomes due and payable. Any authorization of payment or incurring of obligation in violation of the provisions of this Charter shall be void and any payment made shall be illegal. A violation of this provision shall be cause for removal of any officer who knowingly authorized or made such payment or incurred such obligation. Such officer may also be liable to the City for any amount so paid. Except as prohibited by law, however, nothing in this Charter shall be construed to prevent the making or authorizing of payments or making of contracts for capital improvements to be financed in whole or in part by the issuance of bonds or to prevent the making of any contract or lease providing for payments beyond the end of the fiscal year, but only if such action is made or approved by ordinance.

Section 7.11. - Depository.

All moneys received by any person, department or agency of the City for or in connection with affairs of the City shall be deposited daily in the City depository or depositories. The City Council shall designate depositories in accordance with regulations and subject to security requirements for deposits and accrued interest as may be established by ordinance. All checks, vouchers, or warrants for the withdrawal of money from the City depositories shall be signed by two City officials as designated by the City Council. The City Council may by ordinance authorize the use of machine-imprinted facsimile signatures of the Mayor or City Manager on checks, vouchers and warrants. However, two original signatures shall be required for all checks in excess of \$5,000.

(Ord. No. 2013-01, § 2, 1-22-13)

Section 7.12. - Purchase Procedure.

All purchases made and contracts executed by the City shall be completed pursuant to state law. (

Ord. No. 2015-09, § 3, 5-19-15)

Section 7.13. - Independent Audit.

At the close of each fiscal year and at other times as necessary, the City Council shall have a certified public accountant conduct an independent audit of all accounts of the City. The certified public accountant shall have no personal interest in the financial affairs of the City or of its officers. A summary of the results of the completed audit shall be on file in the City Secretary's office as a public record and as files available for download via the Internet.

Section 7.14. - Bonds.

- A. Borrowing. The City Council shall have the power, except as prohibited by law, to borrow money by whatever method it may deem to be in the public interest.
- B. General Obligation Bonds, Notes and Certificates of Obligation. The City shall have the power to borrow money on the credit of the City and to issue general obligation bonds, notes and certificates of obligation and any other evidence of indebtedness authorized by State law for permanent public improvements or for any other public purpose not prohibited by the Constitution and laws of the State, and to issue refunding bonds to refund outstanding bonds of the City previously issued. All bonds or certificates of obligation shall be issued in conformity with the laws of the State and shall be used only for the purposes for which they were issued.
- C. Revenue Bonds. The City shall have the power to borrow money for the purpose of constructing, purchasing, improving, extending or repairing public utilities, recreational facilities or any other self-liquidating municipal function not prohibited by the Constitution and laws of the State, and to issue revenue bonds to evidence the obligation so created. Revenue bonds shall be a charge upon and payable from the properties, or interest pledged in them, or the income from them, or both. The holders of the revenue bonds shall never have the right to demand payment out of monies raised or to be raised by taxation. All revenue bonds shall be issued in conformity with the laws of the State and shall be used only for the purposes for which issued.
- D. Bonds Incontestable. All bonds of the City having been issued and sold and having been delivered to the purchasers shall be incontestable. All bonds issued to refund in exchange for outstanding bonds previously issued shall, after the exchange, be incontestable.
- E. Borrowing for Capital Improvements. The procedure for adopting any ordinance related to this Section shall be as follows:
 - 1. A copy of the proposed ordinance shall be furnished to each member of the City Council, the City Attorney and the City Manager.
 - 2. Any ordinance considered that relates to this Section shall be adopted or rejected with or without amendment at the meeting at which it is introduced.

3. Any reading of an ordinance related to this Section shall be by caption only unless a reading in whole or in part is requested by any City Council member, provided that the City Council by majority vote does not deny any request for a reading of the ordinance in whole or in part.
4. An ordinance authorizing the issuance of obligations for other than emergency appropriations may be finally adopted at the meeting in which it is introduced. Section 3.15 shall not apply to such ordinances.

Section 7.15. - Capital Program.

- A. Submission to City Council. The City Manager shall prepare and submit to the City Council a five-year capital program no later than the final date for submission of the budget.
- B. Contents. The capital program shall include
 1. a clear general summary of its contents;
 2. a list of all capital improvements and other capital expenditures which are proposed to be undertaken during the five (5) fiscal years next ensuing, with appropriate supporting information as to the necessity for each;
 3. cost estimates and recommended time schedules for each improvement or other capital expenditure;
 4. method of financing upon which each capital expenditure is to rely, and
 5. the estimated annual cost of operating and maintaining the facilities to be constructed or acquired.

The above shall be revised and extended each year with regard to capital improvements still pending or in process of construction or acquisition.

Section 7.16. - City Council Action on Capital Program.

- A. **Notice and Hearing.** The City Council shall publish in one or more newspapers of general circulation in the City as files available for download via the Internet the general summary of the capital program and a notice stating the following:
 1. The times and places where copies of the capital program are available for inspection by the public.
 2. The time and place, not less than two weeks after such publication, for a public hearing on the capital program.
- B. **Adoption.** The City Council by resolution shall adopt the capital program with or without amendment after the public hearing and on or before the last day of the last month of the current fiscal year.

Section 7.17. - Public Records.

Copies of the budget, capital program and appropriation and revenue ordinances shall be public records and shall be made available to the public at suitable places in the City and as files available for download via the Internet.

Article VIII. - Public Utilities, Public Services, Proprietary Enterprises and Franchises

Section 8.01. - Public Utilities, Public Services and Proprietary Enterprises.

The City shall not provide any public utility, public service or proprietary enterprise outside the City limits except by a written contract with the prospective customer requesting such services and only when the provision of such services appears to be in the best interests of the City.

(Ord. No. 2015-09, § 3, 5-19-15)

Section 8.02. - Reserved.

Editor's note- Ord. No. 2015-09, § 3, adopted May 19, 2015, repealed § 8.02, in its entirety. Former § 8.02 pertained to "Franchises," and was derived from Original Code.

(Ord. No. 2015-09, § 3, 5-19-15)

Section 8.03. - Franchise Value Not Allowed in Rate Regulation.

No value shall be assigned to any franchise granted by the City under this Charter in fixing reasonable rates and charges for utility service or any other service provided under authority of a franchise within the City or in determining the just compensation to be paid by the City for public utility, public service or proprietary enterprise property which the City may acquire by condemnation or otherwise.

Section 8.04. - Regulation of Franchises.

All grants, removals, extensions, or amendments of public utility, public service and proprietary enterprise franchises should be negotiated to include, to the extent possible, the following right of City Council to:

- A. forfeit the franchise by ordinance for failure of the holder to comply with the terms of the franchise, this Charter, any applicable statute of the State of Texas or the rule of any applicable governmental body. This right may be exercised only after written notice to the franchise holder stating how the holder has failed to comply with the terms of the franchise and setting a reasonable time for the correction of the failure. Forfeiture may occur only after a hearing and after expiration of a reasonable time for correction;
- B. impose reasonable regulations to ensure safe, efficient and continuous service to the public;
- C. require expansion, extension, enlargement and improvement of plant and facilities as necessary to provide adequate service to the public;
- D. require franchise holders to furnish to the City, without cost to the City, full information regarding the location and precise description of all facilities of the franchise holder in, over and under the City; and to regulate and control the location, relocation and removal of the facilities;
- E. require compensation, franchise fees and fees for the rental, use and occupancy of City property not inconsistent with State law;
- F. collect from public utilities, public service providers and proprietary enterprises operating in the City a proportionate part of the increased cost of City operations and services attributable

to the occupancy by or use of public property by the public utility, public service or proprietary enterprise; to collect a proportionate part of the cost of City operations and services required as a result of damage to or disturbance of public property caused by the public utility, public service or proprietary enterprise; and to compel the public utility, public service provider or proprietary enterprise to perform at its own expense repairs or other operations made necessary by the occupancy or use of or damage to or disturbance of public property by the public utility, public service or proprietary enterprise;

- G. require one franchise holder to allow other holders to use its facilities if the City Council considers that joint use to be in the public interest. In the event of joint use, reasonable terms of use may be imposed by and a reasonable rental shall be paid to the owner for the use of the facility. The inability of franchise holders to agree on terms and rentals for the use of each other's facilities shall not be an excuse for failure to comply with a joint use requirement by the City Council;
- H. require franchise holders to keep records that accurately reflect the value of the franchise holder's property used and useful in rendering its service to the public and which reflect the franchise holder's expenses, receipts and profits of all kinds;
- I. examine and audit, at any time during business hours, the accounts and other records of the franchise holders;
- J. require reports on the operations of public utilities, public services and proprietary enterprises in the form and containing information that the City Council directs;
- K. establish specifications for materials and construction for public utilities, public services and proprietary enterprises used within or beyond the limits of the City, and
- L. prescribe penalties for noncompliance with any provision of this Article or the ordinances pertaining to franchises, public utilities, public services, and proprietary enterprises.

(Ord. No. 2015-09, § 3, 5-19-15)

Section 8.05. - Consent of Property Owners.

The consent of abutting and adjacent property owners shall not be required for the construction, extension, maintenance or operation of any public utility, public service or proprietary enterprise but nothing in this Article or in any franchise granted under the provisions of this Article shall ever be construed to deprive any such property owners of any right of action for damage or injury to property as now or shall later be provided by law.

Section 8.06. - Reserved.

Editor's note- Ord. No. 2015-09, § 3, adopted May 19, 2015, repealed § 8.06, in its entirety. Former § 8.06 pertained to "Extensions," and was derived from Original Code.

Section 8.07. - Reserved.

Editor's note- Ord. No. 2015-09, § 3, adopted May 19, 2015, repealed § 8.07, in its entirety. Former § 8.07 pertained to "Regulation of Rates," and was derived from Original Code.

Section 8.08. - Reserved.

Editor's note- Ord. No. 2015-09, § 3, adopted May 19, 2015, repealed § 8.08, in its entirety. Former § 8.08 pertained to "Other Conditions," and was derived from Original Code.

Section 8.09. - Reserved.

Editor's note- Ord. No. 2015-09, § 3, adopted May 19, 2015, repealed § 8.09, in its entirety. Former § 8.09 pertained to "Submission of Annual Reports," and was derived from Original Code.

Section 8.10. - Municipally Owned Utilities, Public Services and Proprietary Enterprises.

Annually, a certified public accountant will prepare, and the City Council will cause to be published, a financial report for each public utility, public service and proprietary enterprise owned or operated by the City. Each report will contain the information specified in this Section and other information as required by the City Council. The City Council will establish by ordinance the submission and inclusive dates of each report.

A monthly financial recap shall be made available as a downloadable file via the internet. (

Ord. No. 2015-09, § 3, 5-19-15.)

Section 8.11. - Reserved.

Editor's note- Ord. No. 2015-09, § 3, adopted May 19, 2015, **repealed** in its entirety. **Former** pertained to "Records," and was derived from Original Code.

Section 8.12. - Sale of Public Utility, Public Service or Proprietary Enterprise.

No public utility, public service or proprietary enterprise owned or operated by the City shall be sold or leased without the approval of a majority vote of the qualified voters of the City voting at an election called for such purpose. The election shall be held on a uniform election date. The City may authorize the renting of City owned facilities for temporary use by an individual, organization or group.

Article IX. - Planning and Zoning

Section 9.01. - Reserved.

Editor's note- Ord. No. 2015-09, § 3, adopted May 19, 2015, repealed § 9.01, in its entirety. Former § 9.01 pertained to "Power to Zone," and was derived from Original Code.

Section 9.02. - Reserved.

Editor's note- Ord. No. 2015-09, § 3, adopted May 19, 2015. repealed § 9.02, in its entirety. Former § 9.02 pertained to "Commission: Composition and Rules," and was derived from Ord. No. 2006-02, § 1, adopted February 28, 2006.

Section 9.03. - Reserved.

Editor's note- Ord. No. 2015-09, § 3, adopted May 19, 2015, repealed § 9.03, in its entirety. Former § 9.03 pertained

to "Commission: Powers and Duties," and was derived from Original Code.

Section 9.04. - Comprehensive City Plan.

The City Council shall cause to be written and shall adopt a comprehensive plan for the City which shall not be inconsistent with State law. This master plan shall be reviewed and updated as needed by the City Council.

Section 9.05. - Reserved.

Editor's note- Ord. No. 2015-09. § 3, adopted May 19, 2015, repealed § 9.05, in its entirety. Former § 9.05 pertained to "Board of Adjustment," and was derived from Original Code.

Article X. - General Provisions and Transitions

Section 10.01. - Publicity of Records.

- A. All records and accounts of every office, department or agency of the City shall be open to inspection by any citizen or by any representative of the press pursuant to the Texas Public Information Act.
- B. The Burnet web site shall publicize as files available for download via the Internet the budget; existing and proposed ordinances; pending contracts and bids; minutes of the last City Council meeting; proposed agendas for upcoming City Council meetings; times and locations for all public City meetings; audit summaries; monthly balance sheet reports for all public utilities, public services and proprietary enterprises; names, addresses and telephone numbers of all City Council persons and standing committee members, and all City career opportunities and other matters as prescribed by this Charter. Failure to post any such matter shall not invalidate any action taken with respect to such matter, nor give rise to any equitable or legal claim whatsoever. References in this Charter to the World Wide Web shall include means of access to the Internet or its equivalent and/or successor.
- C. The City Council shall not designate an official newspaper, but it shall cause notices of all information as required by this Charter, existing ordinances, or by the Constitution and laws of the State of Texas to be published in a local newspaper of general circulation in the City.

(Ord. No. 2015-09. § 3. 5-19-15)

Section 10.02. - Prohibitions.

- A. Activities Prohibited.
 - 1. No person shall be appointed to, removed from or in any way favored or discriminated against with respect to any City position or appointive City administrative office because of race, gender, age, handicap, religion, country of origin or political affiliation.
 - 2. No person shall willfully make any false statement, certificate, mark, rating or report in regard to any test, certification or appointment under the provisions of this Charter or in any manner commit or attempt to commit a ny fraud preventing the impartial execution of the provisions, rules and regulations of this Charter.

3. No person who seeks appointment with respect to any City position or appointive City administrative office shall directly or indirectly give, render or pay any money, service or other valuable thing to any person in connection with his/her test, appointment, proposed appointment, promotion or proposed promotion.
 4. No person shall knowingly or willfully solicit or assist in soliciting any assessment, subscription or contribution for any political party or political purpose from any City employee to be used in conjunction with any City election.
 5. No City employee shall knowingly or willfully make, solicit or receive any contribution to the campaign funds of any political party or committee to be used in a City election or to campaign funds to be used in support of or opposition to any candidate for election to City Office or City ballot issue. Further, no City employee shall knowingly or willfully participate in any aspect of any political campaign on behalf of or opposition to any candidate for City office. This Section shall not be construed to limit any person choosing to exercise rights as a citizen to express opinions or to cast a vote. Further, this Section shall not be construed to prohibit any person from active participation in political campaigns at any other level of government.
 6. Any other activities prohibited by State law.
- B. Penalties. Any person convicted of a violation of this Section shall be ineligible for a period of five (5) years following such conviction to hold any City office or position, and if that person is an officer or employee of the City, he/she shall immediately forfeit his/her office or position. The City Council shall establish by ordinance any further provisions and penalties as it may deem appropriate.

Section 10.03. - Ethics.

- A. **Conflicts of Interest.** The use of public office for private gain is prohibited. The City Council shall implement this prohibition by ordinance. Regulations to this end shall include but not be limited to acting in an official capacity on matters in which the official has a private financial interest clearly separate from that of the general public, the acceptance of gifts and other things of financial value, acting in a private capacity on matters dealt with as a public official, the use of confidential information, and appearances by City officials before other City agencies on behalf of private interests. This ordinance shall provide for reasonable public disclosure of finances by officials with major decision-making authority over monetary expenditures and contractual matters and, insofar as permissible under State law, shall provide fines and punishment for violations.
- B. **Board of Ethics.** The City Council shall by ordinance establish an independent Board of Ethics to administer and enforce the conflict-of-interest and financial-disclosure ordinances. No member of the Board may hold any political party office. Insofar as possible under State law, the City Council shall authorize the Board to issue binding advisory opinions, conduct investigations on its own initiative, and on referral or complaint, refer cases for prosecution, impose administrative fines, and hire independent counsel. The City Council shall appropriate sufficient funds to the Board of Ethics to enable it to perform its assigned duties.
- C. **Nepotism.** No person related within the second degree by affinity or within the third degree by

consanguinity to the Mayor or any other member of the City Council or to the City Manager shall be appointed to any office, position or clerkship or other service of the City. No person so related to the Director of Finance shall be employed under him/her. This prohibition shall not apply to a person who is a current City employee and has been a City employee for six (6) months or longer at the time of the election of the Mayor or Council Member or not less than 30 days at the time of the appointment of the City Manager or other appointed City officer.

Section 10.04. - Oath of Office.

All officers of the City shall, whether elected or appointed, before entering upon the duties of their respective offices, take and subscribe to the official oath prescribed by the Constitution of the State of Texas. The oath shall be administered by the Mayor, Mayor Pro-tem, City Secretary or other person authorized by law to administer oaths.

Section 10.05. - Exemption From Execution, Garnishment and Assignment.

Property of the City shall not be liable for sale or appropriation by writ of execution. Funds of the City possessed by any person or entity shall not be liable to garnishment on account of any debt the City may owe nor funds or property it may have on hand owed to any person. The City and its officers and agents shall not be required to answer a writ of garnishment of City property on any account whatever. The City shall not be obligated to recognize any assignment of wages or funds by its employees, agents or contractors.

Section 10.06. - Surety Bonds.

Before starting employment or entering the duties of office, all City officers, the City Manager and all City employees whose duties will include the handling of moneys shall make surety bonds in amounts and with surety companies acceptable to the City Council. Surety companies must be authorized to do business in Texas. The condition of a surety bond shall be that the principal will faithfully perform the duties of office and account for and pay to the City all moneys and property coming into the principal's hands and belonging to the City and comply with applicable State law. The City will pay the premiums for these bonds.

Section 10.07. - Security or Bond Not Required.

It shall not be necessary in any action, suit or proceeding in which the City may be a party for any bond, undertaking, or security to be executed in behalf of the City, but all actions, suits and proceedings shall be conducted as if a bond, undertaking or security had been given. The City shall have all remedies of appeal provided by law to all courts without bond or security of any kind. For the purposes of all such actions, suits, proceedings and appeals, the City shall be liable in the same manner and to the same extent as if the bond, undertaking or security had been executed and given.

Section 10.08. - Notice of Claim.

- A. Personal Injury and Property Damage. The City shall not be held liable for a claim for the death or injury to a person or for damage to property unless the claimant or legal representative files a written statement of claim with the City Secretary within sixty (60) days after the event alleged to have caused the death, injury or damage. The statement must describe the nature and extent of the injury or damage; describe the place and circumstances of the alleged causal event; itemize by monetary amount the injury

or damage; and, for personal injuries, names of witnesses, if any, to the event.

B. Claims in General. Except as provided for by the State Constitution or in a case of conflict with State statute in this Charter, the City shall not be liable for any damages, attorneys fees, costs of court, or other monies regarding any matter whatsoever whether arising out of any action authorized by statute, for declaratory judgment, for equitable remedy, or for any damage, claim or suit arising out of contract. The person who seeks such remedy, relief or damage, or someone on his/her behalf, shall

1. give the City Secretary notice in writing not less than thirty (30) days prior to the filing of a claim, suit or cause of action, stating specifically the allegations of and basis for the claim, suit or request for remedy; the facts, contract provisions or circumstances supporting the suit; the specific remedy or damages sought; the names of all City officers and employees against whom there is complaint; and a list of the names and addresses of all witnesses known to the claimant upon whose testimony the claimant is relying to establish the injury or damage; and
2. meet, confer and negotiate with the City upon request of the City Manager or the City Council for the purpose of reaching an acceptable compromise and settlement.

Section 10.09. - Power to Settle Claims.

The City Council shall have the authority to compromise and settle any and all claims and lawsuits of every kind and character in favor of or against the City except suits by the City to recover delinquent taxes.

Section 10.10. - Sale or Lease of Real Property Other than Public Utilities or Real Property Acquired by Tax Sale.

The sale or lease of real property other than public utilities or real property acquired by tax sale shall be as provided by State law. In the event that a sale or lease of real property is not covered by State law, the following shall apply: The City Council may by ordinance sell or lease any real property owned by the City, but not for less than the appraised value determined by a certified appraiser. A sale, or lease for more than five (5) years, shall not be completed until thirty (30) days after passage of an ordinance approving the transaction. If, during that thirty (30) day period, a Referendum Petition is presented to the City Secretary who then deems it sufficient according to Article VI of this Charter, he/she shall certify the Referendum Petition to the City Council at its next regular meeting. The City Council shall then call an election submitting the question of whether or not the sale or lease shall be concluded.

The provisions of this Section shall not apply to public utilities or to property purchased by the City at tax sales.

Section 10.11. - Abandonment of Streets, Alleys and Rights of Way.

The City may vacate, abandon or close a street, alley, easement or other public right of way. Any owner of property that abuts a public right of way may petition the City to vacate, abandon or close such right of way.

Any proposal by the City Council or citizen request, or upon citizen presentation of an Initiative Petition to abandon any public right of way shall first be heard by the Planning and Zoning Commission. The Planning and Zoning Commission shall notify all owners of property abutting the public right of way in question of its pending recommendation and the time when the matter will be heard by the City Council.

Thirty (30) days prior to the hearing before the Planning and Zoning Commission regarding the abandonment of a public right of way, the City shall notify, in writing, all owners of abutting property of the proposed action. The notice shall describe the street, alley, easement or other right of way to be abandoned and give the time and place of the

meeting set to discuss the matter. Notice of the proposed action shall be published in a newspaper of general circulation in the City Burnet and as files available for download via the Internet.

In the event a public roadway or right of way is abandoned, the City shall determine what part of such road or right of way will not be required for another public use and shall offer the remainder of such right of way to the abutting owners in proportion to their ownership. The conveying of such property to the abutting owners shall be as provided by State law. If such is not controlled by State law and upon an abutting owner offering to purchase the right of way for the fair value, the City shall, within thirty (30) days after deposit of the fair value, deliver a deed without warranty transferring the abandoned property to the abutting owners who made the deposit.

Section 10.12. - Continuance of Contracts and Preservation of Rights.

All laws previously enforced governing suits, taxes, penalties, fines, forfeitures, and all other rights, claims and demands of every kind and character which have accrued in favor of the City shall belong to and vest in the City and shall not end by reason of the adoption of this Charter. The laws under which they shall have accrued shall be deemed to be in full force and effect. The budget and all ordinances, rules and regulations of the City shall be and remain in effect, subject to the terms of this Charter and the future discretion and vote of the City Council. All present commissions, boards and officers of the City shall continue in office subject to the provisions of this Charter including but not limited to the provisions governing election, removal and the City Council's exercise of authority conferred by this Charter.

Section 10.13. - Reservation of Defenses.

Nothing contained in this Charter or in any ordinance or contract of the City shall be construed to mean the City waives any rights, privileges, defenses or immunities provided under common law or the Constitution and laws of the State of Texas. No such right, privilege, defense or immunity may be waived except by the City Council acting in a public meeting to settle or compromise a claim, dispute or lawsuit.

Section 10.14. - Construction of Charter.

This Charter shall not be construed as a mere grant of enumerated powers, but shall be construed as a general grant of power and limitation of power on the government of the City of Burnet in the same manner as the Constitution of Texas is construed as a grant of and a limitation on the powers of the Legislature. Except as expressly prohibited by this Charter, every power under the Constitution of Texas, which it would be competent for the people of the City expressly to grant to the City, shall be construed to be granted to the City by this Charter.

Section 10.15. - Separability Clause.

If a Section or part of a Section of this Charter is held invalid by a court of competent jurisdiction, that holding shall not affect the remainder of this Charter nor the context in which the Section or part of a Section invalidated appears, except to the extent that an entire Section or part of a Section is inseparably connected in meaning and effect with the Section or part invalidated.

Section 10.16. - Rearranging and Renumbering.

The City Council shall have the power by ordinance to renumber and rearrange Articles, Sections, paragraphs or

amendments of this Charter as they shall deem it appropriate but without creating substantive changes. The City Secretary shall file with the Secretary of State a certified copy of an ordinance that authorizes changes in numbering or arrangement within this Charter.

Section 10.17. - Effective Date.

This Charter shall take effect immediately following approval by the qualified voters of the City of Burnet. However, in no case shall the Charter be in *effect* until the City Council records with the City Secretary an order declaring that the Charter is adopted. The order declaring adoption shall be entered into City record as soon as is practicable following the election.

Article XI. - Charter Amendments

Section 11.01. - Proposal of Amendments.

Amendments to this charter may be framed and proposed as follows:

- A. By Law. In any manner provided by law,
- B. By City ordinance. By an ordinance of the City Council containing the full text of the proposed amendment,
- C. By Charter Commission report. By the report of a Charter Commission created by ordinance, or
- D. By the voters of the City. Proposal of an amendment by the voters of the City shall be by petition containing the full text of the proposed amendment and shall be governed by the same procedures and requirements prescribed in Article VI for Initiative Petitions. The petition must be signed by at least three hundred (300) registered voters of the City or the number equal to at least 30 percent (30%) of the total of those registered to vote at the last regular City election, whichever number is greater. The Petitioners Committee may withdraw the petition at any time before the fifteenth (15th) day immediately preceding the day scheduled for the City vote on the amendment.

Any amendment proposed for this Charter shall contain only one subject.

Section 11.02. - Election.

Upon delivery to the City election authorities of the report of a Charter Commission or delivery by the City Secretary of an adoption ordinance or a petition finally determined sufficient proposing an amendment pursuant to Article VI of this Charter, the election authorities shall submit the proposed amendment to the voters of the City at an election. An election for a proposed Charter amendment shall be announced by a notice containing the complete text of the proposed amendment, shall be posted in compliance with State law and shall be published on the same day of two successive weeks in one or more newspapers of general circulation in the City and as files available for download via the Internet. The date of the first publication shall occur more than fourteen (14) days prior to the date of the election.

A Charter amendment election shall be held on the first uniform election date that is not less than sixty (60) days after the adoption of the ordinance or report or the final determination of sufficiency of the petition proposing the amendment. The City Council shall provide for a special election on a proposed amendment in compliance with State law. The election may be held with the regular City election.

Ballots for an amendment election shall be so designed that voters may approve or disapprove any one or more amendments without having to approve or disapprove all the amendments.

Section 11.03. - Adoption of Amendments.

If a majority of the registered voters of the City voting on a proposed Charter amendment vote in favor of it, the amendment shall become effective at the time fixed in the amendment or, if no time is fixed, 30 days after its adoption by the voters. However, in no case shall the amendment be in effect until the City Council records with the City Secretary an order declaring that the amendment is adopted. The order declaring adoption shall be entered into City records as soon as practicable following the election.

DRAFT: Charter changes as of 12/13/17 provided by City Attorney

Section 3.04. - Judge of Election Qualifications.

The City Council shall be the judge of the election and qualifications of its new members. ~~The City Council shall also, at the first meeting after the filing deadline, by majority vote either approve or disapprove the Section 3.03 qualifications of each candidate. If the City Council finds that a candidate does not meet all qualifications set forth in Section 3.03, such candidate's name shall not be placed on the ballot.~~

Section 3.05. - Compensation.

The Mayor and Council Members ~~shall~~ may be compensated ~~entitled to compensation.~~ The rate of compensation may be established or changed by the City Council; however, no increase in the rate of compensation shall take effect unless approved by an affirmative vote of seventy-five percent (75%) of the City Council. ~~ratified by a majority of the voters in the next regular City election.~~ The Mayor and Council Members shall be entitled, with approval by the City Council, to be reimbursed for reasonable expenses incurred in the performance of specific duties. Levels of reimbursement shall be determined by the City Council.

Section 3.06. - Mayor and Mayor Pro-tem.

The Mayor shall be the official head of the City government. The Mayor shall be the Chair and shall preside at all meetings of the City Council. The Mayor may make motions and may vote on every proposition before the City Council. While the Mayor or alternate presiding officer shall have no power to veto, he/she shall have the power to declare a delay of the initial vote on a matter until the next regular Council meeting ~~on matters related to City Ordinances.~~ The Mayor shall, except as provided otherwise by the City Council, sign all official documents such as ordinances, resolutions, conveyances, grant agreements, official plats, contracts and bonds. The Mayor shall appoint special committees as advisable and as instructed by the City Council. The Mayor shall perform such other duties consistent with this Charter or as may be imposed by the City Council.

Section 3.07. - Vacancies, Forfeiture, and Filling of Vacancies.

- A. **Vacancies.** The office of a City Council Member or the Mayor shall become vacant upon the death, incapacity, resignation, or removal from office in any manner authorized by law, or forfeiture of office by the office holder.
- B. **Forfeiture of Office.** If the Mayor or any City Council Member
 - 1. fails to maintain the qualifications set forth in Section 3.03 of this Charter (unless the residence of a member of the Council is de-annexed, then the member shall serve the remainder of his/her term of office), or

2. has been found by at least five (5) affirmative votes of the City Council to have violated any express prohibition of this Charter, or
3. is convicted of a crime involving moral turpitude or a felony, or
4. fails to attend three (3) consecutive regular Council meetings without being excused by the City Council, then the City Council shall, at its next regular meeting, declare the office to be vacant and shall fill such vacancy as set forth below, or
5. ~~has more than one year remaining on their term and files to run for another elected position within the city government.~~

the City Council shall, at its next regular meeting, declare the office to be vacant and shall fill such vacancy as set forth below.

C. Resignation by filing or another elected position

If a City Council Member or the Mayor has more than one year remaining on their term and files to run for another elected position within the City government then said filing shall be considered a resignation of their current position. However, the resigning individual shall holdover in their current position until their successor is sworn in.

D. Filling of Vacancies.

1. When a single or double vacancy occurs in the City Council, the remaining members of the City Council may:
 - a. Appoint a qualified person to fill the unexpired term(s). An appointment must be approved by an affirmative vote of at least five (5) members of the City Council members; or
 - b. Order an election to fill the unexpired term(s) at the next regular general election.
2. Should three (3) vacancies exist on City Council at the same time then City Council shall order an election to fill the vacancies on the next available uniform election date as provided by law.
3. All appointments to City Council shall serve until the next regular election.
4. All appointments to City Council shall be qualified to serve pursuant to Section 3.03 of this Charter and shall take office immediately upon appointment.

Section 3.14. - Ordinances and Resolutions.

The enacting clause of all ordinances shall be: "Be it ordained by the City Council of the City of Burnet, Texas..." Ordinances, and formal resolutions that establish programs, adopt policy, provide any rule or regulation applicable to the general public, or establish requirements for any general administrative function of the City, shall be introduced in the City Council only in written or printed form and shall contain only one subject each.

Resolutions that give directions to the City Manager on a business matter, approve an administrative action, contract or bid, and that approve plans and actions in the course of the

day-to-day business of the City, will be sufficient if shown by recording the motion and vote in the minutes of the City Council. Ordinances making appropriations shall be confined to appropriations.

Any reference to the reading of an ordinance made in this Charter shall be understood to mean the reading of the caption of the ordinance only unless a specific request is made by any Council Member for the ordinance to be read in part or in full. Any ordinance that levies a fine or penalty or deals with the budget, taxes, franchises or public utilities or the setting of their rates shall be read at two (2) ~~regular~~ meetings. Such Ordinances shall be published in full or by caption with a summary in two (2) successive issues of a newspaper of general circulation in the City of Burnet and as files available for download via the Internet with the first publication at least fourteen (14) days before the final reading and passage of the Ordinance.

~~Exceptions may be made to the provisions of the previous paragraph for any ordinance introduced pursuant to, and which complies with, all requirements of Section 7.14 of this Charter, entitled "Bonds," and may be voted on for adoption or rejection at the meeting at which it is introduced without need for a second reading.~~

Comment [CZ1]: Include with Measure deleting section 7.14

No ordinance that is not an emergency ordinance or an ordinance related to Section 7.14 of this Charter, shall be finally passed until it has been read on two (2) separate days not less than twenty-four (24) hours apart.

~~Section 4.10. — Boards and Commissions.~~

~~The City Council shall have authority to establish by ordinance such boards and commissions as it may deem necessary for the conduct of City business and management of municipal affairs. The authority, functions, qualifications and responsibilities of such boards and commissions shall be delineated in the establishing ordinances.~~

~~Section 5.05. — Official Ballot.~~

~~The names of all candidates for office, except such as may have withdrawn, died or become ineligible, shall be placed on official ballots without party designations specifying the council place for which each is seeking election.~~

Section 5.07. - Taking of Office.

Each newly elected person to the City Council shall be inducted into office at the ~~first regular~~ City Council meeting ~~following the canvassing of the votes.~~

Section 6.02. - Power of Initiative.

Subject only to the limitations provided in this Article, the people of the City shall have the power to propose legislation on any local government issue, except legislation appropriating money, levying taxes, affecting zoning, annexing land, or setting rates, fees or charges, and, if the City Council fails to adopt an ordinance so proposed, to adopt or reject the proposed

legislation at an election. An initiated ordinance may be submitted to the City Council by a petition signed by at least two hundred (200) registered voters of the City or ~~twenty five~~ percent (~~20-5%~~) of the number of voters registered to vote in the previous municipal election whichever number is greater.

Section 6.03. - Power of Referendum.

The voters of this City shall have the power to approve or reject at the polls any ordinance enacted by the City Council that is subject to the Referendum process under this Charter, except for bonds that have been legally awarded to a successful bidder or other legal obligations. The petition for Referendum shall require the signatures of at least two hundred (200) registered voters or ~~twenty five~~ percent (~~20-5%~~) of the number of voters registered to vote in the previous municipal election whichever number is greater.

Section 6.10. - Power of Recall.

The people of the City reserve the power to recall any elected officer of the City and may exercise the power by filing with the City Secretary a petition stating cause for the removal of the elected officer. Such petitions shall be signed by at least ~~thirty~~ twenty percent (~~30~~ 20%) of the registered voters of the City registered to vote at the last general election. Within fifteen (15) business days after a recall petition is filed, the City Secretary shall determine whether it is properly signed by the requisite number of registered voters residing within the City and shall verify the petition as sufficient or insufficient. If the certificate of the City Secretary shows a Recall Petition to be insufficient, the City Secretary shall notify in writing the persons filing the petition. The written notification shall detail the defects that must be corrected if the petition is to be found sufficient. The petition may then be amended within fifteen (15) business days from the date of such notice by the filing of a supplementary petition and the submitting of additional papers that are signed and filed as prescribed for the original petition. Within fifteen (15) business days after the amendment is filed, the City Secretary shall examine the amended petition and certify as to its sufficiency. If the amended petition is then found to be insufficient, no further proceedings shall be had with regard to it. A separate petition shall be required for each officer to be recalled.

Section 7.02. - Submission of Budget and Budget Message.

On or before the 15th day of August of each fiscal year, the City Manager shall submit to the City Council a budget for the ensuing fiscal year, a five (5) year projected operating budget, five (5) year capital program and an accompanying message.

Comment [CZ2]: Include with measure deleting Section 7.15

Section 7.10. - Overspending of Appropriations Prohibited.

No payment shall be made or obligation incurred against any allotment or appropriation except in accordance with authorized appropriations and unless the City Manager or his designee first certifies that there is a sufficient unencumbered balance in such allotment or appropriation and that sufficient funds are or will be available to cover the claim or meet the obligation when it

becomes due and payable. Any authorization of payment or incurring of obligation in violation of the provisions of this Charter shall be void and any payment made shall be illegal. A violation of this provision shall be cause for removal of any officer who knowingly authorized or made such payment or incurred such obligation. Such officer may also be liable to the City for any amount so paid. Except as prohibited by law, however, nothing in this Charter shall be construed to prevent the making or authorizing of payments or making of contracts for capital improvements to be financed in whole or in part by the issuance of bonds or to prevent the making of any contract or lease providing for payments beyond the end of the fiscal year, ~~but only if such action is made or approved by ordinance.~~

~~Section 7.14. — Bonds.~~

- ~~A. **Borrowing.** The City Council shall have the power, except as prohibited by law, to borrow money by whatever method it may deem to be in the public interest.~~
- ~~B. **General Obligation Bonds, Notes and Certificates of Obligation.** The City shall have the power to borrow money on the credit of the City and to issue general obligation bonds, notes and certificates of obligation and any other evidence of indebtedness authorized by State law for permanent public improvements or for any other public purpose not prohibited by the Constitution and laws of the State, and to issue refunding bonds to refund outstanding bonds of the City previously issued. All bonds or certificates of obligation shall be issued in conformity with the laws of the State and shall be used only for the purposes for which they were issued.~~
- ~~C. **Revenue Bonds.** The City shall have the power to borrow money for the purpose of constructing, purchasing, improving, extending or repairing public utilities, recreational facilities or any other self liquidating municipal function not prohibited by the Constitution and laws of the State, and to issue revenue bonds to evidence the obligation so created. Revenue bonds shall be a charge upon and payable from the properties, or interest pledged in them, or the income from them, or both. The holders of the revenue bonds shall never have the right to demand payment out of monies raised or to be raised by taxation. All revenue bonds shall be issued in conformity with the laws of the State and shall be used only for the purposes for which issued.~~
- ~~D. **Bonds Incontestable.** All bonds of the City having been issued and sold and having been delivered to the purchasers shall be incontestable. All bonds issued to refund in exchange for outstanding bonds previously issued shall, after the exchange, be incontestable.~~
- ~~E. **Borrowing for Capital Improvements.** The procedure for adopting any ordinance related to this Section shall be as follows:
 - ~~1. A copy of the proposed ordinance shall be furnished to each member of the City Council, the City Attorney and the City Manager.~~
 - ~~2. Any ordinance considered that relates to this Section shall be adopted or rejected with or without amendment at the meeting at which it is introduced.~~~~

- ~~3. Any reading of an ordinance related to this Section shall be by caption only unless a reading in whole or in part is requested by any City Council member, provided that the City Council by majority vote does not deny any request for a reading of the ordinance in whole or in part.~~
- ~~4. An ordinance authorizing the issuance of obligations for other than emergency appropriations may be finally adopted at the meeting in which it is introduced. Section 3.15 shall not apply to such ordinances.~~

~~Section 7.15. — Capital Program.~~

~~A. — **Submission to City Council.** The City Manager shall prepare and submit to the City Council a five-year capital program no later than the final date for submission of the budget.~~

~~B. — **Contents.** The capital program shall include~~

- ~~1. — a clear general summary of its contents;~~
- ~~2. — a list of all capital improvements and other capital expenditures which are proposed to be undertaken during the five (5) fiscal years next ensuing, with appropriate supporting information as to the necessity for each;~~
- ~~3. — cost estimates and recommended time schedules for each improvement or other capital expenditure;~~
- ~~4. — method of financing upon which each capital expenditure is to rely, and~~
- ~~5. — the estimated annual cost of operating and maintaining the facilities to be constructed or acquired.~~

~~The above shall be revised and extended each year with regard to capital improvements still pending or in process of construction or acquisition.~~

Section 8.05. — Consent of Property Owners.

~~The consent of abutting and adjacent property owners shall not be required for the construction, extension, maintenance or operation of any public utility, public service or proprietary enterprise but nothing in this Article or in any franchise granted under the provisions of this Article shall ever be construed to deprive any such property owners of any right of action for damage or injury to property as now or shall later be provided by law.~~

Section 8.10. — Municipally Owned Utilities, Public Services and Proprietary Enterprises.

~~Annually, a certified public accountant will prepare, and the City Council will cause to be published, a financial report for each public utility, public service and proprietary enterprise owned or operated by the City. Each report will contain the information specified in this Section and other information as required by the City Council. The City Council will establish by ordinance the submission and inclusive dates of each report.~~

Section 9.04. — Comprehensive City Plan.

~~The City Council shall cause to be written and shall adopt a comprehensive plan for the City which shall not be inconsistent with State law. This master plan shall be reviewed and updated as needed by the City Council.~~

Section 10.03. - Ethics.

~~C. — **Nepotism.** No person related within the second degree by affinity or within the third degree by consanguinity to the Mayor or any other member of the City Council or to the City~~

Manager shall be appointed to any office, position or clerkship or other service of the City. No person so related to the Director of Finance shall be employed under him/her. This prohibition shall not apply to a person who is a current City employee and has been a City employee for six (6) months or longer at the time of the election of the Mayor or Council Member or not less than 30 days at the time of the appointment of the City Manager or other appointed City officer. City Council shall adhere to and comply with the applicable nepotism laws provided by State law.

Section 10.04. ~~Oath of Office.~~

All officers of the City shall, whether elected or appointed, before entering upon the duties of their respective offices, take and subscribe to the official oath prescribed by the Constitution of the State of Texas. The oath shall be administered by the Mayor, Mayor Pro tem, City Secretary or other person authorized by law to administer oaths.

Section 10.05. ~~Exemption From Execution, Garnishment and Assignment.~~

Property of the City shall not be liable for sale or appropriation by writ of execution. Funds of the City possessed by any person or entity shall not be liable to garnishment on account of any debt the City may owe nor funds or property it may have on hand owed to any person. The City and its officers and agents shall not be required to answer a writ of garnishment of City property on any account whatever. The City shall not be obligated to recognize any assignment of wages or funds by its employees, agents or contractors.

Section 10.08. ~~Notice of Claim.~~

A.— Personal Injury and Property Damage. The City shall not be held liable for a claim for the death or injury to a person or for damage to property unless the claimant or legal representative files a written statement of claim with the City Secretary within sixty (60) days after the event alleged to have caused the death, injury or damage. The statement must describe the nature and extent of the injury or damage; describe the place and circumstances of the alleged causal event; itemize by monetary amount the injury or damage; and, for personal injuries, names of witnesses, if any, to the event.

B.— Claims in General. Except as provided for by the State Constitution or in a case of conflict with State statute in this Charter, the City shall not be liable for any damages, attorneys fees, costs of court, or other monies regarding any matter whatsoever whether arising out of any action authorized by statute, for declaratory judgment, for equitable remedy, or for any damage, claim or suit arising out of contract. The person who seeks such remedy, relief or damage, or someone on his/her behalf, shall

1.— give the City Secretary notice in writing not less than thirty (30) days prior to the filing of a claim, suit or cause of action, stating specifically the allegations of and basis for the claim, suit or request for remedy; the facts, contract provisions or circumstances supporting the suit; the specific remedy or damages sought; the names of all City officers and employees against whom

~~there is complaint; and a list of the names and addresses of all witnesses known to the claimant upon whose testimony the claimant is relying to establish the injury or damage; and~~

~~2. meet, confer and negotiate with the City upon request of the City Manager or the City Council for the purpose of reaching an acceptable compromise and settlement.~~

A. The City shall never be liable for any personal injury, whether resulting in death or not, unless the person injured or someone in his behalf, or in the event the injury results in death, the person or persons who may have a cause of action under the law by reason of such death injury, shall file a notice in writing with the City Manager within ninety (90) days after the same has been received, stating specifically in such notice when, where and how the exact injury occurred and the full extent thereof, together with the amount of damages claimed or asserted. The notice requirements provided for herein do not apply if the City has actual notice that death has occurred, or that the claimant has received some injury. Further, should the claimant provide good cause for failure to comply with the notice requirements herein then said notice requirements shall not apply.

B. The City shall never be liable for any claim for damage or injury to personal property unless the person whose personal property has been injured or damaged or someone in his behalf, shall file a claim in writing with the City Manager within ninety (90) days after said damage or injury has occurred and the full extent thereof, and the amount of damage sustained. The City shall never be liable for any claim for damage or injury to real property caused by negligent act or omission of its officers, servants, agents, or employees, unless the person whose real property has been injured or damaged or someone in his behalf, shall file a claim in writing with the City Manager within ninety (90) days after said damage or injury has occurred, stating specifically when, where and how the injury or damage occurred and the amount of damage claimed. The notice requirements provided for herein do not apply if the City has actual notice that the claimant's property has been damaged. Further, should the claimant provide good cause for failure to comply with the notice requirements herein then said notice requirements shall not apply.

~~Section 10.10.—Sale or Lease of Real Property Other than Public Utilities or Real Property Acquired by Tax Sale.~~

~~The sale or lease of real property other than public utilities or real property acquired by tax sale shall be as provided by State law. In the event that a sale or lease of real property is not covered by State law, the following shall apply: The City Council may by ordinance sell or lease any real property owned by the City, but not for less than the appraised value determined by a certified appraiser. A sale, or lease for more than five (5) years, shall not be completed until thirty (30) days after passage of an ordinance approving the transaction. If, during that thirty (30) day period, a Referendum Petition is presented to the City Secretary who then deems it sufficient according to Article VI of this Charter, he/she shall certify the Referendum Petition to~~

the City Council at its next regular meeting. The City Council shall then call an election submitting the question of whether or not the sale or lease shall be concluded.

The provisions of this Section shall not apply to public utilities or to property purchased by the City at tax sales.

~~Section 10.11.— Abandonment of Streets, Alleys and Rights of Way.~~

The City may vacate, abandon or close a street, alley, easement or other public right of way. Any owner of property that abuts a public right of way may petition the City to vacate, abandon or close such right of way.

Any proposal by the City Council or citizen request, or upon citizen presentation of an Initiative Petition to abandon any public right of way shall first be heard by the Planning and Zoning Commission. The Planning and Zoning Commission shall notify all owners of property abutting the public right of way in question of its pending recommendation and the time when the matter will be heard by the City Council.

Thirty (30) days prior to the hearing before the Planning and Zoning Commission regarding the abandonment of a public right of way, the City shall notify, in writing, all owners of abutting property of the proposed action. The notice shall describe the street, alley, easement or other right of way to be abandoned and give the time and place of the meeting set to discuss the matter. Notice of the proposed action shall be published in a newspaper of general circulation in the City of Burnet and as files available for download via the Internet.

In the event a public roadway or right of way is abandoned, the City shall determine what part of such road or right of way will not be required for another public use and shall offer the remainder of such right of way to the abutting owners in proportion to their ownership. The conveying of such property to the abutting owners shall be as provided by State law. If such is not controlled by State law and upon an abutting owner offering to purchase the right of way for the fair value, the City shall, within thirty (30) days after deposit of the fair value, deliver a deed without warranty transferring the abandoned property to the abutting owners who made the deposit.

~~Article XI.— Charter Amendments~~

~~Section 11.01.— Proposal of Amendments.~~

Amendments to this charter may be framed and proposed as follows:

A. ~~By Law.~~ In any manner provided by law,

B. ~~By City ordinance.~~ By an ordinance of the City Council containing the full text of the proposed amendment;

C. ~~By Charter Commission report.~~ By the report of a Charter Commission created by ordinance, or

D. ~~By the voters of the City.~~ Proposal of an amendment by the voters of the City shall be by petition containing the full text of the proposed amendment and shall be governed by the same procedures and requirements prescribed in Article VI for Initiative Petitions. The petition must be signed by at least three hundred (300) registered voters of the City or the number equal to at least 30 percent (30%) of the total of those registered to vote at the last regular City election, whichever number is greater. The Petitioners Committee may withdraw the petition at any time before the fifteenth (15th) day immediately preceding the day scheduled for the City vote on the amendment.

Any amendment proposed for this Charter shall contain only one subject.

Section 11.02.— Election.

Upon delivery to the City election authorities of the report of a Charter Commission or delivery by the City Secretary of an adoption ordinance or a petition finally determined sufficient proposing an amendment pursuant to Article VI of this Charter, the election authorities shall submit the proposed amendment to the voters of the City at an election. An election for a proposed Charter amendment shall be announced by a notice containing the complete text of the proposed amendment, shall be posted in compliance with State law and shall be published on the same day of two successive weeks in one or more newspapers of general circulation in the City and as files available for download via the Internet. The date of the first publication shall occur more than fourteen (14) days prior to the date of the election.

A Charter amendment election shall be held on the first uniform election date that is not less than sixty (60) days after the adoption of the ordinance or report or the final determination of sufficiency of the petition proposing the amendment. The City Council shall provide for a special election on a proposed amendment in compliance with State law. The election may be held with the regular City election.

Ballots for an amendment election shall be so designed that voters may approve or disapprove any one or more amendments without having to approve or disapprove all the amendments.

Section 11.03.— Adoption of Amendments.

Section 11.02.— Election.

Upon delivery to the City election authorities of the report of a Charter Commission or delivery by the City Secretary of an adoption ordinance or a petition finally determined sufficient proposing an amendment pursuant to Article VI of this Charter, the election authorities shall submit the proposed amendment to the voters of the City at an election. An election for a proposed Charter amendment shall be announced by a notice containing the complete text of the proposed amendment, shall be posted in compliance with State law and shall be published on the same day of two successive weeks in one or more newspapers of general circulation in the City and as files available for download via the Internet. The date of the first publication shall occur more than fourteen (14) days prior to the date of the election.

A Charter amendment election shall be held on the first uniform election date that is not less than sixty (60) days after the adoption of the ordinance or report or the final determination of sufficiency of the petition proposing the amendment. The City Council shall provide for a special election on a proposed amendment in compliance with State law. The election may be held with the regular City election.

Ballots for an amendment election shall be so designed that voters may approve or disapprove any one or more amendments without having to approve or disapprove all the amendments.

~~Section 11.03.—Adoption of Amendments.~~

~~If a majority of the registered voters of the City voting on a proposed Charter amendment vote in favor of it, the amendment shall become effective at the time fixed in the amendment or, if no time is fixed, 30 days after its adoption by the voters. However, in no case shall the amendment be in effect until the City Council records with the City Secretary an order declaring that the amendment is adopted. The order declaring adoption shall be entered into City records as soon as practicable following the election.~~