

CITY OF SCHERTZ, TEXAS

HOME RULE CHARTER*

Schertz City Charter as revised by 2015 election

ARTICLE I	NAME OF CITY AND BOUNDARIES	2
Section 1.01	Name	2
Section 1.02	Boundaries; Extension, Annexation and Disannexation.....	2&3
ARTICLE II	POWERS OF THE CITY	4
Section 2.01	General Powers	4
ARTICLE III	FORM OF GOVERNMENT	5
Section 3.01	Establishment.....	5
ARTICLE IV	THE CITY COUNCIL.....	6
Section 4.01	Number, Selection and Term	6
Section 4.02	Qualifications	6
Section 4.03	Judge of Election Qualifications	6
Section 4.04	Compensation	6
Section 4.05	Mayor and Mayor Pro-Tem	6
Section 4.06	Vacancies, Forfeiture, Filling of Vacancies.....	7
Section 4.07	Prohibitions	7&8
Section 4.08	Powers of the City Council	8
Section 4.09	Meetings and Procedure.....	8&9
Section 4.10	Inquiry Powers	10
Section 4.11	Council Investigations; Hearings; Process.....	10&11
ARTICLE V	CITY MANAGER.....	12
Section 5.01	Appointment; Qualifications; Compensation	12
Section 5.02	Acting City Manager.....	12
Section 5.03	Powers and Duties of City Manager	12&13
ARTICLE VI	OTHER DEPARTMENTS, OFFICES OR AGENCIES.....	14
Section 6.01	General Provisions	14
Section 6.02	Operational and Personnel Policies	14
Section 6.03	City Attorney	14
Section 6.04	Judge of the Municipal Court	14&15
Section 6.05	Terms of Office of City Attorney and Municipal Judge.....	15
Section 6.06	City Secretary.....	15
ARTICLE VII	FINANCIAL PROCEDURES	16
Section 7.01	Fiscal Year	16
Section 7.02	Submission of Budget.....	16

Section 7.03	Audit	16
ARTICLE VIII	LEFT INTENTIONALLY BLANK.....	17
ARTICLE IX	NOMINATIONS AND ELECTIONS.....	18
Section 9.01	City Elections.....	18
Section 9.02	Candidates.....	18
Section 9.03	Determination of Election Results	18
Section 9.04	City Council Ballots.....	18&19
Section 9.05	Ballots for Ordinances and Charter Amendments	19
ARTICLE X	INITIATIVE, REFERENDUM AND RECALL.....	20
Section 10.01	General Authority	20
Section 10.02	Commencement of Proceedings; Petitioners' Committee; Affidavit.....	20
Section 10.03	Petitions.....	20&21
Section 10.04	Procedure After Filing	21&22
Section 10.05	Referendum Petitions; Suspension of Effect of Ordinance	22
Section 10.06	Action on Petitions.....	22&23
Section 10.07	Results of Election	23
Section 10.08	Limitation on Recall	23
Section 10.09	Ordinances Passed by Petition, Repeal or Amendment.....	23
ARTICLE XI	LEFT INTENTIONALLY BLANK.....	25
ARTICLE XII	GENERAL PROVISIONS	26
Section 12.01	Personal Financial Interest.....	26
Section 12.02	Charter Amendment.....	26
Section 12.03	Charter Review Commission	26&27
Section 12.04	Separability	27
Section 12.05	State Law	27
Section 12.06	Headings	27
Section 12.07	Penalty Clause.....	27
Section 12.08	Disaster Clause.....	27&28

PREAMBLE

The citizens of the City of Schertz, in the Counties of Guadalupe, Bexar and Comal, State of Texas, being aware that their community is becoming ever larger and more prosperous and that ever increasing growth and prosperity are certain, desire to plan, regulate and control the affairs of the City to the fullest extent possible under the Constitution and general laws of this State. In this spirit, the citizens of the City of Schertz do hereby ordain this the Charter of the City of Schertz and accept the duties and responsibilities which it imposes and the privileges which it grants.

[End of Preamble]

ARTICLE I

NAME OF CITY AND BOUNDARIES

Section 1.01 Name.

Those persons residing within the limits of the City, as those limits now are or as they may be in the future changed, are hereby constituted and shall continue to be a municipal body politic to exist in perpetuity under the name "CITY OF SCHERTZ" hereinafter referred to as the "City".

Section 1.02 Boundaries; Extension, Annexation and Disannexation.

(a) Boundaries. The bounds and limits of the City are hereby established and described as those which exist under authority of the current City ordinances and displayed on a map maintained by the City Secretary and those boundaries established and changed hereafter as provided; such map to be maintained hereafter by the City Manager and maintained in a public place.

(b) Extension of Boundaries; Annexation of Territory. The City Council shall have the power by ordinance to annex territory lying adjacent to the City, with or without the consent of the owners or inhabitants thereof, thereby extending and enlarging the bounds and limits of the City. Such annexations shall be limited and controlled by the applicable annexation laws of the State.

(c) Disannexation. Any area hereafter annexed under this Charter and the law of this State may be disannexed as follows:

i. Prior to disannexing any property of the City a public hearing shall held before both the City's Planning and Zoning commission and City Council on the proposed disannexation.

ii. Before the 10th day before the hearing date before the Planning and Zoning Commission, written notice of the public hearing shall be sent to each owner, as indicated by the most recently approved municipal tax roll, of real property within 200 feet of the area to be disannexed. The notice may be served by its deposit in the United States mail, properly addressed with postage paid.

iii. Not later than 30 days of completion of the public hearing by the Planning and Zoning Commission the City Council shall hold a public hearing on the proposed disannexation. Before the 15th day before the date of the public hearing, a general description of the property to be disannexed and notice of the time and place of the hearing must be published in an official newspaper or a newspaper of general circulation in the City.

iv. Not later than 30 days after the completion of the public hearing conducted by City Council the City Council may adopt an ordinance disannexing the

property. A metes and bounds description of the property shall be attached to the ordinance as an exhibit.

[End of Article I]

ARTICLE II

POWERS OF THE CITY

Section 2.01 General Powers.

The City shall have all the powers granted to cities by the Constitution and general laws of the State together with all of the implied powers necessary to execute such granted powers.

[End of Article II]

ARTICLE III

FORM OF GOVERNMENT

Section 3.01 Establishment.

The municipal government provided by this Charter shall consist of a Mayor and Councilmembers, elected by the people 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. Pursuant to its provisions and subject only to the limitations imposed by the Constitution and general laws of the State and by this Charter, all powers of the City shall be vested in the elected Mayor and Councilmembers, who shall enact local legislation, adopt budgets and determine policies.

[End of Article III]

ARTICLE IV

THE CITY COUNCIL

Section 4.01 Number, Selection and Term.

The City Council shall be composed of the Mayor and seven Councilmembers. The Mayor and all Councilmembers shall be elected from the City at large. Subject to Section 4.06(c), the Mayor and Councilmembers shall be elected in the manner provided in Section 9.01 of this Charter for three-year terms. Each Councilmember shall occupy a position on the City Council, such positions being numbered Place One through Place Seven.

Section 4.02 Qualifications.

The Mayor and each Councilmember must have attained the age of eighteen or older on the first day of the term of office applied for, be a registered voter of the City of Schertz, and have been a resident of the City for at least twelve consecutive months immediately preceding the deadline for filing for an application for a place on the ballot.

Section 4.03 Judge of Election Qualifications.

The City Council is the final judge of all elections and the qualifications of its members and any other elected officials of the City.

Section 4.04 Compensation.

Members of the City Council shall serve with such compensation as determined by the City Council. An increase in compensation shall not be effective for any member of the City Council during the term for which he or she was elected and the increase was approved. Payment of expenses incurred in performance of official duty may be approved by the City Council.

Section 4.05 Mayor and Mayor Pro-Tem.

The Mayor shall be the official head of the City government. He or she shall be the chairman and shall preside at all meetings of the City Council. The Mayor may vote only in the event of a tie. He or she shall, unless another signatory is otherwise designated by the City Council, sign all official documents such as ordinances, resolutions, conveyances, grant agreements, official plats, contracts, and bonds. He or she shall appoint special committees as instructed by City Council, with committee membership to be composed of nominees by the City Council. He or she shall perform such other duties consistent with this Charter or as may be imposed upon him or her by City Council. The Mayor shall not have veto powers.

The Mayor Pro-Tem shall be a Councilmember appointed by the City Council for a term and pursuant to procedures established by the City Council from time to time. The Mayor Pro-Tem shall act as Mayor during the absence or disability of the Mayor and in this capacity shall have the rights conferred upon the Mayor. While acting as Mayor, the Mayor Pro-Tem may vote on any matter before the City Council.

Section 4.06 Vacancies, Forfeiture, Filling of Vacancies.

(a) Vacancies. The office of a Councilmember or the office of the Mayor shall become vacant upon his or her death, removal from office in any manner authorized by law, or forfeiture of his or her office as provided for in this Charter.

(b) Forfeiture. The Mayor or a Councilmember shall forfeit his or her office upon:

(1) Final conviction of a felony or of an offense involving moral turpitude, a violation of any state laws regulating conflicts of interest of municipal officers, or is assessed a deferred adjudication or probation for any state laws regulating conflicts of interest of municipal officers.

(2) Ceasing to be a resident of the City.

(3) Failure to regularly attend City Council meetings without an approved absence obtained by a majority vote by City Council either before or after the absence. There shall be a presumption of failure to regularly attend when three (3) regular meetings are missed during a term year without obtaining an approved absence from City Council.

(4) A determination by City Council of the inability or unfitness to promptly and properly discharge official duties because of a serious mental or physical defect that did not exist at the time of election.

(c) Filling Vacancies. In the event of a single vacancy in the City Council, if there are 365 days or more remaining on the term of the vacated City Council position, the City Council shall call a special election to fill such vacancy. If there are less than 365 days remaining in the term of the vacated City Council position, the City Council may, by majority vote of the remaining Councilmembers, at its discretion appoint a new Mayor or Councilmember to fill such vacancy or call a special election to fill such vacancy.

Section 4.07 Prohibitions

(a) Holding other Office. No Mayor or Councilmember shall hold any compensated City office or employment until two (2) years after the expiration of the term for which he or she was elected to the City Council.

(b) Appointments and Removals. Neither the City Council nor any of its members shall in any manner dictate the appointment or removal of any City administrative officer or employee whom the City Manager or any of his or her subordinates are empowered to appoint, unless otherwise provided in this Charter, but 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 and employees.

(c) Interference with Administration. Except for the purpose of inquiries, unless otherwise provided in this Charter, the City Council or its members shall deal with City officers

and employees who are subject to the direction and supervision of the City Manager solely through the City Manager, and neither the City Council nor its members shall give orders to any such officer or employee, either publicly or privately.

(d) Admission of Liability. Neither the City Council nor any of its members shall accept or admit liability or pay any claim for damages asserted against the City without first obtaining a written opinion from the City Attorney regarding the City's liability therein.

(e) Conflicts of Interest. It is hereby prohibited for the Mayor or Council Member or a City Official to violate the rules and regulations regarding conflicts of interests as set out in the Texas Local Government Code, Chapter 171 as amended or its successor. For purposes of this Section term "City Official" means any individual subject to the requirements of Texas Local Government Code, Chapter 171 as amended or its successor.

(f) Attorney Client Privilege. It shall be unlawful for the Mayor or a Council Member to release any attorney-client privileged communication. The City Council as the governing body of the City solely holds and is entitled to the attorney client-privilege and it may only be waived by an affirmative vote of two-thirds of the City Council.

Section 4.08 Powers of the City Council.

All City powers shall be vested in the City Council, except as otherwise provided by law or this Charter.

Section 4.09 Meetings and Procedure.

(a) Date, Time, Place, and Notice. The City Council shall meet at least once each month at a time and place prescribed by ordinance. Special meetings may be called by the Mayor, the City Manager, or on application of three Councilmembers. Written notice of the date, place and subject of each meeting shall be posted in the City Hall and written notice of no less than twelve hours (two hours in the event of an emergency meeting of the City Council) shall be given to each Councilmember.

(b) Open Meetings. Meetings shall be open to the public in accordance with applicable State law.

(c) Quorum. Three Councilmembers (excluding the Mayor) shall constitute a quorum, and no action shall be valid unless adopted by the affirmative vote of three or more members of the City Council. If the Mayor Pro-Tem is presiding, he or she shall be counted for purposes of determining a quorum.

(c) Quorum. Four Councilmembers (excluding the Mayor) shall constitute a quorum, and no action shall be valid unless adopted by the affirmative vote of four or more members of the City Council. If the Mayor Pro Tem is presiding, he or she shall be counted for purposes of determining a quorum. **[EFFECTIVE THE FIRST REGULAR CITY COUNCIL IN NOVEMBER 2016 THAT CONSISTS OF SEVEN CITY COUNCIL MEMBERS]**

(d) Rules of Procedure. The City Council shall, by ordinance, determine its own rules and order of business, provided, however, that the citizens of the City shall have a reasonable opportunity to be heard at any meeting with regard to any matter relevant to the government of the City except at such meetings of the City Council as may be closed to the public as permitted by State law. Provision shall be made for the taking of minutes, which minutes shall be a public record. Voting, except on procedural matters, shall be by roll call and the ayes and nays shall be recorded in the minutes.

(e) Passage of Ordinances and Resolutions. Ordinances and resolutions shall be introduced to the City Council only in written or printed form. The subject or subjects of all ordinances and resolutions shall be clearly expressed in the title. Except as may otherwise be prescribed in this Charter, an ordinance shall not be passed at the meeting of the City Council at which it is first introduced, but instead the ordinance or its caption shall be read, and the City Council will determine whether it shall be rejected or further considered at a subsequent meeting of the City Council. If rejected, no further action shall be required. The City Council must take second and final consideration of any ordinance not later than sixty days after the first reading of such ordinance. Notwithstanding the foregoing provisions, if the City Council, by a vote of not less than two-thirds of the members present at the meeting at which an ordinance is first introduced, determines that an emergency exists requiring immediate action, such ordinance may then be voted upon and rejected or passed at that meeting. The enacting clause of all ordinances shall be, "BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS", and every ordinance shall be authenticated by the signature of the Mayor and the City Secretary and shall be systematically recorded and indexed in an ordinance book in a manner approved by the City Council.

(1) Franchise ordinances. All ordinances granting, confirming, extending, renewing or amending a franchise shall be accepted in writing by the grantees and before taking effect shall be published as otherwise provided in this Charter.

(2) Effective date. Every ordinance passed by the City Council shall be enrolled by the City Secretary as soon as practicable after its passage. If the ordinance was published, he or she shall note the time and place of publication which shall be prima facie proof of publication thereof. The affidavit by the printer or publisher shall also be prima facie proof of the publication. Enrollment of an ordinance shall be prima facie proof of its legal adoption and effect.

(3) Codification of ordinances. The City Council shall have the power to cause the ordinances of the City to be corrected, amended, revised, codified and printed in code form as often as the City Council deems advisable, and such printed code, when adopted by the City Council, shall be in full force and effect without the necessity of publishing the same or any part thereof in a newspaper. All printed ordinances or codes of ordinances shall be admitted as evidence in all courts without further proof and shall have the same force and effect as did the original ordinance.

Section 4.10 Inquiry Powers.

The City Council shall have the authority to inquire into the affairs of the City and the conduct of any City department, office, or agency.

Section 4.11 Council Investigations; Hearings; Process.

A. General. In addition to any other specific authority of investigation and hearing provided for in this Charter, the City Council shall have the power to inquire into the official conduct of any department, agency, appointed boards, office, officers, employees or appointed board members of the City. For the purpose of investigations and hearings, the City Council shall have the power to administer oaths, subpoena witnesses, compel the production of books, papers, and other evidence material to the inquiry. The City Council shall provide, by ordinance, penalties for contempt in failing or refusing to obey any such subpoena or to produce any such books, papers or other evidence. The City Council shall have the power to punish any such contempt in the manner provided by such ordinance.

B. Hearings Process for Forfeitures of Office and Prohibitions.

1. All hearings held under this subsection shall be conducted in open session, except that the City Council may conduct a closed session to get advice from its attorney pursuant to the Texas Open Meetings Act;

2. The office holder subject to any investigation and/or hearing under this section shall be entitled to written notice of the allegations of forfeiture and/or the alleged violation of this Charter as applicable;

3. A special meeting shall be called to hold the hearing;

4. A member of City Council who initiated or is the subject of the investigation or hearing shall not sit at the dais and shall not participate in deliberations or vote;

5. City Council shall adopt by ordinance rules of procedures to be followed;

6. The City Council shall state the nature of the hearing and the allegations to be considered, shall be provided the results of any investigation and a presentation of the evidence against the office holder including, but not limited to testimony from individuals;

7. The individual who is subject to the hearing shall be provided an opportunity to respond to the allegations and present any relevant evidence including, but not limited to, testimony from individuals;

8. City Council may ask questions of any individual;

9. No public comment shall be allowed;

10. In the case of an alleged forfeitures of office pursuant to Section 4.06 (b) of this Charter City Council shall vote on the forfeiture and on the affirmative vote of two-thirds of City Council declare the office of said office holder to be forfeited and vacant;

11. In the case of an alleged violation of Section 4.07 of this Charter City Council may, on the affirmative vote of a majority of the City Council, take any action it determines to be appropriate including, but not limited to, directing further investigation, requesting further information, vote to enforce a penalty pursuant to section 12.10 of this Charter, vote to bring an action in municipal court, take a vote of censure; or, upon the affirmative vote of two-thirds (2/3) of City Council, declare the office of said office holder to be forfeited and vacant.

12. Unless prohibited pursuant to subsection 4 herein, the Mayor shall vote in the case of an alleged forfeitures of office pursuant to Section 4.06 (b) of this Charter or of an alleged violation of Section 4.07 of this Charter.

[End of Article IV]

ARTICLE V
CITY MANAGER

Section 5.01 Appointment; Qualifications; Compensation.

The City Council shall appoint a City Manager and fix his or her compensation. He or she shall be chosen on the basis of his or her executive and administrative training, experience, ability and character. He or she need not be a resident of the City or State at the time of his or her appointment, but he or she must agree, prior to such appointment, to become a resident of the City within four months after the date of his or her appointment. If he or she thereafter fails to become a resident of the City within that four-month period, he or she shall be deemed to have forfeited his or her appointment and the office shall be declared vacant by announcement of the Mayor at the first meeting of the City Council following the expiration of the four-month period. The City Manager shall serve at the will and pleasure of the City Council. He or she shall be employed for or relieved from his or her duties by a vote of a majority of the members of the entire City Council.

Section 5.02 Acting City Manager.

By letter filed with the City Secretary the City Manager shall designate, subject to approval of the City Council, a qualified City administrative officer to exercise the powers and perform the duties of City Manager during his or her temporary absence or disability. During any vacancy in the office of City Manager, the City Council may appoint an Acting City Manager to perform the duties of City Manager. During such absence, disability, or vacancy, the City Council may revoke such designation at any time and appoint another officer of the City to serve as Acting City Manager until the City Manager shall return or his or her disability shall cease or such vacancy is filled.

Section 5.03 Powers and Duties of City Manager.

The City Manager shall be the chief administrative officer of the City. He or she shall be responsible to the City Council for the administration of all City affairs placed in his or her charge by or under this Charter. He or she shall have the following powers and duties:

(a) He or she shall appoint and, when he or she deems it necessary for the good of the City, suspend or remove City employees and appointive administrative officers provided for, by or under this Charter, except as otherwise provided by law, this Charter, or personnel rules adopted pursuant to this Charter. He or she may authorize any administrative officer who is subject to his or her direction and supervision to exercise these powers with respect to subordinates in that officer's department, office or agency.

(b) He or she shall direct and supervise the administration of all departments, offices and agencies of the City, except as otherwise provided by this Charter or by law.

(c) The City Manager or their designee shall attend all City Council meetings and shall have the right to take part in discussion but may not vote.

(d) He or she shall see that all laws, provisions of this Charter and acts of the City Council, subject to enforcement by him or her or by officers subject to his or her direction and supervision, are faithfully executed.

(e) He or she shall prepare and submit the annual budget and capital program to the City Council.

(f) He or she shall submit to the City Council and make available to the public a complete report on the finances and administrative activities of the City as of the end of each fiscal year.

(g) He or she shall make such other reports as the City Council may require concerning the operations of City departments, offices and agencies subject to his or her direction and supervision.

(h) He or she shall keep the City Council fully advised as to the financial condition and future needs of the City and make such recommendations to the City Council concerning the affairs of the City.

(i) He or she shall perform such other duties as are specified in this Charter or may be required by the City Council.

(j) He or she shall keep a written inventory of all real property and all permanent equipment belonging to the City, said inventory to be subject to annual audit. A system shall be established to control the use and replacement of expendable items.

(k) He or she shall have the authority to sign documents in the name of the City as authorized by the City Council. (Election of 4-7-79, 5-6-89, 5-13-06)

[End of Article V]

ARTICLE VI

OTHER DEPARTMENTS, OFFICES OR AGENCIES

Section 6.01 General Provisions.

(a) Creation of Departments. The City Council may continue, discontinue or establish City departments, offices or agencies in addition to those created by this Charter and may prescribe the functions of all departments, offices and agencies.

(b) Direction by City Manager. All departments, offices and agencies under the direction and supervision of the City Manager shall be administered by an officer appointed by and subject to the direction and supervision of the City Manager. With the consent of the City Council, the City Manager may serve as the head of one or more such departments, offices or agencies or may appoint one person as the head of two or more of them.

Section 6.02 Operational and Personnel Policies.

The City Manager shall be responsible for the preparation of operational and personnel policies. Personnel policies which affect the budget and employee discipline and/or adverse actions shall be approved by City Council. The City Council may accept and adopt such policies as proposed or may adopt them with such amendments as the City Council deems necessary or may reject them in their entirety and direct the City Manager to further consider the policies and present new proposals at a subsequent meeting. Operational and administrative policies shall be approved by the City Manager but shall be provided to City Council for their information.

Section 6.03 City Attorney.

The City Council shall appoint a City Attorney for an indefinite term and fix his or her compensation. The City Attorney must be a member of the State Bar of Texas. He or she shall serve as chief legal advisor to the City, including the City Council, and, subject to applicable rules of the State Bar of Texas, the City Manager, supervisors of City departments and other City officers and agencies. He or she shall represent the City in all legal proceedings and shall perform any other duties prescribed by this Charter, ordinances of the City, or State laws. The City Council may retain an additional attorney or attorneys for the City when the City Attorney is absent or as other circumstances require.

Section 6.04 Judge of the Municipal Court.

The City Council shall establish a Municipal Court and shall appoint a Judge (and may appoint one or more deputy Judges) of the Municipal Court of the City and fix his or her compensation. Sessions of the Municipal Court shall be held at such times as may be determined by the Judge of the Municipal Court.

When the Judge is absent, disabled or unable to perform his or her duties for any cause, or his or her office becomes vacant by reason of death, removal or resignation and no deputy Judge has been appointed, the City Council may appoint a special Judge of said court who shall

serve until the Judge of said court returns to his or her duties or a successor is appointed and qualifies or a deputy Judge is appointed and qualifies.

Section 6.05 Terms of Office of City Attorney and Municipal Judge.

Neither the City Attorney nor the Judge of the Municipal Court shall have any specified term of office, but each shall serve at the will and pleasure of the City Council. Either of such officers may be appointed to or relieved from office by a majority vote of the City Council.

Section 6.06 City Secretary.

(a) The City Council shall appoint a City Secretary who shall act as Secretary of the City Council and who shall hold office at the pleasure of the City Council. The City Secretary shall be the clerical officer of the City Council, and shall keep the minutes, agenda, ordinances and other official records of the City Council and the City. The City Secretary shall be the custodian of the official seal of the City, and shall have such other duties and powers prescribed in this Charter and by the City Council. The City Council will set the compensation for the City Secretary. The City Secretary shall report administratively to the City Manager but may be removed from office only by the City Council.

(b) Upon approval by City Council of the position(s), the City Secretary may hire a deputy or deputies. The Deputy or Deputies shall report directly to the City Secretary.

[End of Article VI]

ARTICLE VII

FINANCIAL PROCEDURES

Section 7.01 Fiscal Year.

The fiscal year of the City shall begin on the first day of October and end on the last day of the following September.

Section 7.02 Submission of Budget.

The City Manager shall submit to the City Council a budget for the ensuing fiscal year and an accompanying message not later than fifty days prior to the beginning of each fiscal year.

Section 7.03 Audit.

The City Council shall cause an annual audit to be made of the books and accounts of each department of the City and shall have an annual financial statement prepared based on the audit. A complete audit shall be made at the end of each fiscal year, and at such other times as may be necessary, by an independent Certified Public Accountant who shall be selected by the City Council. The annual financial statement, including the auditor's opinion, shall be filed with the City Secretary and shall be available for public inspection. The auditor selected shall not maintain or keep any of the City accounts or records.

[End of Article VII]

ARTICLE VIII

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ARTICLE IX

NOMINATIONS AND ELECTIONS

Section 9.01 City Elections.

(a) The regular City election shall be held annually on the uniform election date in November, or at such other times as may be authorized or 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.

Section 9.02 Candidates.

(a) Any person having the qualifications set forth for under Section 4.02 of this Charter shall have the right to file an application to have his or her name placed on the official ballot as a candidate for any one 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 Elections Code and this Charter.
2. An application filed in accordance herewith shall entitle such applicant a place on the official ballot.

(b) A candidate of the City Council shall specify the place number or position the candidate is seeking.

(c) A filing fee of five dollars, or such other amount as may hereafter be set by the City Council, must be paid to the City Secretary by each candidate upon presentation of his or her application. The filing fee shall be waived if the candidate states in writing that payment thereof will constitute a financial hardship.

Section 9.03 Determination of Election Results.

In the event no candidate for an elective office receives a majority of the votes cast for that place in the general or special election, a run-off election shall be held between the two (2) candidates who received the greater number of votes. In the event a tie vote makes it impossible to determine the winning candidate or candidates, resolution of such tie shall be decided as provided in the Texas Election Code.

Section 9.04 City Council Ballots.

The names of all candidates for office, except such as may have withdrawn, died or became ineligible, shall be printed on the official ballots in the order of Mayor,

Councilmember-Place One, etc., without party designation, and the order of listing the candidates' names for each such office shall be determined in a drawing of lots conducted by the City Secretary. Early voting shall be governed by the general election laws of the State.

Section 9.05 Ballots for Ordinances and Charter Amendments.

An ordinance or Charter amendment to be voted on by the City shall be presented for voting by ballot title. The ballot title of a measure may differ from its legal title and shall be a clear, concise statement, describing the substance of the measure without argument or prejudice. Below the ballot title shall appear the following question: "Shall the above described (ordinance) (amendment) be adopted?" Immediately below such question shall appear, in the following order, the words "yes" and "no". Ballots shall include voting instructions. (Election of 5-13-06)

[End of Article IX]

ARTICLE X

INITIATIVE, REFERENDUM AND RECALL

Section 10.01 General Authority.

(a) Initiative. The qualified voters of the City shall have power to propose ordinances to the City Council. If the City Council fails to adopt an ordinance so proposed without any change in substance, the qualified voters shall have the power to adopt or reject it at a City election, provided that such power shall not extend to the budget or capital program or any ordinance relating to appropriation of money, levy of taxes or salaries of City officers or employees.

(b) Referendum. The qualified voters of the City shall have power to require reconsideration by the City Council of any adopted ordinance. If the City Council fails to repeal an ordinance so reconsidered, the qualified voters shall have the power to approve or reject it at a City election, provided that such power shall not extend to the budget or capital program or any emergency ordinance or ordinance relating to appropriation of money or levy of taxes.

(c) Recall. The qualified voters of the City shall have the power to petition for recall of the Mayor or any member of the City Council by name and Place.

Section 10.02 Commencement of Proceedings; Petitioners' Committee; Affidavit.

Any five qualified voters may commence initiative, referendum or recall proceedings by filing with the City Secretary an affidavit stating they will constitute the petitioners' committee and will circulate the petition and file it in proper form stating their names and addresses and specifying the address to which all notices to the committee are to be sent and setting out in full the proposed initiative ordinance or citing the ordinance sought to be reconsidered. The affidavit for recall must distinctly and specifically state the reason or reasons for which the petition for recall is predicated and include the other requirements set forth in Section 10.06(b). Promptly after the affidavit of the petitioners' committee is filed, the City Secretary shall issue the appropriate petition blanks to the petitioners' committee.

Section 10.03 Petitions.

(a) Number of Signatures. Initiative and referendum petitions must be signed by qualified voters of the City equal in number to at least fifteen (15) percent of the number of voters registered to vote at the last general City election. Recall petitions must be signed by qualified voters of the City equal in number to at least twenty (20) percent of the number of voters registered to vote at the last general City election.

(b) Form and Content. All pages of a petition shall be uniform in size and style and shall be assembled as one instrument for filing. For a petition signature to be valid, the petition must:

- (1) contain in addition to the signature:
 - (A) the signor's printed name; and

- (B) the signor’s
 - (i) date of birth; or
 - (ii) voter registration number and the County of voter registration; and
 - (C) the signor’s residence address (including street address and County of voter registration); and
- (2) comply with any other applicable requirements prescribed by State law.

Petitions shall contain or have attached thereto throughout their circulation the full text of the proposed ordinance or other subject matter of the petition. A recall petition must distinctly and specifically state the reason or reasons upon which the petition is predicated.

(c) Affidavit of Circulator. Each page of a petition shall have attached to it when filed the following notarized affidavit, with all blanks properly completed:

“STATE OF TEXAS §

CITY OF SCHERTZ §

I, _____, being first duly sworn, on oath confirm that (i) I am one of the signers of the above petition, (ii) I personally circulated the foregoing page of said petition, (iii) there are __ signatures on such page, (iv) each of the signatures appearing on such page was signed in my presence on the day and date it purports to have been signed, (v) the same are the genuine signatures of the persons whose names they purport to be, and (vi) each signer had an opportunity to read the full text of the ordinance or other subject matter of the petition.

Sworn and subscribed to before me, this the _____ day of _____, 20__.

Signed and Sealed by a Notary Public in and for State of Texas”

(d) Filing Recall Petition. Recall petitions shall be initiated and filed with the City Secretary within sixty days after the petitioners’ committee files its affidavit.

(e) Filing Referendum Petitions. Referendum petitions must be filed within sixty days after adoption by the City Council of the ordinance sought to be reconsidered.

Section 10.04 Procedure After Filing.

(a) Certificate of City Secretary; Amendment. Within twenty days after the petition is filed, the City Secretary shall complete a certificate as to its sufficiency, specifying, if it is insufficient, the particulars wherein it is defective and shall promptly send a copy of the certificate to the petitioners’ committee by registered mail. A petition certified insufficient for lack of the required number of valid signatures may be amended once if the petitioners’ committee files a notice of intention to amend it with the City Secretary within two days after

receiving the copy of his or her certificate and files a supplementary petition upon additional papers within ten days after receiving the copy of such certificate. Such supplementary petition shall comply with the requirements of subsections (b) and (c) of Section 10.03, and within five days after it is filed, the City Secretary shall complete a certificate as to the sufficiency of the petition as amended and promptly send a copy of such certificate to the petitioners' committee by registered mail as in the case of an original petition. If a petition or amended petition is certified insufficient and the petitioners' committee does not elect to amend or request City Council to review under subsection (b) of this Section within the time required, the City Secretary shall promptly present his or her certificate to the City Council and the certificate shall then be a final determination as to the sufficiency of the petition.

(b) City Council Review. If a petition has been certified insufficient and the petitioners' committee does not file notice of intention to amend it or if an amended petition has been certified insufficient, the committee may, within two days after receiving the copy of such certificate, file a request that it be reviewed by the City Council. The City Council shall review the certificate at its next meeting following the filing of such request and approve or disapprove it, and the City Council's determination shall then be a final determination as to the sufficiency of the petition.

(c) Court Review; New Petition. A final determination as to the sufficiency of a petition shall be subject to court review. A final determination of insufficiency, even if sustained upon court review, shall not prejudice the filing of a new petition for the same purpose.

Section 10.05 Referendum Petitions; Suspension of Effect of Ordinance.

When a referendum petition complying with all the provisions of Sections 10.03 and 10.04 is filed with the City Secretary the ordinance sought to be reconsidered shall be suspended from taking effect. Such suspension shall terminate when:

- (a) there is a final determination of insufficiency of the petition, or
- (b) the petitioner's committee withdraws the petition, or
- (c) the City Council repeals the ordinance, or
- (d) voters sustain the ordinance in an election.

Section 10.06 Action on Petitions.

(a) Action by City Council on Initiative or Referendum. When an initiative or referendum petition has been fully determined sufficient, the City Council shall promptly consider the proposed initiative ordinance in the manner provided in Article IV or reconsider the referred ordinance by voting its repeal. If the City Council fails to adopt a proposed initiative ordinance without any change in substance within sixty days or fails to repeal the referred ordinance within thirty days after the date the petition was finally determined sufficient, it shall submit the proposed or referred ordinance to the voters of the City at a special election.

(b) Action by City Council on Petition for Recall. The recall petition must be addressed to the City Council of the City, must distinctly and specifically point out the ground or grounds upon which such petition for removal is predicated, and, if there be more than one ground, such as for incompetency, misconduct or malfeasance in office, shall specifically state each ground with such certainty as to give the officer sought to be removed notice of the matters and things with which he or she is charged. The officer whose removal is sought may, within five days after such recall petition has been presented to the City Council request that a public hearing be held to permit him or her to present facts pertinent to the charges specified in the recall petition. In this event, the City Council shall order such public hearing to be held, not less than five days nor more than fifteen days after receiving such request for a public hearing. If the officer whose removal is sought does not resign, then it shall become the duty of the City Council to order a recall election and fix a date for holding such recall election.

(c) Submission to voters. The special election on a proposed or referred ordinance or petition for recall shall be held on the earliest date permitted by State and federal law after the date of the final City Council vote thereon. Copies of the proposed or referred ordinance shall be made available at the polls.

Section 10.07 Results of Election.

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

(b) Referendum. If a majority of the qualified voters voting on a referred ordinance vote against it, it shall be considered repealed upon certification of the election results.

(c) Recall. If a majority of the votes cast at a recall election shall be against the recall of the person named on the ballot, he or she shall continue in office for the remainder of his or her unexpired term. If a majority of the votes cast at such election shall be for the recall of the person named on the ballot, he or she shall be deemed removed from office and the vacancy shall be filled as provided in Section 4.06(c) of this Charter.

Section 10.08 Limitation on Recall.

No Councilmember shall be subject to recall within six months of his or her election to office nor more than once during one term of office. A recall election need not be ordered by the City Council against any Councilmember on whom a petition is filed if his or her term of office is to expire within ninety days after the petition is filed with the City Secretary.

Section 10.09 Ordinances Passed by Petition, Repeal or Amendment.

No ordinance which may have been passed by the City Council upon a petition or adopted by popular vote under the provisions of this Article may be repealed or amended by the City Council for a period of three (3) years from the date said ordinance became effective and then only upon an affirmative vote of two-thirds (2/3s) of the City Council.

[End of Article X]

ARTICLE XI

[LEFT INTENTIONALLY BLANK]

ARTICLE XII

GENERAL PROVISIONS

Section 12.01 Personal Financial Interest.

For purposes of this Section term "City Official" means any individual subject to the requirements of Texas Local Government Code, Chapter 171.

It is hereby prohibited for City Council members or a City Official to violate the rules and regulations regarding conflicts of interests as set out in the Texas Local Government Code, Chapter 171.

Section 12.02 Charter Amendment.

Amendments to this Charter may be framed and submitted to the voters of the City by a charter commission in the manner provided by law, by ordinance passed by a majority vote of the full membership of the City Council, or by a petition signed by not less than five percent of the qualified voters of the City. When a charter amendment petition shall have been filed in conformity with Section 10.03 of this Charter, the City Council shall, subject to applicable law, forthwith provide by ordinance for submitting such proposed amendment to a vote of the voters of the City. Any ordinance for submitting a charter amendment to the voters shall provide for submission of such amendments to the voters in accordance with applicable law. Not less than thirty days prior to such election the City Secretary shall make available at the City Offices a copy of the proposed amendment or amendments. If a proposed amendment shall be approved by a majority of the voters voting thereon, it shall become a part of the Charter at the time fixed therein. Each amendment shall be confined to one subject; and, when more than one amendment shall be submitted at the same time, they shall be submitted so as to enable the voters to vote on each separately.

Section 12.03 Charter Review Commission.

The City Council shall periodically appoint a Charter Review Commission which shall consist of no less than 5 and no more than 11 citizens of the City. It shall be the duty of the Commission to:

(a) Inquire into the operation of the City government under the Charter provisions and determine whether any such provisions require revision and to this end, public hearings may be held and the Commission shall have the power to compel the attendance of any officer or employee of the City to require the submission of any of the City records which it may consider necessary to the conduct of such hearing.

(b) Make any recommendations it considers desirable to insure compliance with the provisions of this Charter by the several departments of the City.

(c) Propose amendments to this Charter to improve its effective application to current conditions.

(d) Report its findings and present its proposed amendments, if any, to the City Council. The City Council shall receive any report submitted by the Charter Review Commission, may comment on any proposed amendment recommendations made, and, if any amendment or amendments are presented as a part of such report, shall order such to be submitted to the voters of the City in the manner provided in Section 12.04.

(e) The term of office of the Charter Review Commission shall be 180 days after the date of the first meeting, said first meeting to occur within forty-five (45) days of the date of appointment. If during this term no report is presented to the City Council, then all records of the proceedings of the Commission shall be filed with the City Manager and the Charter Review Commission shall be dismissed.

Section 12.04 Separability.

If any provision of this Charter is held invalid, the other provisions of the Charter shall not be affected thereby. If the application of this Charter or any of its provisions to any person or circumstances is held invalid, the application of the Charter and its provisions to other persons or circumstances shall not be affected thereby.

Section 12.05 State Law.

References in this Charter to “State law” shall refer to applicable provisions of State law in effect from time to time.

Section 12.06 Headings.

Headings and titles of Sections and subsections of this Charter are for convenience only and shall not affect the meaning of any provisions within such Sections.

Section 12.07 Penalty Clause.

A. Criminal Penalty. Any person who by himself or with others violates any provision of this charter shall, in addition to any other penalty, be guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine of not more \$500.00. City Council shall enact an ordinance enforcing this section.

B. Civil Penalty. Upon the affirmative vote of two-thirds of the City Council any person who by himself or with others violates any provision of this charter shall be, in addition to any other penalty provided for herein, subject to a civil fine of not more than \$500.00.

Section 12.08 Disaster Clause.

In the case of a common disaster when a legal quorum of the City Council cannot otherwise be assembled due to multiple deaths or injuries, the surviving persons of the City Council, or highest surviving City official, if no elected official remains, shall, within 24 hours of such disaster, request the highest surviving officers of the Guadalupe County Commissioners Court to appoint a number of residents of Schertz, qualified to serve as City Council Members, equal to the number necessary to make a quorum to act during the emergency as the City

Council. The newly appointed City Council shall call a City election within 15 days of their appointment, or as provided in the Texas Election Code, for election of the vacant offices, if for good reasons it is known a quorum of the present City Council will never again meet. If it is determined that a quorum of the City Council will meet again, the appointed Council Members shall serve in their position until such time as the Council Members may begin serving.

[End of Article XII]