



CITY CHARTER
2006



City of Las Cruces
PEOPLE HELPING PEOPLE

MISSION STATEMENT

TO PROVIDE RESPONSIVE,

COST EFFECTIVE AND

HIGH QUALITY SERVICES

TO THE CITIZENS OF

LAS CRUCES.



City of Las Cruces[®]
PEOPLE HELPING PEOPLE

CITY OF LAS CRUCES CHARTER

SUBMITTED TO THE
LAS CRUCES COMMISSION
JANUARY 7, 1985

AMENDED
NOVEMBER 7, 1989

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NOVEMBER 2, 1993

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City of Las Cruces[®]
PEOPLE HELPING PEOPLE

TABLE OF CONTENTS

TABLE OF CONTENTS	2-4
Article I. INCORPORATION AND POWERS	
Sec. 1.01. Municipal corporation and powers.	5
Sec. 1.02. Construction.	5
Sec. 1.03. Additional powers of the city.	5
Sec. 1.04. Boundaries.	5
Sec. 1.05. Limitation on powers.	5-6
Article II. CITY COUNCIL	
Sec. 2.01. Composition, eligibility, election and terms, districts, district boundaries and revisions.	6-7
Sec. 2.02. Salary; expenses.	7
Sec. 2.03. Mayor; mayor pro tem.	7
Sec. 2.04. General powers and duties.	8
Sec. 2.05. Prohibitions.	8
Sec. 2.06. Vacancies; forfeiture of office; filling of vacancies.	8-9
Sec. 2.07. Certification of elections.	9
Sec. 2.08. Procedure.	9
Sec. 2.09. Action requiring an ordinance.	9-10
Sec. 2.10. Ordinances and resolutions.	10-11
Sec. 2.11. Emergency ordinances.	11
Sec. 2.12. Codes of technical regulations.	11
Sec. 2.13. Authentication and recording; codification; distribution.	11-12
Sec. 2.14. Establishment of boards, commissions, authorities and agencies.	12
Article III. CITY MANAGER	
Sec. 3.01. Appointment; qualifications; removal.	12
Sec. 3.02. Powers and duties.	13
Article IV. ADMINISTRATION	
Sec. 4.01. General provisions.	13

Sec. 4.02. Personnel system.	13-14
Sec. 4.03. City attorney.	14
Sec. 4.04. City clerk.	14
Sec. 4.05. Citizen complaints.	14

Article V. FINANCIAL PROCEDURES

Sec. 5.01. Fiscal year.	15
Sec. 5.02. Submission of budget and budget message.	15
Sec. 5.03. Budget message.	15
Sec. 5.04. Budget.	15-16
Sec. 5.05. Capital improvements program.	16
Sec. 5.06. Council action on budget and capital improvements program.	16-17
Sec. 5.07. Public records.	17
Sec. 5.08. Amendments after adoption.	17
Sec. 5.09. Independent audit.	17
Sec. 5.10. Procurement.	18
Sec. 5.11. Investment of public funds.	18

Article VI. PLANNING

Sec. 6.01. Planning authority.	18
Sec. 6.02. Comprehensive plan.	18
Sec. 6.03. Use of comprehensive plan.	18

Article VII. CITY ELECTIONS

Sec. 7.01. Elections.	19
Sec. 7.02. Nominations.	19-20
Sec. 7.03. Ballots.	20
Sec. 7.04. Watchers and challengers.	20
Sec. 7.05. Determination of election results.	20-21
Sec. 7.06. Ballots for ordinances, Charter amendments and Charter repeal.	22
Sec. 7.07. Voting procedures.	22

Article VIII. INITIATIVE, REFERENDUM AND RECALL

Sec. 8.01. General authority.	22
Sec. 8.02. Commencement of proceedings; petitioners' committee; affidavit.	22
Sec. 8.03. Petitions.	23
Sec. 8.04. Procedure after filing.	23
Sec. 8.05. Referendum petitions; time for filing; suspension of effective ordinances.	24
Sec. 8.06. Initiative petitions; action by council.	24
Sec. 8.07. Recall petitions.	24
Sec. 8.08. Action on petitions.	25
Sec. 8.09. Results of election.	25

Article IX. MUNICIPAL COURT

Sec. 9.01. Jurisdiction; powers; duties.	26
Sec. 9.02. Municipal judges.	26
Sec. 9.03. Qualification; bond; salary.	26
Sec. 9.04. Temporary incapacity or absence.	26
Sec. 9.05. Counsel for indigents.	26

Article X. GENERAL PROVISIONS

Sec. 10.01. Repeal of certain existing laws.	26
Sec. 10.02. Existing ordinances and resolutions.	27
Sec. 10.03. Duration of existing ordinances and resolutions.	27
Sec. 10.04. Rights and property.	27
Sec. 10.05. Severability.	27
Sec. 10.06. Existing contracts and franchises.	27
Sec. 10.07. Civil and criminal actions or proceedings.	27
Sec. 10.08. Repeal and amendment of Charter.	27-28
Sec. 10.09. Ballots and notices, English and Spanish.	28
Sec. 10.10. Conflict of interest.	28

ARTICLE I. INCORPORATION AND POWERS

Sec. 1.01. Municipal corporation and powers.

The municipal corporation now existing and known as the City of Las Cruces shall remain and continue to be a body corporate and public and may exercise all legislative powers and perform all functions not expressly denied by general law or by this Charter.

Sec. 1.02. Construction.

The city may exercise its legislative power in the manner it deems necessary. As the purpose of this Charter is to provide for maximum local self-government, a broad construction shall be given to the powers of the city granted by this Charter.

Sec. 1.03. Additional powers of the city.

(a) The power of the city to legislate is permissive and not mandatory. If the city does not legislate, it may, nevertheless, act in the manner provided by law. In this respect it shall possess all powers granted to municipal corporations by the Constitution and statutes of New Mexico and not contrary to the provisions of this Charter.

(b) The city shall have such other powers as are consistent with the Constitution of the State of New Mexico and with this Charter.

(c) The city may exercise its power of eminent domain to condemn private property, real and personal, which is employed for a public purpose where by resolution the city council determines that such condemnation will serve the public interest.

(Ord. No. 1083, 7-3-89)

Sec. 1.04. Boundaries.

The boundaries as now established or as hereinafter established for the City of Las Cruces shall be the boundaries of the city.

Sec. 1.05. Limitation on powers.

(a) Limitation on private and civil laws and on penalties. The grant of powers herein shall not include the power to enact private or civil laws governing civil relationships except as incident to the exercise of an independent municipal power, nor shall it include the power to provide for a penalty greater than the penalty provided for a petty misdemeanor. The council may not impose any tax unless authorized to do so by the State of New Mexico.

Sec. 1.05.

(b) Limitation on credit and donations. The City of Las Cruces, except as otherwise provided in the New Mexico Constitution, shall not directly or indirectly lend or pledge its credit or make any donation to or in aid of any person, association or public or private corporation. Nothing herein shall be construed to prohibit the city from making provision for the care and maintenance of sick and indigent persons.

ARTICLE II. CITY COUNCIL*

* State Law References: Governing body of a municipality, NMSA 1978, § 3-12-1 et seq.

Sec. 2.01. Composition, eligibility, election and terms, districts, district boundaries and revisions.

(a) Composition. The legislative power of the city shall be vested in the council, comprised of six (6) members to be known as councillors and one (1) member to be known as mayor. The six (6) councillors shall be nominated and elected by the qualified voters of each of the six (6) single-member districts. The mayor shall be nominated and elected at large.

(b) Eligibility. Only qualified voters and residents of a respective district shall be eligible to hold the office of councillor from that district. Only qualified voters and residents of the City of Las Cruces shall be eligible to hold the office of mayor.

(c) Election and terms. The term of office for all councillors shall be four (4) years except for circumstances provided for in Section 2.06(c). Elections shall be on a staggered basis and shall be held in the manner provided in Article VII. The terms of the councillors and the mayor shall begin at the first meeting of the council after the certification of the election, or after the runoff election for those candidates subject to the runoff provisions of this Charter.

(d) Districts. The city shall be divided into six (6) geographical districts numbered one (1) to six (6), inclusively, and each district shall be represented by one (1) councillor. Each member of the council representing a district shall be elected by the resident, qualified voters of that district only. The mayor shall be elected at large and shall be elected by the resident and qualified voters of the City of Las Cruces.

(e) District boundaries and revisions. The council shall, be [by] ordinance, set the boundaries of each district. These boundaries shall remain in effect until altered or changed by the council by ordinance. In establishing the district boundaries, the council shall consider the following principles which, in the event of any conflict among them, shall be considered in the following order:

Sec. 2.01.

(1) Each district shall contain as nearly as possible substantially the same population based upon the most recent federal census.

(2) Communities of interest, including those based upon ethnic and economic factors, shall be preserved whenever reasonable within a single district.

(3) Each district shall be formed of compact, contiguous territories. The total length of all district boundary lines shall be as short as possible.

The council shall provide, by ordinance, a procedure for the periodic review of the boundaries of the districts.

(Ord. No. 1077, 7-3-89; Ord. No. 1324, § I, 7-6-93; Ord. No. 2221, § I, 8-1-05)

Editors Note: Ordinance No. 1324, adopted July 6, 1993, amending § 2.01, was approved at referendum on Nov. 2, 1993.

Sec. 2.02. Salary; expenses.

(a) Salary. The council shall determine the annual salary of councillors and the mayor by ordinance, but no ordinance increasing their salaries shall become effective until after the expiration of terms of office of the individuals then constituting the council.

(b) Expenses. The city council shall set by ordinance a policy on reimbursement for expenses of councillors incurred in performing official duties.

Sec. 2.03. Mayor; mayor pro tem.

(a) Selection. At the first meeting after each regular election, or in the event there is a runoff election for a councillor or mayoral candidate pursuant to this Charter, after the first meeting following such runoff election the council shall select a mayor pro tem from among the other six (6) councillors then elected and serving. For all purposes of this Charter, the mayor and mayor pro tem shall remain councillors but shall have additional powers herein set forth.

(b) Duties. The mayor shall chair the council, shall have a vote on all matters coming before the council, shall be recognized as head of the city government for all ceremonial purposes and by the governor for purposes of military law, shall propose programs and policies to the council annually in a formal statement, and from time to time, but shall not have any administrative duties. The mayor pro tem shall perform the duties of the mayor in the absence or disability of the mayor.

(Ord. No. 1077, 7-3-89; Ord. No. 1324, § II, 7-6-93)

Editors Note: Ordinance No. 1324, adopted July 6, 1993, amending § 2.03, was approved at referendum on Nov. 2, 1993.

Sec. 2.04. General powers and duties.

All powers of the city shall be vested in the council, except as otherwise provided by law or this Charter, and the council shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the city by law.

Sec. 2.05. Prohibitions.

(a) Holding other office. Except where authorized by law, no councillor or mayor shall hold any other elected public office or city employment during the term for which the individual was elected to the council. No former councillor or mayor shall hold any compensated appointive city office or employment until one (1) year after the expiration of the term for which the councillor or mayor was elected.

(b) Appointments and removals. Neither the council nor its individual members shall in any manner dictate the appointment or removal of any city administrative officer or employee whom the city manager or any of the manager’s subordinates are empowered to appoint.

(c) Interference with administration. Neither the mayor, council nor individual councillors shall in any manner usurp the administrative authority of the city manager set forth in Article III.

(Ord. No. 1077, 7-3-89)

Sec. 2.06. Vacancies; forfeiture of office; filling of vacancies.

(a) Vacancies. The office of councillor shall become vacant upon the councillor’s death, resignation, recall, moving of residence from the district from which elected, or forfeiture of office. The office of mayor shall become vacant upon the mayor’s death, resignation, recall, moving of residence to outside the city limits, or forfeiture of office.

(b) Forfeiture of office. A councillor or mayor may be removed from office in accordance with the general laws of the State of New Mexico.

(c) Filling of vacancies. A vacancy in the council, occurring more than nine (9) months prior to the next regular election, shall be filled by a special election to be held within sixty (60) days of the vacancy. The councillor or mayor so elected shall serve for the remainder of the unexpired term for which the councillor or mayor who vacated the position was elected. A vacancy occurring less than nine (9) months prior to the next regular election shall be filled by the appointment by the council of a person who is a qualified voter residing in the district in which the vacancy exists, or in the case of the mayor, be [by] a qualified voter residing in the city. The appointed councillor or mayor shall serve until the next regular election, at which time a councillor or mayor shall be elected to serve

Sec. 2.06.

for the remainder of the unexpired term for which the councillor or mayor who vacated the position was elected. Notwithstanding the requirement hereinafter in this Charter that a quorum of the council consists of four (4) members, if at any time the membership of the council is reduced to fewer than four (4) members, the remaining members may, by majority action, enforce the provisions of this section.

(Ord. No. 1077, 7-3-89; Ord. No. 2222, § I, 8-1-05)

Sec. 2.07. Certification of elections.

The council shall certify the results of all city elections.

Sec. 2.08. Procedure.

(a) Meetings. The council shall meet regularly at least twice in every month at such times and places as the council may prescribe by ordinance. Special meetings may be held on the call of the mayor or of four (4) or more members and, whenever practicable, upon no less than twelve (12) hours' notice to each member. All meetings shall be subject to state statutes regarding open meetings. Closed or executive sessions may be conducted only as authorized by the statutes of the State of New Mexico.

(b) Rules and records. The council shall determine its own rules, policies and order of business and shall provide for keeping records of its proceedings. These records shall be public.

(c) Voting. Voting, except on procedural motions, shall be by roll call, and each councillor's vote shall be recorded in the records. Four (4) members of the council shall constitute a quorum. No action of the council, except as otherwise provided in Section 2.06, shall be valid or binding unless adopted by the affirmative vote of four (4) or more members of the council.

Sec. 2.09. Action requiring an ordinance.

In addition to other acts required by law or by specific provisions of this Charter to be adopted by ordinance, the following acts of the city council shall also be adopted by ordinance:

- (a) Provision for a fine or other penalty no higher than that imposed by statute for a petty misdemeanor;
- (b) Granting, renewal or extension of a franchise;
- (c) Regulation of the rate charged for its services by a city owned and operated public utility, unless otherwise lawfully delegated to a municipal board of utility commissioners;

Sec. 2.09.

- (d) Authorization of the borrowing of money;
- (e) Adoption of ordinances proposed under the initiative power; and
- (f) Amendment or repeal of any ordinance previously adopted, except as otherwise provided in Article VIII with respect to repeal of ordinances reconsidered under the referendum power.

Acts other than those referred to in the preceding sentence may be adopted either by ordinance or by resolution.

(Ord. No. 2222, § I, 8-1-05)

Sec. 2.10. Ordinances and resolutions.

(a) *Form of ordinances.* Every proposed ordinance shall be introduced in writing and in the form required for final adoption. No ordinance shall contain more than one (1) subject which shall be clearly expressed in its title. The enacting clause shall be “Be it Ordained by the Governing Body of the City of Las Cruces....”

(b) *Procedure for ordinances.* An ordinance may be introduced by any councilor or mayor at any regular or special meeting of the council. Upon introduction of any ordinance, the city clerk shall distribute a copy to each councilor, the mayor and to the city manager and shall have available a reasonable number of copies for the public. Notice by publication of the title and subject matter of any ordinance proposed for adoption shall be given at least two (2) weeks prior to consideration of final action upon the ordinance, except that prior publication shall not apply to emergency ordinances. It is sufficient defense in any suit or prosecution to show that no notice by publication was made. Notice of the proposed ordinance shall be published one (1) time as a legal advertisement in a newspaper of general circulation in the city. Copies of a proposed ordinance shall be available to interested persons during normal and regular business hours of the city clerk, upon request and payment of a reasonable charge. Within three (3) days after the adoption of an ordinance, the mayor shall validate the ordinance by writing “Approved” upon its face and signing it. An ordinance shall be recorded in a book kept for that purpose, shall be authenticated by signature of the mayor of the council and the city clerk and shall bear the seal of the city.

The approved ordinances shall be published one (1) time, either in its entirety or by title and a general summary of the subject matter contained in the ordinance, whichever the council elects. An ordinance shall not become effective until five (5) days after it has been published, unless otherwise provided by law. If the ordinances of the city are codified or codified and revised, the publication of the entire codification or codification and revision is not necessary. Instead, the city may publish an ordinance referring to the codification or codification and revision.

Sec. 2.10.

sion by title only and specifying one (1) place in the city where the codification or codification and revision may be inspected during the normal and regular business hours of the city clerk.

(c) *Resolutions.* Resolutions shall be adopted by at least four (4) affirmative votes of the council and shall be available for public inspection during normal business hours.

(Ord. No. 1077, 7-3-89; Ord. No. 1078, 7-3-89)

Sec. 2.11. Emergency ordinances.

Upon the declaration by the mayor that an immediate danger to the public health, safety and welfare of the municipality exists, the council may adopt emergency ordinances, which may take effect immediately.

Sec. 2.12. Codes of technical regulations.

The council may adopt by ordinance any standard code of technical regulations by reference thereto. The procedure and requirements governing such an adopting ordinance shall be as prescribed for ordinances generally except as follows:

(a) The requirements of Section 2.10 for distribution and filing of copies of the ordinance shall be construed to include copies of the code of technical regulations as well as of the adopting ordinance.

(b) A copy of each adopted code of technical regulations as well as of the adopting ordinance shall be authenticated and recorded by the city clerk pursuant to subsection 2.13(a).

Sec. 2.13. Authentication and recording; codification; distribution.

(a) *Authentication and recording.* The city clerk shall authenticate by signature and record in full, in a properly indexed book kept for the purpose, all ordinances and resolutions adopted by the council.

(b) *Codification.* At least every ten (10) years, the council shall provide for the preparation of a general codification of all city ordinances. The general codification shall be adopted by the council by ordinance and shall be published promptly, together with this Charter and any amendments thereto. This compilation shall be known and cited officially as the Las Cruces Municipal Code. Copies of the Code shall be furnished to city officers, placed in libraries and public offices for free public reference and made available for purchase by the public at a reasonable price.

(c) *Distribution.* The council shall have each ordinance and each amendment to this Charter promptly reproduced following their adoption. The reproduced ordinances and Charter amendments shall be distributed or sold to the public

Sec. 2.13.

at reasonable prices. Following publication of the first Las Cruces Municipal Code and at all times thereafter, the ordinances and Charter amendments shall be reproduced in substantially the same style as the Code currently in effect and shall be suitable in form for integration therein.

(Ord. No. 2221, § I, 8-1-05)

Sec. 2.14. Establishment of boards, commissions, authorities and agencies.

(a) *Establishment and method of appointment.* The council shall establish by ordinance permanent boards, commissions, authorities and agencies, and shall determine the number of members of and the authority and function of the particular board, commission, authority or agency.

(b) *Method of removal.* The council shall establish by ordinance the method for the removal of any member of any board, commission, authority or agency established by the council.

ARTICLE III. CITY MANAGER*

* State Law References: Appointment of manager, duties and qualifications, NMSA 1978, § 3-13-3.

Sec. 3.01. Appointment; qualifications; removal.

(a) *Appointment.* The council shall appoint a city manager by a vote of at least four (4) members of the council and fix the manager's compensation. A citizen committee which may be selected to advise the council on the appointment of a city manager must be comprised of members who are qualified voters residing within the city. The council may at its own discretion seek professional advice in the appointment of a city manager.

(b) *Removal.* The city manager shall be subject to removal at the discretion of the council by a vote of at least four (4) members of the council. In the event that the city manager is suspended or removed by the council, the action of the council shall not be subject to review by any court or agency unless specifically set forth in the written personnel rules adopted by the council.

(c) *Qualifications.* The city manager shall be appointed entirely on the basis of executive and administrative qualifications. No preemployment residence requirements shall be imposed for appointment. After employment, the city manager must be a resident of the City of Las Cruces; except that this section shall not apply to the manager serving at the time of the adoption of this amendment to the Charter.

(Ord. No. 1082, 7-3-89)

Sec. 3.02. Powers and duties.

(a) Powers. The city manager shall be the chief administrator of the city and shall be responsible to the council for the administration of all city affairs, including but not limited to the administration of all organizational units placed in the city manager's charge by this Charter and by ordinance.

(b) Duties. The city manager shall have, in addition, the following powers and duties:

- (1) To appoint, suspend or remove all administrative officers and employees of the city subject to the limitations and procedures established in this Charter and in any personnel rules adopted by the council.
- (2) To attend all meetings of the council unless excused by it and participate in discussions. The city manager shall have no vote.
- (3) To prepare and submit the annual budget and the capital improvements program to the council.
- (4) To submit annually to the council and make available to the public a complete report of the finances and administrative activities of the city for the preceding year.
- (5) To keep the council fully advised of the current and future needs of the city.
- (6) To make whatever additional reports the council may require and to perform other duties as may be specified by this Charter or may be required by the council.

ARTICLE IV. ADMINISTRATION

Sec. 4.01. General provisions.

(a) Creation of organizational units. The administration of the affairs of the City of Las Cruces shall be divided into organizational units established by the council.

(b) Direction by city manager. All organizational units shall be under the direction and supervision of the city manager. They shall be administered by officers appointed by and subject to the direction and supervision of the city manager.

Sec. 4.02. Personnel system.

(a) Merit principle. Competence and fitness for specific employment shall be the basic principle underlying the personnel system of the city.

Sec. 4.02.

(b) *Personnel rules.* The council shall maintain by ordinance a personnel system which shall include, at a minimum, reasonable provisions establishing:

- (1) The classification of all city positions based on the duties, authority and responsibility of each position, with adequate provision for reclassification of any position whenever warranted by changed circumstances;
- (2) A pay and benefit plan for all city positions;
- (3) Methods for determining the competency and fitness of individuals for purposes of hiring, promotion, retention, demotion and termination;
- (4) Policies and procedures regulating reduction in force and removal of employees;
- (5) Procedures for the hearing and disposition of grievances;
- (6) Equal employment opportunity;
- (7) Other practices and procedures necessary to the administration of the city personnel system.

Sec. 4.03. City attorney.

The city manager shall appoint a city attorney who shall be licensed to practice law in the State of New Mexico. The city attorney shall serve as chief legal advisor to the council, the city manager and all organizational units of the city. The city attorney shall represent the city in legal and administrative proceedings as directed by the city manager and shall perform other duties as prescribed by this Charter or by ordinance.

Sec. 4.04. City clerk.

The city manager shall appoint a city clerk. The city clerk shall give notice of council meetings to councillors and the public, keep the records of council proceedings and perform other duties as assigned by this Charter, the council, the city manager or state statutes.

Sec. 4.05. Citizen complaints.

The council shall provide a method for receiving, acknowledging and striving to resolve complaints or grievances concerning the city or its operations.

(Ord. No. 2223, § I, 8-1-05)

ARTICLE V. FINANCIAL PROCEDURES

Sec. 5.01. Fiscal year.

The fiscal year of the city shall begin on the first day of July and end on the last day of June of the following year.

Sec. 5.02. Submission of budget and budget message.

At least sixty (60) days prior to the start of the fiscal year, the city manager shall submit a budget and budget message to the council for the ensuing fiscal year.

Sec. 5.03. Budget message.

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

Sec. 5.04. Budget.

(a) The budget shall provide a complete financial plan of all city funds and activities for the ensuing year. Except as required by law or this Charter, it will be in a form the city manager deems desirable or the council may require. In organizing the budget, the city manager shall utilize the most feasible combination of expenditure classification by fund, organization unit, program, purpose or activity, and object. The budget shall begin with a clear general summary of its contents. It shall show in detail all estimated income, indicating the estimated property tax levy, estimated tax revenues, and all proposed expenditures. It shall be arranged to show comparative figures for actual and estimated income and expenditures of the current fiscal year. It shall also show actual income and expenditures of the preceding fiscal year to date and estimated income and expenditures for the remaining months of the fiscal year. It shall include the following:

- (1) Proposed expenditures for current operations during the ensuing fiscal year. Although not required as a part of the budget, a detailed statement by offices, departments and agencies in terms of their respective work programs, levels of service, and the method of financing such expenditures shall be available to the council;
- (2) Proposed capital expenditures during the ensuing fiscal year, detailed by offices, departments and agencies when practicable, and the proposed method of financing each capital expenditure; and

Sec. 5.04.

(3) Anticipated reserves for the ensuing fiscal year of each enterprise owned by the city and the proposed method of the disposition of those reserves. Subsidiary budgets for each enterprise giving detailed income and expenditure information shall be attached as appendices to the budget.

(b) The total of proposed expenditures for a year shall not exceed the total of estimated resources for that year.

(c) For the purposes of this article, resources shall be defined as unappropriated balance plus current projected revenues.

Sec. 5.05. Capital improvements program.

Each year the city manager shall prepare and submit to the council prior to the final date for submission of the budget a proposed five (5) year capital improvements program.

Sec. 5.06. Council action on budget and capital improvements program.

(a) Notice and hearing. The council shall publish in one or more newspapers of general circulation in the city the general summary of the budget and capital improvements program and a notice stating:

(1) The times and places where copies of the message and budget are available for inspection by the public; and

(2) The time and place for a public hearing on the budget. The hearing shall occur not less than fourteen (14) days after such publication.

(b) Amendment before adoption. After the public hearing, the council may adopt the budget and capital improvements program with or without amendment. In amending the budget and/or capital improvements program, the council may add or increase programs or amounts and may delete or decrease any programs or amounts, except for expenditures required by law, for debt service or for estimated cash deficit. No amendment to the budget or capital improvements program shall increase the authorized expenditures to an amount greater than the total of estimated resources available during the fiscal year.

(c) Adoption. The council shall adopt the budget no later than thirty (30) days before the beginning of the fiscal year. If it fails to adopt the budget by the beginning of the fiscal year, the amounts appropriated for current operation for the current fiscal year shall be deemed adopted for the ensuing fiscal year on a month-to-month basis, with all items in it prorated accordingly, until the council adopts a budget. Nothing herein, however, shall preclude the city from meeting its debt service when due. Adoption of the budget shall constitute

Sec. 5.06.

appropriations of the amounts specified therein as expenditures from the funds indicated. The budget and the capital improvements program shall be acted upon separately by the council.

Sec. 5.07. Public records.

The adopted budget and capital improvements program shall be public record, and copies thereof shall be made available at suitable places in the city for inspection or purchase at a reasonable price.

Sec. 5.08. Amendments after adoption.

(a) Supplemental appropriations and reduction of appropriations. If during the fiscal year the city manager certifies that resources are available for appropriation in excess of those estimated in the budget, the council may make supplemental appropriations for the year up to the amount of the excess. If at any time during the fiscal year, the city manager believes that the resources available may be insufficient to meet the amount appropriated, the city manager shall so report to the council. The report shall indicate the estimated amount of the deficit, any remedial action taken or to be taken by the city manager, and recommendations as to any other steps to be taken. The council shall then take any action deemed necessary to prevent any deficit, and for that purpose it may reduce any appropriation.

(b) Transfer of appropriations. At any time during the fiscal year the city manager may transfer part or all of any unencumbered appropriated balance within a fund among programs within an organizational unit of the city. Upon written request by the city manager, the council may transfer part or all of any unencumbered appropriated balance from one organizational unit to another. This subsection shall not prohibit transfer between funds.

(c) Limitations, effective date. No appropriation for debt service may be reduced or transferred. No appropriation may be reduced below any amount required by law to be appropriated or by more than the amount of the unencumbered balance thereof.

Sec. 5.09. Independent audit.

The council shall provide for an independent annual audit of all city accounts and may provide for more frequent audits. Audits shall be made by an appropriately licensed public accountant or firm of such accountants who have no direct interest in the fiscal affairs of the city government or any of its officers. If the state makes an audit, the council may accept it as satisfying the requirements of this section.

Sec. 5.10. Procurement.

The council shall adopt, by ordinance, a procurement policy for the city.

Sec. 5.11. Investment of public funds.

The council shall adopt by ordinance a policy and procedure regarding the deposit and investment of city monies which (1) protects the city's monies, and (2) earns as high a rate of interest as practicable and reasonable.

ARTICLE VI. PLANNING

Sec. 6.01. Planning authority.

In the interest of the general public, the council shall guide and insure the coordinated and harmonious development of the city. The council shall take care that the development of the city, in accordance with present and future needs, best promotes the health, safety, morals, order, convenience, prosperity and general welfare of the people. It shall also promote efficiency and economy in the process of development.

The council shall also encourage the proper use and development of land, seek to create and maintain an aesthetic urban setting, and protect and preserve the quality of the water, air and other environmental, natural, historical and cultural resources of the city.

To carry out these responsibilities, the council shall take whatever action is necessary and legal; shall enact ordinances and resolutions; and shall establish appropriate commissions, boards and departments with jurisdiction, authority and staff sufficient to administer effectively city policy.

Sec. 6.02. Comprehensive plan.

The council shall adopt by resolution a comprehensive plan containing, in graphic and textual form, policies to guide the future physical development of the city and shall provide for the administration, implementation and a complete review and updating of the comprehensive plan at least every ten (10) years. (Ord. No. 2224, § I, 8-1-05)

Sec. 6.03. Use of comprehensive plan.

The comprehensive plan shall serve as a guide to all future city actions concerning land use and development and the financing and location of capital improvements.

Before taking any action concerning land use and development and the financing and location of capital improvements, the council shall cause a finding and report to be made concerning the relationship between the proposed action and the comprehensive plan. (Ord. No. 1076, 7-3-89)

ARTICLE VII. CITY ELECTIONS*

* State Law References: Municipal Election Code, NMSA 1978, §§ 3-8-1--3-9-16.

Sec. 7.01. Elections.

(a) Regular elections. The regular city election shall be held on the first Tuesday after the first Monday of November in each off-numbered year.

(b) Qualified voters. Qualified voters are all citizens qualified by the Constitution and laws of the State of New Mexico to vote in the city.

(c) Conduct of elections. Except as otherwise provided by this Charter, the provisions of the general election laws of the State of New Mexico shall apply to elections held under this Charter. Should special elections required by this Charter conflict with other elections required by state law, the special elections shall be conducted as soon as practicable after the time required by this Charter. All elections provided for by this Charter shall be conducted by the city clerk. The council may adopt by ordinance other election regulations that are consistent with law and this Charter.

(d) Campaign practices. The council shall adopt by ordinance a policy concerning campaign practices. The policy shall include, but not be limited to, candidate expenses, contribution reports, and campaign ethics.

Sec. 7.02. Nominations.

(a) Petitions. Candidates for election to the council or to the office of mayor shall be nominated by petition. A person may be nominated for election as a councillor within the district in which he or she is a qualified resident voter by a petition signed by not less than twenty-five (25) qualified voters residing within the district which the candidate seeks to represent. A person may be nominated for election as mayor by a petition signed by one hundred fifty (150) qualified voters residing in the city limits of the City of Las Cruces. Nominating petitions shall be accompanied by the circulator's affidavit. The council shall prescribe the form and format of the petition and all related documents. The city clerk shall provide petition forms and related forms to those requesting them.

(b) Filing. All separate papers comprising a nominating petition shall be assembled and filed as one instrument on the forty-second (42nd) day before the election. If a candidate's representative files the nominating petition, the petition shall be accompanied by an affidavit so certifying. No nominating petition shall be accepted unless accompanied by a signed acceptance of the nomination by the candidate. The candidate or the candidate's authorized representative shall file the candidate's petition with the city clerk, who shall record the exact time at which each petition is filed.

Sec. 7.02.

(c) *Procedure after filing.* Within five (5) working days after the filing of a nominating petition, the city clerk shall notify the candidate and the person who filed the petition whether or not it satisfies the requirements prescribed by this Charter. If a petition is found insufficient, the city clerk shall provide the person who filed it with a statement certifying wherein it is found insufficient. The city clerk shall keep on file all petitions at least until the expiration of the term for which the candidates are nominated in those petitions.

(d) *Filing for position of municipal judge.* A person who meets the qualifications for municipal judge may file for that position on the forty-second (42nd) day before the election in the year the position is to be on the ballot. A candidate shall file for the position by declaring his/her candidacy to the city clerk.
(Ord. No. 1077, 7-3-89)

Sec. 7.03. Ballots.

(a) *Names on ballots.*

(1) The ballots shall have a separate heading on the ballot for each position to be filled reading “Nominees for Mayor” or “Nominees for Councillor for District _____” or “Nominees for Municipal Judge.” The full names, as they appear on their voter registrations, of all candidates nominated for mayor, councillor or municipal judge, except those who have withdrawn, died or become ineligible, shall be printed on the official ballots under the headings for the positions for which the candidates were nominated, without party designation or symbol.

(2) If two (2) or more candidates for the same office have the same surname or similar surnames, the residence address for each candidate shall be printed with the candidate’s name on the ballot.

(b) *Order on ballot.* The order of the candidates’ names for each position on the ballot shall be determined by lot. The city clerk shall determine this procedure.
(Ord. No. 1077, 7-3-89)

Sec. 7.04. Watchers and challengers.

The council shall establish regulations for the appointment of watchers and challengers consistent with state statutes.

State Law References: Municipal election watchers and challengers, NMSA 1978, § 3-8-31.

Sec. 7.05. Determination of election results.

(a) *Who may vote.* Whenever the position for councillor of a district is on the ballot, every qualified voter within that district shall be entitled to vote for one (1) candidate for the councillor to represent that district. In addition, every

Sec. 7.05.

qualified voter within the city limits shall be entitled to vote for one (1) candidate for mayor to represent the City of Las Cruces as a whole.

(b) *Plurality: Minimum of forty percent (40%) required.* The candidate for mayor and candidate for councillor in each district and the candidate for municipal judge receiving the largest number of votes, and at least forty percent (40%) of the total votes cast for all candidates for a particular office shall be declared elected.

(c) *Runoff provisions.* In the event two (2) candidates receive at least forty percent (40%) of the votes cast for a particular office and tie, those two (2) candidates only shall automatically become candidates at a runoff election held pursuant to this section. If no candidate receives forty percent (40%) of the votes cast for a particular office, a runoff election shall be held within forty-five (45) days after certification of the results of the election as now provided for by law and as amended and supplemented from time to time. The two (2) candidates receiving the highest number of votes cast for the office in question shall automatically become the candidates at the runoff election and the filing of declarations of candidacy is dispensed with.

- (1) In the event of a tie in any runoff election, the winner shall be decided by lot in the presence of the candidates concerned and under the direction of the city clerk.
- (2) The council shall, by resolution, fix the date of the runoff election, specify the offices to be filled, and the names of the candidates. The resolution shall be published once, at least seven (7) days before the runoff election date. No other publications are required in connection with runoff elections.
- (3) Eligibility to vote in runoff elections shall be the same as in regular elections for a particular city office. Voting precincts and procedures shall be reactivated for runoff elections as required. If officials are to be voted upon on a city-wide basis, the entire electorate is involved, otherwise, only the council district shall be involved.

(4) The runoff elections amendment to the Charter will take effect on the next election after its passage.
(Ord. No. 1077, 7-3-89; Ord. No. 1324, §§ III, IV, 7-6-93)

Editors Note: Ordinance No. 1324, adopted July 6, 1993, amending § 7.05(b) and adding § 7.05(c), was approved at referendum on Nov. 2, 1993.

Sec. 7.06. Ballots for ordinances, Charter amendments and Charter repeal.

An ordinance, Charter amendment or Charter repeal to be voted on 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?” or “Shall the Charter be repealed?” Immediately below such question shall appear, in the following order, the words “yes” and “no.”

Sec. 7.07. Voting procedures.

The council may provide for the use of mechanical or other devices for voting or counting the votes not inconsistent with law.

ARTICLE VIII. INITIATIVE, REFERENDUM AND RECALL

Sec. 8.01. General authority.

(a) *Initiative.* The qualified resident voters of the city shall have the power to propose ordinances to the council. If the council fails to adopt an ordinance so proposed without any change in substance, the voters shall adopt or reject it at a city election.

(b) *Referendum.* The qualified resident voters of the city shall have the power to require reconsideration by the council of any adopted ordinance or resolution. If the council fails to repeal an ordinance or resolution so reconsidered, the voters shall approve or reject it at a city election.

(c) *Recall.* The qualified resident voters of each district shall have the power to recall the councillor from that district. The qualified resident voters of the city shall have the power to recall the mayor.
(Ord. No. 1077, 7-3-89; Ord. No. 1080, 7-3-89)

Sec. 8.02. Commencement of proceedings; petitioners’ committee; affidavit.

Any qualified registered voter of the city may commence initiative, referendum or recall proceedings by filing with the city clerk an affidavit stating that the voter will be the petitioner. The petitioner shall be responsible for circulating and filing the petition in proper form. The affidavit must state the petitioner’s name and address and specify the address to which all notices to the petitioner are to be sent. The affidavit shall state (1) the proposed initiative ordinance or (2) the ordinance sought to be reconsidered or (3) the name of the councillor to be recalled. A petitioner for recall of a councillor must reside in the district from which the councillor was elected. All persons soliciting signatures for a recall petition must reside within the council district of the councillor being recalled.

Promptly after the affidavit of the petitioner is filed, the city clerk shall issue the appropriate petition forms to the petitioner.
(Ord. No. 1074, 7-3-89)

Sec. 8.03. Petitions.

(a) Number of signatures. Initiative and referendum petitions must be signed by qualified resident voters of the city equal in number to at least fifteen percent (15%) of the total number of ballots cast for candidates for council at the two (2) most recent regular city elections. Petitions for recall of a councillor must be signed by qualified voters of the district which the councillor subject to recall represents. The number of signatures required for recall shall be equal in number to at least ten percent (10%) of the registered voters in the district which the councillor subject to recall represents. Recall petitions attempting to recall the mayor must be signed by at least ten percent (10%) of the registered voters residing within the city limits of the City of Las Cruces.

(b) Form and content. All papers of a petition shall be on forms supplied by the city clerk and shall be assembled as one instrument for filing. The council shall prescribe the form and style of the petition. Throughout their circulation, petitions shall contain the full text of the ordinance proposed or sought to be reconsidered or name of the councillor to be recalled.

(c) Affidavit of circulator. The council shall require petitions to be accompanied by the circulator's affidavit, on forms provided by the city clerk.
(Ord. No. 1081, 7-3-89; Ord. No. 2221, § I, 8-1-05)

Sec. 8.04. Procedure after filing.

(a) Certification by city clerk; amendment. Within twenty (20) working days after the petition is filed, the city clerk shall complete a certificate as to its sufficiency. If it is insufficient, the city clerk shall send to the petitioner by certified mail at the address specified by the petitioner in the initial affidavit a statement of the reasons for its insufficiency. A petition certified insufficient for lack of the required number of valid signatures may be amended once if the petitioner files a notice of intention to amend within fifteen (15) days of the date on which the city clerk's letter was mailed to the petitioner. The petitioner must then file a supplementary petition within fifteen (15) days from the date of the submission of intent to amend. Such supplementary petition shall comply with the requirements of Section 8.03. Within five (5) working days after the supplementary petition is filed, the city clerk shall complete a certificate as to the sufficiency of the petition as amended and promptly send a copy of such certificate to the petitioner by certified mail[;] as in the time found insufficient, it shall be certified insufficient with no further opportunity to amend.

(b) Council review. After a petition or amended petition is certified sufficient, or after a petition or amended petition is certified insufficient, the city clerk shall promptly present the certificate to the council. The council shall review the certificate at its next meeting following the filing of the certificate and approve or disapprove it. The council's determination shall then be final.

Sec. 8.05. Referendum petitions; time for filing; suspension of effective ordinances.

(a) *Time for filing and suspension of effective ordinance.* A referendum petition must be filed within thirty (30) days following the adoption of an ordinance sought to be considered. When a referendum petition is filed with the city clerk within thirty (30) days following the adoption of an ordinance sought to be reconsidered, such ordinance shall be suspended from taking effect, except for an ordinance adopted as an emergency measure and provided for in subparagraph (5) below. Such suspension shall terminate when:

- (1) A final determination of insufficiency of the petition has been made, or
- (2) The petitioner withdraws the petition, or
- (3) The council repeals the ordinance in its entirety, or
- (4) The city clerk certifies that a majority of the votes was cast in favor of the ordinance in a referendum election, or
- (5) In the event the ordinance to be reconsidered is an emergency measure, it shall go into effect immediately, but it may be repealed by an adverse majority at a referendum election.

(b) *Action by council.* Upon the determination that the referendum petition is sufficient, the council shall promptly reconsider the referred ordinance. If the council fails to repeal the referred ordinance in its entirety within sixty (60) days after the date the petition is finally determined sufficient, it shall submit the referred ordinance to the voters of the city.

(Ord. No. 1079, 7-3-89)

Sec. 8.06. Initiative petitions; action by council.

When an initiative petition has been finally determined sufficient, the council shall promptly consider the proposed initiative ordinance in the manner provided in Article II. If the council fails to adopt the proposed initiative ordinance in its entirety within sixty (60) days after the date the petition is finally determined sufficient, it shall promptly submit the proposed ordinance to the voters of the city.

Sec. 8.07. Recall petitions.

When a recall petition has finally been determined sufficient, the council shall promptly call a special election, unless the regular municipal election occurs within sixty (60) days, in which case the qualified voters shall vote on the recall at the regular election.

Sec. 8.08. Action on petitions.

(a) Submission to voters–Initiative and referendum. The vote of the electorate on a proposed initiative ordinance or an ordinance or resolution subject to referendum shall be held within sixty (60) days from the date of the final council vote thereon. If no regular city election is to be held within this period, the council shall provide for a special election; otherwise, the vote shall be held at the same time as the next regular city election, except that the council may in its discretion provide for a special election at an earlier date within the prescribed period. Copies of the proposed or referred ordinance shall be made available at the polls.

(b) Submission to voters–Recall. The vote of the electorate on a recall shall be at a special election within sixty (60) days after the petition has been determined sufficient, unless the regular city election occurs within sixty (60) days, in which case the vote on the recall shall be at the regular election.

(c) Withdrawal of petitions. An initiative, referendum or recall petition may be withdrawn at any time prior to the fifteenth (15th) day preceding the day scheduled for a vote of the electorate by the petitioners filing with the city clerk a request for withdrawal. Upon the filing of such request, the petition shall have no further force or effect and all proceedings thereon shall be terminated. (Ord. No. 1080, 7-3-89)

Sec. 8.09. 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 adopted by the council. If conflicting ordinances are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail.

(b) Referendum. If a majority of the qualified voters voting on an ordinance or resolution subject to referendum vote against it, it shall be considered repealed upon certification of the election results.

(c) Recall. If a majority of the qualified electors voting on the recall vote against it, or if the number voting in favor of the recall is less than the total number of voters who voted for the person to be recalled at the last election in which that person was elected to the council, then the person in question shall retain office and shall not be subject again to recall until six (6) months have elapsed from the date of the previous recall election. If a person is recalled, the person in question shall not be eligible for reelection until the term for which that person was originally elected has expired. If the person is recalled, the vacancy shall occur immediately upon the certification of the election, and the vacancy shall be filled in the same manner as other vacancies as specified in Article II. (Ord. No. 1077, 7-3-89; Ord. No. 1080, 7-3-89)

ARTICLE IX. MUNICIPAL COURT *

* State Law References: Municipal courts, NMSA 1978, §§ 35-14-1--35-14-12.

Sec. 9.01. Jurisdiction; powers; duties.

(a) The municipal court shall have jurisdiction over all petty misdemeanor offenses and complaints under ordinances of the City of Las Cruces and may issue subpoenas and warrants and punish for contempt.

(b) The municipal court shall have such additional jurisdiction and duties as may be prescribed by law or legally assigned to the court by the council.
(Ord. No. 2225, § I, 8-1-05)

Sec. 9.02. Municipal judges.

(a) A municipal judge shall be elected, for a term of four (4) years, at the regular municipal election.

(b) The council may authorize the election of additional judges if it determines that the workload of the court requires more than one (1) judge.

(c) The council may fill a vacancy by appointment of a municipal judge to serve until the next regular election.

Sec. 9.03. Qualification; bond; salary.

(a) No person may be elected judge of the municipal court who is not a member of the New Mexico State Bar.

(b) The bond requirement and the salary of the municipal judge or judges shall be set by ordinance, but no judge's salary may be changed during the term for which he or she was elected.

Sec. 9.04. Temporary incapacity or absence.

In the event of the incapacity or absence of a judge, the council may appoint a substitute judge who shall have full authority to act in place of the elected judge during such absence or incapacity.

Sec. 9.05. Counsel for indigents.

The council shall establish by ordinance procedures wherein, unless waived, the municipal judge shall appoint an attorney to represent an indigent person in all cases in which a term of incarceration is to occur.

ARTICLE X. GENERAL PROVISIONS

Sec. 10.01. Repeal of certain existing laws.

All by-laws, ordinances and resolutions affecting the City of Las Cruces in force when this Charter shall take effect are repealed and superseded to the extent that the same are inconsistent with the provisions of this Charter. All other resolutions and ordinances remain in full force and effect. The general repeal shall be limited by the provisions of Sections 10.02 and 10.03.

Sec. 10.02. Existing ordinances and resolutions.

The provisions of this Charter are intended to continue, rather than replace, provisions of existing by-laws, ordinances and resolutions with the same terms, substance and effect. This Charter shall be so construed and applied.

Sec. 10.03. Duration of existing ordinances and resolutions.

Notwithstanding the provisions in 10.01 of this article, all by-laws, ordinances and resolutions in force in the city before the adoption of this Charter shall remain in full force and effect until amended or repealed by the council. It is the intention of this Charter to grant full discretion to the first council after the adoption of this Charter to determine whether or not such laws, ordinances and resolutions in force are inconsistent with the provisions of this Charter.

Sec. 10.04. Rights and property.

All rights and property which were vested in the city shall remain so vested under this Charter. No existing right or liability and no pending litigation of any kind shall be affected by the adoption of this Charter.

Sec. 10.05. Severability.

The provisions of this Charter are severable, and, if any provision or part thereof is held to be illegal or unconstitutional as applied to any person or situation, the remainder of this Charter or its applicability to other persons or situations shall not be affected.

Sec. 10.06. Existing contracts and franchises.

All contracts and franchises entered into by the city or for its benefit, prior to the effective date of this Charter, shall continue in full force and effect. Public improvements for which legislative steps have been taken under laws or ordinances, or resolutions existing at the time this Charter takes effect, may be carried to completion as nearly as practicable in accordance with the provisions of existing by-laws, ordinances and resolutions.

Sec. 10.07. Civil and criminal actions or proceedings.

No action or proceeding, civil or criminal, pending at the time when this Charter shall take effect, brought by or against the city or any office, department, agency or officer thereof, shall be affected or abated by the adoption of this Charter or by anything therein contained.

Sec. 10.08. Repeal and amendment of Charter.

This Charter may be amended or repealed as follows:

(a) *Amendments.* Amendments or repeal shall be proposed:

- (1) By ordinance adopted by two-thirds (2/3) or more of the council, containing the full text of the proposed amendment or repeal, or
- (2) By petition containing the full text of the proposed amendment or repeal and signed by qualified voters of the city equal in number to at least twenty percent (20%) of the total number of qualified voters who voted for candidates for council in the two (2) most recent regular city elections. Regulations concerning petitions to amend or repeal shall be the same as those set forth in Article VIII.

Sec. 10.08.

(b) Elections. When an amendment or repeal ordinance or petition has been properly proposed, the city clerk shall submit the proposed amendment or repeal to the voters of the city at an election. The form of the ballot shall be as specified in Section 7.06.

(c) Majority required. If a majority of the qualified voters of the city voting upon a proposed amendment or repeal vote in favor of it, the amendment or repeal shall become effective at the time fixed therein or, if no time is therein fixed, thirty (30) days after its adoption by the voters.

(d) Subject matter. No proposed amendment shall address more than one subject matter. However, more than one proposed amendment may be considered at the election by the voters.

Sec. 10.09. Ballots and notices, English and Spanish.

All ballots and notices of elections for municipal officers and elections related to initiative, referendum, recall, or Charter amendment or repeal shall be printed in at least the English language and the Spanish language.

Sec. 10.10. Conflict of interest.

(a) Disclosure upon assumption of office. Each candidate for councillor and mayor shall within five (5) working days after filing their nomination petition, file a disclosure statement identifying the following:

- (1) All business and civic group interests, including both policy and financial interests, of the councillor or mayor.
- (2) All trusts of the which the councillor or mayor is a beneficiary.
- (3) All investments of the councillor or mayor including real estate holdings.
In this respect, the real estate holdings shall include a legal description or other description sufficient to identify the location and extent of the property.

The council shall determine the format of the disclosure statement. The disclosure statement shall not require valuation of the assets owned by the councillor or mayor nor the number of shares of ownership in limited partnerships or corporations wherein that individual is an owner. The disclosure statement shall be filed with the city clerk and shall be updated annually thereafter by the councillor or mayor during his or her term of office. This report shall be a public record. It is intended that this section be broadly construed.

(b) Disclosure at council meeting. A councillor or mayor who has any private financial interest, direct or indirect, in any matter pending before or within the city or council shall disclose such private interest immediately. The council then shall determine if that councillor or mayor shall be disqualified from participating in any debate, decision or vote related thereto. Violation of this section shall render the contract, sale or purchase voidable at the option of the council.

(c) Employees' conflicts of interest. The city shall adopt, by ordinance or resolution, a policy for municipal employees prohibiting employees' conflicts of interest and dealing with violations of such policy.
(Ord. No. 1075, 7-3-89; Ord. No. 1077, 7-3-89)

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1:00 P.M.

City Council Meetings Televised LIVE the
1st, 3rd *Mondays of the month.

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*On Mondays that are observed holidays by the City, the Council will meet on Tuesday. The Thursday rebroadcasts will remain the same.



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