

PART I - HOME RULE CHARTER^{[11](#)}

ARTICLE I. - FORM OF GOVERNMENT AND BOUNDARIES

Sec. 1.01. - Preamble.

All the inhabitants of the City of New Braunfels, Comal County, Texas, residing within the boundaries and limits of said City as are herein established or may hereafter be established, shall be a political subdivision of the State of Texas, incorporated under and to be known by the name and style of the "City of New Braunfels" with such powers, rights and duties as provided in this Home Rule Charter in accordance with the statutes of the State of Texas. Within this charter, a word importing the masculine gender only shall extend and be applied to females and to firms, partnerships and corporations as well as to males. A word importing the singular number only may extend and be applied to several persons and things as well as to one person and thing. Words used in the present or past tense include the future as well as the present or past.

Sec. 1.02. - Form of government.

The municipal government provided by this Charter shall be known as the "Council-Manager Government." Pursuant to its provisions and subject only to the limitations imposed by the state constitution, the statutes of this state, and this Charter, all powers of the City shall be vested in an elective council, hereinafter referred to as the "City Council," which shall enact local legislation, adopt budgets, determine policies and appoint the City Manager, who in turn shall be held responsible to the City Council for the execution of the laws and the administration of the government of the City. All powers of the City shall be exercised in the manner prescribed by this Charter, or if the manner be not prescribed, then in such manner as may be prescribed by ordinance, the State constitution or the statutes of the State.

Sec. 1.03. - The boundaries.

The boundaries of the City of New Braunfels are hereby established by the official map which is on file in the office of the City Secretary.

The boundaries of the city have been extended by Charter amendment on August 25, 1947, by ordinance granting a petition to annex on September 24, 1951, and by ordinances extending the limits of the city under authority of Art. I, § 3, of the 1944 Charter on December 6, 1954, June 13, 1955, September 19, 1955, January 30, 1956, February 6, 1956, February 27, 1956, June 20, 1960, and October 31, 1960. For the official and original legal description the user is directed to the official ordinance books of the city and to the Book of City Charters and amendments in the office of the Secretary of State in the City of Austin, where certified copies are recorded.

Sec. 1.04. - Extension of boundaries.

The City Council shall have the power by ordinance to fix the boundaries of the City of New Braunfels. Without limiting the previous sentence, this power includes the ability to annex and to disannex territory, when permitted, to the extent, in the manner, and subject to any restrictions or limitations, provided by the constitution and laws of the State of Texas.

Sec. 1.05. - Reserved.

ARTICLE II. - POWERS OF THE CITY

Sec. 2.01. - General.

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

Sec. 2.02. - Construction.

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

Sec. 2.03. - Eminent domain.

The City shall have the full power and right to exercise the power of eminent domain when necessary or desirable to carry out any of the powers conferred upon it by this Charter or by the constitution and laws of the State of Texas. The City may exercise the power of eminent domain of any manner authorized or permitted by the constitution and laws of this State. The power of eminent domain hereby conferred shall include the right of the City to take the fee in land so condemned and such power and authority shall include the right to condemn public property for such purposes. The City shall have and possess the power of condemnation for any municipal or public purposes even though not specifically enumerated in this Charter.

ARTICLE III. - THE CITY COUNCIL

Sec. 3.01. - Number, selection and term.

The legislative and governing body of the City shall consist of seven (7) Councilpersons and shall be known as the "Council of the City of New Braunfels," and who shall each serve a term of three (3) years.

The City of New Braunfels shall by ordinance be divided into six (6) districts. Each district shall to the extent reasonably possible be equally populated and the City Council shall maintain such equality of population, as from time to time deemed necessary, by ordinance. The districts shall be designated Number 1, 2, 3, 4, 5 and 6. The qualified voters of each district shall elect one (1) Councilmember for each of the six (6) districts. The six (6) Councilmembers so elected from each district shall have been a resident of the district from which the Councilmember is elected for no less than six (6) months prior to filing for office and must continue to reside in said district for his or her entire term of office.

The Mayor of the City of New Braunfels shall be elected by the qualified voters of the City at large and elections for the Mayor shall be held pursuant to Article IV, Elections, of the City Charter of New Braunfels, Texas.

Each Councilperson shall hold office until his or her successor is elected and qualified. Candidates elected at the municipal election shall take office at the regular City Council meeting,

the same being at the first regular meeting held after the meeting in which the election returns are canvassed and the result of the election is officially declared.

No elected official shall serve more than three (3) consecutive three (3) year terms of office and no more than three (3) terms during lifetime. However, years or time of service that an elected official may serve in filling an unexpired term or a partial term of office shall not be counted toward the above limitations.

Sec. 3.02. - Qualifications.

Each member of the City Council shall be a resident citizen of the City of New Braunfels, shall be a qualified voter of the State of Texas, shall have been such resident citizen of the City of New Braunfels for a period of not less than twelve (12) months immediately prior to election day, and shall not be indebted to the City of New Braunfels; provided, however, that any person with the above qualifications, except as to residence, who shall have been a resident for a period of not less than twelve (12) months immediately preceding his or her election of any of the territory not formerly within the corporate limits of said city, but which is annexed under the provisions of section 1.04 of this charter, shall be eligible for said office. An elected officer must continue to reside in the City of New Braunfels for his or her entire term. If any elected officer fails to maintain the foregoing qualifications, or shall be absent from three (3) consecutive regularly scheduled meetings without valid excuse, the City Council must at its next regular meeting declare a vacancy to exist and shall fill said vacancy as set forth in section 3.06 of this charter.

Sec. 3.03. - Council to be judge of election, qualification.

The City Council shall be the judge of the election and qualification of its own members.

Sec. 3.04. - Compensation.

Each Councilmember shall be paid fifty dollars (\$50.00) per meeting, and the Councilmember serving as mayor shall be paid seventy-five dollars (\$75.00) per meeting. In addition, each Councilmember shall be entitled to reimbursement for his/her actual and necessary expenses incurred in the performance of his/her specific official duties of office. Said expenses shall be subject to the approval of the council.

Sec. 3.05. - Mayor and Mayor Pro Tem.

- (a) *Election of Mayor.* The Mayor of the City of New Braunfels shall be elected in accordance with Article III, Section 3.01 and Article IV, Section 4.05 of the Charter of the City of New Braunfels, Texas. The Mayor shall preside at meetings of the City Council, shall be recognized as head of the City government for all ceremonial purposes and by the Governor for purposes of military law, but shall have no administrative duties.
- (b) *Election of Mayor Pro Tem.* At its first regular meeting following the meeting at which the official election returns are canvassed and the results are declared of each year, the City Council shall elect from among its members a Mayor Pro Tem who shall serve at the pleasure of the City Council, and he/she shall perform all the duties of Mayor in the absence or disability of the Mayor. Mayor Pro Tem shall have the duty to implement, coordinate, and strive for completion of the annual evaluations of the City Manager, City Attorney, and

Municipal Court Judge unless directed otherwise by resolution. The City Council may, by resolution, provide standards, procedures, and instruction on such annual evaluations.

- (c) *Emergency powers of Mayor.* Whenever the Mayor shall deem it necessary in order to enforce the laws of the City, or to avert danger, or to protect life or property, in case of riot, outbreak, calamity or public disturbance, or when he/she has reason to fear any serious violation of law or order, outbreak, or any other danger to the City of New Braunfels or the inhabitants thereof, he/she shall proclaim the emergency and shall utilize such powers and authorizations as permitted by local, state, and federal law needed to keep the peace and respond to such emergency. During such emergency, the police department of the City of New Braunfels, and such other keepers of the peace and emergency responders as shall be appointed, deputized, or enlisted by the Mayor shall be subject to the orders of the Mayor, and shall perform such duties as he/she may require, and shall have the same power while on duty as the regular police of the City of New Braunfels. The Mayor shall have authority during the continuance of such emergency to make and enforce such rules, regulations, and orders as are necessary to preserve the public health, safety, and welfare from the threatened danger. During such emergency, such rules, regulations and orders shall have the force and effect of law.

The Mayor shall have authority in case of riot or other unlawful assemblage, to order and enforce the closing of any theater, picture show, or other place of public amusement or entertainment, ballroom, barroom, or other place of resort, or public room or building, and may order the arrest of any person violating in his presence any of the penal laws of the State, or any ordinances of the City; and he shall perform such other duties and possess and exercise such other power and authority as may be prescribed by law or by ordinance.

Sec. 3.06. - Vacancies.

All vacancies on City Council, regardless of cause, with unexpired terms more than twelve (12) months shall be filled by special election pursuant to state law. All vacancies with unexpired terms of twelve (12) months or less may be filled, at the discretion of City Council, by appointment of the City Council upon a majority vote, may be left vacant for the remainder of the unexpired term or filled by a special election pursuant to state law. An office holder who has forfeited the office under this Charter is ineligible to be appointed to fill an unexpired term created by such forfeiture.

Sec. 3.07. - Powers of the City Council.

All powers and authority which are expressly or impliedly conferred on or possessed by the City shall be vested in and exercised by the City Council.

Sec. 3.08. - Prohibitions.

- (a) *Holding other office.* Except where authorized by law, no Councilperson shall hold any other City office or employment by the City during the term for which he/she was elected to the City Council, and no former Councilperson shall hold any compensated appointive city office or employment until one (1) year after the expiration of the term for which he/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 officers or employees

whom the City Manager or any of his/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 and investigations, unless otherwise provided in this Charter or as authorized in writing by the City Manager prior to action, 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.

Sec. 3.09. - City Council meetings and procedure.

- (a) *Meetings.* City Council meetings shall be held at the city hall, or at any other public place designated by the City Council, and the City Council shall meet regularly at least once in every month at such time as the City Council may prescribe by rule. Special meetings may be held on the call of the Mayor or four (4) members and, whenever practicable, upon not less than twelve (12) hours notice to each member; provided, however, that all meetings shall be open to the public except for closed and/or executive meetings and sessions as provided and authorized by the statutes of the State of Texas, as now or hereafter amended, and written public notice thereof of all meetings shall be given as required by the statutes of Texas, as now or hereafter amended.
- (b) *Minutes and rules.* The City Council shall determine its own rules and order of business and shall provide for keeping minutes of its proceedings. These minutes shall be a public record.
- (c) *Voting.* Voting on final readings of ordinances shall be by roll call and the ayes and nays shall be recorded in the minutes. All other voting may be by voice without the need for a roll call. Five (5) members of the City Council shall constitute a quorum, but a smaller number may adjourn from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the City Council. No action of the City Council, except as otherwise provided in the preceding sentence and in Section 3.02, shall be valid or binding unless adopted by the affirmative vote of a majority of the entire City Council.
- (d) In the event that a legal quorum of the elected City Council cannot be convened due to a disaster resulting in multiple injuries, deaths, or incapacity of officers, the surviving City Council members and the chairs and vice-chairs, or president and vice-president of the following boards, shall constitute an interim City Council for purposes of meeting in numbers sufficient to constitute an interim City Council quorum, within fifteen (15) days of such disaster, or as provided in the Texas Election Code, and shall call for an election to fill vacant City Council positions. Such constituted interim City Council shall serve until the requested election occurs and shall possess all powers possessed by the elected City Council. Such qualifying boards, in order of succession, shall be the (1) New Braunfels Economic Development Corporation, (2) Planning Commission, (3) Transportation and Traffic Advisory

Board, (4) Zoning Board of Adjustment, and (5) Parks and Recreation Advisory Board. The elected City Council may pass, by ordinance, such succession procedures and authorizations as it deems necessary.

Sec. 3.10. - Ordinances in general.

The City Council shall legislate by ordinance only, and the enacting clause of every ordinance shall be, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, before any ordinance shall be adopted.

Each proposed ordinance or resolution shall be introduced in written or printed form and shall not contain more than one subject, but general appropriation ordinances may contain various subjects and accounts for which monies are to be appropriated. Unless authorized for single reading by this charter, all ordinances shall be read in open meeting of the City Council on two (2) separate days provided that all readings of any ordinance may be by descriptive caption only except that one (1) member of the council may require a complete reading of any ordinance upon first reading thereof. All ordinances, unless otherwise provided by law or by the terms of such ordinance, shall take effect immediately upon final passage thereof. An ordinance imposing any criminal penalty for any violation of its provisions shall take effect ten (10) days after publication. Any ordinance necessary to protect the public's peace, health, safety and general welfare, may be passed as an emergency and become effective at once upon one (1) reading of the City Council, upon the approval of a majority vote of the City Council members at said reading. Further, any ordinance calling or canvassing an election, ordinances required by state law to approve a contract, annexation ordinances where such annexation first requires at least two (2) public hearings, ordinances setting tax rate as required by state law, and ordinances adopting a budget if at least two (2) budget workshops or public hearings have occurred to discuss the pending budget may be passed and become effective upon one (1) reading of the City Council.

The City Attorney shall approve each ordinance in writing or shall file with the City Secretary his/her written legal objections thereto. Every ordinance enacted by the City Council shall be signed by the Mayor, Mayor Pro Tem, or by two (2) council members, and shall be filed with and recorded by the City Secretary before the same shall become effective.

Except as otherwise provided by law or this Charter, the City Secretary shall give notice of the enactment of every penal ordinance and of every other ordinance required by law or this Charter to be published, by causing the descriptive title or caption and summary of the penalty of the same to be published at least one time within ten (10) days after final passage thereof in some newspaper of general circulation in the City or to be submitted to City's publisher for codified ordinances. The City Secretary shall note on every ordinance and on the record thereof, the dates and medium of its publication, and such notation shall be prima facie evidence of compliance with the requirements of this section.

Sec. 3.11. - Official bonds for City employees.

The City Manager and the City Secretary and such other City officers and employees as the City Council may require, shall, before entering upon the duties of their offices, enter into a good and sufficient fidelity bond in a sum to be determined by the City Council, payable to the City of New Braunfels and conditioned upon a faithful discharge of the duties of such persons and upon a faithful accounting for all monies, credits, and things of value coming into the hands of such persons, and such bonds shall be signed as surety by some company authorized to do business

under the laws of the State of Texas, and the premium on such bonds shall be paid by the City of New Braunfels, and such bonds must be acceptable to the City Council.

Sec. 3.12. - Investigation by the City Council.

The City Council shall have power to inquire into the conduct of any office, department, agency, officer or employee of the City and to make investigations as to municipal affairs, and for that purpose may subpoena witnesses, administer oaths and compel the production of books, papers, and other evidence. Failure to obey such subpoena or to produce books, papers or other evidence as ordered under the provision of this section shall constitute a misdemeanor and shall be punishable by fine not to exceed two hundred dollars (\$200.00) and/or cancellation of a faithful performance bond.

Sec. 3.13. - Audit and examination of City books and accounts.

The City Council shall cause an annual audit to be made of the books and accounts of each and every department of the City. 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 audit report shall be filed with the City Council and shall be available for public inspection and a summary thereof shall be published in a newspaper in the City of New Braunfels. The auditor selected shall not maintain or keep any of the City accounts or records.

ARTICLE IV. - ELECTIONS

Sec. 4.01. - Elections.

Regular City elections shall be held annually on the uniform election date in May of each year as determined by future legislatures of the State of Texas, at which time officers will be elected to fill those offices which become vacant that year. 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. Notice of the election shall be published in a newspaper published in the City of New Braunfels, such publication to be not earlier than the thirtieth (30th) day nor later than the tenth (10th) day before the election date or otherwise as provided by law. The same notice shall be published on the City Website. In the order, ordinance or resolution of the City Council calling any election at which a Councilperson shall be elected, the City Council shall, in calling such election, designate the place on the ballot for each vacancy to be filled at such election. A regular election is defined as an election other than a primary election that regularly occurs at fixed dates. A special election is defined as an election that is not a regular election or a primary election.

Sec. 4.02. - Regulation of elections.

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

Sec. 4.03. - Filing for office.

Any person having the qualifications set forth for Councilmember under Section 3.02 of this Charter shall have the right to file an application to have his/her name placed on the official ballot as a candidate for any elective office, and such application in writing signed by such candidate and accompanied by his/her loyalty affidavit as prescribed by the Election Code of the Revised Civil Statutes of the State of Texas, filed with the City Secretary no later than 5:00 o'clock p.m. of the forty-fifth (45th) day before the election day. An application may not be filed earlier than the thirtieth (30th) day before the date of the filing deadline. Timely filing [of] such application shall entitle such applicant to a place on the official ballot. Each such person filing his/her application to have his/her name placed on the official ballot shall, in his/her application, specify the place for which he/she desires to become a candidate.

Sec. 4.04. - The official ballot.

The names of all candidates for office, except such as may have withdrawn, died, or become ineligible, shall be printed on the official ballots for designated place without party designations in the order determined in a drawing of lots (for each position) conducted by the City Secretary. All official ballots shall be printed at least twenty (20) days prior to the date of any general or special election, and absentee voting shall be governed by the general election laws of the State of Texas.

Sec. 4.05. - Election by majority.

At any regular or special municipal election the candidates in each of the six (6) districts on the ballot as required in Section 3.01, who shall have received the majority of votes cast in such election for such district shall be declared elected. In the event no such candidate for a designated district on the City Council receives a majority of the votes cast for that district in the regular or special election, a runoff election shall be held between the two (2) candidates who received the greatest number of votes for such district. Such runoff election shall be held in accordance with the laws of the State of Texas regulating the holding of municipal elections. At any regular or special municipal election for the election of the Mayor at large pursuant to Section 3.01, the candidate on the ballot who shall have received the most number of votes cast in such election shall be declared elected. In the event of a tie between or among any of the candidates for Mayor receiving the most votes, then a runoff election shall be held in accordance with the laws of the State of Texas regulating the holding of municipal elections, except such vote shall be by plurality.

Sec. 4.06. - Conducting and canvassing elections.

The returns of every municipal election shall be delivered forthwith by the election judges to the City Secretary. The City Council shall comply with state law regarding the conducting and canvassing of elections. Candidates elected at the municipal election shall take office at the regular City Council meeting, the same being at the first regular meeting held after the meeting in which the election returns are canvassed and the result of the election is officially declared.

Sec. 4.07. - Oath of office.

Every officer of the City shall, before entering upon the duties of his office, take and subscribe to the following oath or affirmation to be filed and kept in the office of the City Secretary.

"I, _____, do solemnly swear (or affirm), that I will faithfully execute the duties of the office of (Councilmember/Mayor) of the City of New Braunfels of the State of Texas,

and will to the best of my ability preserve, protect, and defend the Constitution and laws of the United States and of this State, so help me God."

ARTICLE V. - RECALL OF OFFICERS

Sec. 5.01. - Scope of recall.

Any elected City official shall be subject to recall and removal from office by the qualified voters of the City on grounds of incompetency, misconduct of [or] malfeasance in office.

Sec. 5.02. - Petitions for recall.

Before the question of recall of such officer shall be submitted to the qualified voters of the City, a petition demanding such questions to be so submitted shall first be filed with the person performing the duties of City Secretary. As to the Councilpersons elected at large, said petition shall be signed by qualified voters of the city equal in number to at least thirty (30) percent of the number of votes cast in the last regular city-wide municipal election of the City, but in no event less than four hundred (400) such petitioners. As to the Councilpersons elected by District, said petition shall be signed by qualified voters in such District equal in number to at least thirty (30) percent of the number of votes cast in the last regular district council municipal election in such District, excluding any special elections or run-off elections, but in no event less than one hundred fifty (150) such petitioners. Each signer of such recall petition shall personally sign his name thereto in ink or indelible pencil, and shall write after his signature his printed name, his place of residence, giving name of street and number, his county of residence, his voter registration number, and shall also write thereon the day, the month and year his signature was affixed. A separate petition shall be circulated with respect to each elected City official whose removal is sought.

Sec. 5.03. - Form of recall petition.

The recall petition mentioned above must be addressed to the City Council of the City of New Braunfels, must distinctly and specifically point out the ground or grounds upon which such petition for removal is predicated. If there be more than one (1) ground, such as for incompetency, misconduct or malfeasance in office, the petition 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/she is charged. The signature shall be verified by oath in the following form:

"State of Texas) (County of Comal)

I, _____, being first duly sworn, on oath depose and say that I am one (1) of the signers of the above petition and that the statements made therein are true and each signature appearing thereto was made in my presence on the day and date it purports to have been made, and I solemnly swear that the same is the genuine signature of the person whose name it purports to be.

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

Notary Public in and for Comal County, Texas."

Sec. 5.04. - Various papers constituting petition.

The petition may consist of one (1) or more copies, or subscription lists, circulated separately, and the signatures thereon may be upon the paper or papers containing the form of petition, or upon other papers attached thereto. Verifications provided for in the next preceding section of this article may be made by one (1) or more petitioners; and the several parts of copies of the petition may be filed separately and by different persons; but no signatures to such petition shall remain effective or be counted which were placed thereon more than forty-five (45) days prior to the filing of such petition or petitions with the person performing the duties of City Secretary. All papers comprising a recall petition shall be filed with the person performing the duties of City Secretary [and,] on the same day, the said Secretary shall immediately notify, in writing, the officer so sought to be removed, by mailing such notice to his New Braunfels address.

Sec. 5.05. - Presentation of petition to City Council.

Within twenty (20) days after the date of filing of the papers constituting the recall petition, the person performing the duties of City Secretary shall present such petition to the City Council of the City of New Braunfels at a special meeting called for this purpose.

Sec. 5.06. - Public hearing to be held.

The officer whose removal is sought may, within five (5) days after such recall petition has been presented to the City Council, request that a public hearing to be held to permit him 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 (5) days nor more than fifteen (15) days after receiving such request for a public hearing.

Sec. 5.07. - Election to be called.

If an officer whose removal is sought does not resign, then it shall become the duty of the City Council to order a special election and fix a date for holding such recall election, the date of which election shall be on the next available uniform election date prescribed by State Law that is not less than sixty (60) days from the date such petition was presented to the City Council, or from the date of the public hearing if one was held. If the election pertains to a Councilmember elected at large, the election shall take place on a city-wide basis. If the election to be called pertains to a Councilmember elected from a district, the election shall be held within that particular district.

Sec. 5.08. - Ballots in recall election.

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

- (a) With respect to each person whose removal is sought, the question shall be submitted:

"Shall (Name of Person) be removed from the office of (Name of Office) by recall?"

- (b) Immediately below each such question there shall be printed the following words, one above the other, in the order indicated:

"YES"

"NO"

Sec. 5.09. - Result of recall election.

If the majority of the votes cast at a recall election shall be "NO[.]" that is[,] against the recall of the person named on the ballot, he shall continue in office for the remainder of his unexpired term, subject to recall as before. If a majority of the votes cast at such an election be "YES[.]" that is[,] for the recall of the person named on the ballot, he shall, regardless of any technical defects in the recall petition, be deemed removed from office and the vacancy be filled as vacancies in the City Council are filled, as provided in Section 3.06 of this Charter.

Sec. 5.10. - Recall restrictions thereon.

No recall petition shall be filed against any officer of the City of New Braunfels within six (6) months after his election, nor within six (6) months after an election for such officer's recall. Nothing herein shall prevent impeachment of an officer of the City of New Braunfels nor removal for other causes as provided for herein.

ARTICLE VI. - LEGISLATION BY THE PEOPLE, INITIATIVE AND REFERENDUM

Sec. 6.01. - General power.

The qualified voters of the City of New Braunfels, in addition to the method of legislation hereinbefore provided, shall have the power of direct legislation by initiative and referendum.

Sec. 6.02. - Initiative.

Qualified voters of the City of New Braunfels may initiate legislation by submitting a petition addressed to the City Council which requests the submission of a proposed ordinance to a vote of the qualified voters of the City. Said petition must be signed by qualified voters of the City equal in number to five (5) percent of the number of registered voters in the City. Each copy of the petition shall have attached to it a copy of the proposed legislation in ordinance form. The petition shall be signed in the same manner as recall petitions are signed, as provided in Section 5.02 of this Charter, and shall be verified by oath in the manner and form provided by recall petitions in Section 5.03 of this Charter. The petition may consist of one (1) or more copies as permitted for recall petitions in Section 5.04 of this Charter. Such petition shall be filed with the person performing the duties of City Secretary. Within five (5) business days after the filing of such petition, the person performing the duties of the City Secretary shall present such petition and proposed ordinance to the City Council at a special meeting called for this purpose. Upon presentation of the petition and draft of the proposed ordinance, it shall become the duty of the City Council, within ten (10) business days after the receipt thereof, to pass and adopt such ordinance without alteration as to meaning or effect in the opinion of the persons filing the petition, or to call a special election, to be held on the next uniform election date prescribed by State Law which is no less than sixty (60) days after the date at which the election is called, at which the

qualified voters of the City of New Braunfels shall vote on the question of adopting or rejecting the proposed legislation.

Sec. 6.03. - Referendum.

Qualified voters of the City of New Braunfels may require that any ordinance or resolution, with the exception of ordinances or resolutions levying taxes, or appropriating money, passed by the City Council be submitted to the voters of the City for approval or disapproval, by submitting a petition for this purpose within ninety (90) days after final passage of said ordinance or resolution, or within ninety (90) days after its publication. Said petition shall be addressed, prepared, signed and verified as required for petitions initiating legislation as provided in Section 6.02 of this Charter and shall be submitted to the person performing the duties of City Secretary. Immediately upon the filing of such petition, the person performing the duties of City Secretary shall present said petition to the City Council. Thereupon the City Council shall immediately reconsider such ordinance or resolution and, if it does not entirely repeal the same, shall submit it to popular vote as provided in Section 6.02 of this Charter. Until such ordinance or resolution is approved by the voters as herein provided, the ordinance or resolution specified in the petition shall not go into effect, or further action thereunder shall be suspended if it shall have gone into effect.

Sec. 6.04. - Voluntary submission of legislation by the City Council.

The City Council, upon its own motion and by a majority vote of its members, may submit to popular vote at any election for adoption or rejection any proposed ordinance or resolution or measure, or may submit for repeal any existing ordinance, resolution or measure, in the same manner and with the same force and effect as provided in this Article for submission on petition, and may in its discretion call a special election for this purpose.

Sec. 6.05. - Form of ballots.

The ballots used when voting upon such proposed and referred ordinances, resolutions or measures, shall set forth their nature sufficiently to identify them and shall also set forth upon separate lines the words:

"FOR the ORDINANCE," and

"AGAINST the ORDINANCE," or

"FOR the RESOLUTION," and

"AGAINST the RESOLUTION."

Sec. 6.06. - Publication of proposed and referred ordinances.

The person performing the duties of City Secretary shall publish at least once in a newspaper in the City the proposed or referred ordinance or resolution within fifteen (15) days before the date of the election, and shall give such other notices and do such other things relative to such election as are required in general municipal elections or by the ordinance or resolution calling said election.

Sec. 6.07. - Adoption of ordinances.

If a majority of the qualified voters voting on any proposed ordinance or resolution or measure shall vote in favor thereof, it shall thereupon, or at any time fixed therein, become effective as a law or as a mandatory order to the City Council.

Sec. 6.08. - Inconsistent ordinances.

If the provisions of two (2) or more proposed ordinances or resolutions approved at the same election are inconsistent, the ordinance or resolution receiving the highest total number of votes "FOR" and "AGAINST" shall prevail.

Sec. 6.09. - Ordinances passed by popular vote, repeal or amendment.

An ordinance passed by the City Council as a result of popular vote under the provision of this article may be repealed or amended at any time after the expiration of two years by initiative under section 6.02 of this Article. A referred ordinance that is rejected by a majority of the legal votes cast in a referendum election shall be deemed repealed when the result of the election is declared.

Sec. 6.10. - Franchise ordinances.

Nothing contained in this article shall be construed to be in conflict with any of the provisions of Article XI of this Charter, pertaining to ordinances granting franchises when valuable rights have accrued thereunder.

ARTICLE VII. - ADMINISTRATIVE SERVICES

Sec. 7.01. - City Manager.

- (a) *Appointment and qualifications.* The City Council shall appoint a City Manager who shall be the chief administrative and executive officer of the City and shall be responsible to the City Council for the administration of all the affairs of the City. He/She shall be chosen by the City Council solely on the basis of his/her executive and administrative training, experience, ability, and character, and need not when appointed, be a resident of the City of New Braunfels; however, the City Manager must be a resident of the City within one hundred twenty (120) days of his/her appointment and shall have his/her principal residence in the City continuously while holding that office. No member of the City Council shall during the time of which he/she is elected and for one (1) year thereafter, be appointed City Manager.
- (b) *Terms and salary.* The City Manager shall not be appointed for a definite term but may be removed at the will and pleasure of the City Council by a vote of the majority of the entire Council. The action of the City Council in suspending or removing the City Manager shall be final; it being the intention of this Charter to vest all authority and fix all responsibility of such suspension or removal in the City Council. In case of the absence or disability of the City Manager, the City Council may designate some qualified person to perform the duties of the office during such absence or disability. The City Manager shall receive such compensation as may be fixed by the City.
- (c) *Powers and duties.* The powers herein conferred upon the City Manager by the City Council shall be the following:

- (1) To appoint and remove any officer or employee of the City except those officers and employees whose appointment or election is otherwise provided for by law or the Charter.
 - (2) Prepare and submit the annual budget and a five (5) year capital improvement program to the City Council.
 - (3) Submit to the City Council monthly a report on the finances and administrative activities of the City and a complete report as of the end of each fiscal year.
 - (4) To perform such other duties as may be prescribed by this Charter or required of him/her by the City Council, not inconsistent with the provisions of this Charter.
- (d) The City Manager shall prepare and submit annually to the City Council a five (5) year financial forecast and a five (5) year capital improvement program with appropriate timing ahead of the submission of the “proposed budget” to Council as referenced in Section 9.02.

Sec. 7.02. - City Secretary.

The City Secretary shall also be the City Clerk, and the City Secretary and such assistant secretaries as the City Council shall deem advisable, shall be appointed by the City Manager, and may be removed from office by the City Manager.

The City Secretary, or Assistant City Secretary, shall give notice of City Council meetings, keep the minutes of the proceedings of such meetings, and shall perform such other duties as the City Manager shall assign to the City Secretary, and those elsewhere provided for in this Charter.

Sec. 7.03. - Department of Police.

There shall be established and maintained a Department of Police to preserve order within the City and to secure the residents of said City from violence and the property therein from injury or loss.

- (a) *Chief of Police.* The Chief of Police shall be the Chief Administrative Officer of the Department of Police. The Police Chief shall be appointed by the City Manager, and he/she may be removed from office by the City Manager.
- (b) *Special Police.* No person except as otherwise provided by general law or the Charter or the ordinances passed pursuant thereto shall act as Special Police or Special Detective.

Sec. 7.04. - Fire Department.

There shall be established and maintained a Fire Department to provide means for protection against conflagrations and other disaster services and for the establishment, maintenance, support, and regulations of a Fire Department and for the guarding against fires.

- (a) *Fire Chief.* The Fire Chief shall be the Chief Administrative Officer of the Fire Department. The Fire Chief shall be appointed by the City Manager and may be removed from office by the City Manager.
- (b) *Volunteer Fire Department.* Authority is hereby granted to establish a Volunteer Fire Department.

Secs. 7.05—7.08. - Reserved.

ARTICLE VIII. - LEGAL AND JUDICIAL SERVICES

Sec. 8.01. - Municipal Court.

There shall be established and maintained a court designated as the Municipal Court of the City of New Braunfels for the trial of misdemeanor offenses, with all such powers and duties as are now or hereafter may be prescribed by laws of the State of Texas relative to municipal courts.

Sec. 8.02. - Judge of the Municipal Court.

- (a) The City Council shall appoint a presiding judge for the Municipal Court. The Presiding Judge of the Municipal Court shall be a licensed attorney appointed for a term set by ordinance, but for not less than two years. Any municipal court judge must reside within the City of New Braunfels, or becomes a resident within one hundred twenty (120) days of his/her appointment. All judges shall receive such compensation as may be fixed by the City Council.
- (b) The presiding judge may appoint a temporary judge in case of absence. The City Council may, by ordinance, adopt authorizations and procedures for the appointment, compensation, and qualifications of any associate judges.
- (c) Removal of the Judge. The City Council shall have authority to remove the presiding judge and any associate judges. All judges may be removed with or without cause. The City Council may, by ordinance, provide for procedures pertaining to any removal.

Sec. 8.03. - Clerk of the Municipal Court.

The City Manager shall appoint the Clerk of the Municipal Court. The clerk of said court and his or her deputies shall have the power to administer oaths and affidavits, make certificates, affix the seal of said court thereto, and generally do and perform any and all acts usual and necessary by the clerk of the court in issuing process of said court and conducting the business thereof.

Sec. 8.04. - City Attorney.

The City Council shall appoint a licensed attorney of the State of Texas to be the City Attorney. He/She shall receive for his/her services such compensation as may be fixed by the City Council for regular and special duties and shall hold his/her office at the pleasure of the City Council. The City Attorney or such other attorney selected by him/her with the approval of the City Council shall represent the City in all litigations and prosecutions in Municipal Court. There may be such Assistant City Attorneys as may be authorized by the City Council. Such Assistant City Attorneys shall be authorized to act for and on behalf of the City Attorney, including representing the City in all litigations and prosecutions in Municipal Court. The City Attorney

shall reside within the City Limits of the City of New Braunfels or become a resident of the City within one hundred twenty (120) days of his/her appointment.

Sec. 8.05. - Reserved.

ARTICLE IX. - MUNICIPAL FINANCE

Sec. 9.01. - Fiscal year.

The fiscal year of the City of New Braunfels shall begin on the first day of October and shall end on the last day of September of each calendar year. Such fiscal year shall also constitute the budget and accounting year.

Sec. 9.02. - Preparation and submission of budget.

The City Manager, at least forty-five (45) days prior to the beginning of each fiscal year, shall submit to the City Council a proposed budget, which budget shall provide a complete financial plan for the fiscal year and shall contain the following:

- (a) A budget message, explanatory of the budget, which message shall contain an outline of the proposed financial policies of the City for the fiscal year, shall set forth the reasons for salient changes from the previous fiscal year in expenditure and revenue items, and shall explain any major changes in financial policy.
- (b) A consolidated statement of anticipated receipts and proposed expenditures for all funds.
- (c) An analysis of property valuations.
- (d) An analysis of property tax rate.
- (e) Tax levies and tax collections by years for the last five (5) years.
- (f) General fund resources in detail.
- (g) Special fund resources in detail.
- (h) Summary of proposed expenditures by fund, function, department, and activity.
- (i) Detailed estimates of expenditures shown separately for each activity to support summary (h) above.
- (j) A statement of expenditures of the proceeds of all bond issues.
- (k) A description of all bond issues outstanding, showing rate of interest[,], date of issue, maturity date, amount authorized, amount issued, and the amount outstanding.
- (l) A schedule of requirements for the principal and interest of each issue of bonds.
- (m) The appropriate ordinance.
- (n) The tax levying ordinance.
- (o) A provision for financing the current capital improvement program.

Sec. 9.03. - Anticipated revenues compared with other years in budget.

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

Sec. 9.04. - Proposed expenditures compared with other years.

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

Sec. 9.05. - Budget a public record.

The budget and all supporting schedules shall be filed with the person performing the duties of City Secretary, submitted to the City Council and shall be a public record. The City Manager shall provide copies for distribution to all interested persons requesting same.

Sec. 9.06. - Notice of public hearing on budget.

At the meeting of the City Council at which the budget is submitted, the City Council shall fix the time and place of a public hearing on the budget and shall cause to be published in a newspaper in the City of New Braunfels and on the City's website a summary of the proposed budget and a notice of the hearing setting forth the time and place thereof at least ten (10) days before the date of such hearing, which hearing shall be set not later than thirty (30) days prior to the beginning of the next fiscal year.

Sec. 9.07. - Public hearing on budget.

At any time and place set forth in the notice required by Section 9.06, or any time and place to which such public hearing shall from time to time be adjourned, the City Council shall hold a public hearing on the budget submitted and all interested persons shall be given an opportunity to be heard for or against any item or the amount of any item therein contained.

Sec. 9.08. - Proceedings on budget after public hearing.

After the conclusion of such public hearing, the City Council may increase or decrease the items of the budget as a result of such hearings, except items in proposed expenditures fixed by law. If the City Council increases the total proposed expenditures, it shall also provide for an increase in the total anticipated revenue to at least equal such proposed expenditures.

Sec. 9.09. - Adoption of budget.

The budget shall be adopted by the favorable vote of a majority of all the members of the City Council.

Sec. 9.10. - Date of final adoption [of budget].

The budget shall be finally adopted not later than ten (10) days prior to the beginning of the fiscal year, and should the City Council fail to so adopt a budget, the then existing budget together with its tax levying ordinance and its appropriation ordinance, shall be deemed adopted for the ensuing fiscal year.

Sec. 9.11. - Effective date of budget, certification, copies made available.

Upon final adoption, the budget shall be in effect for the next ensuing fiscal year. From the effective date of the budget, the several amounts stated therein as proposed expenditures shall be and become appropriated to the several objects and purposes therein named. A copy of the budget, as finally adopted, shall be filed with the person performing the duties of City Secretary and the County Clerk of Comal County. The final budget shall be reproduced so that such copies shall be permanent copies, and the copies shall be made available for the use of all offices, departments and agencies and for the use of interested persons and civic organizations. A digital copy of the final budget shall be made available on the City's website.

Sec. 9.12. - Budget establishes amount to be raised by taxation.

From the effective date of the budget, the amount stated therein as the amount to be raised by taxation shall constitute a determination of the amount of levy for the purposes of the City in the corresponding tax year; provided, however, that in no event shall such levy exceed the legal limit provided by the laws and constitution of the State of Texas.

Sec. 9.13. - Reserved.

Sec. 9.14. - Emergency appropriations.

In the event it is necessary to meet a public emergency affecting life, health, property or the public peace, the City Council may make emergency appropriations by emergency ordinance in accordance with the provisions hereinafter provided. To the extent that there are no available unappropriated revenues to meet such appropriations, the City Council may by such emergency ordinance authorize the issuance of emergency notes, which may be renewed from time to time, but the emergency notes and renewals of any fiscal year shall be paid not later than the last day of the next fiscal year after the emergency appropriation was made.

Sec. 9.15. - Estimated expenditures shall not exceed estimated resources.

The total estimated expenditures of the general fund and debt service fund shall not exceed the total estimated resources of each fund (prospective revenue plus cash on hand). The classification of revenue and expenditure accounts shall conform as nearly as local conditions will permit to the uniform classification as promulgated by the American Institute of Certified Public Accountants.

Sec. 9.16. - Budget amendments.

The City budget may be amended and appropriations altered in accordance therewith in cases of public necessity, the actual fact of which shall have been declared by the City Council. Funds within a given department may be reallocated within that department by the City Manager.

Sec. 9.17. - Purchases, Sales and Contracts.

All purchases made, and contracts entered into, by the City, and all sales, exchanges or other dispositions of property of any kind or character owned by the City, shall be accomplished pursuant to the requirements and procedures of the constitution and laws of the State of Texas, and any ordinance, resolution or motion by the City Council not inconsistent with such constitution and

laws. The City Manager shall have the authority to contract for expenditures without further approval of the City Council for all budgeted items that do not equal or exceed the minimum amount required for mandatory competitive bidding/purchasing set by state law. At the time this charter provision was amended, state law defined such minimum as any amount over fifty thousand dollars (\$50,000.00).

Sec. 9.18.- Repealed.

Sec. 9.19. - Power to tax.

The City Council shall have the power under the provisions of state law to levy, assess and collect an annual tax upon taxable property within the City, and to establish a tax on sales within the City, to the maximum extent provided by the Constitution and general laws of the State of Texas.

Sec. 9.20. - Implementation of Power to Tax.

The City Council shall prescribe by ordinance the methods, procedures, rules and regulations by which its power to tax may be implemented, and by which any taxes thereby imposed may be enforced and collected.

Secs. 9.21—9.24. - Reserved.

Sec. 9.25. - Taxes, when due and payable.

All taxes due to the City of New Braunfels shall be payable at a location designated by the City Council of the City of New Braunfels. Taxes shall be due and shall become delinquent as provided in the Texas Tax Code, as amended, which code further provides for delinquent taxes, interest, penalty and procedures for the collection of taxes.

Sec. 9.26. - Tax liens.

The City shall have all the rights granted by State Law to collect taxes and to enforce collection by lien foreclosures and other procedures set forth by State Law pertaining to Real and Personal property.

Sec. 9.27. - General obligation bonds.

The City shall have the power to borrow money on the credit of the City and to issue general obligation bonds for permanent public improvements or for any other public purpose not prohibited by the Constitution and Laws of the State of Texas, and to issue refunding bonds to refund outstanding bonds of the City previously issued. All such bonds shall be issued in conformity with the Laws of the State of Texas.

Sec. 9.28. - Revenue bonds.

The City shall have power to borrow money for the purpose of constructing, purchasing, improving, extending or repairing of public utilities, recreational facilities or any other self-liquidating municipal function not prohibited by the constitution and laws of the State of Texas, and to issue revenue bonds to evidence the obligation created thereby. Such bonds shall be a charge upon and payable solely from the properties, or interest therein pledged, or the income therefrom,

or both, and shall never be a debt of the City. All such bonds shall be issued in conformity with the laws of the State of Texas.

Sec. 9.29. - [Reserved.]

ARTICLE X. - PLANNING AND DEVELOPMENT^[2]

Sec. 10.01. - Planning Commission.

There shall be a City Planning Commission and it shall consist of nine (9) members, of which at least seven (7) members shall be citizens of the City of New Braunfels and of which not more than two (2) members may live in the Extraterritorial Jurisdiction of the City of New Braunfels. The members of said commission shall be appointed by the City Council for a term of three (3) years.

Sec. 10.02. - Platting of property.

Every tract of land situated within the corporate limits of the City of New Braunfels and its Extraterritorial Jurisdiction shall be platted pursuant to the requirements and procedures of the constitution and laws of the State of Texas, and any ordinance, resolution or motion by the City Council not inconsistent with such constitution and laws.

Sec. 10.03. - Development of property.

The City Council shall cooperate in every manner possible with persons interested in the development of property within or beyond the City limits. No expenditure of public funds, however, shall be authorized for the development of privately-owned subdivisions within or beyond the corporate limits of the City, except for the extension of utilities or services to such areas.

Sec. 10.04. - Comprehensive City Plan.

The Comprehensive City Plan for the physical development of the City of New Braunfels shall contain the [Planning] Commission's recommendations for growth, development and beautification of the City. A copy of the Comprehensive City Plan, or any part thereof, shall be forwarded to the City Manager who shall thereupon submit such Plan, or part thereof, to the City Council with his recommendations thereon. The City Council may adopt this plan as a whole or in parts and may adopt any amendment thereto, after at least one (1) public hearing on the proposed action. The City Council shall act on such Plan, or part thereof, within sixty (60) days following its submission by the City Manager. If such Plan, or part thereof, should be rejected by the City Council, the Planning Commission may modify such Plan, or part thereof, and again forward it to the City Manager for submission to the City Council. All amendments to the Comprehensive City Plan recommended by the Planning Commission shall be submitted in the same manner as that outlined above to the City Council for approval, and all recommendations to the City Council from any City department affecting the Comprehensive City Plan must be accompanied by a recommendation from the Planning Commission. Any Comprehensive City Plan approved by City Council shall be reviewed by the Planning Commission every five (5) years and any recommended

changes shall be submitted in the same manner as that outlined above to the City Council for approval.

Sec. 10.05. - Legal effect of Comprehensive City Plan.

The Comprehensive City Plan adopted by the City Council shall be used as a guide by the City Council to establish codes and ordinances determined to be essential in providing for the public health, safety, and welfare of the citizens of new Braunfels, Texas, and by the Planning Commission to facilitate development and master plans that the City deems necessary and appropriate for systemic growth and development. The Comprehensive City Plan shall not be nor be considered a zoning map nor constitute zoning regulations or establish zoning boundaries and shall not be site nor parcel specific and shall be used to illustrate generalized locations. The depiction of thoroughfare alignments in the Comprehensive City Plan is subject to modification by the Planning Commission and City Council to fit local conditions and is subject to refinement as development occurs.

Sec. 10.06. - [Reserved.]

ARTICLE XI. - FRANCHISE AND PUBLIC UTILITIES^[3]

Sec. 11.01. - Powers of the City.

In addition to the City's power to buy, construct, lease, maintain, operate, and regulate public utilities and to manufacture, distribute, and sell the output of such utility operations, the city shall have further powers as may now or hereafter be granted under the constitution and laws of the State of Texas.

Sec. 11.02. - Franchise, power of council.

The City Council shall have power by ordinance to grant, amend, renew and extend, all franchise of all public utilities of every character operating within the City of New Braunfels. All ordinances granting, amending, renewing, or extending franchises for public utilities shall be read at two (2) separate regular meetings of the City Council, and shall not be finally passed until thirty (30) days after the first reading; and no such ordinance shall take effect until thirty (30) days after its final passage; and pending such time, the full text of such ordinance shall be published once each week for four (4) consecutive weeks in a newspaper in the City of New Braunfels, and the expense of such publication shall be born [borne] by the proponent of the franchise. No public utility franchise shall be granted for a term of more than twenty (20) years nor be transferable except with the approval of the City Council expressed by ordinance.

Sec. 11.03. - Franchise value not to be allowed.

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

Sec. 11.04. - Right of regulation.

All grants, removals, extensions, or amendments of public utility franchises, whether it be so provided in the ordinance or not, shall be subject to the right of the City Council of the City of New Braunfels:

- (a) To repeal the same ordinance at any time upon the failure of the grantee to comply with any provision of the ordinance, the franchise, the Charter of the City of New Braunfels, any applicable statute of the State of Texas or the rule of any applicable governmental body,
- (b) To require proper and adequate extension of plant and service, and the maintenance of the plant and fixtures at the highest reasonable standard of efficiency,
- (c) To establish reasonable standards of service and quality of products and prevent unjust discrimination in service or rates,
- (d) At any time to examine and audit the accounts and other records of any such utility and to require annual and other reports, including reports on operations within the City of New Braunfels; and shall have the power to prescribe the accounts and accounting system to be used by a public utility,
- (e) To impose such reasonable regulations and restrictions as may be deemed desirable or conducive to the safety, welfare, and accommodation of the public,
- (f) To require such compensation and rental as may be permitted by the laws of the State of Texas,
- (g) To require a utility to repair at its expense public property, streets, and ways which are destroyed or damaged in the process of laying or maintaining their lines.

Sec. 11.05. - Grant not to be exclusive.

No grant or franchise to construct, maintain or operate a public utility and/or renewal or extension of such grant shall be exclusive.

Sec. 11.06. - Consent of property owners.

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

Sec. 11.07. - Extensions.

All extensions of public utilities within the City limits shall become a part of the aggregate property of the public utility, shall be operated as such, and shall be subject to all the obligations and reserved rights contained in this Charter and in any original grant hereafter made. The right to use and maintain any extension shall terminate with the original grant and shall be terminable as provided in Section 11.04 of this Charter. In case of an extension of a public utility operated under a franchise hereafter granted, such right shall be terminable at the same time and under the same conditions as the original grant.

Sec. 11.08. - Other conditions.

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

Sec. 11.09. - Public utilities board.

So far as not inconsistent with the terms and provisions of any existing encumbrance, or the general laws of the State of Texas, the City Council shall have the power and may at any time create by ordinance to such effect, a public utilities board, for the purpose of managing, controlling, and operating any or all of any such system or systems or properties at any time acquired or owned or held by said City, and which shall be known as the public utilities board of said City, and consist of five (5) freeholders of said City, one of whom shall be the mayor of said City, and the compensation of the members of such board, their terms of office, the powers and duties of such board and the members thereof, the manner of exercising same, the appointment or election of their successors, and all matters pertaining to their organization and duties, shall be as prescribed by the City Council in the ordinance creating such board; all as the City Council may deem best; and such City Council may thereafter at any time by ordinance to such effect, amend, modify, or change the terms and provisions of any such ordinance creating any such board, and may abolish such board or modify or change the duties of such board or of the members thereof, all as the City Council may deem best.

Sec. 11.10. - Accounts of municipally owned utilities.

Accounts shall be kept for each public utility owned or operated by the City, in such manner as to show the true and complete financial results of such City ownership and operation, including all assets and all liabilities, appropriately subdivided by classes, depreciation reserve, other reserves and surplus, also revenues, operating expenses including depreciation, interest payments, rental, and other disposition of annual income. The accounts shall show actual capital cost to the City of each public utility owned, also the costs of all extensions, additions, and improvements and the source of funds expended for such capital purposes. They shall show as nearly as possible the cost of any service furnished to or rendered by any such utility to any City government department. The City Council shall cause an annual audit report to be made by a Certified Public Accountant and shall publish a summary of such report showing the financial results of such City ownership and operation, giving the information specified in this section and such other data as the City Council shall deem expedient.

Sec. 11.11. - Sales of electricity, water and sewer services.

- (a) The City Council shall have the power and authority to sell and distribute electricity and water and to sell and provide for sewer services and any other utilities to any person, firm or

corporation outside the limits of the City of New Braunfels, and to permit them to connect with said system under contract with the City, under such terms and conditions as may appear to be for the best interests of the City.

- (b) The City Council shall have the power and authority to prescribe the kind of materials used within or beyond the limits of the City of New Braunfels where it furnishes the service, and to inspect the same and require them to be kept in good order and condition at all times and to make such rules and regulations as shall be necessary and proper, and prescribe penalties for noncompliance with same.

Sec. 11.12. - Regulation of rates and service.

The City Council shall have full power after notice and hearing to regulate by ordinance the rates, charges and fares of every public utility franchise holder operating in the city, provided that no such ordinance shall be passed as an emergency measure. Any franchise holder requesting an increase in its rate, charges, or fares shall have, at the hearing on such request, the burden of establishing by clear and convincing evidence the value of its investments and the amount and character of its expenses and revenues. No franchise holder shall institute any legal action to contest any rate, charge, or fare fixed by the City Council until such franchise holder has filed a motion for rehearing with the City Council specifically setting out each ground of its complaint against the rate, charge or fare fixed by the City Council, and until the City Council shall have acted upon such motion. The City of New Braunfels shall [have the] power to employ at the expense of the grantee, expert assistance and advice in determining a reasonable rate and equitable profit to the grantee.

ARTICLE XII. - GENERAL PROVISIONS

Sec. 12.01. - Availability of Records.

The public records of the City shall be available to the public subject to the procedures and exceptions of the Texas Open Records Act. The City Council may provide, by ordinance, regulations and procedures for the implementation and enforcement of said Act.

Sec. 12.02. - Personal Interest.

All members of the City Council, and all officers and employees of the City, shall be subject to and shall comply with the provisions of general state law regarding personal, financial or conflicting interests in transactions with the City, including but not limited to Chapter 171 of the Texas Local Government Code. The City Council shall provide, by ordinance, regulations and procedures for the implementation and enforcement of said Chapter.

Sec. 12.03. - Prohibitions.

(a) *Activities prohibited.*

- (1) In appointments to and removal from any City office or employment, persons shall not be favored or discriminated against because of race, sex, political or religious opinions, or religious affiliations, color, national origin, age, disability, veteran status, genetic information, or any other protected classification which state or federal law prohibits as a basis for such appointment or removal.

- (2) No person who seeks appointment or promotion with respect to any City position or appointive City administrative office shall directly or indirectly give, render or pay any money, service or other valuable thing to any person for or in connection with his test, appointment, proposed appointment, promotion or proposed promotion.
 - (3) No City official or employee, elected or appointed, shall orally, by letter, or otherwise solicit or assist in soliciting any assessment, subscription, or contribution for any political party or political purpose whatever from any subordinate city official or employee holding any compensated City position.
 - (4) No person who holds any compensated City position shall participate in political campaigning or related activities during work hours, while otherwise representing the City or their position. The City will not generally restrict or regulate employees off-duty political participation, unless the City Manager believes such participation will cause an unreasonable disruption to the City's operations. The City Council may adopt ordinances consistent with this section.
 - (5) Neither the Mayor nor any other member of the City Council, nor any elective or appointive officer of the City, shall be directly or indirectly in the employ of any person, company or corporation, holding or seeking to hold any franchise from the City of New Braunfels, or shall receive directly or indirectly any wage, commission, fee, gift, favor or payment from such franchise holder, and any violation of this section shall ipso facto render vacant the office held by the person violating it.
 - (6) No member of the City Council may knowingly or intentionally attempt to circumvent an adopted term limited by resigning or forfeiting their position in order to avoid the established term limit of three (3) year terms.
- (b) *Penalties.* Any person who by himself or with others violates any of the provisions of paragraphs (1) through (3) of the preceding subsection (a) shall be guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine of not more than one hundred dollars (\$100.00). Any person who by himself or with others violates any of the provisions of paragraphs (4) through (6) of the preceding subsection (a) shall be guilty of an offense and upon conviction thereof shall be punishable by a fine of not more than one hundred dollars (\$100.00). Any person convicted under this section shall be ineligible for a period of five (5) years thereafter to hold any City office or position and, if an officer or employee of the City, shall immediately forfeit his office or position.

Sec. 12.04. - Nepotism.

All members of the City Council, and all officers and employees of the City, shall be subject to and shall comply with the provisions of general state law regarding nepotism, including but not limited to Chapter 573 of the Texas Government Code. The City Council shall provide, by ordinance, regulations and procedures for the implementation and enforcement of said Chapter.

Sec. 12.05. - Provisions relating to assignment, execution and garnishment.

The property, real and personal, belonging to the City shall not be liable to be sold or appropriated under any writ of execution or cost bill. The funds belonging to the City, in the hands of any person, firm or corporation, shall not be liable to garnishment, attachment, or sequestration; nor shall the City be liable to garnishment on account of any debt it may owe or funds or property

it may have on hand or owing to any person. Neither the City nor any of its officers or agents shall be required to answer any such writ of garnishment or any account whatever. The City shall not be obligated to recognize any assignment of wages or funds by its employees, agents, or contractors.

Sec. 12.06. - City not required to give security or execute bond.

It shall not be necessary in any action, suit, or proceeding in which the City of New Braunfels is a party, for any bond, undertaking, or security to be demanded or executed by or on behalf of said City in any of the State Courts, but in all such actions, suits, appeals, or proceedings same shall be conducted in the same manner as if such bond, undertaking or security had been given as required by law.

Sec. 12.07. - Special provisions covering damage suits.

Before the City shall be liable to damage claim or suit for personal injury, or damage to property, the person who is injured or whose property is damaged or someone in his behalf shall give notice to the City in the manner and within the time frame prescribed by City ordinance. No action at law for damages shall be brought against the City for personal injury or damage to property unless timely notice has been given to the City prior to the filing of a lawsuit in the manner prescribed by the applicable ordinance. Nothing herein contained shall be construed to mean that the City of New Braunfels waives any rights, privileges, defenses or immunities in tort actions which are provided under the common law, the constitution and the general laws of the State of Texas.

Sec. 12.08. - Welfare and/or pension plan for City employees.

The City Council shall have the power exercisable in its discretion, and subject to such limitations and regulations as it shall deem proper to create, operate, amend, and contract for a welfare and/or pension plan for any or all City employees.

Sec. 12.09. - Separability clause.

If any section or part of section of this Charter shall be held invalid by a court of competent jurisdiction, such holdings shall not affect the remainder of this Charter nor the context in which such section or part of section so held invalid may appear, except to the extent that an entire section or part of section may be inseparably connected in meaning and effect with the section or part of section to which such holding shall directly apply.

Sec. 12.10. - Effect of Charter on existing law.

All ordinances, resolutions, rules, regulations and contracts now in force under the city government to New Braunfels and not in conflict with the provisions of this Charter shall remain in force under this Charter until altered, amended, or repealed by the City Council after this Charter takes effect. All rights of the City under existing franchises and contracts and all existing authority for the issuance of bonds, not in conflict with the provisions of any amendment of this Charter, shall be preserved in full force and effect.

Sec. 12.11. - Interim municipal government.

- (a) Upon the adoption of this Charter the seven (7) Councilmen elected shall take office on January 1, 1967. Those Councilmen elected to places 1, 2, and 3 will serve as Councilmen through October 31, 1969; those Councilmen elected to places 4 and 5 will serve as Councilmen through October 31, 1968; and those Councilmen elected to places 6 and 7 will serve as Councilmen through October 31, 1967. Thereafter, the City Council shall be elected as provided in Section 3.01 of this Charter.
- (b) During such interim, persons who on the date this Charter is adopted are employed or filling appointive positions with the City of New Braunfels which are retained under this Charter, may continue to fill these positions for the term for which they were employed or appointed.
- (c) All rights, claims, actions, orders, contracts, and legal or administrative proceedings shall continue except as modified pursuant to the provisions of this Charter and in each case shall be maintained, carried on or dealt with by the City department, office or agency appropriate under this Charter.
- (d) The budget in effect immediately preceding the adoption of this Charter shall remain in effect for the balance of the fiscal year and until such time as a new budget is adopted for the next succeeding year.

Sec. 12.12. - Applicability of general laws.

The Constitution of the State of Texas, the statutes of said State applicable to home ruled municipal corporations, as now or hereafter enacted, this Charter and ordinances enacted pursuant hereto shall, in the order mentioned, be applicable to the City of New Braunfels. The City shall also have the power to exercise any and all powers conferred by the laws of the State of Texas upon any other kind of city, town, or village, not contrary to the provisions of said home-rule statutes, Charter, and ordinances. The exercise of any such powers by the City of New Braunfels shall be optional with it, and it shall not be required to conform to the law governing any other cities, towns, or villages unless and until by ordinance it adopts same.

Sec. 12.13. - Amending the Charter.

This Charter may be amended by any method permitted by general state law regarding the amendment of charters of home rule municipalities, including but not limited to Chapter 9 of the Local Government Code. The City Council may provide, by ordinance, regulations and procedures for the implementation and enforcement of this Charter. In order to preserve coherency, the City Council shall have the power, by ordinance, to renumber and rearrange all articles, sections, and paragraphs of the Charter, or any amendments thereto, create and adjust a table of contents, or to correct minor grammar or spelling errors, and upon the passage of any such ordinance, a copy thereof, certified by the City Manager, shall be forwarded to the Secretary of State for filing.

Sec. 12.14. - Construction of Charter.

The Charter shall not be construed as a mere grant of enumerated powers, but shall be construed as a general grant of power and as a limitation of power on the government of the City of New Braunfels in the same manner as the Constitution of Texas is construed as a limitation on the powers of the Legislature. Except where expressly prohibited by this Charter, each and every power under Article XI, Section 5 of the Constitution of Texas, which it would be competent for

the people of the City of New Braunfels to expressly grant to the City, shall be construed to be granted to the City by this Charter.

Sec. 12.15. - Judicial notice.

This Charter shall be deemed a public act, may be read in evidence without pleading or proof, and judicial notice shall be taken thereof in all courts and places.

CHARTER COMPARATIVE TABLE

This table shows the location of the sections of the basic Charter and any amendments thereto.

Ordinance Number	Adoption Date	Approval Date	Section	Section this Charter
	11-22-66(Ord.)	11-28-66	1.01—12.15	1.01—12.15
71-19 Amd. 2	10- 4-71	11- 9-71	1	3.01
71-19 Amds. 3, 4	10- 4-71	11- 9-71	1	3.05
71-19 Amd. 5	10- 4-71	11- 9-71	1	3.09, 3.10
71-19 Amd. 7	10- 4-71	11- 9-71	1	7.03
71-19 Amd. 8	10- 4-71	11- 9-71	1	9.17
74-17 Amd. 5	5-28-74	7- 9-74	1	3.09, 3.10
74-17 Amd. 7	5-28-74	7- 9-74	1	7.02
74-17 Amd. 8	5-28-74	7- 9-74	1	8.01—8.03
74-17 Amd. 11	5-28-74	7- 9-74	1	8.05
74-17 Amd. 12	5-28-74	7- 9-74	1	9.02
74-17 Amd. 13	5-28-74	7- 9-74	1	9.06
74-17 Amd. 14	5-28-74	7- 9-74	1	9.10
74-17 Amd. 15	5-28-74	7- 9-74	1	9.17

80-4 Amd. 2		8- 9-80	2	3.05
80-24 Amd. 1		8- 9-80	1	3.06
80-24 Amd. 2		8- 9-80	2	3.01
				4.01
80-24 Amd. 3		8- 9-80	3, 4	4.05, 4.06
80-24 Amd. 5	8- 9-80	8-11-80	5	7.05
83-4 Amd. 1	2-14-83	4- 2-83		3.01
				4.01
83-4 Amd. 2	2-14-83	4- 2-83		3.06
83-4 Amd. 3	2-14-83	4- 2-83		9.17
87-11 Amd. 1	2- 9-87	4- 4-87		4.01
87-11 Amd. 2	2- 9-87	4- 4-87		4.06
87-11 Amds. 3, 4	2- 9-87	4- 4-87		3.05
93-22 Amds. 1—3		5- 3-93		3.01
93-22 Amd. 5		5- 3-93		3.04
93-22 Amd. 6		5- 3-93		4.01
93-22 Amd. 7		5- 3-93		4.03
93-22 Amd. 8		5- 3-93		4.06, 4.07
93-22 Amd. 10		5- 3-93		5.02
93-22 Amd. 11		5- 3-93		5.07

93-22 Amd. 12		5- 3-93		6.02
93-22 Amd. 13		5- 3-93		7.05
93-22 Amd. 14		5- 3-93		7.07
93-22 Amd. 15		5- 3-93		9.11
93-22 Amd. 18		5- 3-93		12.07
95-6 Amd. 1	2-13-95	5- 6-95		3.01
				3.05
				4.05
95-6 Amd. 2	2-13-95	5- 6-95		3.02
95-6 Amd. 3	2-13-95	5- 6-95		9.20
05-45 Amd. 1	5- 7-05	5-16-05	I	1.04
05-45 Amd. 1	5- 7-05	5-16-05	I Rpld	1.05
05-45 Amd. 2	5- 7-05	5-16-05	I	2.01
05-45 Amd. 3	5- 7-05	5-16-05	I	2.02
05-45 Amd. 4	5- 7-05	5-16-05	I	3.01
05-45 Amd. 6	5- 7-05	5-16-05	I	3.02
05-45 Amd. 7	5- 7-05	5-16-05	I	3.04
05-45 Amd. 8	5- 7-05	5-16-05	I	3.09(c)
05-45 Amd. 9	5- 7-05	5-16-05	I	3.10
05-45 Amd. 10	5- 7-05	5-16-05	I	4.04

05-45 Amd. 11	5- 7-05	5-16-05	I	4.06
05-45 Amds. 12—14	5- 7-05	5-16-05	I	6.02
05-45 Amd. 15	5- 7-05	5-16-05	I	6.09
05-45 Amds. 16, 17	5- 7-05	5-16-05	I	7.02
05-45 Amd. 18	5- 7-05	5-16-05	I	7.03(a)
05-45 Amd. 19	5- 7-05	5-16-05	I	7.04(a)
05-45 Amd. 20	5- 7-05	5-16-05	I Rpld	7.05—7.08
05-45 Amd. 21	5- 7-05	5-16-05	I	8.02
05-45 Amd. 23	5- 7-05	5-16-05	I	8.04
05-45 Amd. 24	5- 7-05	5-16-05	I	9.01
05-45 Amd. 25	5- 7-05	5-16-05	I Rpld	9.13
05-45 Amd. 26	5- 7-05	5-16-05	I	9.17
05-45 Amd. 27	5- 7-05	5-16-05	I	9.19
05-45 Amd. 28	5- 7-05	5-16-05	I	9.20
05-45 Amd. 29	5- 7-05	5-16-05	I	9.25
05-45 Amd. 30	5- 7-05	5-16-05	I	9.26
05-45 Amd. 31	5- 7-05	5-16-05	I	10.01
05-45 Amd. 32	5- 7-05	5-16-05	I	10.02
05-45 Amd. 33	5- 7-05	5-16-05	I	10.04
05-45 Amd. 34	5- 7-05	5-16-05	I	10.05

05-45 Amd. 35	5- 7-05	5-16-05	I	12.01
05-45 Amd. 36	5- 7-05	5-16-05	I	12.02
05-45 Amd. 37	5- 7-05	5-16-05	I Added	12.03(a)(5)
05-45 Amd. 38	5- 7-05	5-16-05	I	12.04
05-45 Amd. 39	5- 7-05	5-16-05	I	12.13