

CHARTER¹

ARTICLE I. POWERS OF THE CITY

Sec. 1.01. Name and powers of the city.

The municipal corporation now existing and known as the “City of Tempe” shall remain and continue to be a body politic and corporate under the name of the “City of Tempe” with all powers, functions, rights, privileges and immunities possible under the Constitution and general laws of Arizona as fully as though they were specifically enumerated in this Charter, and all of the powers, functions, rights, privileges and immunities granted or to be granted to charter cities and to cities and towns incorporated under the provisions of Title 9, Arizona Revised Statutes, not in conflict herewith. The enumeration of the powers, functions, rights, privileges and immunities made in this Charter shall never be construed to preclude, by implication, or otherwise, the city from doing any and all things not inhibited by the constitution and laws of Arizona.

(5-14-74)

Sec. 1.02. 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 the Charter shall not be construed as limiting in any way the general power stated in this article.

Sec. 1.03. Intergovernmental relations.

The city may exercise any of its power or perform any of its functions and may participate in the financing thereof, jointly or in cooperation by contract, or otherwise, with any one or more states, political subdivisions thereof, school districts, or any board, commission or agency of any of them, or with the United States or any department or agency thereof.

Sec. 1.04. Authority of mayor during emergency.

During times of great danger, threatened or actual civil insurrection, riot, extraordinary local emergency or natural disaster which causes or threatens to cause loss of or jeopardizes life or property, the mayor shall assume control over and govern city government and all of its branches and shall be responsible for the suppression of disorders and the restoration of normal peaceful conditions. To accomplish the aforementioned responsibilities, the mayor is empowered to rule by proclamation. Any person violating any of the provisions of any proclamation issued by the mayor during such time of great danger, threatened or actual civil insurrection, riot, extraordinary local emergency or natural disaster, shall be guilty of a misdemeanor punishable as set forth in section 1-7 of the Tempe City Code.

(5-14-68)

¹ **Editor’s note**—The Charter of the City of Tempe, adopted by special election, October 19, 1964. Except for the use of a uniform system of capitalization, the Charter has been set herein as adopted. For detailed information on Charter amendments, see the Charter Comparative Table located on page C-26.

ARTICLE II. CITY COUNCIL

Sec. 2.01. Composition, eligibility, terms and elections.

(a) *Composition.* There shall be a city council consisting of a mayor and six (6) other councilmembers elected from the city at large by the qualified electors of the city.

(b) *Eligibility.* Only qualified electors of the city shall be eligible to hold the office of mayor or councilmember. Each council candidate must have been a resident of the city or an annexed area for at least two (2) years immediately preceding his/her election.

(c) *Term of councilmembers.* The term of office of councilmembers shall commence at the first regular meeting of the city council in July following their election and, except as otherwise provided herein, shall be for a period of four (4) years or until their successors are elected and qualified.

(d) *Term of mayor.* The term of office of mayor shall commence at the first regular meeting of the city council in July following his/her election and shall be for a period of four (4) years or until his/her successor is elected and qualified.

(e) *Elections.* Elections for councilmembers shall be held in each even numbered year as provided in article VII with three councilmembers to be elected at each such election. Elections for mayor shall be held in an even numbered year as provided in article VII.
(5-16-00, 8-26-14)

Editor's note—Proposition 100, approved at the election held on May 16, 2000, changed the mayoral term from two (2) years to four (4) years.

Sec. 2.02. Compensation and expenses.

The council may determine the annual compensation of councilmembers by ordinance. No ordinance increasing such salary shall become effective until the date of commencement of the terms of councilmembers elected at the next regular election, provided that such election follows the adoption of such ordinance by at least six months. Until further council action, salaries for members of the council shall remain as presently established. In addition, councilmembers shall receive their actual and necessary expenses incurred in the performance of their duties of office.
(8-26-14)

Sec. 2.03. Mayor and vice-mayor.

(a) *Mayor.* The mayor shall be a member of the council and its presiding officer. In addition, he/she shall be recognized as head of the city government for all ceremonial purposes and by the governor for purposes of military law and civil defense. He/she shall execute all contracts and other documents in the name of the city. He/she shall from time to time communicate to the city council such information and recommend such measures as may, in his/her judgement, tend to the improvement of the finances, law enforcement, health and comfort of the citizenry and good government of the city. Neither the mayor nor any other council member shall have any administrative duties.

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(b) *Vice-mayor.* Within thirty (30) days after taking office, each council shall elect from among its members a vice-mayor who shall act as mayor during the absence or disability of the mayor and, if a vacancy occurs, shall assume the office of mayor for the remainder of the unexpired term unless the council shall within thirty (30) days following such vacancy appoint some other from among its members to assume the office of mayor, in which case, the former vice-mayor shall retain his/her seat on the council, and at the pleasure of the council may continue to serve in the capacity of vice-mayor.

(5-14-68, 8-26-14)

Sec. 2.04. General powers and duties.

Policy making and all other 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 councilmember shall hold any other elected public office or city employment during the term for which he/she was elected to the council.

- (1) In the event a councilmember, whose term of office will not expire until after the date the next mayor takes office, wishes to run for the office of mayor, he/she must announce his/her resignation as councilmember at least ninety (90) days prior to the primary election. The effective date of such resignation shall be the date the newly elected mayor takes office.

Editor's note—See Arizona Constitution, Art. 22, § 18 (1980) [prohibits elected official from nomination except during final year of term being served]; A.R.S. § 38-296; Laos v. Arnold, 685 P.2d 111 (1984).

- (2) No former councilmember shall hold any compensated appointive city office or employment until one year after the expiration of the term for which he/she was elected to the council.

(b) *Appointments and removals.* Neither the council nor any of its members shall in any manner dictate the appointment or removal of any city administrative officers or employees whom the manager or any of his/her subordinates are empowered to appoint, but the council may express its views and fully and freely discuss with the manager anything pertaining to appointment and removal of such officers and employees.

(c) *Interference with administration.* Except for the purpose of inquiries, or investigations authorized under section 2.09, the council or its members shall deal with city officers and employees who are subject to the direction and supervision of the manager solely through the manager, and neither the council nor its members shall give any orders to any such officer or employee, either publicly or privately.

(8-26-14)

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

(a) *Vacancies.* The office of mayor or councilmember shall become vacant upon his/her death, resignation, forfeiture of office, or removal from office in any manner authorized by law.

(b) *Forfeiture of office.* The mayor or councilmember shall forfeit his/her office if he/she (1) lacks at any time during his/her term of office any qualification for the office prescribed by this charter or by law, (2) violates any express prohibition of this charter, (3) is convicted of a crime involving moral turpitude, or (4) fails to attend three (3) consecutive regular meetings of the council without being excused by the council.

(c) *Filing of vacancies.* Vacancies in the Council shall be filled as provided in this section.

(1) *Appointment by Council.* The council, by a majority vote of its remaining members, not sooner than its next regular meeting, shall appoint a qualified person to the council. If a vacancy to which such person is appointed occurs at least sixty (60) days before the next scheduled primary election, such appointment shall be deemed temporary, and such vacancy shall be filled at the next regular election. The person elected to fill such vacancy at the regular election shall serve only the remainder of the unexpired term. If such vacancy occurs less than sixty (60) days prior to the next scheduled primary election, the person appointed shall serve the full remainder of the unexpired term.

(2) *Action if Council Fails to Appoint.* If the Council fails to make such appointment within thirty (30) days following the occurrence of the vacancy, the election authorities shall call a special election to fill the vacancy. Such election shall be held not sooner than ninety (90) days and not later than one hundred twenty (120) days following the occurrence of the vacancy, and shall be otherwise governed by the provisions of article VII of this Charter.

(3) *Reduction Below a Quorum.* Notwithstanding the requirements in section 2.10 that a quorum of the Council consists of four (4) members, if, at any time the membership of the Council is reduced to less than four, the remaining members of the council may, by majority action, appoint additional members to raise the membership to four (4).

(5-8-84, 8-26-14)

Sec. 2.07. Judge of qualifications.

The council shall be the judge of the election and qualifications of its members and of the grounds for forfeiture of their office and for that purpose shall have power to subpoena witnesses, administer oaths and require the production of evidence. A member charged with conduct constituting grounds for forfeiture of his/her office shall be entitled to a public hearing on demand, and notice of such hearing shall be published in one or more newspapers of general circulation in the city at least one week in advance of the hearing. Decisions made by the council under this section shall be subject to review by the courts.

(8-26-14)

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Sec. 2.08. Appointive officers.

(a) *City clerk.* The council, with its assistance of the city manager, shall appoint a city clerk. The city clerk shall give notice of council meetings to its members and to the public, keep the journal of the proceedings and perform such other duties as are assigned by this Charter or by the council. The clerk shall serve at the pleasure of the council.

(b) *City magistrate.* There shall be a city court with jurisdiction as established by law. The presiding officer shall be the city magistrate. The city magistrate shall be appointed by the council with the assistance of the city manager. The magistrate shall serve at the pleasure of the council.

(c) *City attorney.* There shall be a city attorney appointed by the council, with the assistance of the manager. He/she shall serve as chief legal advisor to the council, the managers, and all city departments, offices and agencies. He/she shall represent the city in all legal proceedings and shall perform any other duties prescribed by this Charter, law, or ordinance. He/she shall serve at the pleasure of the council.

(d) *City manager.* There shall be a city manager appointed in accordance with article III. (8-26-14)

Sec. 2.09. Investigations.

The council may make investigations into the affairs of the city and the conduct of any city department, office or agency. For this purpose, it may subpoena witnesses, administer oaths, take testimony and require the production of evidence. Any person who fails or refuses to obey a lawful order issued in the exercise of these powers by the council shall be guilty of a misdemeanor and punishable as directed by council ordinance.

Sec. 2.10. Procedure.

(a) *Meetings.* The council shall meet regularly at least once in each month at such times and places as the council may prescribe by resolution. Special meetings may be held on the call of the mayor or four (4) or more members of the council. Pre-sessions, work study or briefing sessions, open to public, are permissible to brief councilmembers.

(b) *Rules and journal.* The council shall determine its own rules, order of business, conduct of public meetings, and shall provide for keeping a journal of its proceedings. This journal shall be a public record.

(c) *Voting.* Voting, except on procedural motions, shall be by roll call and the ayes and nays shall be recorded in the journal. No member of the council may abstain from voting unless he/she be disqualified by reason of financial interest or personal involvement in the subject matter. Four (4) members of the 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 council. No action of the council, except as otherwise provided in the proceeding sentence and in section 2.06, shall be valid or binding unless adopted by the affirmative vote of four (4) or more members of the council. (5-8-84, 8-26-14)

Sec. 2.11. Action requiring an ordinance.

In addition to other acts required by law or by specific provision of this Charter to be done by ordinance, those acts of the city council shall be by ordinance which:

- (a) Adopt or amend a city code or establish, alter or abolish any city department, office or agency
- (b) Provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed
- (c) Levy taxes
- (d) Grant, renew or extend a franchise
- (e) Regulate the rates and fees charged for its services by a public utility
- (f) Authorize the borrowing of money
- (g) Convey or lease or authorize the conveyance or lease of any lands of the city
- (h) Adopt ordinances proposed under the initiative power
- (i) Amend or repeal any ordinance previously adopted, except as otherwise provided in article VIII with respect to repeal of ordinances reconsidered under the referendum power
- (j) Provide for the levy of assessments, the collection thereof, the creation and enforcement of liens on real property with the city.

(5-14-68)

Sec. 2.12. Ordinances in general.

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

(b) *Procedure.* An ordinance may be introduced by any member at any regular or special meeting of the council.

- (1) Upon introduction of any ordinance, the city clerk shall distribute a copy to each council member and to the manager. He/she shall file a reasonable number of copies in his/her office and such other public places as the council may designate, and shall publish at least one time a summary of the ordinance together with a notice setting out the time and place for a public hearing thereon and for its consideration by the council.

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- (2) The public hearing shall follow the publication by at least seven (7) days. It may be held separately or in connection with a regular or special council meeting and may be adjourned from time to time. All persons interested shall have an opportunity to be heard.
- (3) After the hearing the council may adopt the ordinance with or without amendment or reject it but, if it is amended as to any matter of substance, the council may not adopt it until the ordinance or its amended sections have been subjected to all the procedures hereinbefore required in the case of a newly introduced ordinance.
- (4) As soon as practicable after adoption of any ordinance, the clerk shall cause such ordinance to be published in full one time.

(c) *Effective date.* Except as otherwise provided in this Charter, every adopted ordinance shall become effective at the expiration of thirty (30) days after adoption or at any later date specified therein.

(d) *"Publish" defined.* As used in this Charter, the term publish means to print, at least one (1) time, in one (1) or more newspapers of general circulation in the city. The posting of an ordinance in one (1) or more public places shall never be required in order to make it effective.
(5-8-84, 8-26-14)

Sec. 2.13. Emergency ordinances.

(a) *"Emergency" defined.* As used in this section, an emergency ordinance is one necessary to meet a public emergency affecting life, health, property or the public peace.

(b) *Matters not to be classified as "emergencies".* Ordinances granting, renewing or extending a franchise or regulating the rate charged by any public utility for its services, except as otherwise provided in this Charter, shall never be classified as emergency measures.

(c) *Procedure.* An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally except that it shall be plainly designated as an emergency ordinance. The ordinance shall contain, in one section, after the enacting clause, a declaration stating that an emergency exists and describing in clear and specific terms the reasons for the necessity of declaring such ordinance to be an emergency measure; which section shall be passed only by the affirmative vote of six (6) members upon a separate roll call thereon.

(d) *Adoption.* An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced but the affirmative vote of at least six (6) members shall be required for adoption. The ordinance shall become effective upon adoption or at such later time as may be specified therein. After adoption the ordinance shall be published as prescribed for other ordinances.

Sec. 2.14. Code and public records.

(a) *Procedure.* The council may adopt any standard code or public record by reference thereto in an adopting ordinance in the manner set forth in the statutes of the State of Arizona. The procedure and requirements governing such an adopting ordinance shall otherwise be as prescribed for ordinances generally.

(b) *Distribution.* Copies of any adopted standard code or public record shall be made available by the city clerk for distribution or for purchase at a reasonable price.

Sec. 2.15. Authentication, recording, codification, printing.

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

(b) *Codification.* Within thirty (30) days of the effective date of this Charter, the council shall provide for the preparation of a general codification of all city ordinances and resolutions having the force and effect of law. Such codification shall be completed and be adopted by the council by ordinance within two (2) years from the effective date of the Charter. The code shall be printed promptly in loose-leaf form, and include this Charter and any amendments thereto, pertinent provisions of the Constitution and other laws of the State of Arizona and such codes of technical regulations and other rules and regulations as the council shall specify. This compilation shall be known and cited officially as "Tempe City 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 fixed by the council. The code shall be kept current.

(c) *Printing of ordinances and resolutions.* The council shall cause each ordinance and resolution having the force and effect of law and each amendment to this Charter to be printed promptly following its adoption. The printed ordinances, resolutions and charter amendments shall be distributed or sold to the public at reasonable prices to be fixed by the council. Following printing the first Tempe City Code and at all times thereafter, the ordinances, resolutions and charter amendments shall be printed in substantially the same format as the code currently in effect and shall be suitable in form for integration therein. The council shall make such further arrangements as it deems desirable with respect to reproduction and distribution of any current changes in or additions to the provisions of the constitution and other laws of the State of Arizona, or the codes of technical regulations and other rules and regulations included in the code.

(8-26-14)

Sec. 2.16. Resolutions.

Resolutions of the city council shall be effective immediately upon their adoption unless otherwise specified in the resolution itself. The clerk shall cause each resolution to be published not less than one time subsequent to its adoption.

(5-8-84)

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ARTICLE III. CITY MANAGER

Sec. 3.01. Appointment, compensation, qualifications.

The council shall appoint a city manager for an indefinite term and fix his/her compensation. The manager shall be appointed solely on the basis of his/her executive and administrative qualifications. He/she need not be a resident of the city or state at the time of his/her appointment but shall become a resident of the city within six (6) months.

(8-26-14)

Sec. 3.02. Removal of city manager.

The city manager may be removed with or without cause at any public meeting by a majority vote of all members of the city council. In the event of removal the manager will receive two months' severance pay.

A manager, if dismissed, shall be entitled, upon request, to a public hearing. However, the action of the council shall be final and conclusive, it being the intention of this Charter to vest all authority and fix all responsibility for such suspension and removal in the council.

Sec. 3.03. Acting city manager.

By letter filed with the city clerk the manager shall designate, subject to approval of the council, a qualified city administrative officer to exercise the powers and perform the duties of manager during his/her temporary absence or disability. During such absence or disability, the council may revoke such designation at any time and appoint another officer of the city to serve until the manager shall return or his/her disability shall cease.

(8-26-14)

Sec. 3.04. Powers and duties of the city manager.

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

- (a) He/she shall appoint and, when he/she deems it necessary for the good of the city, suspend or removal all city employees and appointive administrative officers except as otherwise provided by law, this Charter, or personnel rules adopted pursuant to this Charter. He/she may authorize any administrative officer who is subject to his/her direction and supervision to exercise these powers with respect to subordinates in that officer's department, office or agency.
- (b) He/she shall direct and supervise the administration of all departments, offices and agencies of the city, except as otherwise provided by this Charter or by law.
- (c) He/she shall attend all council meetings and shall have the right to take part in discussion but may not vote.

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- (d) He/she shall see that all laws, provisions of this Charter and acts of the council, subject to enforcement by him or by officers subject to his/her direction and supervision, are faithfully executed.
- (e) He/she shall prepare and submit the annual budget and capital program to the council.
- (f) He/she shall submit to the council and make available to the public a complete report on the finances and administrative activities of the city as of the end of each fiscal year.
- (g) He/she shall make such other reports as the council may require concerning the operations of city department, offices and agencies subject to his/her direction and supervision.
- (h) He/she shall keep the council fully advised as to the financial condition and future needs of the city and make such recommendations to the council concerning the affairs of the city as he/she deems desirable.
- (i) He/she shall perform such other duties as are specified in this Charter or may be required by the council.

(8-26-14)

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ARTICLE IV. ADMINISTRATIVE DEPARTMENTS

Sec. 4.01. General provisions.

(a) *Creation of departments.* The council may establish city departments, offices or agencies in addition to those created by this Charter and may prescribe the functions of all departments, offices and agencies. No function assigned by this Charter to a particular department, office or agency may be discontinued, or, unless this Charter specifically so provides, assigned to any other.

(b) *Direction by manager.* All departments, offices and agencies under the direction and supervision of the manager shall be administered by an officer appointed by and subject to the direction and supervision of the manager. With the consent of the council, the manager may serve as head of one or more such departments, offices or agencies or may appoint one (1) person as head of two (2) or more of them.

Sec. 4.02. Merit system.

(a) *Merit principle.* All appointments and promotions of city officers and employees shall be made solely on the basis of merit and fitness demonstrated by examination or other evidence of competence.

(b) *Personnel officer.* There shall be a personnel officer appointed by the manager as provided in section 4.01(b), who shall administer the personnel system of the city.

(c) *Merit system board.* There shall be a merit system board consisting of three (3) members and two (2) alternate members appointed by the council from residents of the city for staggered terms of three (3) years. Members of the board shall hold no other city office or city employment. The personnel officer shall provide necessary staff assistance for the merit system board.

(d) *Personnel rules.* The personnel officer shall prepare personnel rules. The manager shall refer such proposed rules to the merit system board which shall submit to the manager its recommendations thereon. When reviewed by the manager, the rules shall be referred to the council, and the council may adopt them with or without amendment. These rules provide for:

- (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 plan for all city positions
- (3) Methods for determining the merit and fitness of candidates for appointment or promotion
- (4) The policies and procedures regulating reduction in force and removal of employees

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- (5) The hours of work, holidays, attendance regulations and provisions for sick and vacation leave
- (6) The policies and procedures governing persons holding provisional appointments
- (7) Policies regarding in-service training programs
- (8) Grievance procedures, including procedures for hearing of grievances by the merit system board, which may render advisory opinions based on its findings to the city manager. A copy must be furnished the aggrieved employee
- (9) Other practices and procedures necessary to the administration of the city merit system.

(8-26-14)

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ARTICLE V. FINANCE AND TAXATION

Sec. 5.01. Fiscal powers.

The powers of the city concerning budget, taxation, finance and fiscal matters shall be limited only by the provisions of the Constitution and laws of the state and by this Charter.

Sec. 5.02. Excise taxes.

The council shall have the power to levy a transaction privilege tax, use tax, liquor license tax or any other excise tax and to fix the amount of license taxes to be paid by any person, firm, corporation or association for carrying on any business, profession, game or amusement, calling or occupation, provided, that no such tax, if based on gross income, gross proceeds of sale or receipts shall be levied at a rate in excess of one (1) percent unless such rate is approved by a majority of the qualified electors voting on the question at a special or general election.

(5-14-74; 5-8-84)

Sec. 5.03. Claims or demands against city.

The council shall prescribe, by ordinance, the manner in which claims or demands against the city shall be presented, audited and paid and may impose reasonable requirements with regard to notice and prompt presentation as a condition of payment. Provided, however, that the city shall not be liable for damages for injuries to any person or property unless the injured person or the owner of the damaged property or someone on his/her behalf shall, within one hundred eighty (180) days after the injury or damage, provide to the city clerk notice, in writing, of such injuries or damage, stating fully in such notice, when, where, and how the injuries or damage occurred and otherwise providing notice in accordance with state law.

(8-26-14)

Sec. 5.04. Execution of contracts.

The council shall establish by ordinance for the execution of contracts and other instruments necessary for the proper and good government of the city. Such ordinance shall identify the officers or officials authorized to execute instruments on behalf of the city and set forth the scope and limits of said official's authority to execute instruments on behalf of the city.

(5-8-84)

Editor's note—Question No. 14, approved at the election held on May 8, 1984 repealed former section 5.04 and renumbered section 5.13 to be section 5.04.

Sec. 5.05. Special funds and reserve accounts.

The council may establish such special funds and reserve accounts as it deems necessary.

Sec. 5.06. Capital program.

(a) *Submission to council.* Not later than three (3) months prior to the close of each fiscal year, the manager shall prepare and submit to the council a capital improvements program for the five-year period commencing on the first day of the ensuing fiscal year.

(b) *Contents.* The capital program shall include:

- (1) A clear general summary of its contents;
- (2) A list of all capital improvements which are proposed to be undertaken during the five (5) fiscal years, next ensuing, with appropriate supporting information as to the necessity for such improvements;
- (3) Cost estimates, method of financing and recommended time schedules for each proposed improvement.
- (4) The estimated impact of annual operating and maintenance costs for each proposed improvement.

(c) The above information may be revised and extended each year with regard to capital improvements still pending or in the process of construction or acquisition.

(5-8-84)

Sec. 5.07. Council action on capital program.

(a) *Notice and hearing.* The clerk shall publish at least one time in one or more newspapers of general circulation in the city, the general summary of the capital program, and a notice stating:

- (1) The times and places when copies of the capital program are available for inspection by the public, and;
- (2) The time and place, not less than fourteen (14) days nor more than thirty (30) days after such publication, for public hearing on the capital program.

(b) *Adoption.* The council, by resolution, shall adopt the capital program, with or without amendment, after public hearing, on or before the fifteenth day of the twelfth month of the current fiscal year.

(5-8-84)

Sec. 5.08. Transfer of appropriations.

At any time during the fiscal year the manager may transfer part or all of any unencumbered appropriation balance among programs within a department, office or agency. Upon written request by the manager, the council may by ordinance transfer part or all of any unencumbered appropriation balance from one department, office or agency to another.

Sec. 5.09. Permission to exceed the budget.

Nothing in this article shall prevent the council from seeking permission from the Arizona State Tax Commission to exceed the adopted budget in the event an emergency should arise.

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Sec. 5.10. Independent annual audit.

Prior to the end of each fiscal year, the council shall designate an independent public accountant or a certified public accountant, who shall prepare, as of the end of the fiscal year, an audit of the financial transactions of the city government. He/she shall submit a long-form report, including recommendations concerning policy and fiscal procedures, to the council and to the city manager. Such accountant shall have no personal interest, direct or indirect, in the fiscal affairs of the city government or of any of its officers. He/she shall, within specifications approved by the council, post-audit the books and documents kept by the city, and any separate or subordinate accounts kept by any other office, department, or agency of the city government.
(8-26-14)

Sec. 5.11. Ordinances and resolutions on budget.

Notwithstanding any other provisions of this Charter, all ordinances or resolutions necessary in connection with the adoption of the annual budget may be adopted and go into effect immediately on the affirmative vote of at least four (4) members of the council.

Sec. 5.12. Competitive bidding.

The city council shall establish by ordinance formal guidelines regulating the purchase of goods and services by the city. Such ordinance shall specify the conditions pursuant to which formal competitive bidding shall be required, conditions pursuant to which informal competitive bidding shall be required, and those conditions under which no bidding for city contracts shall be required.
(5-8-84)

ARTICLE VI. BOARDS AND COMMISSIONS

Sec. 6.01. Boards and commissions.

(a) *Creation.* The council may, by ordinance, create such boards or commissions as in its judgement are required or as are now or hereinafter provided by law, any may grant to them such power and duties as are consistent with the provisions of this Charter. It may also abolish any board or commission not specifically required by law.

(b) *Appointment.* The mayor shall appoint all board and commission members with approval of the council.

(c) *Terms.* Terms of board and commission members shall not exceed three (3) years, and no board or commission member shall serve more than two (2) complete consecutive terms.

Sec. 6.02. Design review board.

The council may, by ordinance, establish a board or commission, to regulate the appearance and related aesthetic values of buildings, structures, signs and properties within the city.

(5-8-84)

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ARTICLE VII. NOMINATIONS AND ELECTIONS

Sec. 7.01. City elections.

(a) *Regular elections.* The regular city election shall be held on the second Tuesday in May of each even numbered year. A primary election shall be held on the fifth Tuesday prior to the date of the regular city election.

Editor's note—See A.R.S. § 16-204 (which establishes consolidated election dates); City of Tucson v. State, 191 Ariz. 436, 957 P.2d 341 (App. 1997).

(b) The primary election shall be held for the purpose of nominating or electing candidates for city elected office. In the event that no more than two candidates file nomination petitions for each vacancy in office, the primary election may be dispensed with.

(c) If no primary election is required due to the number of candidates filing nomination petitions for each vacancy in office, the regular city election shall be held at the time that the primary election would have otherwise been held.

Editor's note—Proposition 439, approved at the general/special election held on May 15, 2012, provides cancellation of primary elections depending on the number of candidates running.

(d) *Qualified electors.* All citizens qualified by the constitution and laws of the State of Arizona to vote in the city and who satisfy the requirements for registration prescribed by law shall be qualified electors of the city within the meaning of this Charter.

(e) *Conduct of elections.* Except as otherwise provided by this Charter, the provisions of the election laws of the State of Arizona shall apply to elections held under this Charter. All elections provided for by the Charter shall be conducted by the election authorities established by law. For the conduct of city elections, for the prevention of fraud in such elections and for the recount of ballots in cases of doubt or fraud, the council shall adopt by ordinance all regulations which it considers desirable, consistent with law and this Charter.

(f) *Optional procedure.* Notwithstanding any other provision of law or of this Charter to the contrary, the council may by ordinance provide that at the primary election, any candidate who shall receive a majority of all votes cast at such election shall be declared elected to the office of which he/she is a candidate, effective as of the date of the general election, and no further election shall be held as to such candidate, provided that nothing on the ballot shall be indicative of the source of the candidacy or of the support of the candidate.

(5-8-84, 3-22-94, 9-7-12, 8-26-14)

Sec. 7.02. Watchers and challengers.

A regularly nominated candidate shall be entitled, upon written application to the election authorities at least five (5) days before the election, to appoint one person to represent him as watcher and challenger at each polling place. A person so appointed shall have all the rights and privileges prescribed for watchers and challengers by or under the election laws of the State of Arizona. The watchers and challengers may exercise their rights throughout the voting and until the ballots have been counted.

Sec. 7.03. Ballots for ordinances and charter amendments.

An ordinance or charter amendment requiring a vote of the electors shall be presented for voting by ballot title. The ballot title of a measure may differ from its legal title and shall be a clear, concise statement describing the substance of the measure without argument or prejudice. Below the ballot title shall appear the following question: "Shall the above described (ordinance) (amendment) be adopted?" Immediately below such question shall appear the words, "yes" and "no" and a square by each in which by making a cross (x) the elector may cast his/her vote.

(8-26-14)

Sec. 7.04. Availability of list of qualified electors.

If for any purpose relating to a city election or to candidates or issues involved in such an election, any organization, group or person requests a list of qualified electors of the city, the department, office or agency which has custody of that list shall permit the organization, group or person to copy the electors' names and addresses from the list.

CHARTER

ARTICLE VIII. INITIATIVE, REFERENDUM AND RECALL

Sec. 8.01. General authority.

There is hereby reserved to the electors of the city the powers of the initiative, the referendum and the recall of elective officers. The provisions of the constitution and laws of this state as the same now exist or hereafter may be amended, governing the initiative and referendum and the recall of elective officers, shall apply to the use thereof in the city so far as such provisions are not in conflict with the provisions of this Charter. Provided however, that the total number of registered voters qualified to vote at the last preceding general municipal election shall be the basis on which the number of electors of the city required to file an initiative or referendum petition shall be computed.

(5-14-68)

Editor's note—See A.R.S. § 19-142(A); Arizona Constitution, Art. 4, pt. 1, § 1(8) which establish the basis for referendum signature calculations as the number of votes cast at the city election at which a mayor or councilmembers were chosen last preceding the submission of the application for a referendum petition.

Sec. 8.02. Commencement of proceedings; petitioner's committee; affidavit.

Any five (5) qualified voters may commence initiative or referendum proceedings by filing with the city clerk an affidavit stating they will constitute the petitioners' committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses and specifying the addresses to which all notices to the committee are to be sent, and setting out in full the proposed initiative ordinance or citing the ordinance sought to be reconsidered. Promptly after the affidavit of the petitioner's committee is filed, the clerk shall issue the appropriate petition blanks to the petitioner's committee.

ARTICLE IX. GENERAL PROVISIONS

Sec. 9.01. Prohibitions and penalties.

(a) *Activities prohibited.*

- (1) No person shall be appointed to, removed from, favored in any way, or discriminated against with respect to any city position because of race, color, gender, gender identity, sexual orientation, religion, national origin, familial status, age, political affiliation, disability, or United States military veteran status, except as such favor may be authorized by law.
- (2) In regard to any test, certification or appointment, no person shall wilfully make any false statement, certificate, mark, rating or report, or in any manner commit or attempt to commit any fraud preventing the impartial execution of the personnel provisions, rules and regulations.
- (3) No person who seeks appointment or promotion to any city position or 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/her test, appointment, promotion or proposed promotion. Nor shall any city officer or employee ask or receive anything of value for aid or offer of aid in connection with any city appointment, employment or promotion.
- (4) No person elected or employed by the city 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 person holding any compensated appointive city position. No person shall solicit for such purposes from compensated city personnel during their working hours.
- (5) No person who holds any compensated appointive city position shall make, solicit or receive any contribution to the campaign funds of any candidate for municipal office or take any part in the management, affairs, or political campaign of any such candidate, but he/she may exercise any other rights of a qualified elector.

(b) *Penalties.* Any person who by himself or with others wilfully violates any of the provisions of section 9.01 shall upon conviction thereof be guilty of a misdemeanor, and be punished as specified by city ordinance.

(8-26-14)

Editor's note—Question No. 15, approved at the election held on May 8, 1984, repealed existing section 9.01 and renumbered section 9.02 to section 9.01, section 9.03 to section 9.02, and section 9.04 to section 9.03.

Sec. 9.02. Charter amendments.

Charter amendments may be initiated by the city council, the initiative procedure, or by a charter commission created by ordinance. All proposed amendments shall be submitted to the qualified electors of the city at a general or special election, and, if approved by the electors, shall be submitted to the governor of the state for his/her approval.

(5-8-84, 8-26-14)

CHARTER

Editor's note—Question No. 15, approved at the election held on May 8, 1984, repealed existing section 9.01 and renumbered section 9.02 to section 9.01, section 9.03 to section 9.02, and section 9.04 to section 9.03.

Sec. 9.03. Separability.

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

(5-8-84)

Editor's note—Question No. 15, approved at the election held on May 8, 1984, repealed existing section 9.01 and renumbered section 9.02 to section 9.01, section 9.03 to section 9.02, and section 9.04 to section 9.03.

ARTICLE X. SUCCESSION IN GOVERNMENT

Section 10.01. Rights of officers and employees preserved.

Nothing in this Charter, except as specifically provided, shall affect or impair: (1) the rights or privileges of officers or employees of the city; (2) the functions and responsibilities of any office, department, or agency existing at the time this Charter takes effect; (3) any provision of law in force at the time this Charter takes effect, and not inconsistent with the provisions of this Charter, in relation to the personnel, appointment, rank, grades, tenure of office, promotion, removal, pension and retirement rights, civil rights, or any other privileges of officers or employees of the city, or any office, department, or agency.

Sec. 10.02. Continuance of present officers.

(a) *Mayor and councilmembers.* The mayor and members of the council serving at the time this Charter takes effect shall serve until the mayor and councilmembers provided for in article II of this Charter shall have been elected and qualified.

(b) *Appointive officer.* All persons holding appointive office by the council or city manager at the time this Charter takes effect shall continue in office and in the performance of their duties unless relieved of office, or until such office or duties are abolished or changed.
(8-26-14)

Sec. 10.03. Continuance of present offices, departments and agencies.

(a) *Continuity of certain powers and duties.* Any office, department, or agency provided for in this Charter with powers and duties the same or substantially the same as those heretofore existing, shall be deemed a continuation of such office, department, or agency, and shall have powers to continue any business proceedings or other matters within the scope of the powers and duties prescribed by this Charter.

(b) *Transfer of certain powers and duties.* The power conferred and the duties imposed upon any office, department, or agency of the city by the laws of the state shall, if such office, department or agency be abolished by this Charter or under its authority, be thereafter exercised and discharged by the office, department, or agency designated by the council, unless otherwise provided therein.

Sec. 10.04. Continuance of appointive boards and commissions.

All appointive boards and commissions, heretofore existing, shall continue, with such powers and duties as were granted them until such boards and commissions shall be changed or abolished by the council as heretofore provided by this Charter.

Sec. 10.05. Transfer of records and property.

All records, property, and equipment whatsoever of any office, department, or agency, or part thereof, existing when this Charter is adopted shall be transferred to the office, department, or agency assuming its powers and duties.

CHARTER

Sec. 10.06. Pending matters.

(a) *Continuance of contracts.* All contracts entered into by the city, or for its benefit, prior to the time this Charter takes effect, shall continue in full force and effect.

(b) *Pending actions and proceedings.* The adoption of this Charter shall not abate or otherwise affect any action or proceedings, civil or criminal, pending when it takes full effect, brought by or against the city or any office, department, agency, or officer thereof.

(c) *Ordinances to remain in force.* All ordinances, resolutions, and regulations of the city in force at the time this Charter takes effect, and not inconsistent with the provisions hereof, are hereby ratified and affirmed as if the same had been adopted pursuant to a grant of power under this Charter.

Sec. 10.07. Additional powers of the city.

The city may require all persons, firms or corporations responsible for new physical development within the city to provide for or furnish, or pay a fee in lieu of providing for the furnishing: (1) public utility easements; (2) water production, storage and transmission; (3) sewage collection, treatment and disposal; (4) park land and development; (5) school sites; (6) dedication and improvement of public rights-of-way; (7) bike paths and other necessary transportation; (8) drainage; (9) flood control; and (10) other public facilities necessary to maintain satisfactory levels of service for said new development, as provided by ordinance which shall include definite standards basing the foregoing requirements on the needs of the inhabitants of said new development.

(5-14-74)

Sec. 10.08. Inauguration of government under this Charter.

If a majority of the qualified electors of the city, voting on the question, vote to ratify this Charter, the provisions of this Charter shall go into effect for all purposes immediately upon approval of the governor of the State of Arizona, as provided by the Constitution of this state.

CERTIFICATE BY BOARD OF FREEHOLDERS

WHEREAS, the City of Tempe, in the County of Maricopa, State of Arizona, did, on the twenty-fifth day of May, 1964, at a special election, duly called and held, under and in accordance with the Constitution and laws of the State of Arizona, elect George S. Calderwood, Rudy E. Campbell, Don Coville, J. O. Grimes, James R. Holman, Lula Mae Hudson, Howard W. Lanus, Arthur L. Livingston, William J. LoPiano, Glenn D. Overman, William F. Podlich, Jr., Ross R. Rice, George M. Sanchez and Colonel Kenneth L. Sipes, as a Board of Freeholders and qualified electors of said City to prepare and propose a Charter for said City.

BE IT KNOWN, that in pursuance of said provisions of the Constitution and laws of the State of Arizona, and within a period of ninety (90) days after said election, said Board of Freeholders did prepare and does propose the foregoing as and for the Charter of said City of Tempe.

STATEMENT

**CITY OF TEMPE CHARTER
RATIFIED BY THE ELECTORS ON
OCTOBER 19, 1964**

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

This is to certify that the attached Charter was prepared by the fourteen-member Board of Freeholders subsequent to their election by a majority of the qualified voters of the City of Tempe at a Special Election held on May 25, 1964. Said Charter was approved and signed in duplicate by a majority of the members of the Board of Freeholders under date of August 20, 1964; one copy filed with the Maricopa County Recorder, Docket No. 5184, Pages 449 to 481, inclusive; another copy was filed with the Mayor of Tempe.

Thereafter the Charter was published twenty-one (21) times in the *Tempe Daily News*.

In accordance with statutory requirements a Special Election was held on October 19, 1964. The qualified electors ratified the Charter by a majority of 709 to 354 ballots. Following ratification by electors, the Council of the City of Tempe canvassed the returns of the election on October 26, 1964, and adopted Resolution No. 729 confirming the ratification of said Charter.

Said Charter was approved by the Governor of the State of Arizona on November 12, 1964.

(Signed) JOHN C. MOEUR, Mayor

CHARTER

CERTIFICATION:

I, John C. Moeur, Mayor of the City of Tempe, Arizona, hereby certify that the foregoing is a true and correct statement setting forth the submission of the Charter to the electors and its ratification by them.

Dated this 12th day of November, 1964.

/s/ JOHN C. MOEUR, Mayor

ATTEST:

/s/ Laretta A. Mutke
City Clerk of the City of Tempe

APPROVAL BY THE GOVERNOR:

/s/ Paul J. Fannin, Governor of the State of Arizona

November 12, 1964

FILED AND RECORDED AT THE REQUEST OF THE CITY OF TEMPE

No. 217434

DATE—NOVEMBER 13, 1964 AT 3:10 P.M. AND DULY RECORDED IN DOCKET 5302,
PAGES 289—322, INCLUSIVE.

MARICOPA COUNTY RECORDER, CLIFFORD H. WARD

CHARTER COMPARATIVE TABLE

The original Charter, §§ 1.01 through 10.08, is set out as adopted on October 19, 1964. The following table shows the amendments to the Charter adopted by election and ratified by the Governor of the State of Arizona.

<u>Election Date</u>	<u>Ratification Date</u>	<u>Sections Amended</u>
5-14-68	6-3-68	1.04, 2.03, 2.11, 8.01
5-14-74	5-22-74	1.01, 5.02, 10.07
5-8-84	4-11-90	2.06, 2.10, 2.12, 2.16, 5.02, 5.04, 5.06, 5.07, 5.12, 6.02, 7.01, 9.01—9.03
3-22-94	6-21-94	7.01
5-16-00	7-14-00	2.01
5-15-12	9-7-12	7.01
8-26-14	7-16-15	4.02, 5.03, 9.01, Gender neutral language throughout