# City of Bee Cave
# Home Rule Charter

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# CHAPTER ONE

# INCORPORATION AND BOUNDARIES

## SECTION 1.01 INCORPORATION

All inhabitants of the City of Bee Cave, Texas, as the boundaries and limits of said City have heretofore been established and now exist or may hereafter be established shall constitute a municipal body politic incorporated under and known by the name "City of Bee Cave" with such powers, rights, duties, privileges, and immunities as are herein provided.

## SECTION 1.02 BOUNDARIES AND LIMITS

The boundaries and limits of the City of Bee Cave shall be those as established and described in ordinances duly passed by the City Council of the City of Bee Cave in accordance with State law. The City Secretary shall keep a correct and complete description and official map on file, with recent annexations and disannexations, and depicting the City's extraterritorial jurisdiction.

## SECTION 1.03 ANNEXATIONS AND DISANNEXATIONS

The City may from time to time alter its boundaries by annexing any territory adjoining boundaries, as such boundaries may exist from time to time, in any size or shape desired in any manner provided by State law and by any other method provided by law for any type of incorporated municipality, with or without consent of the owners of such territory or the inhabitants thereof. The City may from time to time alter its boundaries by disannexing any territory adjoining its boundaries; as such boundaries may exist from time to time, by passage of an ordinance describing the territory being disannexed. Any additional territory annexed to the City shall be a part of the City for all purposes, and the property situated therein shall bear its pro rata part of the taxes levied by the City as provided by State law. The inhabitants thereof shall be entitled to all rights and privileges of all citizens and shall be bound by the acts, ordinances, and resolutions of the City.

# CHAPTER TWO

# FORM OF GOVERNMENT AND POWERS

## SECTION 2.01 FORM OF GOVERNMENT

The municipal government for the City of Bee Cave shall be a "Council-Manager Government." Except as otherwise provided by this Charter and the Constitution and laws of the state of Texas, all powers conferred on the City shall be exercised by a City Council to be composed of a Mayor and five (5) Council Members elected by qualified voters for a term of two (2) years.

## SECTION 2.02 POWERS OF THE CITY

The City of Bee Cave shall be a Home Rule City and shall have all the powers and rights of self-government and home rule under the Constitution and laws of the state of Texas and shall have all powers, functions, rights, privileges, and immunities of every kind and nature, whether expressed or implied, and granted to a Home Rule City under Article XI, Section 5, of the Constitution of the state of Texas, known as the Home Rule Amendment, and all other laws passed by the Legislature of the state of Texas relating thereto, or which may hereafter be passed by said Legislature in relation to such matters including, but not limited to the following powers:

(1) To assess, levy, and collect taxes for general and special purposes on all lawful subjects of taxation.

(2) To fix and regulate the rates of gas, water, electricity, and other utilities, and to regulate and fix the fares, tolls, and charges of local telephones and exchanges, public carriers and motor vehicles where they are transporting passengers, freight or baggage, and generally to fix and regulate the rates, tolls, or charges and the kind of service of all public utilities of every kind, to the extent allowed or required by law.

(3) To sue and be sued, to contract and be contracted with, to buy, sell, lease, mortgage, hold, manage, and control such property as its interests require.

(4) To make and enforce all police, health, sanitary and other regulations, and pass such ordinances as may be expedient for maintaining and promoting the peace, good government, and welfare of the City, for the performance of the functions thereof, for the order and security of its inhabitants, and to protect the peace, lives, health, and property of such inhabitants, and to provide suitable penalties for the violation of any ordinance enacted by the City.

(5) To borrow money on the faith and credit of the City by the issue or sale of bonds, warrants, certificates of obligation, notes or other securities authorized by the laws of the state of Texas.

(6) To acquire, by purchase, gift or devise, or by the exercise of the right of eminent domain or condemnation, and own, in fee simple or otherwise, either public or private property located inside or outside of the corporate limits of the City for the extension, improvement and enlargement of its waterworks system, including riparian rights, water supply reservoirs, stand pipes, watersheds, dams, and the laying, building, maintenance and construction of water mains, rights-of-way in connection therewith, and the laying, erection, establishment or maintenance of any necessary appurtenances or facilities which will furnish to the inhabitants of the City an abundant supply of wholesome water; for sewerage plants and systems; rights-of-way for water and sewer lines; parks, playgrounds, fire stations, police stations, incinerators, recycling facilities, or other garbage disposal or management plants; streets, boulevards, and alleys or other public ways; municipal buildings, garages and parking facilities, or any rights-of-way needed in connection with any property used for any purpose hereinabove named; for the straightening or improving of the channel of any stream, branch or drain or for any other municipal purpose.

(7) To institute and prosecute suits without giving security therefore, and appeal from judgments of the courts without giving supersedes or cost bonds, other bonds or security whatsoever.

(8) To have the exclusive right to erect, own, maintain and operate a waterworks, a sanitary sewer system, and to provide internet services and, if approved by the qualified voters in the City at an election for that purpose, to erect, own, maintain and operate a gas utility, electric utility, cable television, or another utility or similar type of service, to the extent allowed by law, for the use of said City and its inhabitants and to regulate the same, including the right to prescribe rates for such utilities or services, and to make such rules and regulations as the council may deem expedient, including the power to extend water and sanitary sewer, gas, electric, television, internet and other lines, pipes and facilities and assess a portion or all of the cost therefore and affix a lien against the property and the owner thereof, and do anything whatsoever necessary to operate and maintain said utilities and services and to compel the owners of all property and the agents of such owners to pay all charges for water and sanitary sewer services furnished.

(9) To acquire property within or without its boundaries or within boundaries of other municipalities for any public purpose, in fee simple or lesser interest or estate, by purchase, gift, devise, lease, eminent domain, or

condemnation when necessary or desirable to carry out any of the powers conferred upon it by this Charter or by the Constitution and the laws of the state of Texas.

(10) To lay out, open, close, establish, alter, widen, lower, extend, grade, supervise, maintain, and improve streets, alleys, and parks, and to regulate the use thereof and require removal of all obstructions or encroachments of every nature and character upon said public streets, sidewalks or other public property. The City may assess landowners for the cost of improving a public highway, street, or alley benefiting the owner's land in the manner allowed by state law.

(11) To create offices, determine the method for selection of officers and employees, and prescribe the qualifications, duties, and tenure of office for officers.

(12) To appropriate the money of the City for all lawful purposes to create, form, construct, regulate, and maintain public works, public improvements of any nature, economic development and to furnish municipal services as may be provided by resolution or ordinance of the City Council, or as required by law.

(13) To interpret and determine the substantive and procedural meanings of the City's Charter, ordinances, and resolutions.

## SECTION 2.03 POWERS - GENERAL

The enumeration of particular powers in the Charter shall not be held or deemed to be exclusive, but in addition to the powers enumerated herein, implied thereby, or appropriate to the exercise thereof, the City shall have and may exercise all other powers granted to a Home Rule City or not prohibited by the Constitution and laws of the state of Texas.

# CHAPTER THREE

# CITY COUNCIL

## SECTION 3.01 MAYOR

The person elected Mayor shall be the presiding officer of all meetings of the City Council. He/She shall be the official head of the City government and shall be able to vote on matters coming before the Council. The Mayor shall present an annual state of the City message, and perform other duties as specified by the City Council, imposed by this Charter or by applicable State law. The Mayor shall sign, upon authorization of the City Council, all contracts or conveyances on behalf of the City, and all bonds, warrants, and any other obligations issued under the provisions of this Charter. As the presiding officer of the City Council, the Mayor shall be responsible for preparation of the agenda for each City Council meeting. If requested by a Council Member in writing, the Mayor must include a requested item on an agenda.

## SECTION 3.02 QUALIFICATIONS

Each candidate for election to the City Council or office of Mayor shall be a qualified voter of the City, shall be not less than eighteen (18) years of age on the date of filing, shall have resided in the City not less than twelve (12) months immediately preceding the date of filing and shall meet the requirements of the Texas Election Code. Each Council Member and the Mayor must continually reside within the City during his/her term of office, and any removal of his/her residence from the City during his/her term of office shall constitute a vacancy of his/her office, and such vacancy shall be filled as provided in Section 3.03.

Removal from residence during a term of office shall be presumed in the event that a Council Member or the Mayor is absent from more than three consecutive regular Council meetings, or it is found that a Council Member or the Mayor has changed the location of his or her voter registration or homestead exemption for ad valorem tax purposes from within the City to a location outside the City during his or her term of office. Such presumption may be rebutted by a showing that such absence or change was excused by the Council or was due to urgent circumstances beyond the control of the Council Member or Mayor and that it is the Council Member's or Mayor's bona fide intent to continue to be a resident of the City.

No candidate may file in a single election for more than one (1) office or position as provided by this Charter. No employee of the City shall remain an employee of the City after filing for a seat on the City Council or the office of Mayor. Such filing shall constitute a voluntary resignation.

The position of an elected Mayor or Council Member shall become vacant when the person holding such office is elected to another elective public office.

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

## SECTION 3.03 VACANCIES IN THE CITY COUNCIL; FILLING OF VACANCIES

A. The office of a Council Member or office of the Mayor shall become vacant upon his/her death, resignation, or removal from office in any manner authorized by law, removal of his/her residence from the City of Bee Cave, or forfeiture of his/her office.

B. A Council Member or the Mayor shall forfeit his/her office if he/she lacks at any time during his/her term of office any qualification for the office prescribed by this Charter or by State law, or if he/she violates any express prohibition of this section or any other provision of this Charter. The City Council shall be the final judge in matters involving forfeiture of office by a Council Member or the Mayor.

C. A Council Member or the Mayor shall forfeit office if that person:

(1) lacks at any time during the term of office for which elected 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 felony or is convicted of a misdemeanor involving moral turpitude;

(4) ceases to be a resident of the City;

(5) fails to attend three consecutive regular meetings of the Council without being excused by the Council; or

(6) must vacate office by the mandate of any other law.

D. If it is alleged that a Councilmember or the Mayor has forfeited his/her office, the City Council may conduct an investigation to determine whether forfeiture has occurred. If an investigation is commenced, the City Council must provide notice to the officeholder alleged to have forfeited the office and provide the officeholder with an opportunity to respond. The officeholder who is the subject of the investigation may not participate in the Council's deliberation or action on the removal from office. The City Council may, by four (4) affirmative votes, remove from office the person found to have forfeited his or her office.

E. If for any reason one or more vacancies exist on the City Council, the remaining Council Members shall fill such vacancy or vacancies by appointment, if the remaining term of the vacated seat does not exceed one (1) year. The vacant seat shall be filled for the remainder of the unexpired term. If a vacancy occurs for a seat that has a term that is greater than one (1) year, the vacancy for the unexpired term shall be filled at a special election to be held on the date of the next regular election of the City. Provided however, that in the event the unexpired term of the vacant seat exceeds one year (1) and the deadline for calling the special election as required by State law has already passed at the time that the vacancy occurs, the City Council may fill the vacant seat by appointment for the remainder of the unexpired term. If the office of the Mayor becomes vacant, the Mayor Pro Tem shall serve as Mayor until the expiration of the Mayor's term. Provided however, that in the event the Mayor Pro Tem is unable or unwilling to serve as Mayor for the remainder of the unexpired term, the City Council shall fill the vacancy for the office of Mayor in the same manner that a Council Member vacancy is filled.

## SECTION 3.04 MAYOR PRO TEM

At the first meeting following each regular City election, the City Council shall elect one of its members as Mayor Pro Tem, who shall perform the duties of Mayor in the case of the absence, refusal, or inability of the Mayor to perform the duties of his/her office, and who shall, during that time, be vested with all the powers and responsibilities belonging to the Mayor.

## SECTION 3.05 MEETINGS; QUORUM

Regular meetings of the City Council shall be held at such times as may be prescribed from time to time by resolution of the City Council, but shall be no less frequent than one meeting each month. Special meetings shall be called by the City Secretary upon the written request of the Mayor or two (2) Members of the City Council. Notice of any regular or special meetings of the City Council shall state the subject to be considered at the meeting. All official meetings of the Council and of all committees thereof shall be open to the public as provided by State law. A quorum shall consist of four (4) Members. The Mayor shall be considered a member of the City Council for purposes of this Section and any other Section of this Charter which requires a majority vote of the full City Council. No action of the City Council, except as specifically provided in this Charter, shall be valid or binding unless adopted by the affirmative vote of a majority of the Council Members. The Council shall determine its own rules of procedure, may punish its Members for misconduct, and may compel the attendance of absent members.

## SECTION 3.06 ABSTENTION

Should any Council Member choose to abstain from voting on any question or matter before the City Council, where such abstention is not required by state law, this Charter, or an Ordinance of the City, the Council Member's abstention shall be recorded as an abstention in the official minutes of the meeting, but shall be counted as a negative vote for the purpose of determining the outcome of the question that is the subject of the vote. A Council Member who refrains from voting on a measure by reason of a conflict of interest or is otherwise required by law to refrain from voting shall be considered as a recusal and not as an abstention. In such case the recusal shall not be counted as a negative vote. For purposes of this section the Mayor is considered a Council Member.

## SECTION 3.07 INVESTIGATION BY THE CITY COUNCIL

The City Council shall have the 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. The City Council shall provide, by ordinance, penalties for contempt in failing or refusing to obey any such subpoena or to produce any such books, papers or other evidence. The City Council shall have the power to punish any such contempt in the manner provided by such ordinance.

## SECTION 3.08 HOLDING OTHER OFFICE

Except where authorized by law, no Council Member or the Mayor shall hold another city office or employment during the term for which he/she was elected to the City Council, and no former Council Member or Mayor 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 City Council. Nothing in this section shall be construed to prohibit the City Council from selecting any current or former Council Member or Mayor to represent the City on the governing board of any regional or other intergovernmental agency.

## SECTION 3.09 COMPENSATION

The Mayor and City Council may be compensated for their service on the council. Any future increases in compensation for City Council and the Mayor shall be set by Ordinance. When a Council Member or Mayor votes for an increase in compensation that increase shall not be effective for that Mayor or Council Member until they have been elected at a subsequent election, but it shall be effective for any Council Member or Mayor elected after the adoption of the increase in compensation. In addition, each Council Member 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 City Council. The policy regulating

payment of expenses incurred in performance of official duty shall be determined by the City Council by Resolution.

# CHAPTER FOUR

# CITY MANAGER

## SECTION 4.01 CITY MANAGER QUALIFICATIONS, APPOINTMENT AND REMOVAL; DUTIES; COMPENSATION

The City Council shall appoint a City Manager who shall be the chief administrative and executive officer of the City, and who shall serve at the will of the City Council. The City Manager shall be appointed solely on the basis of his/her ability, experience, and training. The City Manager shall administer the business of the City and the City Council shall ensure that such administration is in the best interests of the City. The City Council may by ordinance delegate to the City Manager any additional powers or duties it considers proper for the efficient administration of City affairs. The City Council may require the City Manager to execute a bond conditioned that he/she will faithfully perform the duties of City Manager in an amount prescribed by ordinance adopted by the City Council. The City Council shall be authorized to enter into a Contract of Employment with the City Manager and to prescribe such compensation therein as it may fix. A City Manager may not be appointed, suspended or removed except by a vote of a majority of the full City 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 responsibility for such suspension or removal in the City Council.

## SECTION 4.02 CITY MANAGER - DIRECTION AND SUPERVISION OF EMPLOYEES, NON-INTERFERENCE BY COUNCIL; APPOINTMENT AND REMOVAL OF DEPARTMENT HEADS

Except for the purpose of inquiries and investigations as provided by this Charter or as otherwise authorized by law, the City Council, the Mayor or its Members shall deal with City officers and employees who are subject to the direction and supervision of the City Manager through the City Manager. No Member of the Council, including the Mayor, shall give orders to any subordinate of the City Manager, either publicly or privately. It shall be permissible for a subordinate of the City Manager to answer questions and communicate information to a member of the Council provided that such questions and information are also made known to the City Manager. Neither the Council, the Mayor, nor any of its Members shall direct the appointment of any person to office by the City Manager or by any of his/her subordinates. The City Manager shall be

responsible for, and shall have the power to appoint, suspend, and/or remove all or any one of the heads of the departments of the City with the concurrence of the City Council, except as otherwise provided by this Charter.

## SECTION 4.03 CITY MANAGER - SPECIFIC POWERS AND DUTIES

The City Manager shall be responsible to the City Council for the proper administration of the affairs of the City and shall have the power and duty to:

(1) Exercise control over all departments and subdivisions thereof created by this Charter or by ordinance.

(2) Prepare and recommend to the Mayor items for inclusion in the official agenda of all City Council meetings and to Chairpersons for meetings of the Boards and Commissions established by this Charter or by ordinance.

(3) Prepare and submit to the City Council the annual budget and administer the budget as adopted by the City Council.

(4) Prepare and submit to the City Council such Capital Improvement Plans as are necessary and appropriate and which identify future capital projects and equipment purchases, provide a planning schedule, and identifies options for financing the Plan. The Plan should rank projects in order of preference, justify such projects, and, to the extent feasible, include a timetable for the commencement, construction, and completion of projects. The Plan shall be reviewed, updated, and amended as required by the City Council during the budget preparation and adoption process.

(5) Be responsible for the proper administration of all City affairs placed in his/her hands.

(6) See that all terms and conditions imposed in favor of the City or inhabitants in any public utility franchise are faithfully kept and performed.

(7) See that all laws and ordinances are enforced.

(8) Keep the City Council fully advised at all times as to the financial condition and needs of the City, and prepare and submit to the City Council an annual report, and such periodic reports as are requested by the City Council, on the finances and administrative activities of the City, including the report of the annual audit required by State law.

(9) Appoint, suspend, and/or remove employees not otherwise provided for in this Charter. Appointments made by him/her shall be on the basis of experience and ability.

(10) Attend City Council meetings and take part in the discussion of City business.

(11) Recommend to the City Council for adoption such measures as he/she may deem necessary or expedient; to execute deeds, deeds of trust, easements, releases, contracts, and all other legal instruments on behalf of the City when authorized by ordinance or resolution of the City Council, and approved as to form by the City Attorney.

(12) Perform such other duties as are specified in this Charter or as may be required by the City Council by ordinance or resolution, not inconsistent with this Charter.

## SECTION 4.04 TEMPORARY OR INTERIM CITY MANAGER

The City Manager shall appoint a City officer or employee who shall fulfill the duties of City Manager during any temporary absence of the City Manager. In the event that the City Manager fails to appoint a temporary or interim City Manager, or becomes unable to perform the duties of the office for more than sixty (60) days, or the office becomes vacant for any reason, the City Council shall appoint an acting or interim City Manager who shall fulfill duties of the office until the office is filled, but who shall not be entitled by virtue of such appointment to the compensation or employment contract rights of the City Manager.

# CHAPTER FIVE

# CITY SECRETARY

## SECTION 5.01 APPOINTMENT; REMOVAL; COMPENSATION

Upon recommendation of the City Manager, a majority vote of the full City Council shall be required to appoint, and/or remove the City Secretary. The City Secretary shall receive such compensation as shall be fixed by the City Manager with the concurrence of the City Council.

## SECTION 5.02 DUTIES OF THE CITY SECRETARY

The City Secretary shall:

(1) Attend meetings of the City Council and keep accurate records of all actions taken by the Council.

(2) Maintain the official records and files of the City.

(3) Attain and maintain status as a Notary Public, and administer oaths as authorized by law.

(4) Attest contracts, assessment certificates, ordinances, resolutions, and other legal instruments when executed by the authorized officers of the City.

(5) Serve as the election official for all City elections.

(6) Hold and maintain the City Seal and affix it to all appropriate documents as required.

(7) Perform such other duties as may be required by the City Manager or the City Council, this Charter, or the laws of the state of Texas.

## SECTION 5.03 TEMPORARY OR INTERIM CITY SECRETARY

The City Secretary shall appoint a City officer or employee who shall fulfill the duties of City Secretary during any temporary absence of the City Secretary. In the event that the City Secretary fails to appoint a temporary or interim City Secretary, or becomes unable to perform the duties of the office for more than sixty (60) days, or the office becomes vacant for any reason, the City Council shall appoint an acting or interim City Secretary who shall fulfill duties of the office until the office is filled, but who shall not be entitled by virtue of such appointment to the compensation or employment contract rights of the City Secretary.

# CHAPTER SIX

# MUNICIPAL COURT

## SECTION 6.01 CREATION

The City Council shall, by ordinance, create and provide for a Municipal Court to be known as the Municipal Court of the City of Bee Cave, Texas, and shall appoint, suspend, and/or remove one or more Municipal Judges to serve in such Court. The Court shall have all the powers and duties as are now, or as may hereafter, be prescribed by the laws of the state of Texas in connection with the adjudication of misdemeanor offenses within its jurisdiction.

## SECTION 6.02 MUNICIPAL COURT JUDGE

The Judge of the Municipal Court, and all alternates, shall be competent, duly qualified, and licensed attorneys in the state of Texas. The Judge of the Municipal Court shall be appointed, suspended, or removed only by a majority vote of the full City Council in accordance with State law. The term of office shall be consistent with State law and the term may be extended by additional and consecutive terms. The Judge shall receive such compensation as may be determined by the City Council. This compensation shall be fixed, and shall be commensurate with the duties performed by the Judge.

## SECTION 6.03 JURISDICTION, POWER, AND FINES

The Municipal Court shall have jurisdiction:

(1) Over the forfeiture and collection of bonds given in proceedings therein, and to order the forfeiture of cash acceptance bonds upon the failure of the defendant to appear, and to accept the same in lieu of a fine;

(2) Concurrent with the appropriate State Court on all criminal cases arising under the criminal laws of the State, where the offense is committed within the City limits and the penalty does not exceed that which is established for Municipal Courts by State law;

(3) Over all criminal cases arising under the ordinances of the City within the City limits and outside the City limits to the extent authorized by State law;

(4) To punish for contempt, admit to bail, and forfeit bonds under such circumstances and as provided by law;

(5) To enforce all process of the Courts in accordance with State law and City ordinances, punish witnesses for failing to obey subpoenas, and compel their attendance by process of attachment.

(6) To enforce all City ordinances, to issue restraining orders and injunctions and to impose such fines, forfeitures, and penalties, criminal and civil, as are provided therein and as authorized by state law.

(7) To exercise all powers and authority granted to judicial bodies under State law.

## SECTION 6.04 COSTS, FINES, AND PENALTIES

All costs, fines, and penalties imposed by the Municipal Court shall be paid into the City Treasury for the use and benefit of the City, as may be consistent with present and future State laws.

# CHAPTER SEVEN

# CITY ATTORNEY

## SECTION 7.01 APPOINTMENT

The City Council shall appoint a competent licensed attorney of recognized ability and he/she shall be known as the City Attorney. The City Attorney shall be appointed, suspended or removed only by a majority vote of the full City Council. The City Attorney shall serve at the will and pleasure of the City Council.

## SECTION 7.02 COMPENSATION

The City Attorney shall receive for his/her services such compensation as may be fixed by the City Council at the time of his/her appointment, and from time to time by appropriate resolution.

## SECTION 7.03 DUTIES OF CITY ATTORNEY

The City Attorney shall be the legal adviser of, and attorney for, all of the offices and departments of the City and shall represent the City in all litigation and legal proceedings, provided, however, that the Council may retain special counsel at any time it deems appropriate and necessary. The City Attorney shall perform other duties prescribed by the Charter, by ordinance or resolution of the City Council.

# CHAPTER EIGHT

# CITY DEPARTMENTS

## SECTION 8.01 ADMINISTRATIVE DEPARTMENTS

There shall be such administrative departments as are established by this Charter and as may be established by ordinance and, except as otherwise provided in this Charter, such administrative departments shall be under the direction and supervision of the City Manager. The Council may discontinue, re-designate, or combine any of the departments and/or administrative offices of the City. The head of each department shall be appointed by the City Manager with the concurrence of the Council, except as otherwise provided by this Charter, and such Department head shall have supervision and control over his/her department. The same individual may head two (2) or more departments, and the City Manager may head one (1) or more departments.

## SECTION 8.02 POLICE

There shall be a Police Department of the City of Bee Cave, at the head of which shall be the Chief of Police. The duties of the Chief of Police and the other officers and personnel of such department shall be as provided by ordinance. Upon recommendation of the City Manager, the Chief of Police shall be appointed or removed only by a majority vote of the full City Council.

## SECTION 8.03 FIRE AND EMERGENCY SERVICES

The Council may, to the extent allowed by law, establish a fire department, ambulance service, or other emergency medical or first responder service for the benefit of the City, or may contract with a fire department, another City, County, Emergency Services District, or other public or private entity for such services on terms determined by the Council to be in the best interest of the City.

# CHAPTER NINE

# CITY FINANCE

## SECTION 9.01 TAX ADMINISTRATION

A. In lieu of the applicable provisions stated below, the City Council may, in the interest of economy and efficiency, contract with another political subdivision to handle the assessment and/or collection of taxes.

B. There shall be a Department of Taxation to assess and collect taxes, the head of which shall be the City Tax Assessor and Collector who shall be appointed, suspended or removed by the City Manager with concurrence of the City Council. The Tax Assessor and Collector shall provide a bond with such sureties and in such amount as the Council may require, and the premiums on such bond shall be paid by the City. The City Council may provide for such services by contract.

C. The City Council shall have the power, and is hereby authorized to levy, assess, and collect annual taxes not to exceed the maximum limit set by the Constitution and laws of the state of Texas, as they now exist or as they may be amended, on each one hundred dollars ($100.00) assessed valuation of all property having a location within the corporate limits of the City and not exempt from taxation by the Constitution and laws of the state of Texas.

D. All taxes due the City shall be payable at the office of the Assessor and Collector and may be paid at any time after the tax rolls for the year have been completed and approved, which completion and approval shall be not later than October 1. Taxes shall be paid before February 1 of each year succeeding the year for which the taxes are levied, and all such taxes not paid prior to such date shall be deemed delinquent and shall be subject to such penalty and interest as may be provided by law. Failure to levy and assess taxes through omission in preparation of the approved tax rolls shall not relieve the person, firm, or corporation so omitted from the obligation to pay such current or past due taxes shown to be payable by recheck of the rolls and receipts for the years in question, unless otherwise provided by law.

E. All property having its location in the City on the first day of January of each year shall stand charged with a lien in favor of the City from said date for the taxes due thereon. The lien provided hereby shall be superior

to all other liens except other tax liens, regardless of when such other liens were created. All persons purchasing any of said property on or after the first day of January in any year shall take the same subject to the lien herein provided. In addition to the lien herein provided on the first day of January of any year, the owner of property subject to taxation by the City shall be personally liable for the taxes due thereon for such year. The City shall have the power to sue for and recover personal judgment for taxes without foreclosure, or to foreclose its lien or liens, or to recover both personal judgment and foreclosure. In such suit where it appears that the description of any property in the City assessment rolls is insufficient to identify such property, the City shall have the right to plead a good description of the property to be assessed, to prove the same, and to have its judgment foreclosing the tax lien and/or for personal judgment against the owner for such taxes as such ownership and property appears on the approved tax rolls furnished by the Central Appraisal District of the County where the property is located.

## SECTION 9.02 FISCAL YEAR

The fiscal year of the City shall begin on the first day of October and end on the thirtieth day of September of the following year, provided that the fiscal year may be changed by the Council by ordinance.

## SECTION 9.03 SYSTEM OF INTERNAL CONTROLS

The City, under the direction of the City Manager, will maintain a documented system of internal controls designed to safeguard from loss all City assets, to assure timely and accurate reporting of its financial position and operating results and to assure compliance with applicable laws and regulations.

The City will request its independent Auditor to recommend improvements related to internal control weaknesses, if any, identified in the annual audit. Any such recommendations will be evaluated by or under the direction of the City Manager, who shall report the results of the evaluation and any resulting changes in controls to the City Council.

The City Council may, by ordinance, require a bond with such surety and in such amount as the Council deems appropriate for any officer or employee of the City who receives or pays out or who has custody of or frequent access to public monies, funds, notes, bonds, or other securities belonging to the City. The premiums on such bonds shall be paid by the City.

## SECTION 9.04 ANNUAL BUDGET

It shall be the duty of the City Manager to submit an annual budget not later than thirty (30) days prior to the date the City Council makes its tax levy for the fiscal year. Such annual budget shall reflect authorized expenditures equal to or less than estimated income for the year plus funds available from prior years. The Council shall call a public hearing or hearings on the budget. The Council may adopt a budget with or without amendments, only by a vote of a majority of the full Council. The Council may increase or decrease amounts or programs and may delete any programs or amounts except expenditures required by law or for a debt service, provided that no increase may cause the authorized expenditures to exceed the total of the estimated income for the current fiscal year plus funds available from prior years. During the fiscal year the City shall spend municipal funds in strict compliance with the budget and the City Council may make changes to the budget it considers warranted by the law or by the best interest of the City. The City Manager, at any time during the fiscal year, may transfer part or all of any unencumbered appropriation balance among programs within a department, office or agency and, upon written request of the City Manager, the City Council may transfer part or all of any unencumbered appropriation balance from one department, office or agency to another. The Council may authorize an emergency expenditure that exceeds the total amount budgeted for all programs for a fiscal year only in the event of grave public necessity to meet an unusual and unforeseen condition that could not have been included in the original budget through the use of diligent thought and attention. At the close of each fiscal year, the unencumbered balance of each appropriation shall revert to the fund from which it was appropriated and shall be subject to future appropriations, but appropriations may be made in furtherance of improvements or other objects of work of the City which will not be completed within the current year.

## SECTION 9.05 FAILURE TO ADOPT ANNUAL BUDGET

If the Council fails to adopt the budget on or before the last day of the fiscal year, the amounts appropriated for the current fiscal year shall be deemed adopted for the ensuing fiscal year on a month to month basis with all items in it prorated, until such time as the Council adopts a budget for the ensuing fiscal year, and the property tax levy will be set in the manner provided by State law.

## SECTION 9.06 BONDS AND OTHER EVIDENCES OF INDEBTEDNESS

The City shall have the right and power to borrow money on the credit of the City for public purposes by whatsoever method it may deem to be in the public interest. The City shall further have the power to borrow money on the credit of the City and to issue general obligation bonds and other evidences of indebtedness 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 and other evidences of indebtedness of the City previously issued. All such bonds shall be issued in conformity with the laws of the state of Texas. The City shall further have the power to borrow money for the purpose of constructing, acquiring, improving, extending, or repairing of public utilities, recreational facilities or any other self-liquidating municipal functions not prohibited by the Constitution and laws of the state of Texas, and to issue revenue bonds to evidence the obligations created thereby. Such bonds shall be a charge upon and payable from the properties, or interest therein pledged, or the income therefrom, or both. The holders of the revenue bonds of the City shall never have the right to demand payment thereof out of monies raised or to be raised by taxation. All such bonds shall be issued in conformity with the laws of the state of Texas. The City shall have the power to borrow money for public improvements or any public purpose in any other manner provided by law, including tax anticipation notes, time warrants, certificates of obligation, or by any other municipal financing method allowed by law. All bonds and evidences of indebtedness of the City having been approved by the Attorney General and registered by the Comptroller of Public Accounts shall thereafter be incontestable in any court or other forum for any reason, and shall be valid and binding obligations of the City in accordance with their terms for all purposes.

# CHAPTER TEN

# BOARDS AND COMMISSIONS

## SECTION 10.01 PLANNING AND ZONING COMMISSION

The City Council shall create a Planning and Zoning Commission of the City of Bee Cave to the extent required by law, and shall provide for its administration and functions by ordinance. The Comprehensive Plan for Development, zoning ordinance, and zoning maps and subdivision ordinance adopted by the City prior to adoption of this Charter shall remain in effect and shall be utilized by the Commission until amended or modified, as may be necessary.

## SECTION 10.02 BOARD OF ADJUSTMENTS

The City Council may appoint a Board of Adjustments of the City of Bee Cave to the extent allowed by law, and shall provide for its administration and functions by ordinance. The City Council shall be authorized to perform all of the functions of the Board of Adjustment, and serve as such, if no Board of Adjustment is appointed.

## SECTION 10.03 OTHER BOARDS AND COMMISSIONS

The City Council shall have the power and is hereby authorized to create, abolish, establish, and appoint such other boards, commissions and committees, composed of citizens of the City of Bee Cave or residents within the City's extraterritorial jurisdiction, as it deems necessary to carry out the functions of the City and to prescribe the purpose, functions, and tenure of each board, commission, or committee.

# CHAPTER ELEVEN

# ORDINANCES

## SECTION 11.01 PROCEDURE FOR PASSING ORDINANCES AND RESOLUTIONS

The City Council shall evidence its official actions by written ordinances, resolutions, or oral motions. The style of all ordinances shall be: "BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BEE CAVE, TEXAS" and the style of all resolutions shall be "BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BEE CAVE, TEXAS." Each proposed ordinance shall not be amended or repealed except by adoption of another ordinance. All ordinances and resolutions passed by the City Council shall become effective immediately from and after passage except where publication of a caption is required or where the ordinance, State law, or other provisions of this Charter provide otherwise, in which case the effective date shall be as prescribed in the ordinance.

## SECTION 11.02 PUBLICATION OF ORDINANCES

The descriptive caption of each ordinance that is required by state law to be published and each ordinance which imposes any penalty, fine or forfeiture shall be published at least once in a newspaper designated as the official newspaper of the City. An ordinance required to be published under this section shall take effect when the publication requirement is satisfied unless provided otherwise in the ordinance or by state law.

## SECTION 11.03 CODE OF ORDINANCES

The City Council shall have the power to cause the ordinances of the City to be printed, in code form, as often as the Council may deem advisable, provided that failure to print the ordinances as herein provided shall not affect the validity of the same.

## SECTION 11.04 ORDINANCES AND RESOLUTIONS NOW IN EFFECT

All ordinances, portions thereof, resolutions, contracts, bonds, obligations, rules and regulations now in force under the City government of the City of Bee Cave, 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 in the manner required by law.

# CHAPTER TWELVE

# ELECTIONS

## SECTION 12.01 CITY ELECTIONS

The general City election shall be held annually on the uniform election date in May, or at such other times as may be specified by State law, at which time officers will be elected to fill those offices which become vacant that year. Beginning on the uniform election date for May, 2014, and on the May election date in even-numbered years thereafter, each qualified voter shall be entitled to vote for the office of Mayor and two Council Members each for a term of two (2) years. On the uniform election date occurring in or nearest to the month of May, 2015, and on such uniform election date in odd-numbered years thereafter, each qualified voter shall be entitled to vote for the office of three Council Members each for a term of two (2) years. The Mayor shall be elected by majority vote, and Council Members shall be elected at large by a plurality of the vote. All qualified voters of the State who are registered voters of the City of Bee Cave shall have the right to vote in City elections. Each voter shall have one vote for each office being filled. The candidates for Council positions receiving the most votes will be designated as elected to office. The City Council may change the regular city election to an alternative uniform date by ordinance in accordance with State law.

## SECTION 12.02 SPECIAL ELECTIONS

The City Council, by ordinance or resolution, may call such special or run-off elections as are authorized by the State law or this Charter, shall fix the time and place of

holding the same, and shall provide all means for holding such special or run-off elections, provided that every such election shall be called and held, as nearly as practicable, according to the provisions governing regular elections.

## SECTION 12.03 REGULATION OF ELECTIONS

All City elections shall be governed by the Constitution of the state of Texas, general laws of the state of Texas, this Charter, and by ordinance of the City regulating the holding of municipal elections. The City Council shall appoint the election judges and other election officials and shall provide for the compensation of all election officials in City elections and for all other expenses in holding said elections.

## SECTION 12.04 CANDIDATES: FILING FOR OFFICE

Any qualified person as prescribed by Section 3.02 may make application to have his/her name placed on the official ballot for the position of Council Member or Mayor. The application shall be made in accordance with all applicable laws and shall state that the candidate agrees to serve if qualified and elected. Each candidate shall execute such oath and other official form of affidavit as may be required by the City Secretary pursuant to the Texas Election Code. The City Secretary shall review the application and notify the candidate whether or not the application satisfies the requirements of this Charter and the Texas Election Code. If an application is insufficient, the City Secretary shall return it immediately to the candidate with a statement of such insufficiency. The candidate may file a new application within the regular time for filing applications. The City Secretary shall keep on file all applications found sufficient until at least the expiration of the term of office for which such candidates filed.

## SECTION 12.05 OFFICIAL BALLOT

The order on the ballot of the names of the candidates shall be determined by the City Secretary in accordance with the procedures set out in the Texas Election Code. The name of each candidate seeking an elective office, except those who have withdrawn, died, or become ineligible prior to the time permitted for withdrawal, shall be printed on the official ballot in the name designated by the candidate in accordance with the Texas Election Code. Provisions for early voting shall be made as provided by the Texas Election Code.

## SECTION 12.06 CANVASSING AND ELECTION RESULTS

Returns of every municipal election shall be delivered forthwith by the Election Judges to the City Secretary, with a copy of the returns being sent to the Mayor. The City

Council shall canvass the returns, validate the qualifications of the candidates as prescribed in Section 3.02, and shall declare the official results of the election as provided by the Texas Election Code.

# CHAPTER THIRTEEN

# FRANCHISES

## SECTION 13.01 POWER TO GRANT FRANCHISE

The City Council shall have the power, subject to State Law and the provisions hereof, by ordinance to confer upon any person, firm, corporation, or other legal entity the franchise or right to use the public property of the City for the purpose of furnishing to the public any general public service or benefit, including, but not limited to, heat, light, power, telephone service, transportation, cable, or other telecommunication providers for compensation or hire. The City shall have the power by ordinance to grant, renew, and extend all franchises of all public utilities of every character operating within the City.

## SECTION 13.02 TRANSFER OF FRANCHISE

No public utility or other franchise shall be transferable except with the approval of the City Council expressed by ordinance.

## SECTION 13.03 OWNERSHIP, USE AND CONTROL OF STREETS

No franchise or easement involving the right to use the same either along, over, across, under, or upon the streets, alleys, highways, parks, rights-of-way or other public property shall be valid unless granted in compliance with the terms of this chapter. No granting of a franchise by ordinance pursuant to this chapter shall convey any ownership or interest in any property of the City other than the right to use the public property for purposes of such franchisee's operations as expressed in the ordinance granting such franchise.

## SECTION 13.04 RIGHT OF REGULATION

In granting, amending, renewing and extending public service and utility franchises, the City shall retain the right to:

(1) Repeal such franchise by ordinance for failure to comply with the terms thereof, such power to be exercised only after due notice and hearing;

(2) Require an extension of plant, facilities, or service as is necessary to provide adequate service to the public, and maintenance of the plant and fixtures at the highest reasonable standard of efficiency;

(3) Establish reasonable standards of service and quality of products to the extent allowed or required by law;

(4) Impose regulations to ensure safe, efficient and continuous service to the public. The franchise holder in opening and refilling all earth openings shall re-lay the pavement and do all other work necessary to complete restoration of streets, sidewalks, or grounds to a condition equally as good as or better than prior to being disturbed;

(5) Regulate, locate, or prohibit the erection of any and all poles, wires, or other utility equipment, conveyance, facilities, or structures, on the streets, alleys, and public places of the City, and to cause the same to be changed, removed, altered, increased, diminished, placed underground, or be supported by poles of such material, kind, quality and class as may be determined by the City Council whether the same be telegraph, telephone, electric, cable television, or otherwise, and to enforce the provisions hereof by appropriate action in any court of competent jurisdiction; and

(6) Require the relocation of poles, wires, or other utility equipment, conveyance, or structures located on or in public property, solely at the expense of the owner of such facilities, in order to accommodate the construction, installation, repair, removal, improvement, or modification of any public works project of the City.

## SECTION 13.05 COMPENSATION FOR FRANCHISE

All persons, corporations, or association of persons, to whom a franchise or privilege may hereafter be granted shall pay to the City for such privilege such compensation as may be fixed by the City Council in the grant of such franchise or privilege. Such compensation as fixed by contract or provided by any Texas statute or statutes and any amendments thereto shall become due and payable at such time as the City Council shall fix in the grant of such franchise or privilege, and upon the failure of any franchisee to pay said compensation when due shall result in forfeiture of the franchise or privilege.

## SECTION 13.06 COUNCIL TO FIX AND REGULATE CHARGES, FARES, OR RATES

Subject to state or federal law, the City Council shall determine, fix, and regulate the charges, fares or rates of any person, firm, or corporation enjoying a franchise or privilege granted under the provisions of this chapter, and shall prescribe the kind of service to be furnished to the public by such person, firm, or corporation, and the manner in which it shall be rendered and may from time to time alter or change such rules, regulations, and compensation after reasonable notice and public hearing, provided that the rates, charges and fares so fixed shall at all times be reasonable and permit a reasonable net return on the actual value of the physical properties and equipment of such utilities. In this connection, the City Council may require any utility or franchise holder to furnish such financial reports and information as the City Council may request, including reports of actual operating costs and the financial condition of its operations within the City, and the City Council may employ, at the expense of such franchisee, necessary outside experts to examine and audit the accounts and records of the franchisee to determine the reasonableness of such charges, fares, and rates.

# CHAPTER FOURTEEN

# INITIATIVE, REFERENDUM AND RECALL

## SECTION 14.01 INITIATIVE

The people of the City reserve the right to direct legislation by initiative and, in the exercise of such right, may propose any ordinance not in conflict with this Charter or State law, except an ordinance appropriating money or authorizing the levy of taxes, or affecting any budget or any capital program, the issuance of bonds, or the setting of utility rates, or salaries of City officers or employees, or an ordinance amending or repealing an ordinance referred to herein. Any initiated ordinance may be submitted by a petition signed by registered voters of the City equal in number to at least twenty (20) percent of the number of registered voters residing in the City at the time the petition is filed.

## SECTION 14.02 REFERENDUM

The people of the City reserve the right to approve or reject at the polls any legislation enacted by the City Council, which is subject to the initiative process under this Charter, unless the repeal of such legislation would cause the City to be in breach of an executed contract with a third party, involves an ordinance that would be prohibited in

Section 14.01, or would otherwise cause the City to be in violation of law or liable for the payment of monetary, specific performance, or other damages to any party. Within forty five days (45) days after the final adoption or publication, whichever date is later, of any ordinance which is subject to referendum, a petition, signed by registered voters of the City equal in number to at least twenty (20) percent of the number of registered voters residing in the City at the time the petition is filed. When such a petition has been certified as sufficient by the City Secretary, with advice of the City Attorney, the ordinance so specified in the petition shall not go into effect, or further action shall be suspended if it shall have gone into effect, until and unless acted upon at an election by the voters as herein provided.

## SECTION 14.03 FORM OF PETITION FOR INITIATIVE, REFERENDUM AND RECALL

All petition papers circulated for the purpose of an initiative, referendum, or recall shall be uniform in size and style, and in accordance with the petition requirements of the Texas Election Code. The City may provide forms for such purpose. Each copy of the petition shall have attached to it a copy of the full text of the proposed ordinance to be enacted or repealed or the grounds for recall. The circulator or circulators of the petition shall execute and submit with the petition a sworn affidavit attesting that the signatures contained in the petition were obtained in the circulator's presence and that the requisite ordinance or grounds for removal were attached at the time that the signatures were obtained and in the case of a recall petition that the allegations are true.

## SECTION 14.04 COMMENCEMENT OF PETITION; PETITIONERS' COMMITTEE; AFFIDAVIT

Any three (3) qualified voters may commence initiative, referendum, or recall proceedings by filing with the City Secretary an affidavit stating they will constitute the petitioners' committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses and specifying the address to which all notices to the committee are to be sent and setting out in full the proposed initiative ordinance or citing the ordinances sought to be reconsidered, or the name of the Council Member or Mayor to be recalled and the grounds for recall. Upon receipt of the affidavit from the petitioner's committee, the City Secretary shall immediately forward a copy of the petition for initiative, referendum, or recall, to the City Attorney for an opinion regarding the legality of the petition. The City Attorney will provide an opinion within 10 days of the date of receipt of the petition. Petitioners may then proceed with obtaining signatures to the petition or they may revise the petition in accordance with the opinion of the City Attorney.

## SECTION 14.05 FILING, EXAMINATION AND CERTIFICATION OF PETITIONS

After signatures are obtained, all papers comprising the petition for initiative, referendum, or recall shall be assembled and filed with the City Secretary as one instrument. Within five (5) business days after the date the petition is received by the City, the City Secretary shall determine whether each paper of the petition has a proper statement of the circulator and whether the petition has been signed by a sufficient number of registered voters. If the City Secretary certifies that the petition is insufficient, the certificate shall specify the particulars in which it is defective. The signatures contained in the petition will be verified in accordance with Chapter 277 of the Election Code, as it may be amended. A petition may not be supplemented or amended after the date that it is received by the City, unless the petition complies with the requirements of Chapter 277 of the Election Code. Any petition paper that does not contain the requisite number of signatures or which does not have attached thereto the statement signed by the circulator thereof shall be entirely invalid. The City Secretary shall certify the result of any petition that is found to be in compliance to the City Council at its next regular meeting. The finding of insufficiency of any petition shall not prejudice the filing of a new petition for the same purpose.

## SECTION 14.06 COUNCIL CONSIDERATION AND SUBMISSION TO VOTERS

When the City Council receives an authorized initiative petition, certified by the City Secretary to be sufficient, the City Council shall either (a) pass the initiated ordinance without amendment within twenty (20) days after the date of the certification to the City Council; or (b) submit the initiated ordinance without amendment to a vote of the qualified voters of the City at a regular or special election to be held on the next available uniform election date of the state of Texas.

When the City Council receives an authorized referendum petition, certified by the City Secretary to be sufficient, the City Council shall reconsider the referred ordinance. If, upon such reconsideration, such ordinance is not repealed, it shall be submitted to the voters of the City at a regular or special election to be held on the next available uniform election date of the state of Texas.

Special elections on initiated or referred ordinances shall not be held more frequently than once each six (6) months, and no ordinance on the same subject as an initiated or referred ordinance which has been defeated at any election may be initiated by the voters within two (2) years from the date of such election.

## SECTION 14.07 BALLOT FORM AND RESULTS OF ELECTION

Ordinances submitted to the qualified voters in accordance with the initiative and referendum provisions of this Charter shall be submitted by ballot title, which shall contain a clear, concise statement, without argument, of the substance of such ordinance. The ballot used shall have below the ballot title the following proposition, one above the other in the order indicated: "FOR THE ORDINANCE" and "AGAINST THE ORDINANCE." Any number of ordinances may be voted on at the same election and may be submitted on the same ballot.

If a majority of the qualified voters voting on a proposed initiated ordinance shall vote in favor thereof, it shall thereupon become an ordinance of the City. A referred ordinance which is not approved by a majority of the voters voting thereon shall thereupon be deemed repealed. If conflicting ordinances are approved by the voters at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

## SECTION 14.08 RECALL

The people of the City reserve the right to recall the Mayor or any other Member of the City Council and may exercise such right by filing with the City a petition, signed by registered voters of the City equal in number to at least thirty (30) percent of the number of registered voters residing in the City at the time the petition is filed demanding the removal of the Mayor or other Member of the City Council and stating the grounds therefore. The petition shall be signed and verified in the manner required for an initiative or referendum petition, shall contain a statement of the grounds upon which the removal is sought and one of the signers of each petition paper shall make an affidavit that the statements made therein are true. The grounds for recall include incompetence, noncompliance with this Charter, misconduct or malfeasance in office.

"Incompetence" shall mean gross ignorance of official duties, gross carelessness in the discharge of official duties; or inability or unfitness to promptly and properly discharge official duties because of a serious mental or physical defect that did not exist at the time of the officeholder's election.

"Noncompliance with the Charter" shall mean that the Mayor or Council Member did an act, failed to have particular required qualifications, was involved in specific conduct prohibited by the Charter, or clearly failed to comply with a provision containing substantive, rather than mere procedural, Charter provisions. It does not mean that a Mayor or Council Member merely did something inconsistent with some part of the Charter, failed to accomplish something the Charter allowed, made a procedural mistake, or was involved in an error or policy decision of a majority of the Council that proves to be unpopular or unwise.

"Misconduct" is defined as an offense that is an intentional or knowing violation of a law committed by the Mayor or a Council Member while acting in an official capacity, exceeding a council member's authority by defying or overruling lawful actions done by the City Council, or ignoring the legislative will of the City Council because it does not suit his or her convenience or ideas.

"Malfeasance in office" means violation of the Penal Code or a penal statute in connection with the holding of a public office, theft or misappropriation of public funds, or breach of an official duty enjoined by law, or conviction of a crime involving moral turpitude.

## SECTION 14.09 RECALL ELECTION

If the City Attorney has issued an opinion that sufficient grounds are stated in the petition and the City Secretary finds the petition for recall to be sufficient, the City Secretary shall certify this fact to the City Council at its next regular meeting. The City Council is not required to consider any recall petition that is not certified by the City Secretary. The City Council Member or Mayor whose removal is sought by a recall petition may, within five (5) days after such petition has been certified and presented to the City Council, request in writing that a public hearing be held to permit him/her to present facts pertinent to the charges specified in the petition. In this event, the City Council shall order such public hearing to be held not less than five (5) days or more than fifteen (15) days after receiving such request for a public hearing.

If the City Council Member or Mayor whose removal is sought does not resign, the City Council shall order a recall election and fix a date for such election to be held on the next available uniform election date of the state of Texas.

## SECTION 14.10 RECALL BALLOT

Ballots used in recall elections shall read as follows: "SHALL (name of person or persons) BE REMOVED FROM THE CITY COUNCIL BY RECALL?" Below such question there shall be printed the following as to each person named:

**"FOR THE REMOVAL OF (name of person.)"**

**"AGAINST THE REMOVAL OF (name of person.)"**

## SECTION 14.11 RESULTS OF A RECALL ELECTION

If a majority of the votes cast at a recall election is against removal of a Council Member or Mayor named on the ballot, then the Member or the Mayor shall continue in office. If a majority of the votes cast at such election are for the removal of the City

Council Member or Mayor named on the ballot, the City Council shall immediately declare the office vacant and such vacancy shall be filled in accordance with the provisions of this Charter. A City Council Member or Mayor thus removed shall not be a candidate to succeed himself/herself to fill the vacancy created, nor shall he/she be qualified to be a candidate for Council for one complete election cycle of two years from the election date of the recall.

## SECTION 14.12 LIMITATIONS ON RECALL

No recall petition shall be filed against the Mayor or any other Council Member within six (6) months after he/she first takes office, or within six (6) months after an election for his/her recall, nor within six (6) months prior to the end of his/her term.

## SECTION 14.13 BINDING AND NON-BINDING REFERENDUM

The City Council, upon its own motion and by the majority vote of the full membership of the City Council, may submit to popular vote at an election for adoption or rejection of any proposed ordinance or resolution or measure, or may submit for repeal any existing ordinance, or resolution, or measure, and may, at its discretion, call for an election for this purpose on an authorized uniform election date as provided by State Law. The City Council, at its discretion, may provide for the election to be binding or non-binding. If the measure is to be considered binding, then the measure becomes effective in the same manner and with the same force and effect as provided in this Article for submission of initiative and referendum petitions. If the measure is non-binding it does not become effective without subsequent adoption or approval of the City Council.

# CHAPTER FIFTEEN

# GENERAL AND TRANSITIONAL PROVISIONS

## SECTION 15.01 CONTINUATION OF PRESENT OFFICES

All persons holding elective offices that are retained under this Charter will continue to fill those offices for the terms to which they were elected and shall be elected prospectively in accordance with Section 2.01, "Form of Government."

All persons holding administrative offices at the time this Charter takes effect shall continue in office and in the performance of their duties in the capacities to which

they have been appointed until provisions shall have been made in accordance with the terms of this Charter for the performance of such duties or the discontinuance of such office, if any. The powers conferred and the duties imposed upon any office, department, or agency of the City by the laws of the state of Texas 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 City Council, unless otherwise provided herein.

## SECTION 15.02 PENDING MATTERS AND PRESERVATION OF RIGHTS

All rights, claims, actions, orders, ordinances, contracts and legal or administrative proceedings existing before the adoption of this Charter shall continue except as modified by this Charter and shall be maintained, carried on, or dealt with by the City department, office or agency appropriate under this Charter.

## SECTION 15.03 CONFLICT OF INTEREST AND ETHICAL PRACTICES

The City Council and City Officials shall follow the rules and regulations regarding personal financial interests as set out in the Texas Local Government Code, Chapter 171 and the conflicts reporting requirements set out in Texas Local Government Code, Chapter 176. The City Council by ordinance shall maintain a comprehensive code of ethics consistent with state law and relating to the conduct of public officials and employees that demands a high standard of behavior and seeks to promote personal integrity, honesty and ethical conduct in all activities undertaken by such officials.

## SECTION 15.04 NEPOTISM

No member of the City Council, Mayor, or City Manager shall appoint, vote for, or confirm the appointment to any paid office, position, clerkship, employment or duty, any person, related within the second degree of affinity or within the third degree of consanguinity to any member of the City Council, Mayor, or City Manager, when the salary, fees, or compensation of such appointee is to be paid for, directly or indirectly, out of or from public funds or fees of office of any kind or character whatsoever. This provision shall not prevent the appointment, voting for, or confirmation of any person who shall have been continuously employed in any such office, position, clerkship, employment, or duty for at least thirty (30) days if the officer is appointed, or at least six (6) months if the officer is elected. When a person is allowed to continue in any such position, the officer related shall not participate in the deliberation or voting upon the appointment, reappointment, employment, confirmation, re-employment, change in

status, compensation, or dismissal of such person, unless such action is taken with respect to a bona fide class or category of employees.

## SECTION 15.05 OFFICIAL NEWSPAPER

The City Council shall designate by resolution a newspaper of general circulation in the City as the City's official newspaper. All ordinances, captions of ordinances, notices and other matters required to be published by this Charter, by ordinance, or by State law, shall be published in the official newspaper. The Council shall have authority to designate other newspapers for publication of notices and general information in addition to notices required by Charter, ordinance or law.

## SECTION 15.06 JUDICIAL NOTICE

This Charter shall be recorded in the City Secretary's office in a book kept for that purpose. As soon as practicable after its adoption, an authenticated copy of the Charter shall be certified to the Secretary of State of the state of Texas, at which time the Charter becomes a public act. Such Charter provisions may be read in evidence without pleading or proof of their provision, and judicial notice shall be taken thereof in all courts and places.

## SECTION 15.07 PROPERTY NOT SUBJECT TO GARNISHMENT AND EXECUTION

No property owned or held by the City shall be subject to any garnishment or execution of any kind or nature except as specifically provided by State law.

## SECTION 15.08 PUBLIC MEETINGS AND RECORDS

All meetings of the City Council and all boards, commissions and committees appointed by the City Council shall be governed by the provisions of Chapter 551, Texas Government Code and any amendments thereto with regard to the posting of agenda and the holding of public meetings. All public records of every officer, department, or agency of the City shall be open to inspection by any citizen at all reasonable business hours, provided that records excepted from public disclosure by Chapter 552, Texas Government Code and any amendments thereto shall be closed to the public and not considered public record for the purpose of this section.

## SECTION 15.09 INDEMNIFICATION OF OFFICERS

The City Council shall, by appropriate ordinance, provide for the indemnification and defense of the officers and employees of the City, including the Members of the City Council, or any board, commission, or committee, including volunteers acting within the scope of duties assigned by the City. Such indemnification will not be provided for any act arising out of the intentional or knowing violation of any penal statute or ordinance or arising out of any conduct determined by final judgment to be an act of fraud or to have been taken with the intent to deceive or defraud, or for any personal or private business of such officer, employee, member, or volunteer, or for the gross negligence or official misconduct, or willful or intentionally wrongful act, or omission of such officer, employee, member, or volunteer.

## SECTION 15.10 CLAIMS FOR DAMAGE OR INJURY

The City of Bee Cave shall never be liable for any personal injury or death, or for claims for damages or injury to real or personal property, alleged to have been caused by the negligent act or omission of any officer, agent, or employee of the City unless the person who has been injured, the person whose property has been injured or damaged, or someone on his/her behalf, shall file a claim in writing with the City Secretary within six (6) months after said injury, death, or damage has occurred, stating specifically when, where, and how the injury, death, or damage occurred, the full extent thereof, the amount of damages claimed or asserted, and the basis claimed for liability on the part of the City.

## SECTION 15.11 SUCCESSION AND CONTINUITY OF AUTHORITY IN EVENT OF EMERGENCY

The City Council shall provide, by Ordinance or emergency response plan, for succession of office authority and power in the event of emergency resulting in the loss or absence of the Mayor, Mayor Pro Tem, City Manager, and other officers exercising critical authority.

## SECTION 15.12 AMENDMENT OF THIS CHARTER

Amendments of this Charter may be submitted by the City Council to the qualified voters of the City for their approval at an election, no more often than once every two (2) year election cycle, held in accordance with Chapter 9, Texas Local Government Code.

## SECTION 15.13 BOND OR SECURITY NOT REQUIRED

It shall not be necessary in any action, suit, or proceeding in which the City is a party, for any bond, undertaking, or security to be executed on behalf of said City. All such actions, suits, appeals, or proceedings shall be conducted in the same manner as if such bond, undertaking, or security had been given, and said City shall be liable as if such obligation had been duly given and executed.

## SECTION 15.14 SEVERABILITY CLAUSE

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

## SECTION 15.15 MEANING OF WORDS

The provision of this Charter shall be liberally construed for the purpose of effecting the objects and ends thereof. Unless some other meaning is manifest, the word "City" shall be construed to mean the "City of Bee Cave," and the word "and" may be read "or" or the word "or" may be read "and" if the sense requires. Words in the present tense include future tense and, except when a more constrictive meaning is manifest, singular may mean plural. The word "Council" shall be construed to mean the City Council of the City of Bee Cave. The gender of the wording as contained in the Charter shall always be interpreted to mean either sex.

## SECTION 15.16 EFFECTIVE DATE

This Charter shall take effect immediately following adoption by the voters and entry of the official order by the City Council declaring the same adopted as soon as practicable. After adoption, the Mayor shall certify to the Secretary of State an authenticated copy of the Charter under the City's seal showing approval by the voters. The City Secretary shall record the Charter in a book kept for that purpose and keep and maintain the same as the official record of the City.

# CHAPTER SIXTEEN

# ADOPTION OF CHARTER

## SECTION 16.01 SUBMISSION AND ELECTION

This Charter shall be submitted to the qualified voters of the City of Bee Cave for adoption or rejection on the 11th day of May, 2013, at which election, if a majority of the qualified voters voting in such election shall vote in favor of the adoption of this Charter, it shall then immediately become the governing law of the City of Bee Cave, Texas, until amended or repealed.

It being impracticable to submit this Charter so that each subject may be voted on separately, it is hereby prescribed that the form of ballot to be used in such election shall be as follows to wit:

_____ **"FOR"** **ADOPTION OF A CHARTER**

_____ **"AGAINST"** **ADOPTION OF A CHARTER**

This Home Rule Charter for the City of Bee Cave, Texas, is respectfully submitted to the City Council of the City of Bee Cave for the purpose of calling an election on the question of adoption of the Home Rule Charter this 26th day of February, 2013. This proposed Charter represents the recommendation of the majority of the Members of the Home Rule Charter Commission, whose membership is recognized below and is executed by the Chairman of the Commission on behalf of the Members.

**CITY OF BEE CAVE CHARTER COMMISSION**

**Michael L. Murphy, Chairman**

**Attest:**

**Patrick Flores, Secretary**

**Charter Commission Members (list names)**

Michael L. Murphy, Chair
Heather Cadenhead, Vice Chair
Steve Albert, Commissioner
Michelle Bliss, Commissioner
Joe Cook, Commissioner
Sumit Date, Commissioner
Patrick Flores, Commissioner
Carrell Killebrew, Commissioner
Kara King, Commissioner
Paul Kline, Commissioner
Scott Lineberry, Commissioner
Jack McCool, Commissioner
Jim Miles, Commissioner
Nell Penridge, Commissioner
Michelle Williams, Commissioner