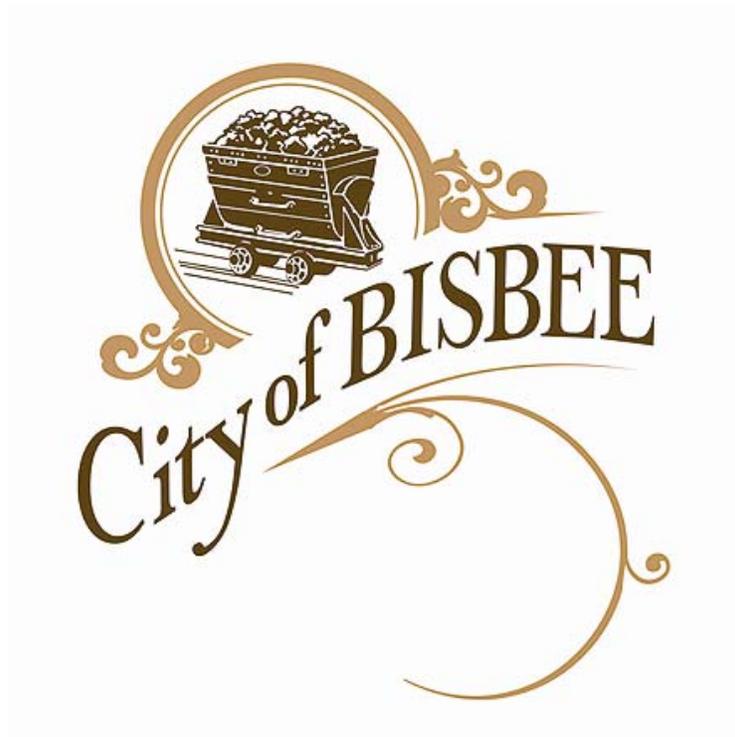


C H A R T E R
of the
CITY OF BISBEE



April 2008

CITY OF BISBEE

CHARTER

April 2008

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**C H A R T E R
of the
CITY OF BISBEE**

**COUNCIL-MANAGER GOVERNMENT
Bisbee, Arizona**

JANUARY 13, 1988

Adopted June 7, 1988

Amended in 1994, May 19, 1998, Nov. 5, 2002, April 2, 2008

ARTICLE I.

INCORPORATION, FORM OF GOVERNMENT, POWERS OF THE CITY, AND BOUNDARIES

Section 1.01 Incorporation

(a) Name of City

We, the people of the City of Bisbee, within the corporate limits as now established in the manner provided by law, shall continue to be a municipal body, politic and corporate, in perpetuity, under the name of "City of Bisbee, Arizona."

Section 1.02 Form of Government

(a) Council-Manager

The municipal government provided by this Charter shall be known as "Council-Manager Government."

(b) Council

Pursuant to its provision and subject only to the limitations imposed by the Arizona State Constitution, laws of the State of Arizona, the laws and Constitution of the United States of America and this Charter, all legislative powers of the City shall be vested in an elective council, hereinafter referred to as "The Council," which shall enact local legislation, adopt budgets, determine policies, appoint the City Manager and such other officers deemed necessary and proper for the orderly government and administration of the affairs of the City.

(c) Exercise of Powers

All powers of the City shall be exercised in the manner prescribed by this Charter, or if they be not prescribed, then in such manner as may be prescribed by Ordinance.

Section 1.03 Powers of the City

(a) Grant of Powers

The City shall have all powers granted to municipal corporations and to cities by the Constitution and general laws of this State, together with all of the implied powers necessary to carry into execution all of the powers granted.

(b) Control of Property

The City may acquire property within or without its corporate limits for any City purpose in fee simple or any lesser interest or estate by purchase, gift, devise, lease, or condemnation and may sell, lease, grant, convey, exchange, mortgage, hold, manage, and control such property as its interests may require.

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(c) General Municipal Powers

Except as prohibited by the Constitution of this State, or restricted by this Charter, the City shall and may exercise all municipal powers, functions, rights, privileges, and immunities of every name and nature whatsoever and may enter into contracts, cooperative and otherwise, with the Government of the United States, the State of Arizona, Cochise County, or any other political subdivision of this State, or person, for the construction, maintenance, and operation of roads, highways, parks, sewers, waterworks, public utilities, and public buildings, including the right to sell sewer effluent, all when deemed in the best interests of the City.

(d) Enumeration of Powers

The enumeration of particular powers by this Charter shall not be deemed to be exclusive; and, in addition to the powers enumerated herein or implied hereby or appropriate to the exercise of such powers, it is intended that the City shall have and may exercise all powers, which, under the Constitution or laws of this State, it would be competent for this Charter specifically to enumerate.

(e) Comprehensive Plan

The City of Bisbee shall maintain a comprehensive plan defined as a written document that includes short range (1-2 years) and long range (3-5 years) goals/focuses for City operations, revisited annually. This plan may serve as a guide for departmental priorities, future physical development, land use regulations, capital improvements, and annual funding allocations. Additionally, the Council may by ordinance adopt planned land use and developmental regulations, including, but not limited to, an official map, zoning and sub-division regulations.

(f) Specific Plans

The City may adopt specific plans for areas within the City for the purpose of refining the Comprehensive plan.

(g) Prior Approval of Construction

The City may require Planning and Zoning Commission, Design Review Board, and architectural and site plan review and approval of the development, construction, reconstruction, or conversion of any building or structure prior to any physical construction.

(h) Levy of Assessments and Enforcement of Liens on Real Property

The City may levy and collect assessments and file liens on real property to collect amounts owed to the City for garbage and trash collections and sewer rental charges and reasonable amounts for the abatement of any nuisance, demolition, and removal of any legally condemned building or structure and the cleaning and renovating of lots which are offensive to the sight or smell or hazardous to the public health.

(i) Streets, Alleys, Public Grounds

The City shall have exclusive jurisdiction to control and regulate the use and enjoyment of its streets and alleys, public grounds, or ways.

(j) Requirements for New Development

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 or furnishing the following:

- (1) Public utility easements;
- (2) Water production, storage, and transmission;

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- (3) Sewer 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
- (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.

Section 1.04 Boundaries

The boundaries of this City shall be the boundaries as established at the time this Charter takes effect or as such boundaries may be changed thereafter in the manner authorized by law.

ARTICLE II. THE COUNCIL

Section 2.01 Powers of the Council

All powers of the City not in conflict with the Constitution of the State of Arizona and subject to the limitations of this Charter shall be vested in the Council, which shall enact appropriate legislation and do and perform any and all acts and things which may be necessary and proper to carry out these powers or any of the provisions of this Charter.

Section 2.02 Number; Selection

The Council shall consist of a Mayor and six Council Members elected two from each of three wards.

Section 2.03 Elections

The first general election for the offices of Mayor and Council Members under the terms of this Charter shall be held in 1990 and every two years thereafter.

Section 2.04 Term of Mayor

(a) Two-Year Term

The Mayor shall be elected for a term of two years. The Mayor serving on the date this Charter takes effect shall continue to serve until the Mayor's successor is elected in the 1988 general election and takes office as provided by ordinance in effect for said election.

(b) Term of Mayor Elected in 1988

The Mayor elected in the 1988 election shall serve until the Mayor's successor is elected, qualified, and installed as provided herein.

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Section 2.05 Terms of Council Members

(a) Term of Present Council Members

Council Members serving on the date of this Charter takes effect shall continue to serve until their successors are elected in the 1988 general election and take office as provided by ordinance in effect for said election.

(b) Term of Council Members Elected in 1988

Council Members elected in 1988 shall serve until their successors are elected, qualified, and installed as herein provided.

(c) Term of Council Members Elected in 1990

There shall be six Council Members elected in 1990. Two shall be elected from each of the three wards created herein. The Council Member receiving the greatest number of votes in that Member's respective ward shall serve a four-year term. The Council Member receiving the next greatest number of votes in that respective ward shall serve a two-year term.

(d) Run-Off in General Election

In the event that any candidate fails to achieve a majority in that ward, as provided for in Subsection (c) hereof, a run-off of the top four candidates shall be in the general election in 1990.

(e) Term of Council Members Elected After 1990

Every two years after 1990 three Council Members, one from each ward, shall be elected for four-year terms. These shall be the ones receiving the greatest number of votes. Until that time each incumbent Council Member shall retain his or her office, as provided by law.

Section 2.06 Wards

(a) Laws

It shall be the responsibility of the Council to ensure that all Federal and State laws are adhered to in the composition of wards.

(b) Boundaries

The Council shall determine the boundaries of the wards to be approximately as follows:

(1) Ward Number One

Wards One and Two, as defined by ordinances in effect at the time this Charter takes effect, shall be known as Ward Number One.

(2) Ward Number Two

Wards Four and Five, as defined by ordinances in effect at the time of this Charter takes effect, shall be known as Ward Number Two.

(3) Ward Number Three

Wards Three and Six, as defined by ordinances in effect at the time this Charter takes effect, shall be known as Ward Number Three.

(c) Boundary Changes

These wards may be changed in geographic boundaries by the Council by ordinance at any time necessary to comply with State and Federal law.

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Section 2.07 Qualifications of Mayor and Council

(a) Mayor

The Mayor shall be a qualified elector of the City and shall hold no other elected public office for which the Mayor receives compensation. The Mayor shall have physically resided in the City of Bisbee for at least one year preceding the date of such election or appointment. The Mayor must reside within the City limits during the term of office. If the Mayor shall cease to possess any of these qualifications or shall be convicted of a felony or any offense in violation of his or her official duties, the Mayor's office shall immediately become vacant. City employees are not eligible to stand for election or serve as Mayor.

(b) Council Members

Council Members shall be qualified electors of the City and the ward from which they are seeking office and shall hold no other elected public office for which they receive compensation. Council Members shall have physically resided in the City of Bisbee and the ward from which they were nominated and elected and/or appointed for at least one year preceding the date of such election or appointment. Council Members must reside within the City and the ward from which they were nominated and elected and/or appointed during their term in office. If a Council Member shall cease to possess any of these qualifications, except as provided herein, or shall have been convicted of a felony or any offense in violation of his or her official duties, the Council Member's office shall immediately become vacant. City employees are not eligible to stand for election or serve as Council Members.

(c) Residency in Ward; Redistricting

In the event that a Council Member ceases to reside within the ward from which that Council Member was elected by reason of ward redistricting, said Council Member shall continue to serve out the remainder of his or her term.

Section 2.08 Duties of the Mayor

(a) Chairperson of Council

The Mayor shall be the Chairperson of the Council and preside over its meetings.

(b) Voice and Vote in Council Proceedings

The Mayor may make and second motions and shall have a voice and vote in all Council proceedings.

(c) Head of City Government

The Mayor shall be recognized as head of the City Government for all ceremonial purposes and by the Governor for purposes of martial law and shall have executive but no regular administrative duties.

(d) Appointments

The Mayor shall appoint members to the various committees, boards, and commissions, after due official notice to the public, and with the consent of the Council.

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Section 2.09 Mayor Pro Tempore

The Mayor shall designate a member of the Council as Mayor Pro Tempore who shall serve in such capacity at the pleasure of the Mayor. The Mayor Pro Tempore shall perform the duties of the Mayor during the Mayor's absence or disability.

Section 2.10 Salaries of the Mayor and Council Members

The salaries of the Mayor and Council shall be as determined by ordinance, subject to approval by the electorate at the next regularly scheduled election. Beginning in 2008 and every two years thereafter, the Mayor and Council shall review these salaries to determine if a proposed change should be recommended for approval.

Section 2.11 Induction of Mayor and Council Members

On the first regular meeting during the month next following the general election, the Council shall hold a meeting for the purpose of inducting the newly elected Mayor and Council Members to organize the Council.

Section 2.12 Absence to Terminate Membership

If the Mayor or any Council Member shall be absent from two regular consecutive meetings without the consent of the Council duly recorded in the minutes, that elected official shall thereupon cease to hold office.

Section 2.13 Vacancies in Council and Office of Mayor

(a) Mayor

In case of a vacancy, for whatever reason, in the office of Mayor, the Mayor Pro Tempore shall become the Mayor. Upon appointment of the Mayor Pro Tempore to the office of Mayor, said Council Member's seat shall be deemed vacated and shall be filled in the manner provided in Subsection (b) hereof.

(b) Council

In case of a vacancy, for whatever reason, in the Council, the remaining members, including the Mayor, shall, by a majority vote, select a qualified person from the ward in which the vacancy occurs. The vacancy in the Council shall be filled within 31 days, but not less than 15 days from the date the Council receives official notice of the vacancy or accepts the resignation of one of its members. The appointed Council Member shall serve until the next general election or until a successor shall have been qualified.

(c) Remaining Term of Vacated Council Seat

If the vacated Council seat has in excess of two years remaining in its term, the appointed Council Member shall serve until the next election. At that election candidates for the Council from said ward shall run for the remainder of the unexpired term of the vacated Council seat, and the ballot shall designate that said candidates are running for the unexpired term, or there shall be other suitable designation indicating that it is a "short term" of two years. In the event that the unexpired term shall be in excess of two years, but there is insufficient time within which candidates can have their names placed on the ballot for the primary election, then, in that event, the Council, including the Mayor, shall fill the vacated Council seat in the same manner as if the vacancy were for a period of two years or less.

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(d) Mayor Entitled to Appoint a Replacement in the Event of a Tie Vote.

Should a tie vote occur in an attempt to select a person to fill such a vacancy, and because thereof, there shall be failure to choose in the manner shown in this Section after thirty days, the Mayor shall appoint a replacement member.

Section 2.14 Meetings of Council, Boards, Commissions and Committees

(a) Time

All Council meetings shall be scheduled for times after 5:00 p.m., except in the event of a declared emergency.

(b) Open Meeting Law

All meetings of the City Council, the City's boards, commissions, and committees shall be open to the public, in accordance with the Arizona Revised Statutes pertaining to the open meeting law. No executive session may be held for the purpose of taking any legal action involving a final vote or decision. In the event that State Law shall become more restrictive than the provisions of Subsection (c) hereof, State law shall control.

(c) Permissible Purposes; Executive Session

- (1) Discussion or consideration of employment, assignment, appointment, promotion, demotion, dismissal, salaries, disciplining, or resignation of a public officer, appointee, or employee of any public body, except that with the exception of salary discussions, an officer, appointee, or employee with such notice of the executive session as is appropriate, but not less than 24 hours, for the officer, appointee, or employee to determine whether such discussion or consideration should occur at a public meeting.
- (2) Discussions or consideration of records exempt by law from public inspection.
- (3) Discussions or consultation for legal advice with the attorney or attorneys of the public body.
- (4) Discussions or consultation with the attorneys of the public body in order to consider its position and instruct its attorneys regarding the public body's position in pending or contemplated litigation.
- (5) Discussions or consultation with designated representatives of the public body in order to consider its position and instruct its representatives regarding negotiations with employee organizations regarding the salaries, salary schedules, or compensation paid in the form of fringe benefits to employees of the public body.
- (6) Discussion, consultation, or consideration for international and interstate negotiations.
- (7) Discussions or consultation with designated representatives of the public body in order to consider its position and instruct its representatives regarding negotiations for the purchase or lease of real property.

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(d) Minutes of Meetings

All public bodies, except where no quorum is present, must provide written minutes or a recording of all meetings. The minutes or recording of all public meetings must include, at a minimum, the following:

- (1) The date, time and place of the meeting.
- (2) The members of the public body recorded as either present or absent.
- (3) A description of the matters discussed or considered, including an accurate description of all motions made, discussed, passed, and/or defeated, together with the names of the members making said motions and seconding same.
- (4) The names of persons making statements or presenting material to the public body and a description of the specific action addressed by such persons.
- (5) Additional information necessary to adequately, clearly, and specifically disclose the subject matter of all motions made and the reasons therefor, whether passed or defeated.
- (6) In the event that matters not on the agenda were discussed or decided at a meeting because of an actual emergency, the minutes must contain a statement setting forth the reasons necessitating the discussion, consideration, or decision without the matter being placed on the agenda.

Section 2.15 Special Meetings

The Mayor or Mayor Pro Tempore acting as Mayor may, or at the request of two members of the Council, shall, by giving notice thereof to all members of the Council, or leaving the same at their usual place of abode, call a special meeting of the Council for a time not earlier than 24 hours after the notice is given. In case of an actual emergency, a meeting may be held upon such notice as is appropriate to the circumstances. At such meetings business concerning only such emergency shall be acted upon.

Section 2.16 Rules of Procedure; Minutes

(a) Council

The Council shall determine its own rules and order of business subject to the provisions of this Charter. It shall keep minutes of its proceedings, and the minutes shall be open to public inspection.

Section 2.17 Quorum; Ayes and Nays

(a) Council

A majority of the members of the Council shall constitute a quorum, but a smaller number may adjourn from time to time until a quorum can be assembled. The vote on any question shall be by ayes and nays and shall be entered in the minutes. At the request of any member of the Council, a roll call vote shall be taken.

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Section 2.18 Failure to Vote

(a) Council Members

No member of the Council shall be excused from voting, except upon matters involving the consideration of his own official conduct or in such matters as he may have a conflict of interest, as set forth in the laws of this State. All conflicts of interest shall be declared and noted in the minutes. In all other cases a failure to vote shall be entered on the minutes as an affirmative vote.

Section 2.19 Consideration of Petitions

Any citizen of the City may appear before the Council at any regular meeting and present a written petition. Such petitions shall be considered and action taken by the Council pursuant to Section 7.01 of the City Charter within three regular meetings of the Council. A motion to table shall not be considered to be action.

Section 2.20 Non-Interference of Council in Administrative Service

(a) Non-Interference of Council with Powers and Duties of City Manager

No individual member of the Council shall interfere with the execution by the City Manager of his powers and duties or order, directly or indirectly, the appointment by the City Manager of any person to an office or employment or the removal therefrom. Except for purposes of inquiry, the Council and its members shall deal with the administrative services under the City Manager solely through the City Manager, and neither the Council nor any member thereof shall give orders to any subordinate of the City Manager, either publicly or privately.

(b) Discussions Between Council and City Manager in Open Session

Nothing in this section shall be construed, however, as prohibiting the Council, while in open session, from fully and freely discussing with or suggesting to the City Manager anything pertaining to City affairs or the interests of the City.

(c) Violations of Provisions of This Section

Any Council Member violating the provisions of this section shall be subject to expulsion by the unanimous vote of the remaining Council Members.

Section 2.21 Conduct of Council as to Powers Authorized by Charter When No Procedure Established by State Law

(a) Procedure Prescribed by Ordinance

Whenever, by any provisions of this Charter, it is prescribed that any power, duty or procedure shall or may be exercised, performed, or adopted in the manner established by any law of this State and there is no procedure established by the law therefor, then the Council shall by ordinance prescribe the procedure.

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ARTICLE III. CITY MANAGER

Section 3.01 Appointment of Manager

(a) Council Appoints Manager

The Manager shall be appointed by the Council wholly on the basis of his administrative and executive ability and qualifications and shall hold office for and at the pleasure of the Council. Whenever the word "Manager" is used in this Charter, it shall be construed to mean the City Manager of the City of Bisbee, Arizona.

Section 3.02 Residence

(a) Manager Residence in City

Residence in the City at the time of appointment of a Manager shall not be required as a condition of the appointment, but within 90 days after reporting for work, the Manager must become a resident of the City, unless the Mayor and Council approve the Manager's residence outside the City.

Section 3.03 Eligibility

(a) Persons Eligible

No member of the Council shall be eligible for appointment as Manager until one year has elapsed after such Council Member shall have ceased to be a member of the Council.

Section 3.04 Bond

(a) Bond Required of Manager

The Manager shall furnish a corporate surety bond to be approved by the Council, which shall be conditioned upon the faithful performance of the duties imposed upon the Manager as herein prescribed. The premium for such bond shall be a proper charge against the City.

Section 3.05 Acting City Manager

(a) Designated by Manager

By letter filed with the City Clerk, the Manager shall designate, subject to approval of the Council, qualified City administrative officers to exercise the power and perform the duties of the Manager during the Manager's 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 the Manager's disability shall cease.

Section 3.06 Compensation

(a) Manager's Compensation Set by Council

The Manager shall receive such compensation as the Council shall from time to time determine. In addition the Manager shall be reimbursed for all actual and necessary expenses incurred by the Manager in the performance of the Manager's official duties.

Section 3.07 Powers and Duties

(a) Administrative

The Manager shall be the administrative head of the government of the City under the direction and control of the Council. The Manager shall be

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responsible for the administration of all affairs of the City which are under the Manager's control. In addition to the Manager's general powers as administrative head, it shall be the Manager's duty, and the Manger shall have the powers set forth in the following subsections.

(b) Law Enforcement

It shall be the duty of the Manager to see that all laws and ordinances of the City and that all franchises, contracts, permits and privileges granted by the Council are faithfully observed and to report any failure in that regard to the Council, which shall give such instruction and direction as it may desire for remedial, corrective or terminating action by the Manager.

(c) Authority Over Employees

It shall be the duty of the Manager, and the Manager shall have the sole authority to control, order, and give directions to all heads of departments and to subordinate officers and employees of the City under the Manager's jurisdiction.

(d) Power of Appointment and Removal

The Manager shall appoint and, when necessary for the good of the City, lay off, suspend, transfer, demote or remove all officers and employees of the City, except as otherwise provided by this Charter, and except as the Manager may authorize the head of the department or office to appoint and remove subordinates in such department or office, subject to such merit system regulations as the Council may adopt.

(e) Ordinances

It shall be the duty of the Manager to recommend to the Council for adoption such measures and ordinances as he deems necessary.

(f) Attendance at Council Meetings

It shall be the duty of the Manager to attend all meetings of the Council unless, at the Manager's request, the Manager is excused therefrom by the Mayor individually or by the Council. The Manager may present definite recommendations relative to any item on the agenda for approval, rejection, or modification by the Council.

(g) Financial Matters

It shall be the duty of the Manager to keep the Council fully advised as to the financial needs of the City in such form and at such times as requested by the Council.

(h) Annual Budget

It shall be the duty of the Manager to prepare and submit the proposed Annual Budget. In preparing the Annual Budget, the Manager shall consult with the City Clerk, Treasurer and with the Finance Committee of the City Council. The Manager shall be responsible for the administration of the Annual Budget after its adoption.

(i) Expenditure Control and Purchasing

It shall be the duty of the Manager to see that no indebtedness is incurred or expenditure made in violation of the State laws applicable to cities or applicable provisions of this Charter.

(j) Investigations and Complaints

It shall be the duty of the Manager to make investigations into the affairs of the City and any department or division thereof. It shall be the duty of the

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Manager to investigate all complaints in relation to matters concerning the administration of the City government and in regard to the service maintained by the public utilities in said City and report all findings to the Council.

Section 3.08 Internal Relations

(a) Council-Manager Relations

The Council and its members shall deal with the administrative services of the City only through the Manager, except for the purpose of inquiry, and neither the Council, nor any member thereof, shall give orders or instructions to any employee or officer other than the Manager. The Manager shall take his or her orders and instructions from the Mayor so long as such orders are consistent with the provisions of this Charter. No individual Council Member shall give any orders or instructions except through the Mayor to the Manager.

(b) Attendance at Commission Meetings

The Manager may attend any and all meetings of all commissions, boards, or committees created by the Council, upon the Manager's own volition or upon the direction of the Mayor and Council. At such meetings which the Manager attends, the Manager shall be heard by such commissions, boards or committees as to all matters upon which the Manager wishes to address the members thereof, and the Manager shall inform said members as to the status of any matter being considered by the Council, and the Manager shall cooperate to the fullest extent with the members of all commissions, boards or committees.

Section 3.09 Removal of City Manager

(a) Preliminary Resolution

The Council shall appoint the City Manager for an indefinite term and may remove the Manager by a four-sevenths vote of its members. At least 40 days before such removal shall become effective, the Council shall, by a four-sevenths vote of its members adopt a preliminary resolution stating intent to remove the Manager.

(b) Public Hearing

Within ten days the City Manager may reply in writing and may request a public hearing, which shall be held no earlier than 20 days nor later than 30 days after filing of such request.

(c) Final Resolution of Removal

After such public hearing, if one is requested, and after full consideration, the Council, by a four-sevenths vote of its members, may adopt a final resolution of removal.

(d) Suspension from Duties

By the preliminary resolution the Council may suspend the Manager from duty.

(e) Salary upon Removal

If the removal is for malfeasance or misfeasance in the performance of the Manager duties or the Manager shall be convicted of a felony or any offense in violation of the Manager's official duties, the Council shall cause to be paid to the Manager any salary due the Manager to the date of the preliminary resolution. Otherwise, the Manager shall be paid forthwith upon his or her removal the Manager's salary for the next three months following the adoption of the preliminary resolution for removal.

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(f) Council Discretion to Remove

In removing the City Manager, the Council shall act at its discretion, and its action shall be final and shall not depend upon any particular showing or degree of proof at the hearing. The purpose of the hearing is to allow the Manager to present to the Council the Manager's grounds of opposition to the Manager's removal prior to the Council action.

(g) Council Action Final

The action of the Council in suspending or removing the Manager shall be final and conclusive on everyone. It is the intention of this Charter to vest all authority and fix all responsibility for such suspension and removal in the Council.

(h) Removal Following Election

Notwithstanding the provisions of this section, the City Manager shall not be removed from office, other than for misconduct in office, during or within a period of 90 days next succeeding any general municipal election held in the City at which election a member of the Council is elected or when a new Council Member is appointed. After the expiration of the 90-day period, the provisions of this section as to the removal of said City manager shall apply and be effective.

ARTICLE IV. ADMINISTRATIVE DEPARTMENTS, OFFICES AND EMPLOYEES

Section 4.01 Administrative Departments and Offices

(a) Creation of Departments

The Council, by ordinances not inconsistent with this Charter, shall provide for the organization, conduct and operation of the several offices and departments of the City as established by this Charter, for the creation of additional departments, divisions, offices, and agencies for their consolidation, alteration or abolition.

(b) Officers and Employees

The Council shall provide for the number, title, qualifications, powers, duties, and compensations of all officers and employees of the City.

(c) Assignment of Powers and Duties

The Council may assign additional functions or duties to offices, departments, or agencies. Where the positions are compatible, the Council may combine in one person the powers and duties of two or more offices created or authorized by this Charter.

(d) Basis for appointment

Appointments and promotions in the administrative service of the City, except for department heads and persons elected by the people, shall be made solely on the basis of merit and fitness demonstrated by examination or other evidence of competence.

Section 4.02 City Clerk

(a) Appointment and Duties

The City Manager, with approval of the Council, shall appoint an officer with the title of City Clerk, who shall be responsible to the Council. The City Clerk shall give notice of all Council meetings, keep the minutes of Council proceedings, ordinances, and resolutions authenticated by the City Clerk's

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signature and recorded in full in books kept for that purpose. The City Clerk shall perform such other duties as required by this Charter or by ordinance.

Section 4.03 City Treasurer

(a) Appointment and Duties

The City Manager, with approval of the Council, shall appoint an officer with the title of City Treasurer. The City Treasurer shall receive and have custody of all of the money of the City and shall keep and have said money and disburse the same only as provided by law, and who shall always be bound by the Constitution, the laws of the State, the Charter and ordinances of the City. Legal garnishments may be served upon the City Treasurer.

Section 4.04 City Attorney

(a) Appointment and Duties

The Council shall appoint the City Attorney, who shall be an attorney at law duly licensed to practice in the State of Arizona, to serve at the pleasure of the Council. The City Attorney shall be chief legal advisor to all officers, departments, and agencies, and to all officers and employees in matters relating to their official powers and duties. The City Attorney shall represent the City in all legal proceedings, except as provided in subparagraph (b) hereof. It shall be the City Attorney's duty to perform all services incident to the Attorney's position as may be required by statute, by this Charter, or by ordinance.

(b) Council Control of Legal Services

The Council shall have control of all litigation of the City and may employ attorneys, in addition to the City Attorney, to take charge of any litigation or to assist the City Attorney therein. The Council shall provide for compensation for such additional legal services rendered on behalf of the City.

Section 4.05

[This section intentionally left blank.]

Section 4.06 Personnel Policy and Procedure

(a) Civil Service and Merit System

The Council shall by ordinance establish a standardized civil service system of personnel policy and procedures and a merit pay system for the purpose of regulating and controlling the appointments, promotions, demotions, discharges and reinstatements of all officers and employees of the City, except those elected by the people and also except the City Manager, City Clerk, City Treasurer, City Attorney, City Magistrate and Department Heads.

(b) Personnel Director

The Manager shall appoint a Personnel Director who shall administer the personnel system of the City.

(c) Civil Service Commission

The Mayor, with the approval of the Council, shall create a Civil Service Commission, consisting of five qualified electors of the City, which shall have the following powers and duties:

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- (1) To formulate recommendations regarding the City's personnel policy for presentation to the Council after review by the Manager, Personnel Director and the Department Heads of the City.
- (2) To investigate and report significant violations of sound personnel administration to the Manager and Council.
- (3) To hear and mediate grievances and charges of discrimination against the City submitted to it by employees and officers of the City.

(d) Personnel Rules

The Manager, Personnel Director, and the Civil Service Commission shall formulate and propose formal Personnel Rules to the Council for its consideration and adoption.

(e) Employees Council

A representative from each City Department shall be elected by the employees of that department to serve on the Employees Council. The function of the Employees Council shall be to foster good and harmonious employer-employee relations in the City. The Employees Council may make recommendations to the Personnel Director, City Manager, Civil Service Commission, and the Council regarding personnel policy and rules. The Employees Council may assist employees and officers of the City in presenting grievances and charges of discrimination to the City for resolution.

(f) Civil Service Commission Grievance Procedure

Upon the recommendation of the Civil Service Commission, the Council shall formulate specific procedures for presentation to the Commission of employee grievances and complaints of discrimination, including the rules and procedures for filing grievances, scheduling of hearings, presentations of position by grievants and the City, and the rendering by the Civil Service Commission of its findings and decision to grievants and the City.

ARTICLE V. APPOINTIVE BOARDS AND COMMISSIONS

Section 5.01 Appointive Boards and Commissions

(a) Creation and Abolition

The Council may, by ordinance, create or abolish boards, commissions, or committees as in its judgment are required and may grant to them such power and duties as are consistent with the provisions of this Charter.

Section 5.02 Standing Committees

(a) Establish

The following are hereby established as Standing Committees of the City:

- (1) Finance Committee
- (2) Planning and Zoning Commission
- (3) Design Review Board
- (4) Board of Adjustment
- (5) Police and Fire Advisory Committee

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Section 5.03 Mayor and Manager Ex-Officio Members

(a) Boards and Commissions

The Mayor may appoint the Mayor or any member of the Council or the Manager as an ex-officio member, without voting privileges, of any or all Boards and Commissions.

ARTICLE VI. FINANCE AND TAXATION

Section 6.01 Fiscal

(a) Powers of City

The powers of the City concerning budget, taxation, financial and fiscal powers shall be limited only by the provisions of the Constitution and laws of the State and this Charter.

Section 6.02 Taxing Powers

The Council shall have the power to levy and collect ad valorem and excise taxes, including, but not limited to, a business license tax, and all other taxes not prohibited by Federal or State Constitution or laws, for any or all of the following purposes:

(a) Indebtedness

To pay the interest and maintain the sinking fund of the bonded indebtedness of the City.

(b) Libraries and Public Buildings

For the establishment and support of free public libraries and for the construction and maintenance of public buildings.

(c) Advertising

For advertising and promoting the advantages of the City.

(d) Reserve Fund

To create a reserve fund for replacement of equipment, for the furnishing of City services and the maintenance of all municipally owned and operated utilities.

(e) General Expenses

For the general expenses incurred in the operation of the City Government.

(f) Public Improvements

For local public improvements.

(g) Sales Tax

The Council shall have the power to increase or decrease a transaction privilege tax, only upon approval by a majority of the qualified electors voting in the regularly scheduled general election.

Section 6.03 Manager's Submission of Budget and Reporting Requirements to City Council

(a) Expenditures and Income

On or before the second regular Council meeting in May of each year, or on such date in each year as shall be fixed by the Council, the Manager shall

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prepare and submit in writing to the Council the estimates of each Department of the City and the Manager's own personal report, recommendations, and estimates as to the probably expenditures of the City for the next ensuing fiscal year. Such report shall state in detail the amounts required to meet all expenditures necessary for the City purposes including payment on interest, sinking funds, and outstanding indebtedness. Such report shall also include an estimate of the amount of income expected from all sources and an estimate of the amount required to be raised by taxation to cover such expenditures.

(b) Reports on Status of Investments

The City Manager is to provide to the City Council a monthly year-to-date fiscal report and a quarterly report on the status and disposition of all investments of City funds.

Section 6.04 Claims or Demands Against the City

(a) Ordinance

The Council shall prescribe by ordinance the manner in which claims or demands against the City shall be presented, audited, and paid.

Section 6.05 Expenditures Limited to Budgeted Purposes

(a) City to Work Within Approved Budget

The City shall operate within its approved budget and only with the monies it has available to it.

Section 6.06 Special Revenue Funds

(a) Finance Specified Activities

Special Revenue Funds shall be established to account for revenues from specific tax assessments or other special sources which are to be used to finance specified activities and anticipated expenditures and shall not be diverted to other uses, except by Resolution approved by a five-sevenths vote of the Council. Any such diversion shall not be treated as an emergency measure.

Section 6.07 Depositories for City Monies/Investments

(a) Council

In addition to authority granted by Arizona statutes, the Council may cause City monies to be deposited or invested in Certificates of Deposit or other forms of deposits or investments in any financial institution in the State, upon sufficient security being given the City therefor by said financial institution. The Council shall adopt ordinances implementing this authority. The City Manager shall, pursuant to said ordinance, invest City monies not needed to pay current bills as therein directed.

Section 6.08 Independent Audit and Review Financial Transactions of City C.P.A.

(a) Certified Public Accountant

Prior to the end of each fiscal year the Council shall designate an independent Certified Public Accountant who shall perform an independent audit for the City of the accounts and transactions of the City.

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(b) Audit Report

At the end of each fiscal year such accountant shall make up an audit of accounts and other evidence of financial transactions of the City Government and shall submit an audit report that is consistent with generally accepted accounting principles, including recommendations concerning policy and fiscal procedures to the Council and Manager.

(c) Special Audits

The Council may call for such special audits as it may deem necessary or appropriate.

(d) Post Audits

Such independent Certified Public Accountant, within specifications approved by the Council, shall 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.

(e) Personal Interest of C.P.A. in City

Such independent Certified Public Accountant shall have no personal interest, direct or indirect, in the fiscal affairs of the City Government or any of its officers.

ARTICLE VII. ORDINANCES AND RESOLUTIONS

Section 7.01 Action by Council

The Council shall act by motion, resolution or ordinance.

Section 7.02 Voting by Council

A roll call vote shall be taken upon action on all ordinances and resolutions, and such vote shall be entered upon the minutes of the proceedings of the Council.

Section 7.03 Majority Vote Required

A majority vote of all of the members of the Council shall be necessary to pass any ordinance or resolution having the effect of an ordinance.

Section 7.04 Enacting Style

The enacting clause of all ordinances passed by the Council shall be in these words: "Be it ordained by the Council of the City of Bisbee as follows:"

Section 7.05 Actions Requiring an Ordinance

In addition to other acts required by State or Federal law or by specific provisions of the Charter to be done by ordinance, those acts of the City Council shall be by ordinance which:

(a) Tax

Levy any tax or assessment, other than the annual levy and assessment of the amount to be raised by primary and secondary property taxation, which may be done by resolution.

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(b) Affect City Codes, Departments, Offices or Agencies

Adopt or amend a City Code or establish, alter, or abolish any City department, office, or agency.

(c) Fees Charged by City

Regulate the rates and fees charged for City services.

(d) Fire Zones

Establish or change fire zones or limits.

(e) Zoning Districts

Establish or change zoning districts.

(f) Streets, Alleys, Subdivisions

Abandon or vacate streets, alleys or subdivisions.

(g) Provide Fines

Provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed.

(h) Real Property

Appropriate, acquire, sell, lease or exchange any real property.

Section 7.06 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 provide 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 Council Members upon a roll call thereon.

(d) Adoption

An emergency ordinance shall be adopted with or without amendment, or rejected at the meeting at which it is introduced. 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.

**Section 7.07 Reading and Passage of Ordinances and Resolutions;
Effective Date**

Requirements

All proposed ordinances and resolutions having the effect of ordinances shall be subject to the following requirements for passage at any meeting of the Council:

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(a) Copies to Mayor and Council

Copies of proposed ordinance shall be delivered to the Mayor and Council or left at their usual place of abode at least 96 hours prior to the meeting.

(b) Reading

By request of the Mayor or any member of the Council, a full reading of the proposed ordinance shall be ordered; otherwise, such ordinance shall be read by number and title only. The measure may be passed and adopted at any time after such reading.

(c) Posting at City Hall

Copies of titles of proposed ordinances and resolutions heretofore mentioned shall be posted at the City Hall 96 hours before the hour the City Council convenes to act upon the ordinance or resolution. During the said 96-hour period, copies of the entire proposed ordinance or resolution heretofore mentioned shall be made available for inspection by the public at any time during the City's regular business hours. In the event that copies are not so made available to the public for inspection and the said title is not so posted, the ordinance or resolution shall not be brought before the Council for action.

(d) Amendment

If an amendment is proposed to an ordinance which the Council finds to be a substantive change to the ordinance as originally drafted, the Council may delay action on the ordinance in order to provide sufficient time for public review, as prescribed in Subparagraph (c) of Section 7.07 of Article VII hereof.

Section 7.08 Motions to Reconsider

When an ordinance, put to vote for final passage, fails to pass, and a motion is made to reconsider, the vote on such a motion shall not be taken within 24 hours thereafter.

Section 7.09 Signing of Ordinances and Resolutions

All ordinances and resolutions shall be approved as to form by the City Attorney prior to signature by the Mayor and attestation by the City Clerk within five days after adoption, but failure to so sign and attest shall not affect the validity of such ordinance or resolution.

Section 7.10 Publication of Ordinances and Resolutions

All ordinances, except those necessary for the immediate preservation of the peace, health, or safety of the City, and resolutions having the effect of ordinances shall be published at least once a week for two consecutive weeks in the official newspaper of the City before they become effective and operative. Emergency measures shall be published twice in the official newspaper of the City within 30 days after their passage.

Section 7.11 Ordinances Revised, Re-Enacted, Amended

Ordinances shall not be revised, re-enacted or amended by reference to title only, but the ordinance to be revised or re-enacted or the section or sections thereof to be amended, or the new section or sections to be added thereto,

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shall be set forth and adopted in the method provided in this Charter for the adoption of ordinances.

Section 7.12 Ordinances Repealed or Suspended

No ordinance or section thereof shall be repealed or suspended, except by ordinance adopted in the manner provided in this Charter.

Section 7.13 Ordinances and Resolutions Filed, Recorded, and Certified; Ordinances and Resolutions as Evidence

All ordinances and resolutions shall be filed and safely kept by the City Clerk and duly recorded and certified by the Clerk in books kept for that purpose and marked "City Ordinances" and "City Resolutions" respectively; and record copies thereof certified by the City Clerk, or the originals thereof shall be prima facie evidence of the contents of such ordinances or resolutions and of the due passage and publication of the same, and shall be admissible in evidence in any Court of this State, or in any proceeding where the contents of such ordinance or resolution, or any of them, is in question; provided, however, that nothing herein contained shall be construed to prevent the proof of the passage and publication of any ordinance or resolution in the manner otherwise prescribed by law.

Section 7.14 Procedure for Adoption by Reference

(a) Code or Public Record

The Council may enact the provisions of a code or public record theretofore in existence without setting forth such provisions, but the adopting ordinance shall be published in full. At least three copies of the code or public record shall be filed in the office of the City Clerk and kept available for public use and inspection. A code or public record enacted by reference may be amended in the same manner.

(b) Penalty Clauses

No penalty clause shall be enacted by reference thereto. A penalty clause contained in a code or public record adopted by reference shall be set forth in full in the adopting ordinance.

Section 7.15 Recording of Certain Ordinances

All ordinances extending or changing the boundaries of the City, zoning territory, or establishing or vacating of streets, alleys, or subdivisions, after publication, shall be recorded in the office of the County Recorder of Cochise County, and, after being so recorded, the same shall constitute public notice to all parties of the legal import thereof.

Section 7.16 Codification of Ordinances

Any and all ordinances of the City, which have been enacted and published in the manner required at the time of their adoption, and which have not been repealed, may be compiled, consolidated, revised, indexed, and arranged as a comprehensive ordinance code, and such code may be adopted by reference, with the same effect as an ordinance, by the passage of any ordinance for such purpose. Such code need not be published in the manner required for other ordinances, but not less than three copies thereof shall be filed for use and examination by the public in the office of the City Clerk prior to the

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adoption thereof. Amendments to the code shall be enacted in the same manner as ordinances.

ARTICLE VIII. CONTRACTS

Section 8.01 Formal Rules by Ordinance

The City Council shall establish by ordinance formal rules regulating the purchase by contract of goods and services by the City. Such ordinance shall specify the conditions pursuant to which competitive bidding shall be required and those conditions under which other means of procurement may be used. Such ordinance cannot be enacted under an emergency clause.

Section 8.02 Purchase and Contracts for City Improvements

(a) City Purchases

The Manager shall contract for and purchase, or issue purchase authorization, for all supplies, materials, equipment, and services for the offices, departments, and agencies of the City.

(b) Contracts over \$5,000 and Public Works Improvements

Contracts shall be executed for any City purchase over \$5,000 and any City public works improvement, except where such improvement or purchase is authorized by the Council to be executed directly by a City department, in conformity with detailed plans, specifications and estimates approved by the Manager. The Manager, with the approval of the City Council, may enter into a contract with the contractor whose proposal is the most advantageous to the City concerning price, conformity to the specifications and other factors.

(c) Council Approve Contracts Over \$5,000

Any contract or purchase exceeding the sum of \$5,000 shall require the prior approval of the Council.

(d) Contract Alterations

Alterations in any contract may be made when authorized by the Council, upon the written recommendation of the Manager.

(e) Progressive Payments

Any public works contract may provide for progressive payments. No contract for public works shall provide for or authorize or permit the payment of more than the amount required by state law before the completion of the total work to be done under said contract and the acceptance thereof by the proper official, department or Council.

Section 8.03 Bids

Any advertisement for bids published by the City shall distinctly and specifically state the character of the City improvement, purchase, or kind of supplies, materials, equipment, and services required. Such notice shall be published at least once in the official newspaper, not less than five days prior to the opening of bids. Bidding shall be by sealed proposals only and under such regulations as may be prescribed by the Council. The Manager, with the approval of the Council, shall have the power to reject any and all bids and advertise for bids again.

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Section 8.04 Transfer and Sale of Personal Property

The Council may transfer to or between offices, departments, and agencies, or sell at public auction, surplus or obsolete personal property, including but not limited to supplies, materials, and equipment, subject to such regulations as the Council may prescribe.

Section 8.05 Transfer and Sale of Real Property

The Council may sell such portions of the real property of the City not needed or not likely to be needed within a reasonable future time. Each sale shall be made on such conditions as the Council may prescribe. When bids are required or requested, the Council shall have the right to reject any and all bids.

Section 8.06 Contracts for Official Advertising

The Manager shall let annually contracts for official advertising for the ensuing fiscal year. For this purpose he shall submit to each legal newspaper published in the City a notice describing the contemplated advertising and asking for sealed proposals. The proposals shall specify the type and spacing to be used at the rate or rates named in the bid. The Manager shall let the contracts for such official advertising to the lowest responsible bidder publishing a newspaper of general circulation in the City provided that such bid shall not exceed the newspaper's published open rates, provided further that, in his discretion, he may reject any and all bids and proceed to secure new bids in the manner provided herein. The City newspaper to which the award for such advertising is made shall be known and designated as the official newspaper.

Section 8.07 Fraud and Collusion

Any member of the Council or any officer or employee of the City who shall aid or assist a bidder in securing a contract to furnish labor, materials, equipment, supplies or services at a higher price than that proposed by any other bidder, or who shall favor one bidder over another by giving or withholding information, or who shall willfully mislead any bidder in regard to the character of the labor, material, equipment, supplies or services called for or the conditions under which the proposed work is to be done, or who shall knowingly accept materials, supplies or equipment of a quality inferior to those called for by any contract, or who shall knowingly certify to a greater amount of labor or service performed than has been actually performed or to receipt of a greater amount or different kind of material, supplies, or equipment than has actually been received, shall be guilty of a misdemeanor, and upon conviction thereof, shall be removed from office.

Section 8.08 Avoidance of Contracts Made through Fraud and Collusion

If at any time it shall be found that the person to whom a contract has been awarded has, in presenting any bid or bids, colluded with any other party or parties for the purpose of preventing any other bid being made, then the contract so awarded shall be null and void, and the Manager shall advertise for new bids for said City improvements and/or supplies, materials, equipment, and services required, or the Council may provide for such public work to be done by the City under the direction of the Manager.

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Section 8.09 Personal Interest

The provisions of the laws of this State relating to and defining conflicts of interest to all officers and employees of the City shall apply to and govern in all matters of conflict of interest.

ARTICLE IX. ELECTIONS

Section 9.01 Types of Elections

Elections in the City shall be primary, general or special.

(a) Primary

Primary elections shall be held for the purpose of making nominations for the general election and electing officers as hereinafter provided and for such other purposes as the Council may prescribe.

(b) General

General elections shall be held for the purpose of electing officers of the City and such other purposes as the Council may prescribe.

(c) Special

All other municipal elections that may be held by authority of this Charter, or of any law, shall be known as special elections.

Section 9.02 Application of State Law

The provisions of the laws of this State relating to and governing the nominations of elective officers and the conduct of elections and each and every provision of said law, with all amendments thereto shall apply and shall govern the nomination of elective officers and the conduct of elections, except as otherwise provided in this Charter. The Council shall have the power to make any additional provisions relating to the nominations of officers and to the conduct of elections not repugnant nor contrary to the provisions of the laws of this State or the provisions of the Charter.

Section 9.03 Qualifications of Electors; Registration

(a) Qualifications

The qualifications of electors shall be as required by the Constitution and laws of this State for State, County and City electors.

(b) Registration

Registration of voters shall be in accordance with State and Federal law.

Section 9.04 Qualifications of Candidates

Qualifications of candidates shall be as prescribed in Article II, Section 2.07 of this Charter.

Section 9.05 Arrangement of Names on Ballot

(a) Mayor

The names of the candidates for Mayor shall be arranged on the ballot, as provided by law, and nothing on the ballot shall be indicative of the source of the candidacy or of the support of any candidate.

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(b) Council Members

The names of the candidates for Council Members shall be arranged by the Ward they represent and as provided by law. Nothing on the ballot shall be indicative of the source of the candidacy or of the support of any candidate.

Section 9.06 Nomination for Primary Election

(a) Petition

Nominations for primary elections shall be by petition of nomination, which shall consist of a printed form or facsimile thereof, which shall be furnished to applicants by the City Clerk.

(b) Mayor

The petition or petitions for nomination of Mayor shall contain the signatures of qualified voters, aggregating not less than five percent nor more than ten percent of the total number of electors voting at the last preceding municipal election for the office of Mayor.

(c) Council Members

The petition or petitions for nomination of a Council Member shall contain the signatures of qualified voters aggregating not less than five percent nor more than ten percent of the number of electors voting for Mayor in the nominee's Ward at the last preceding election at which a Mayor was elected.

(d) Nomination and Notice of Qualification

Nominating papers and petitions shall be presented to the City Clerk not less than 90 days nor more than 120 days before the date set for the primary election in the manner required by state law for nonpartisan elections. The City Clerk shall endorse on each document the date and the time when the same was received by the Clerk, and shall determine that the signatures contained therein are sufficient prior to causing the qualified candidate's name to be printed on the ballot. Notice shall be given to the candidate within five days of receipt of the petition as to the qualification of said candidate.

Section 9.07 Majority to Elect in Primary

(a) Mayor

At the primary election any candidate for Mayor who shall receive a majority of all votes cast at such election shall be declared elected to the office for which he or she is a candidate, and no further election shall be held as to said office.

(b) Council Member

At the primary election any candidate for Council Member who shall receive a majority of all the votes cast for said office at such election shall be declared elected to the office for which he or she is a candidate, and no further election shall be held as to said office.

Section 9.08 Nomination for General Election

(a) Mayor

If in a primary election one candidate for Mayor does not receive a majority of the votes cast at large, then the two candidates with the highest number of votes will be considered nominated, and their names will appear on the ballot of the general election. In case of a tie for second place, that candidate

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with the highest number of votes and those tied for second place will appear on the ballot of the general election.

(b) Council Member

If in a primary election one candidate for Council Member in a ward does not receive a majority of the votes cast at large for Council Member, then the two candidates with the highest number of votes will be considered nominated, and their names will appear on the ballot of the general election. In case of a tie for second place, that candidate with the highest number of votes and those tied for second place will appear on the ballot of the general election.

Section 9.09 Plurality to Elect in General Election

(a) Mayor

The candidate for Mayor who shall receive the highest number of votes at the general election shall be declared elected.

(b) Council Member

At the general election any candidate for Council Member who receives a plurality of all the votes cast for the office for which he or she is a candidate shall be declared elected.

(c) Tie

In case of ties the decision as to the winner shall be determined by lot.

Section 9.10 Time of Holding Primary Elections

Primary elections shall be held on the eighth Tuesday before the first Tuesday after the first Monday in November commencing in the year 2000.

Section 9.11 Time of Holding General Elections

General elections shall be held on the first Tuesday after the first Monday in November in each even-numbered year commencing in the year 2000.

Section 9.12 Special Elections

The Council shall provide the time, manner, and means of holding any special election in accordance with State law.

Section 9.13 Early Voting

Early voting shall be allowed in the manner provided by state law.

Section 9.14 Canvassing Returns and Declaring of Election Results

Within the time period required by state law, the Mayor and Council shall canvass returns and declare the results of such election. The City Clerk shall issue a certificate to each candidate elected to office at any election.

Section 9.15 Alignment of Ward Boundaries

Within 12 months of the effective date of this Charter and using the 1980 census official count, the Council shall reapportion and realign the boundaries of Wards. Such realignment shall thereafter be made within 12 months after release of official census information as necessary to comply

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with applicable law and to result in Wards no one of which is more than five percent larger in population than any other.

ARTICLE X. INITIATIVE, REFERENDUM AND RECALL

Section 10.01 Initiative, Referendum, Recall

There is hereby reserved to the electors of the City the powers of the initiative and referendum and of the recall of the elective officers. The provisions of the Constitution and general laws of this State, as the same now exist or hereafter may be amended, governing the initiative and referendum and the recall of elective offices shall apply to the use thereof in the City so far as such provisions are not in conflict with the provisions of this Charter.

Section 10.02 Submission of Measures for Electors

The Mayor and Council may, on their own motion, submit to the electors at any election any ordinance, referendum, or measure that the Mayor and Council or the qualified electors of the City shall have authority to enact or submit to referendum in the same manner as is provided in this Charter for ordinances or measures submitted on petitions. At any special election called under the provisions of the Charter there shall be no bar to the submission by the Council of other questions to a vote of the electors in addition to the ordinances or measures herein provided.

ARTICLE XI. MAGISTRATE COURT

Section 11.01 Establishment

The City shall establish in the City a Magistrate Court to be known as "The Magistrate Court of the City of Bisbee, County of Cochise, State of Arizona."

Section 11.02 State Laws Control

The Magistrate Court shall be created in accordance with the general statutes of the State, and all statutes pertaining to the jurisdiction and procedure of said Court shall be fully observed.

Section 11.03 Presiding Officer

The presiding officer of the Magistrate Court shall be a City Magistrate.

Section 11.04 Judicial Selection

(a) Judicial Selection Committee

The Council shall establish a Judicial Selection Committee. Such committee shall be appointed by the Mayor with the approval of the Council. The committee shall be composed of five persons who are residents of the City. At such time as the City Magistrate should die, resign his office or otherwise be unable to continue in that position, the Mayor and Council shall declare that a vacancy exists in the office of the City Magistrate. At least 15 days from the determination that such a vacancy exists, the Judicial Selection Committee shall recommend to the Mayor and the Council at least two persons to fill such vacancy.

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(b) Appointment and Term of City Magistrate

The City Magistrate shall be appointed by the Mayor, with the approval of the Council, from the list of those persons recommended by the Judicial Selection Committee, for two years starting July 1st in each odd year, subject to removal for cause.

(c) Dissolution of Judicial Selection Committee

Each Judicial Selection Committee established under the terms of this section shall exist for the sole purpose of recommending to the Mayor and City Council persons to fill vacancies in the office of City Magistrate. Immediately upon the filling of any such vacancy, each Judicial Selection Committee shall forthwith cease to exist.

Section 11.05 Disposition of Fines, Penalties and Fees

All fines, penalties and fees collected by the City Magistrate shall be paid to the properly designated officer of the City authorized to receive them.

Section 11.06 Ordinances to Give Effect

The Council shall pass all necessary ordinances to give effect to the provisions of this Article not otherwise herein provided.

Section 11.07 Consolidated Justice Court

The Mayor and Council, upon receipt of a recommendation by the Judicial Selection Committee, may authorize the consolidation of the City Magistrate Court with the Justice Court, in the manner authorized by state law. In the event of any such consolidation, each designated Justice of the Peace may be authorized to continue to serve as the City Magistrate without the requirement of for subsequent or additional recommendations by the Judicial Selection Committee. The Mayor and Council may, at any time, at their discretion, upon a change of the Justice of the Peace or otherwise, appoint a Judicial Selection Committee to consider and to make recommendations as to whether any consolidation agreement should continue to remain in effect or a new Magistrate should be appointed.

ARTICLE XII. FRANCHISE AND PUBLIC UTILITIES

Section 12.01 Elections for Approval of Franchise

No franchise shall be granted, extended, or renewed by the City without the approval of a majority of the qualified electors residing within its corporate limits voting thereon at a primary, general, or special election. The Council shall submit any matter for approval or disapproval to such electors at any primary or general election or call a special election for such purpose. The Council shall require, before calling any such election, that the estimated expense thereof, to be determined by the Council, shall be first deposited by the applicant for such franchise with the City Clerk. No franchise shall be granted, extended or renewed for a longer time than 25 years.

Section 12.02 Establishment of Municipally Owned and Operated Utilities

The City shall have the power to own and operate any public utility, to construct and install all facilities that are reasonably needed, and to lease

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or purchase any existing utility properties used or useful to public service. The City may also furnish service to adjacent and nearby territories which may be conveniently and economically served by the municipally owned and operated utility. The Council may provide by ordinance for the establishment of such utility and provide for its regulation and control and the fixing of rates to be charged. The Council may by ordinance provide for the extension, enlargement, or improvement of existing utilities and provide reasonable reserves for such purpose.

ARTICLE XIII. PUBLIC RECORDS

All city officers, employees and members of the public bodies of the City shall comply with all applicable state and federal laws regarding the preservation, maintenance, care and disclosure of all public records of the City. All records and accounts of every office, department, or agency of the City shall be open for inspection by any citizen, any representative of a citizen's organization, or any representative of the Press at all reasonable times and under such reasonable regulations established by the City Council, except those records and documents which are exempt from such disclosure by State or Federal laws or by order of a court of competent jurisdiction of the State of Arizona or the United States of America. In addition, a copy of all official City ordinances, resolutions, budgets, official planning documents, and this Charter shall be placed in a clearly designated area of the Bisbee Public Library as soon as practicable after publication.

ARTICLE XIV. GENERAL PROVISIONS

Section 14.01 Official Bonds

All elected and appointed officers and such other employees as the Council may by general ordinance require shall give bond in such surety and amount as may be ordained by the Council. The premiums for such bonds shall be paid by the City.

Section 14.02 Oath of Office

Every officer of the City, whether elected or appointed under the provisions of this Charter, or under any ordinance of the City, shall, before entering upon the duties of his office, take and subscribe an oath of office in the form of the official oath required by the State Constitution.

Section 14.03 Liability Insurance

The Council shall provide liability coverage for the City and its officers, agents, employees, and members of boards and commissions while engaged in governmental or proprietary capacities.

Section 14.04 Short Title

This Charter adopted by the people of the City of Bisbee shall be known and may be cited as the "Charter of the City of Bisbee, Arizona."

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Section 14.05 Severability Clause

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

**Section 14.06 Violations of Charter and City Ordinances;
Imprisonment of Violators**

The violation of any provisions of this Charter may be prosecuted as a misdemeanor by the authorities of the City in the name of the State of Arizona or may be redressed by civil action at the option of the Council. The violation of any ordinance of the City may be prosecuted as a misdemeanor or as a civil violation. Any person sentenced to imprisonment for violation of a provision of this Charter or of any ordinance may be imprisoned in the place designated by the City.

Section 14.07 Plenary and Implied Powers of the Council

The Council shall have plenary power to enact and make all proper and necessary ordinances, resolutions and orders to carry out and give effect to the express, as well as the implied, powers granted in this Charter to the end that a complete, harmonious and effective municipal government may be initiated, installed, operated, and maintained in the City and thereby protect and safeguard the rights, interests, safety, morality, health and welfare of the City and its inhabitants.

Section 14.08 Council Meetings to be Recorded

All meetings of the Bisbee City Council, unless legally exempt, shall be broadcast on local access channels upon availability and video recorded for the permanent record.

ARTICLE XV. GENDER

Whenever the context of this instrument so requires, words used in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural the singular. The word "person" includes a corporation, company, partnership, association, or society as well as a natural person.

ARTICLE XVI. SUCCESSION IN GOVERNMENT

Section 16.01 Rights of Officers and Employees Preserved

Nothing in this Charter contained, except as specifically provided, shall affect or impair the rights or privileges of officers or employees of the City or of any office, department, or agency existing at the time when this Charter takes effect or any provision of law in force at the time this Charter shall take 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

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rights or privileges of officers or employees of the City or any office, department, or agency.

Section 16.02 Continuation of Present Officers

All persons holding administrative office at the time this Charter takes effect shall continue in office and in performance of their duties until provisions shall have been made in accordance therewith for the performance of such duties or the discontinuance of such office.

Section 16.03 Continuation of Present Offices, Departments or Agencies

(a) Conduct Business

Any office, department or agency provided for in this Charter to be named or 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. Any office, department, or agency not provided for in this Charter heretofore existing shall continue to exercise powers and duties as the same were heretofore exercised and shall have the power to continue any business proceedings or other matters within the scope of its regular powers and duties until such office, department, or agency shall be changed or abolished by the Council as heretofore provided in this Charter.

(b) Powers and Duties

The powers conferred and the duties imposed upon any office, department or agency of the City by the laws of this 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 herein.

Section 16.04 Continuation of Appointive Boards and Commissions

All appointive boards, committees, and commissions heretofore existing shall continue and shall exercise such powers and duties as was granted them until such boards and commissions shall be changed or abolished by the Council as heretofore provided in this Charter.

Section 16.05 Transfer of Records and Property

All records, property, and equipment whatsoever of any office, department, or agency or part thereof, all of the powers and duties of which are assigned to any other office, department, or agency by this Charter, or under its authority, shall be transferred and delivered to the office, department, or agency to which such powers and duties are so assigned.

Section 16.06 Continuation of Contracts

All contracts entered into by the City or for its benefit prior to the taking effect of this Charter shall continue in full force and effect.

Section 16.07 Pending Actions and Proceedings

The adoption of this Charter shall not abate or otherwise affect any action or proceeding, civil or criminal, pending when it takes full effect brought by or against the City or any office, department, agency or officer thereof.

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Section 16.08 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 continued in force until the same shall be duly amended or repealed.

Section 16.09 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 the approval of the Governor, as provided by the Constitution of this State.

ARTICLE XVII. AMENDMENTS

Section 17.01 Method of Amendment

This Charter, or any part thereof, may be amended in the manner provided by the Constitution or laws of this State.

Section 17.02 Charter Review

The Mayor, with approval of the Council, shall appoint a committee of electors, four from each Ward, to review this Charter for the applicability and content to best serve the City of Bisbee and its citizens, at least once every five years, the first such review to be five years from the date of acceptance of this Charter. Elected City Officials, appointed City Department Heads, and City employees are prohibited from serving on this Committee.

To assist the Charter Review Committee in its task, and if they are available and willing to serve, one of the original freeholders and a member of the most recent Charter Review Committee shall be appointed by the same method as non-voting ex-official members of the Committee for advisory purposes.

To begin the first meeting of the Committee, the Mayor or designee shall explain the Charter Review process that is to be followed, as well as the steps that proposed Amendments must follow to become implemented into the Charter. The position of a member on the Committee may be declared vacant after three unexcused absences, with the member to be replaced according to the original designation process.

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Signed this 13th day of January, 1988, at Bisbee, Arizona, and respectfully submitted by the Board of Freeholders, Bisbee, Arizona.

/s/Arthur P. Blunt, Chairman	/s/Fred L. Phillipi
/s/Edward W. Matchett, Vice Chairman	/s/Paul Durrett
/s/Joy O'Clock, Secretary	/s/Robert E. Butler
/s/Peggy Ann Sullivan	/s/Shirley M. Jones
/s/D. M. Chezem	/s/Thomas Wheeler
/s/Maria D. Ribic	/s/Vernon R. Algier
/s/LaVerne Williams	/s/Natalie P. Boyce

1994 REVISION

May 1998 REVISION / Charter Revision Committee Members:

Joy O'Clock	Robert Yantes
Robert Kasun	William Glave
Stanley Stern	Reg Turner
Gary Wyckoff	Dave Morales
Ivan Abrams	Gary Dillard
James Douglass	

November 2002 REVISION / Charter Revision Committee Members:

Lyle Reddy, Chair	Jim Riley, Secretary
Gerry Doud	Carrie Gustavson
Armando Diaz	Jack Porter
Sue Kovac	Douglas Dunn
Michael Anderson	Sally Holcomb
Sylvia Anable	Mike Pizano

Ex-officio members:
Tom Wheeler, Original Freeholder
Gary Dillard, Member of a Former Charter Revision Committee
Councilmember Dennis Nelson, City Council Liaison

April 2008 REVISION / Charter Revision Committee Members:

Sandy Upson, Chair	Shirley Doughty, Secretary
Debra Andrade	Bill Elliot
Nancy Jacobsen	Shirley Jones
Carol Loy	Margo MacCartney
Boyd Nicholl	Wes Patience
Mike Politi	Christine Rhodes

Ex-officio members:
LaVerne Williams, Original Freeholder
Gerry Doud, Member of a Former Charter Revision Committee
Ronald Oertle, Mayor
Helen Lehr, City Clerk