

**RIO GRANDE CITY, TEXAS
INCORPORATED MAY 3, 1993**

**HOME RULE CHARTER
OF
RIO GRANDE CITY, TEXAS**

**COMPLETED BY THE CHARTER COMMISSION
AND
PRESENTED TO THE MAYOR AND CITY COMMISSION
ON AUGUST 24, 2006
FOR THE APPROVAL BY THE QUALIFIED VOTERS
OF THE CITY ON NOVEMBER 7, 2006.**

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HOME RULE CHARTER OF
RIO GRANDE CITY, TEXAS

ARTICLE I

POWERS OF THE CITY

SECTION 1.01 GENERAL POWERS; INCORPORATION:

(A.) The inhabitants of Rio Grande City, Texas, within the corporate limits as now established or as hereafter established in the manner provided by this Charter, shall continue to be and are hereby constituted a municipal body politic and corporate in perpetuity, under the name of "Rio Grande City", hereinafter referred to as "the City", with such powers, privileges, rights, duties, and immunities as are herein provided.

(B.) Rio Grande City, a city of more than five thousand (5,000) inhabitants, is created a body politic and corporate by this act, and shall have perpetual succession, may use a common seal, may sue and be sued, may contract and be contracted with, and may exercise all rights and privileges granted to cities of more than five thousand (5,000) inhabitants by Article XI, Section 5 of the Constitution of the State of Texas, and granted to cities of more than five thousand (5,000) inhabitants by Chapter 13 of Title 28 of the Revised Statutes of the State of Texas, together with all amendments thereto, and shall have and exercise all powers granted to cities of its class by the Legislature of the State of Texas, either now or hereafter, and shall exercise all powers of local self-government which are not prohibited by the Constitution of the State of Texas, or by laws of the State of Texas or by this Charter; and said powers shall be exercised whether they are herein especially enumerated or not, and there being no attempt in this Charter to especially enumerate said powers, any enumeration of powers herein made shall not be construed in any way to limit the powers of the said city, but the city of Rio Grande City shall, at all times, derive its powers from the Constitution and laws of the State of Texas.

SECTION 1.02 EMINENT DOMAIN:

The City shall have the power of eminent domain as authorized under the Texas Constitution and State Law.

SECTION 1.03 STREETS AND PUBLIC PROPERTY; STREET DEVELOPMENT AND IMPROVEMENT:

(A.) The City shall have exclusive dominion, control, and jurisdiction in, upon, over, and under the public squares, and public ways within the corporate limits of the City, and in, upon, over, and under all public property of the City. With respect to each and every public street, sidewalk, alley, highway, public square, or other public way within the corporate limits of the City, the City shall have the power to establish, maintain, alter, abandon, or vacate the same; to regulate, establish, or change the grade thereof; to control and regulate the use, thereof; and to abate and remove in a summary manner any encroachment thereon.

(B.) The City shall have the power to develop and improve, or cause to be developed and improved, any and all public streets, sidewalks, alleys, highways, and other public ways within the corporate limits of the City by laying out, opening, narrowing, widening, straightening, extending, and establishing building lines along the same; by purchasing, condemning, and taking property therefore; by filling, grading, raising, lowering, paving, repaving, and repairing, in a permanent manner, the same; and by constructing, altering, repairing, and realigning curbs, gutters, drains, sidewalks, culverts, and other appurtenances and incidentals in connection with such developments. The City may make or cause to be made any one or more of the kinds of classes of development and improvement authorized hereinabove, or any combination or parts thereof. The cost of such development and improvement shall be paid by the City, or partly by the City

and partly by assessments levied against the property abutting thereon and the owners thereof, and such assessments may be levied in any amounts and under any procedure now or hereafter permitted by State law. The City Commission shall have the power to assess a special tax on street railways for improvement of area occupied by said railways in accordance with governing State law. As an alternate and cumulative method of developing, improving, and paving any and all public streets sidewalks, alleys, highways, and other Public ways within the corporate limits, the City shall have the power and authority to proceed in accordance with governing State laws. The City shall likewise have the power to make any such development, improvement or paving with its own forces if, in the opinion of the City Commission, the work can be done more expeditiously or economically, and in such event the City shall have the power to reimburse itself for the cost of such improvement in the same amount and in the same manner as if the work had been performed by a successful bidding contractor.

SECTION 1.04 EXTENSION OR DETACHMENT OF BOUNDARIES:

(A.) INHABITANTS AND PROPERTY OWNERS ADJOINING CITY; ANNEXATION:

Territory adjoining and contiguous to the corporate limits of the City as defined herein, may be annexed to said City regardless of the shape or configuration or size thereof, upon application being made therefore in writing to the City Commission of the City describing the territory by metes and bounds sought to be annexed, which said application shall be signed by a majority of those residing in said territory who are qualified to vote for members of the Legislature of the State of Texas, which said application shall be proved by the affidavit of those or more persons that the signatures thereto are genuine. Said application shall be presented in the manner as stated in Section 8.03 and 8.04 except where it states initiative petition, referendum petition and petition or make any reference thereto it shall now state or make reference to said application. In the event it is found by the said City Commission that a majority of said qualified voters residing in such territory are favorable to annexation, then the said City Commission may, by ordinance, declare such territory annexed to the City, as provided by general law, and the same shall thenceforth be an integral part of said City. The provisions of this Section shall not be construed to prohibit the owner of any uninhabited territory or property contiguous to the City, as defined in this act, from making application to the City Commission have the same annexed to the City, and when such application is made and acted upon, an ordinance shall be passed, as provided for the annexation of other territory by governing State law, and said property when so annexed shall be covered by the same rules and regulations as other territory annexed under the provisions of this Section.

(B.) BY THE CITY COMMISSION; ANNEXATION:

In the alternative, the City Commission shall also have power by ordinance to fix the boundary limits of Rio Grande City and to provide for the extension of said boundary limits and the annexation of additional territory laying adjacent to said City, with or without the consent of the inhabitants of the territory annexed, not inconsistent with the procedural rules prescribed by law applicable to cities operation under charters adopted or amended under Article VIII, Section 5, of the Constitution of the State of Texas. Said ordinance, in original or amended form, as said City Commission in its judgment may determine, may be finally passed, and the territory so annexed shall be a part of the City, and the inhabitants thereof shall be entitled to all rights and privileges of other citizens and shall be bound by the acts, ordinances, resolutions and regulations of said City. The City Commission by either an election or petition, in similar manner as described in Section 7.01 or Section 8.03 and 8.04, respectively, except where it states the City it shall now state said territory and where in Section 8.03 and 8.04 it states initiative petition, referendum petition and petition or make any reference thereto it shall now state or make reference to said petition, shall obtain an opinion of the majority of voters and landowners. Voters shall be those who reside in said territory and are qualified to vote for members of the Legislature of the State of Texas. Majority for an election shall be those who are qualified and voting at said election. The City Commission shall make a reasonable attempt in obtaining an opinion from each owner of a contiguous plot of ten (10) acres or more which contains no more than one domicile. However,

the City, may annex in accordance with governing State law, said territory without the consent of those whose opinion was solicited as previously stated if it is felt that said territory to be annexed is necessary to maintain orderly growth and security of the City, such as, but not exclusively, to empower the City with the necessary extraterritorial jurisdiction powers to regulate subdivision, to prevent neighboring cities from dominating the City. Said opinion shall not be obtained thirty (30) days prior to beginning annexation proceedings and not later than eight (8) days prior to finalized annexation of said territory.

(C.) ANNEXATION BY ANY OTHER METHOD PROVIDED BY LAW:

Additional territory may also be annexed to the City in any manner and by any procedure that may now be provided by law or that may be hereafter provided by law and in accordance with this Charter.

(D.) There shall be set forth in every ordinance in and by which territory is annexed to Rio Grande City a clear and definite description of the territory annexed, either by metes and bounds, or otherwise, so as to clearly and definitely define the same, but it shall not be necessary to embody such description in the title or caption of such ordinance.

(E.) All territory annexed to the City under the provisions of this Section 1.04 shall become and be thereafter liable for all just and legal indebtedness of the City, without reference to when such debts were contracted, and the City Commission shall have the power to provide for the assessment and collection of taxes upon all property within such annexed territory to meet any such indebtedness, on the same basis as other property in the City.

(F.) BY THE CITY, COMMISSION; DETACHMENT:

Whenever there exists within the corporate limits of Rio Grande City any territory contiguous to such City limits, not suitable or necessary for City purposes, the City Commission may, upon a petition signed by a majority of the qualified voters owning taxable property and residing in such territory, if the same be inhabited; or, if the same be uninhabited upon a petition signed by a majority of those owning taxable property, by ordinance duly passed by a four-fifths vote of all the members of the City Commission, discontinue said territory as a part of said City. Said petition and ordinance shall specify accurately the metes and bounds of the territory sought to be eliminated from the City and shall contain a plot designating such territory so that the same can be definitely ascertained; and when said ordinance has been duly passed, the same shall be entered upon the minutes and records of said City, and from and after the entry of such ordinance, said territory shall still be liable for its pro rata share of any debts incurred while said area was a part of said City. All taxes levied by the City on property in the area excluded from the boundaries of the City under the provisions hereof, remaining unpaid at the time of said exclusion, and the liens thereof, and the liability of the owners therefore, shall continue in full force and effect and be collectable and enforceable in the same manner and to the same extent as if said property had remained within and as a part of said City. The City Commission shall determine, at the time of the exclusion of said area from the City, what unpaid debts of the said City is excluded territory is liable for, and shall determine the pro rata part of said indebtedness which shall be that portion thereof that the assessed valuation of property in the excluded area bears to the total assessed valuation property in the City as a whole, according to the latest assessment roll of the City, and the property in said excluded area shall remain subject to annual taxation by the City for the payment of the pro rata part of said indebtedness for which the property in said excluded area is liable, determined as herein provided, until the entire amount of such pro rata part of said indebtedness shall be paid. All taxes assessed against the property in said excluded area for payment of its pro rata part of said indebtedness shall be credited upon the amount of said indebtedness for which said excluded area remains liable; provided that the owners of the taxable property in said excluded area may at any time discharge said property from any further liability for said indebtedness by paying in a lump sum the then unpaid portion of said indebtedness for which the property in said excluded area remains liable. In the event of such payment and discharge for such unpaid portion of said indebtedness, the City Commission shall execute a recordable instrument, in writing, evidencing such payment and discharge.

(G.) EXTENSION OF MUNICIPAL UTILITIES:

The City shall within three (3) years of the effective date of such annexation provide or cause to be provided such area with governmental and proprietary services, the standard and scope of which are substantially equivalent to the standard and scope of governmental and proprietary services furnished by the City in other areas of the City which have characteristics or topography patterns of land utilization, and population density similar to that of the particular area annexed. Should the City fail to extend or provide for such extension within three (3) years, the owners of the annexed territory may, in accordance with Section 1.04 (F), petition the City Commission to de-annex the territory. If the City Commission fails to act on said petition within three (3) months of the date of filing the owners may then resort to suit in district court to require de-annexation.

ARTICLE II

CITY COMMISSION

SECTION 2.01 COMPOSITION, ELIGIBILITY, ELECTION AND TERMS:

(A.) COMPOSITION:

There shall be a City Commission of five (5) members elected by the qualified voters of the City at large, composed of a mayor and four commissioners.

(B.) ELIGIBILITY

All qualified candidates desiring to run for election shall announce their candidacy for a certain numbered place or for the position of Mayor and shall file for such position in the manner required by the election laws of the State of Texas. Candidates shall be a citizen of Texas, a qualified elector and registered to vote in the City, shall have resided in the City at least one year prior to filing his/her application for election and must reside in the City during his/her term of office.

(C.) ELECTION TERMS

The City at large shall elect the Mayor and other members of the City Commission for a term of four years. The Commissioners will run for places, designated as Place 1 through 4, and shall be elected by majority vote. At any regular or special municipal election, the candidates for each place on the ballot and the candidate for Mayor, who shall receive the majority of the total number of votes cast for such place or position in such election shall be declared elected. In the event no candidates receives a majority of the total votes cast, the City Commission shall cause to be held a run-off election between the two candidates receiving the most votes for such place or places within thirty days after said special or regular election. Following the initial election, the term of office for Mayor and Commissioners will be four years, with municipal elections being held every two years. The term of office for Mayor and Commissioners will be four years.

(D.) ELECTION TRANSITIONAL PROVISION:

The election for the Rio Grande City Home Rule Charter shall be on the 7th day of November, 2006; however the date the Home Rule Charter becomes effective is the 4th day of November, 2008.

At the election of November 7, 2006 a Councilman for each of the places three (3) and five (5) and the place of Mayor only, shall be elected and serve a term through November 4, 2008, the effective date of this Charter. Thereafter, Place three (3) for Councilman shall be renamed Place two (2) and Place five (5) for Councilman shall be renamed Place four (4). At the first election under this Charter on November 4, 2008 the Mayor, Place two (2) and Place four (4) shall be elected and they shall serve a term ending on May, 2012. Thereafter the Mayor and the members of the Commission shall serve for a term of four (4) years.

Places one (1), two (2) and (4) for Councilman, elected under the General Law election of the 8th day of November, 2005 shall serve their elected terms until November 6, 2007.

At the election of November 6, 2007, Places one (1), two (2) and four (4) shall be elected and Places one (1) and four (4) shall serve a term ending on May, 2010. Place two (2) for Councilman shall be dissolved on November 4, 2008, the effective date of this Charter. Place one (1) for Councilman shall remain Place (1) and Place four (4) for Councilman shall be renamed Place three (3).

At the second election under this Charter, being May 2010, a member of the Commission for each of the newly renamed Places one (1) and three (3), only, shall be elected and they shall serve for a term of four (4) years each ending on May, 2014.

SECTION 2.02 COMPENSATION; EXPENSES:

The City Commission may determine the annual salary of its members by ordinance, but no ordinance increasing such salary shall become effective until the date of commencement of the terms of the members of the Commission elected at the next regular election, provided that such election follows the adoption of such ordinance by at least six months. Members of the City Commission shall receive their actual and necessary expenses incurred in the performance of their duties of office.

SECTION 2.03 MAYOR

The mayor shall be a member of the City Commission. In addition, he/she shall preside at meetings of the Commission, shall be recognized as head of the City government for all ceremonial purposes and by the governor for purposes of military law but shall have no administrative duties. The City Commission shall elect from among its members a mayor pro tem who shall act as mayor during the absence or disability of the mayor and, if a vacancy occurs, shall become mayor until such vacancy is filled as provided by governing law.

SECTION 2.04 GENERAL POWERS AND DUTIES:

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

SECTION 2.05 PROHIBITIONS:

(A.) HOLDING OTHER OFFICE

Except where authorized by law, no member of the City Commission shall hold any other City office or City employment during the term for which he/she was elected to the Commission, and no former member shall hold any compensated appointive City office or employment until one (1) year, except elsewhere in the charter where it specifies three (3) years, after the expiration of the term for which he was elected to the City Commission.

SECTION 2.06 VACANCIES; FORFEITURE OF OFFICE; FILLING OF VACANCIES:

(A.) VACANCIES

Vacancies in the Council other than Mayor arising from any cause shall be filled by a majority vote of the remaining members for the un-expired term only and provided the successor shall possess all qualifications required for office. In the event of a vacancy in the office of the Mayor, the remaining council members shall elect from among themselves, by majority vote, a person to serve as mayor for the unexpired term and the person elected shall take over the last place on the Council.

(B.) FORFEITURE OF OFFICE

Any member of the City Commission who ceases to possess the required qualifications for the office; or who is convicted, of a felony or misdemeanor involving turpitude shall forfeit their office, which forfeiture shall be declared and enforced by a majority vote of the Council.

SECTION 2.07 JUDGE OF QUALIFICATIONS

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

SECTION 2.08 CITY SECRETARY:

The City Commission shall appoint an officer of the City who shall have the title of City Secretary. The City Secretary shall perform such other duties as may be required by this Charter or the City Commission. All civil process to the City shall be served upon the City Secretary. Other employees in the office of the City Secretary shall be appointed and may be removed by the City Manager.

SECTION 2.09 INVESTIGATIONS:

The City Commission, the City Manager, or any person or committee authorized by either or both of them shall have power to inquire into the conduct of any department, agency, or office of the City, and for that purpose shall have power to administer oaths. The City Commission on its own initiative, or upon request of the City Manager, shall have power to subpoena witnesses, compel the production of books, papers, and other evidence material to such inquiry. The Council shall provide by ordinance for penalties for contempt for refusal on the part of officers or employees of city departments, agencies, or officers, to obey such subpoenas, or to produce evidence.

SECTION 2.10 PROCEDURE:

(A.) MEETINGS:

The City Commission shall meet regularly at least once in every month at such times and places as the Commission may prescribe by rule. Special meetings may be held on call of the mayor or of two or more members and, whenever practicable, upon no less than twelve hours notice to each member. All meetings shall be open to the public, except those authorized by law to be closed.

(B.) RULES AND JOURNAL:

The City Commission shall determine its own rules and order of business and shall provide for keeping a journal of its proceedings. This journal shall be a public record.

(C.) VOTING:

Voting, except on procedural motions, shall be by roll call and the ayes and nays shall be recorded in the journal. Three members of the Commission shall constitute a quorum, but a smaller number may adjourn from time to time. No action of the Commission, except as in Section 2.06, shall be valid or binding unless adopted by the affirmative vote of three or more members of the City Commission.

SECTION 2.11 ACTION REQUIRING AN ORDINANCE:

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

- (1.) Adopt or amend an administrative code or establish, alter or abolish any City department, office or agency, except those established by this Charter, (Those City departments, office or agency may be altered or abolished by amendment to this Charter only.);
- (2.) Provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed;
- (3.) Levy taxes, except as otherwise provided elsewhere in this Charter;
- (4.) Grant, renew or extend a franchise, in accordance with that specified in Article VI and what may be specified elsewhere in this Charter;
- (5.) Regulate the rate charged for its services by a public utility in accordance with that specified in Article IX and what may be specified elsewhere in this Charter;
- (6.) Authorize the borrowing of money in accordance with that specified in Article IV and what may be specified elsewhere in this Charter;
- (7.) Convey or lease or authorize the conveyance or lease of any lands of the City in accordance with that specified in Article V and what may be specified elsewhere in this Charter;
- (8.) Adopt, with or without amendment ordinances proposed under the initiative power; and
- (9.) Amend or repeal any ordinance previously adopted, except as otherwise provided in Article VIII with respect to repeal of ordinances reconsidered under the referendum power.

Acts other than those referred to in the preceding sentence or elsewhere in this Charter may be done either by ordinance or by resolution.

SECTION 2.12 ORDINANCES IN GENERAL:

(A.) FORM:

Every proposed ordinance shall be introduced in writing and in the form required for final adoption. No ordinance shall contain more than one subject which shall be clearly expressed in its title. The enactment clause shall be "Be it ordained by the City Commission of Rio Grande City:" Any ordinance which repeals or amends an existing ordinance or part of the City code shall set out in full the ordinance, sections or subsections to be repealed or amended, and shall indicate matter to be omitted by enclosing it in brackets or by strikeout type and shall indicate new matter by underscoring or by italics.

(B.) PROCEDURE:

An ordinance may be introduced by any member at any regular or special meeting of the Commission. No ordinance may be finally passed at either the same meeting at which it is introduced or within fifteen (15) days after said meeting, except an emergency ordinance, as provided in Section 2.13.

(C.) VALIDATION OF ORDINANCES

All Ordinances, resolutions, and contracts of the City heretofore ordained, passed, adopted or enacted, that are in force at the time this Charter becomes effective, and which are not in conflict with such Charter, shall

remain in full force until altered, amended, or repealed by the Council after such Charter takes affect.

SECTION 2.13 EMERGENCY ORDINANCES:

To meet a public emergency affecting life, health, property or the public peace, the City Commission may adopt one or more emergency ordinances, but such ordinances may not levy taxes, grant, renew or extend a franchise, regulate the rate charged by any public utility for its services or authorize the borrowing of money except as provided in Article IV. 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 and shall contain, after the enactment clause, a declaration stating that an emergency exists and describing it in clear and specific terms. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced, but the affirmative vote of at least three members shall be required for adoption. After its adoption the ordinance shall be published and printed as prescribed for other adopted ordinances. It shall become effective upon adoption or at such later time as it may specify. Every emergency ordinance except one made pursuant to Article IV shall automatically stand repealed as of the 61st day following the date on which it was adopted, but this shall not prevent re-enactment of the ordinance in the manner specified in this section if the emergency still exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.

SECTION 2.14 CODES OF TECHNICAL REGULATIONS:

The City Commission may adopt any standard code of technical regulations by reference thereto in an adopting ordinance and as provided elsewhere by this charter. The procedure and requirements governing such an ordinance shall be as prescribed for ordinance general except that:

(1) The requirements of governing law for distribution and filing of copies of the ordinance shall be construed to include copies of the code of technical regulations as well as of the adopting ordinance, and

(2) A copy of each adopted code of technical regulations as well as of the adopting ordinance shall be authenticated and recorded by the City Secretary pursuant to subsection 2.15 (A.).

Copies of any adopted code of technical regulations shall be made available by the City Secretary for distribution on or for purchase at a reasonable price.

SECTION 2.15 AUTHENTICATION AND RECORDING; CODIFICATION; PRINTING:

(A.) AUTHENTICATION AND RECORDING

The City secretary shall authenticate by his/her signature and record in full in a properly indexed book kept for the purpose all ordinances and resolutions adopted by the City Commission

(B.) CODIFICATION

Within three years after adoption of this charter and at least five years thereafter, the City Commission shall provide for the preparation of a general codification of all City ordinances and resolutions having the force and effect of law. The general codification shall be adopted by the Commission by ordinance and shall be published promptly in bound or loose-leaf form, together with this Charter and other laws of the State of Texas, and such codes of technical regulations and other rules and regulations as the Commission may specify. This compilation shall be known and cited officially as the Rio Grande City Code. Copies of the code shall be furnished to City officers, placed in libraries and public offices for free public reference and made available for purchase by the public at a reasonable price fixed by the Commission.

(C.) PRINTING OF ORDINANCES AND RESOLUTIONS:

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

SECTION 2.16 CITY OFFICERS

The City Commission shall have the power and authority to appoint and remove city officers.

ARTICLE III

THE ADMINISTRATIVE SERVICE

SECTION 3.01 THE CITY MANAGER

(A.) APPOINTMENT, QUALIFICATIONS AND COMPENSATION

The City Commission shall appoint and fix the compensation of a City Manager who shall be the chief administrative and executive officer of the City, and shall be responsible to the City Commission for the efficient administration of all affairs of the City. The position shall be advertised in appropriate publications prior to selecting the applicant. He/She shall be chosen from applications submitted to the City Commissioners on the basis of his/her executive and administrative training, experience and ability; and he/she shall hold a minimum of a Baccalaureate Degree in a related field and shall have at least five years' experience in an administrative or management position in the municipal government field.

(B.) POWERS AND DUTIES OF THE CITY MANAGER

The City Manager shall be the chief administrative and executive officer of the City. He/She shall be responsible to the City Commission for the administration of all City affairs placed in his/her charge by or under this Charter. He/She shall have the following powers and duties:

- (1) He/She shall see that all laws, provisions of this Charter and acts of the City Commission, subject to enforcement by him/her or any city employee or department head subject to his/her direction and supervision, are faithfully executed.
- (2) He/She shall appoint, subject to approval by the City Commission, all department heads, and without such consultation all City employees provided for by or under this Charter, except as otherwise provided by law, this Charter or personnel rules adopted pursuant to this Charter. He/She may authorize any employee who is subject to his/her direction and supervision to exercise these powers with respect to subordinates in that department, office or agency.
- (3) He/She may remove any employee of the City, except those officers appointed by the City Commission and except as otherwise provided in Section 3.06 or by law, such power to be exercised in conformity with policies regarding the removal of personnel adopted by the City Commission.
- (4) He/She shall promulgate a personnel management system for all City employees to be approved by the City Commissioners.
- (5) He/She shall make an evaluation of all department heads and administrative officers under his/her supervision at least annually and review such evaluations in Executive Session with the City Commission prior to June 1.

- (6) He/She shall direct and supervise the administration of all departments, offices and agencies of the City, except as otherwise provided by this Charter or by law.
- (7) The City Manager or his/her designated delegate shall attend all meetings of the City Commission and shall have the right to take part in discussion, but shall not have the right to vote.
- (8) He/She shall prepare and submit the annual budget and make available to the public a complete report of the finances and administrative activities of the City as of the end of each fiscal year.
- (9) He/She shall make such other reports as the City Commission may require concerning the operations of City departments, offices and agencies subject to his/her direction and supervision.
- (10) He/She shall keep the City Commission fully advised as to the financial condition and future needs of the City and make such recommendations to the City Commission concerning the affairs of the City through a Comprehensive Long Term Capital Improvements Program.
- (11) He/She shall direct and supervise the development of a five and ten-year Comprehensive Long Term Capital Improvements Plan. This plan shall include purpose, annual improvements for the first five years and then a general projection of needs for six years through ten. The plan shall include proposed projects, cost, financing and priority ratings. The plans shall be updated once annually and presented to the City Commission as part of the budgetary process.
- (12) He/She shall perform such duties as are specified in the Charter or may be required by the City Commission.

SECTION 3.02 ACTING CITY MANAGER:

In case of absence, disability, or suspension of the City Manager, the Commission may designate a qualified administrative officer of the City to perform the duties of office. Pending the selection of any City Manager following the adoption of this charter, the Commission may appoint an acting City Manager, who shall have all of the qualifications, powers and duties hereinbefore prescribed for the City Manager, and who shall serve for a period not to exceed three months.

SECTION 3.03 COMMISSION MEMBERS NOT TO INTERFERE IN APPOINTMENTS OR REMOVALS

Members of the Commission shall not direct or request the City Manager or any of his/her subordinates to appoint or remove from office or employment, or in manner take part in the appointment or removal of employees in the administrative service of the City, except for the purpose of inquiry. The Council and its members shall deal with administrative service solely through the City Manager and neither the Council nor any member thereof shall give orders to any subordinates of the City Manager, either publicly or privately.

SECTION 3.04 BOARDS, COMMISSIONS, COMMITTEES AND AUTHORITIES

Boards, commissions, committees and authorities shall not be established to administer municipal functions of the City; provided however, that this section shall not apply to boards of examiners and/or appeals established by ordinance to administer the provisions of building, electrical and plumbing codes and boards, commissions and authorities established under the provisions of the laws of Texas. The City Commission by ordinance may create, boards commissions or committees to assist only in an advisory capacity to the City Commission and heads of municipal departments in the performance of their duties. The members of any such advisory boards, commissions or committees shall be appointed by the City Commission and shall receive no compensation from the City.

SECTION 3.05 ADMINISTRATIVE DEPARTMENTS

The City Commission shall have power by ordinance to establish, discontinue or redesignate administrative departments or offices necessary for proper and orderly operation of the City's business and/or for the best interests of the City and hereby places said departments or offices under the direction and supervision of the City Manager. The City Commission shall prescribe and fix the duties, compensation, qualifications, tenure and bonds of such officers and departments.

SECTION 3.06 DIRECTORS OF DEPARTMENTS

At the head of each department there shall be a director who shall be appointed and who may be removed by the City Manager, subject to approval by the City Commission. Said directors shall have supervision and control over their respective departments, subject to approval by the City Manager, except as otherwise specifically provided by this Charter.

SECTION 3.07 DEPARTMENT DIVISIONS

The work of each department shall be distributed among such divisions thereof as may be established by ordinance; provided, however, that no division shall be established unless the City Manager shall have been given an opportunity to be heard thereupon; provided further, that pending the passage of an ordinance distributing the work of the departments under the supervision and control of the City Manager among specific divisions thereof, the City Manager may establish temporary divisions.

ARTICLE IV

MUNICIPAL FINANCE

SECTION 4.01 FISCAL YEAR

This fiscal year of the City shall begin on the first day of October and end on the last day of September of each calendar year. The fiscal year shall constitute the budget year of the City government. The term "budget year" shall mean the fiscal year for which any particular budget is adopted and in which it is administered.

SECTION 4.02 ANNUAL AUDIT

The City Commission shall cause an annual audit to be made by a certified public accountant, which shall start ninety days prior to the end of each fiscal year and shall be completed and presented to the City Commission within one hundred twenty days (120) after the end of each fiscal year. Each such audit, when completed shall be open for inspection by the public.

SECTION 4.03 PREPARATION AND SUBMISSION OF THE BUDGET

The City Manager, between sixty and ninety days prior to the beginning of each fiscal year shall submit to the City Commission a proposed budget, which shall provide a complete financial plan for the fiscal year. The budget is to be prepared consistent with the accounting procedures as required by the laws of the State of Texas and shall contain the following:

- (A) A budget message, explanatory of the budget, which message shall contain an outline of the proposed financial policies of the City for the fiscal year and shall set forth the reason for salient changes from the previous year in expenditures and revenue items, and shall explain any major changes in financial policy;
- (B) A consolidated statement of anticipated receipts and proposed expenditures for all funds;

- (C) A comparative analysis of anticipated revenues and proposed expenditures compared with other years in the budget. The comparative analysis will include the actual amount of each item for the last complete fiscal year, the projected amount for the current fiscal year and the proposed budget for the ensuing year;
- (D) An analysis of property valuation;
- (E) An analysis of the tax rate;
- (F) Tax levies and tax collections by years for at least five years;
- (G) General fund resources in detail;
- (H) Special fund resources in detail;
- (I) Summary of proposed expenditures by function, department and activity;
- (J) Estimates of expenditures shown separately for each activity to support subparagraph (h) above;
- (K) A revenue and expense statement for all types of bonds;
- (L) A description of all bond issues outstanding, showing rate of interest, date of issue, maturity date, amount authorized, amount issued and amount outstanding;
- (M) A schedule of requirements for the principal and interest of each issue of bonds;
- (N) The appropriation ordinance;
- (O) The proposed ordinance levying a tax.

Section 4.04 BUDGET A PUBLIC RECORD

The budget and all supporting schedules shall be filed with the City Secretary, submitted to the City Commission, and shall be a public record. The City Manager shall provide copies for public inspection; copies shall be available to the public at reproduction cost.

SECTION 4.05 NOTICE OF PUBLIC HEARING ON BUDGET

At the meeting of the City Commission at which the budget is submitted, the City Commission shall fix the time and place of a public hearing and shall cause to be published in a newspaper a notice of the hearing setting forth the time and place thereof at least ten days before the date of such hearing.

SECTION 4.06 PUBLIC HEARING ON BUDGET

At the time and place set forth in the notice required by Section 4.05 or at any time and place to which such public hearing shall from time to time be adjourned, the Council shall hold a public hearing on the budget submitted and all interested persons shall be given an opportunity to be heard for or against any item or the amount of any item therein contained.

SECTION 4.07 PROCEEDING ON BUDGET AFTER HEARING

After the conclusion of such public hearing, the Council may insert new items or may increase or decrease items of the budget, except items in proposed expenditures fixed by law, but when it shall increase the total proposed expenditures, it shall also provide for an increase in the total anticipated revenue in an amount at least equal to such proposed expenditures.

SECTION 4.08 VOTE REQUIRED FOR ADOPTION

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

SECTION 4.09 EFFECTIVE DATE OF THE BUDGET, CERTIFICATION, COPIES MADE AVAILABLE

Upon final adoption, the budget shall be in effect for the next fiscal year. A copy of the budget, as finally adopted shall be filed with the City Secretary. The final budget shall be reproduced and

copies made available for the use of all offices, departments, and agencies, and copies shall be made available to the public at reproduction cost.

SECTION 4.10 BUDGET ESTABLISHES APPROPRIATIONS

From the effective date of the budget, the several amounts stated therein as proposed expenditures shall be and become appropriated to the several objects and purposes therein named.

SECTION 4.11 CONTINGENT APPROPRIATIONS

Provisions shall be made in the annual budget and in the appropriations ordinances for a contingent appropriation in an amount not less than three percent of the general fund each fiscal year to be used in case of unforeseen items of expenditures. Such contingent funds shall not exceed ten percent of the general fund for each fiscal year. Such contingent appropriation, after approval by the City Commission shall be under the control of the City Manager. Expenditures from this appropriation shall be made only in case of established necessity and a detailed account of such expenditures shall be recorded and reported and shall not be commingled with the normal operating budget items. The spending of the contingent appropriations shall be charged to the department or activity for which the appropriations are made.

SECTION 4.12 THE TOTAL ESTIMATED EXPENDITURES SHALL NOT EXCEED ESTIMATED RESOURCES

The total estimated expenditures of the general fund and debt service fund shall not exceed the total estimated resources of each fund (prospective income plus cash on hand). The classification of revenue and expenditure accounts shall conform as nearly as local conditions will permit to the uniform classifications as promulgated by the Governmental Accounting Standards Board (GASB) or some other nationally accepted classification.

SECTION 4.13 OTHER NECESSARY APPROPRIATIONS

The City budget may be amended and appropriations altered in cases of public necessity by a majority vote of the members of the City Council.

SECTION 4.14 POWERS TO TAX

The City Commission shall have the power to annually levy, assess and collect taxes as allowed under the Texas Constitution and state law.

ARTICLE V

MUNICIPAL PLANNING AND ZONING

SECTION 5.01 PLANNING COMMISSION

The City Commission shall by ordinance appoint a Planning Commission, which shall consist of five members from various areas of the City who shall not serve more than four two-year terms for a total of eight years. The City Manager shall be an ex-officio member of the Commission. The Commission may by ordinance appoint other ex-officio members. Appointive members of the Commission, excluding ex-officio members, may not hold any other public office for which compensation is paid by the State of Texas or any political subdivision thereof. A majority of appointive members, other than those serving in an ex-officio capacity, shall constitute a quorum and shall elect a chairman from its own membership. The City Commission for the remainder of

the unexpired term shall fill any vacancy occurring during the unexpired term of an appointive member.

SECTION 5.02 POWERS AND DUTIES:

The Planning Commission shall have the power and be required to:

- (A.) Be responsible to and act as an advisory body to the City Commission.
- (B.) Recommend to the City Commission approval or disapproval of proposed changes in the zoning plan.
- (C.) Review all plans for platting or subdividing of land within the City and within adjacent areas as permitted by law and submit findings and recommendations to the City Commission.

SECTION 5.03 THE MASTER PLAN

The master plan for the physical development of the City shall contain the Planning Commission's recommendation for growth, development and beautification of City territory. The City Commission may adopt the master plan as a whole or in parts and may adopt any amendment hereto. The adoption of the plan or of any such part or amendment shall be by resolution, but before the adoption of the plan or any such part or amendment, the City Commission shall hold at least one public hearing on the proposed action.

ARTICLE VI

FRANCHISES AND PUBLIC UTILITIES

SECTION 6.01 POWERS OF THE CITY

In addition to the City's power to buy, own, construct, maintain and operate utilities and to manufacture and distribute electricity, gas or anything else that may be needed or used by the public, the City shall have further powers as may now or hereafter be granted under the constitution and laws of the State of Texas.

SECTION 6.02 FRANCHISE; POWER OF THE CITY COMMISSION:

- A. Grant of franchise. The City Commission shall have power by ordinance to grant, amend, renew and extend all franchises of all public utilities of every character operating within the City. All ordinances granting, amending, renewing, or extending franchises for public utilities shall be considered at a minimum at two regular meetings of the City Commission, and shall be finally adopted no earlier than 30 days after the first consideration, and no such ordinance shall take effect until its caption shall have been published once each week for two consecutive weeks in a newspaper of general circulation in the City.
- B. Assignment of franchise; amendments. No public utility franchise shall be transferred except with the approval of the City Commission by an ordinance satisfying the provisions of paragraphs (A) of this section.

SECTION 6.03 TERM AND PLANS OF PURCHASE

Any public utility franchise may be terminated by ordinance at specified intervals of not more than five (5) years after the beginning of operation, whenever the City shall determine to acquire by condemnation or otherwise the property of such utility necessarily used in or conveniently useful for the operation thereof within the City limits.

SECTION 6.04 RIGHT OF REGULATION

All grants, renewals, extensions, or amendments of public utility franchises., whether it be so provided in the ordinance or not, shall be subject to the right of the City.

A grant, renewal, extension, or amendment of a public utility franchise, whether it be so provided in the ordinance or not, shall be subject to the following conditions:

- (A) The right of the City to repeal the same by ordinance at any time for failure to begin construction or operation within the time prescribed or otherwise to comply with the terms of the franchise, such power to be exercised only after due notice and hearing.
- (B) The right of the City to require proper and adequate extension of plant and service, and the maintenance of the plant and fixtures at the highest reasonable standard of efficiency.
- (C) The right of the City to establish reasonable standards of service and prevent unjust discrimination in service or rate.
- (D) The right of the City at any time to examine and audit the accounts and other records of any such utility and to require annual and other reports on local operations by each public utility.
- (E) The right of the City to impose such reasonable regulations and restrictions as may be deemed desirable or conducive to the safety, welfare, and accommodation of the public.
- (F) The right of the City to at any time require such compensation and rental as may be permitted by the laws of the State of Texas.

SECTION 6.05 EXTENSIONS

All extensions of public utilities within the City limits shall become a part of the aggregate property of the public utility, shall be operated as such, and shall be subject to all the obligations and reserved rights contained in this charter and in any original grant hereafter made. The right to use and maintain any extension shall terminate with the original grant and shall be terminable as provided in Section 6.04. In case of an extension of a public utility operated under a franchise hereafter granted, such right shall be terminable at the same time and under the same conditions as the original grant.

SECTION 6.06 OTHER CONDITIONS:

- (A) All franchises heretofore granted are recognized as contracts between the City, and the grantee, and the contractual rights as contained in any such franchise shall not be impaired by the provisions of this charter. The provisions of paragraph (A) of this section notwithstanding, (i) the power of the City to exercise eminent domain to acquire any or all utility property is reserved, and (ii) the power of the City to regulate the rates and services of a utility, as may be authorized by state law or which shall the right to require proper and adequate

- extension of plant service and the maintenance of the plant and fixtures at the highest reasonable standard of efficiency.
- (B) Every public utility franchise hereafter granted shall be held and be subject to all terms and conditions contained in the various sections of this article whether or not such terms are specifically mentioned in the franchise.
 - (C) Nothing in this charter shall operate to limit the discretion of the City Commission or the electors of the City via referendum in imposing terms and conditions as may be reasonable in connection with any franchise grant.

SECTION 6.07 FRANCHISE RECORDS

Within six (6) months after this charter takes effect every public utility and every owner of a public utility franchise shall file with the City, as may be prescribed by ordinance, certified copies of all franchises owned or claimed, or under which such utility is operated. The City shall compile and maintain a public record of public utility franchises.

SECTION 6.08 ACCOUNTS OF MUNICIPALLY OWNED UTILITIES

Accounts shall be kept for each public utility owned or operated by the City, in such manner as to show the true and complete financial results of such City ownership and operation, including all assets, appropriately subdivided into different classes, all liabilities subdivided by classes, depreciation reserve, other reserves, and surplus; also revenue, operating expenses including depreciation, interest payments, rental, and other deposition of annual income. The accounts shall show the actual capital cost to the City of each public utility owned, also the cost of all extensions, additions and improvements, and the source of funds expended for such capital purposes. They shall show as nearly as possible the cost of any service furnished to or rendered by any such utility to any other City or governmental department. The City Commission shall annually cause to be made and published a report showing the financial results of such City ownership and operation, giving the information specified in this section, such data as the City Commission shall require, and the information specified elsewhere in this Charter.

SECTION 6.09 REGULATION OF RATES AND SERVICE

Subject to federal law and state law, the City Commission shall have full power, after due notice and hearing, to regulate by ordinance the rates and services of every public utility operating in the City.

SECTION 6.10 INVESTIGATIONS AND PUBLIC HEARINGS

The City Commission shall have full power to examine or cause to be examined at any time, and at all times the books, papers and records of franchise holders; to take testimony and compel the attendance of witnesses and the production of books, papers and records and to examine witnesses under oath and under such rules and regulations as it may adopt, and should any franchise holder refuse to permit the inspection of such books, papers, and records by the City Commission or by any one designated by it to make such inspection or fail to produce the same when notified to do so by the City Commission, or should any officer, agent or employee of such franchise holder refuse to give testimony before the City Commission, the City Commission shall have the power by ordinance, to declare the franchise or privilege by such person or corporation in default, and terminated.

The City Commission shall have the power to call a public hearing, giving reasonable notice to the holder of a franchise, to determine whether or not an application to increase rates shall be granted or to determine whether or not the rates currently charged by any holder of a franchise for the service rendered are excessive. In that connection, the City Commission shall have full power to examine books, papers and records of the franchise holder, and to compel the attendance of all witnesses deemed necessary for the ascertainment of the facts in connection

with said inquiry. Failure to obey any subpoena to appear as a witness shall be punishable by the City Commission for contempt by any appropriate proceedings permitted by law.

ARTICLE VII

NOMINATIONS AND ELECTIONS

SECTION 7.01 REGULAR AND SPECIAL ELECTIONS

The City Secretary shall be responsible for administering all City elections in accordance with the State Election Code and other applicable state law, provided that the City Commission may, by ordinance, make rules and regulations not inconsistent with state law.

SECTION 7.02 OATH OF OFFICE

Before entering upon the duties of his/her office, every officer shall take and subscribe the official oath prescribed by the State Constitution, and shall give such bond and security to faithfully discharge his/her duties as may be required by ordinance of the City.

ARTICLE VIII

INITIATIVE, REFERENDUM AND RECALL

SECTION 8.01 POWER OF INITIATIVE

The electors shall have power to initiate any ordinance, except ordinances appropriating money, levying a tax, granting a franchise, or fixing public utility rates, zoning or rezoning property and to adopt or reject the same at the polls. Any initiated ordinance may be submitted to the City Commission by a petition signed by qualified electors of the City equal in number to ten percent of the electors qualified to vote at the time of the last regular municipal election.

SECTION 8.02 POWER OF REFERENDUM

The electors shall have power to approve or reject at the polls any ordinance passed by the City Commission save one appropriating money, levying taxes, zoning, rezoning property, or fixing public utility rates or any ordinance submitted by the City Commission of its own initiative to a vote of the electors. Ordinances submitted to the City Commission by initiative petition and passed shall be subject to a referendum; a petition passed shall be subject to the referendum in the same manner as other ordinances. Within thirty days after the enactment by the City Commission, any ordinance which is subject to a referendum, a petition signed by qualified electors of the City equal in number to ten percent of the electors qualified to vote at the last preceding regular municipal election may be filed with the City Secretary requesting that any such ordinance be either repealed or submitted to a vote of the electors.

SECTION 8.03 FORM OF PETITIONS

All petition papers circulated for the purpose of an initiative or referendum shall be uniform in size and style. Initiative petition papers shall contain the full text of the proposed ordinance. The signatures to initiative or referendum petitions need not all be appended to one paper, but to each separate paper there shall be attached a statement of the circulator that he/she personally circulated the foregoing paper, that all the signatures appended thereto were made in his/her presence, and the he/she believes them to be the genuine signatures of the persons whose names they purport to be. Each signer of any such petition paper shall sign his/her name in ink or indelible pencil and shall indicate his/her name his/her place of residence by street and number,

and shall include his/her voter registration number or other description sufficient to identify the voting precinct.

SECTION 8.04 FILING, EXAMINATION AND CERTIFICATIONS OF PETITIONS

All petition papers comprising a petition shall be assembled and filed with the City Secretary as one instrument. Within thirty days after a petition is filed, the City Secretary shall determine whether each paper of the petition has a proper statement of the circular and whether the petition is signed by a sufficient number of qualified electors, and shall hold any petition paper entirely invalid which does not have attached thereto the statement signed by the circulator thereof. The City Secretary shall certify the result of his/her examination to the City Commission at its next regular meeting. If he/she shall certify that the petition is insufficient he/she shall set forth in his/her certificate the particulars in which it is defective and shall notify the person filing same of his/her findings.

SECTION 8.05 COMMISSION CONSIDERATION AND SUBMISSION TO VOTERS

Whenever the City Commission receives a petition from the City Secretary, it shall be immediately considered. A proposed initiative ordinance shall be read and provision shall be made for a public hearing. The City Commission shall take final action on the ordinance no later than thirty days after the date on which such ordinance was submitted to the City Commission by the City Secretary. A referred ordinance shall be reconsidered and the City Commission shall, within thirty days vote upon the question, "Shall the ordinance be repealed?"

If the City Commission shall fail to pass an ordinance proposed by initiative petition, or shall pass it in a different form than set forth in the petition therefore, or if the City Commission fail to repeal a referred ordinance, the proposed or referred ordinance shall be submitted to the electors at a special or regular municipal election not less than thirty nor more than ninety days from the date the City Commission takes its final vote thereon.

SECTION 8.06 RESULTS OF ELECTIONS

If a majority of the electors voting on a proposed initiative ordinance shall vote in favor thereof, it shall thereupon be an ordinance of the City. A referred ordinance, which is not approved by a majority of the electors voting thereon, shall thereupon be deemed repealed.

SECTION 8.07 POWER OF RECALL

The people of the City reserve the power to remove any member of the City Commission by recall and may exercise such power by filing with the City Secretary a petition signed by the qualified voters equal in number to ten percent of the electors qualified to vote at the last preceding regular municipal election. The petition shall be signed and verified in the manner for an initiative petition.

SECTION 8.08 RECALL ELECTION

The provisions regulating examination, certification and amendment of initiative petition shall apply to recall petitions. If the petition is certified by the City Secretary to be sufficient, the Mayor and City Commissioners not involved in the petition shall order and hold without recourse an election to determine whether such officer shall be recalled.

SECTION 8.09 RESULTS OF RECALL ELECTION

If a majority of the votes cast be against recall of a member, he/she shall continue in office for the remainder of his/her term, but subject to recall as before. If a majority of such votes be for the recall of a member, he/she shall, regardless of any defect in the recall petition, be deemed removed from office and a successor shall be appointed.

SECTION 8.10 LIMITATION ON RECALL

No recall petition shall be filed against a member of the City Commission within twelve months after he/she takes office or, in respect to member subjected to a recall election and not removed thereby, until six months after such election.

ARTICLE IX

GENERAL PROVISIONS

SECTION 9.01 CITY RECORDS OPEN TO PUBLIC

Every citizen shall have the right to examine any and all books, vouchers, records and papers belonging to the City and shall have the right to take copies; and it shall be the duty of the City Secretary to produce and exhibit any such papers or records demanded to be inspected by any such citizen.

SECTION 9.02 PERSONAL FINANCIAL INTEREST

No officer or employee of the City shall have a financial interest, direct or indirect, in any contract with City, or shall be financially interested, directly or indirectly, in the sale to the City of any land, materials, supplies or service, except on behalf of the City as an officer or employee. Any willful violation of this section shall constitute malfeasance in office, and any officer and employee guilty thereof shall thereby forfeit his/her office or position. Any violation with this section, with the knowledge, expressed or implied, of the person or corporation contracting with the City Commission shall render the contract involved violable by the City Manager or the City Commission.

SECTION 9.03 PROHIBITIONS

(A). In addition to Prohibitions set forth in state law, the following activities will be prohibited:

(1.) No person shall be appointed to or removed from, or in any way favored or discriminated against with respect to any City position or appointive City administrative office because of race, sex, political or religious opinions or affiliations, age or disability.

(2.) No person shall willfully make any false statement, certificate, mark, rating or report in regard to any test, certification or appointment under the personnel provisions of this Charter or the rules and regulations made there or under, or in any manner commit or attempt to commit any fraud preventing the impartial execution of such provisions, rules and regulations.

(3.) No person who seeks appointment or promotion with respect to any City position or appointive City administrative office shall directly or indirectly give, render or pay any money, service or other valuable thing to any person for or in connection with his/her test, appointment, promotion or proposed promotion.

(4.) No person who is employed and compensated by the City shall make, solicit, or receive any contribution to the campaign funds of any political party or any candidate for elected office or any political purpose, while performing his/hers City functions or while in City uniform. During the time when said person is neither performing City function nor in City uniform, said person may exercise his/her rights as a citizen in accordance with governing law.

(5.) No City elected or appointed official, or member of the City Planning Commission or the Board of Equalization or any other board or committee, or person who holds any compensated appointive City position shall willfully and with intent violate any of the provisions of this Charter.

(B.) Penalties: Any person who by himself/herself or with others willfully violates any of the provisions in this Charter or ordinance shall be punished to the fullest extent of the penalties defined by said law, ordinance or both.

(C.) No provision shall imply that any person as described herein may be excused from prosecution and punishment of violations of any laws, ordinances or resolutions not specified herein.

SECTION 9.04 CHARTER AMENDMENT

This Charter may be amended at any time in accordance with the applicable provisions contained in statutes and as provided by the Constitution of Texas.

SECTION 9.05 SEPARABILITY CLAUSES

Should any article, section, part, paragraph, sentence, phrase, clause or word of this Charter, for any reason, be held illegal, inoperative or invalid, or if any exception to or limitation upon any general provision herein contained be held to be unconstitutional or invalid or ineffective, the remainder shall, nevertheless, stand effective and valid as if it had been enacted without the portion held to be unconstitutional or invalid or ineffective.

ARTICLE X

AMENDMENTS TO CHARTER

SECTION 10.01 ADOPTION OF AMENDMENT

The proposed amended Charter is adopted when it is approved by a majority of the qualified voters who at the election on which the amendments appear on the ballot.

SECTION 10.02 EFFECTIVE DATE

Charter amendments do not take effect until the City Commission enters an order in the City records that the amendments have been adopted.

SECTION 10.03 CERTIFICATION

As soon as practicable after the City Commission adopts the Charter amendment, the Mayor shall certify to the Secretary of the State of Texas an authenticated copy of the Charter amendments under the City's seal showing the approval by the voters of Rio Grande City.

SECTION 10.04 SUBMISSION OF CHARTER

In not less than thirty days prior to such election the City Commission shall cause the City Secretary to produce, exhibit and provide copies of this Charter as practicable in three areas of the City.

SECTION 10.05 SUBMISSION OF CHARTER TO QUALIFIED VOTERS:

The Charter Commission in preparing this Charter finds and decides that it is impracticable to segregate each subject so as to permit a vote of "yes" or "no" on the same, for the reason that the Charter is so constructed that in order to enable it to work and function it is necessary that it should be adopted in its entirety. For these reasons the Charter Commission directs that the said Charter be voted upon as a whole and that it shall be submitted to the qualified voters of Rio Grande City at an election to be held for that purpose on the 7th day of November, 2006. If a

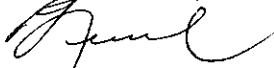
majority of the qualified voters voting in such election shall vote in favor of the adoption of this Charter, it shall become the Charter of Rio Grande City, and after the returns have been canvassed, the same shall be declared adopted, and the City Secretary shall file an official copy of the Charter with the records of the City. The City secretary shall furnish the Mayor a copy of said Charter, which copy of the Charter so adopted, authenticated and certified by his signature and the seal of the City, shall be forwarded by the Mayor to the Secretary of State of the State of Texas and shall show the approval of such Charter by majority vote of the qualified voters voting at such election.

In not less than thirty (30) days prior to such election the City Commission shall cause the City secretary to mail a copy of this Charter to each qualified voter of Rio Grande City as appears from the tax collector's tax roll for the year ending January 31 preceding said election.

We, the undersigned members of the Charter Commission, heretofore duly selected to prepare a Charter for Rio Grande City, Texas, do hereby certify that this publication constitutes a true copy of the proposed Charter of Rio Grande City, Texas. We further certify that we have completed our work this 24th day of August, 2006.

Respectfully submitted,
The Charter Commission of Rio Grande City, Texas

Patricio Hernandez, Chairman



Lilly Olivarez, Vice-Chairman



COMMENTARY

As home rule charters go, Rio Grande City's is one of the most comprehensive, yet, for the most part, its use is limited. In Texas, cities with populations in excess of 5,000 may adopt local, home rule charters. But home rule does not mean complete municipal sovereignty. The Texas Legislature has expanded its reach into most areas of traditional municipal authority and in so doing essentially preempted any conflicting local authority. For the most part, the articles of the charter which cover "Taxation", "Condemnation and Special Assessment", "Municipal Planning and Zoning" and "Initiative, Referendum and Recall" are surplus since state law clearly predominates. Unless a local provision can be effectuated without conflict with state law, then it may be relied on. This will be rare. Counsel will normally avoid any reference to these articles and rely instead on state law. The remaining local powers that are effective and are relied upon on a regular basis are the provisions of articles titled "Powers of the City", "City Manager", "Administrative Departments" and "Municipal Finance". In spite of the applicability of these other articles, it is important to note that many of these procedures will be governed primarily by state law and are also subject to the procedural and substantive requirements of the 14th amendment to the U.S. Constitution.